



## AGENDA

### CANBY CITY COUNCIL MEETING

August 7, 2019

7:00 PM

Council Chambers

222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor

*Mayor Brian Hodson*

*Council President Tim Dale*

*Councilor Trygve Berge*

*Councilor Traci Hensley*

*Councilor Greg Parker*

*Councilor Sarah Spoon*

*Councilor Shawn Varwig*

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### CITY COUNCIL MEETING – 7:00 PM

#### 1. CALL TO ORDER

- A. Invocation
- B. Swearing in of Councilor Berge

#### 2. COMMUNICATIONS

#### 3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

*(This is an opportunity for audience members to address the City Council on items not on the agenda. Each person will be given 3 minutes to speak. You are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter. For Agenda items, please fill out a testimony/comment card and give to the City Recorder noting which item you wish to speak on.)*

#### 4. MAYOR'S BUSINESS

#### 5. COUNCILOR COMMENTS & LIAISON REPORTS

#### 6. CONSENT AGENDA

*(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)*

- A. Approval of Minutes of the June 26, 2019 City Council Special Meeting
- B. Approval of Minutes of the July 10, 2019 City Council Special Meeting
- C. Approval of Minutes of the July 11, 2019 City Council Special Meeting
- D. Approval of Minutes of the July 17, 2019 City Council Regular Meeting
- E. Appointment to the Traffic Safety Commission

Pg. 1

#### 7. PUBLIC HEARING

- A. ANN 18-06/ROW 18-06
- B. CPA/TA 19-01

#### 8. RESOLUTIONS & ORDINANCES

- A. Res. 1324, Authorizing the City Administrator to Execute a Ground Lease between the City of Canby and Canby Fire District

Pg. 2

- B. Ord. 1514, Amending Canby's Comprehensive Plan and Title 16 of the Canby Municipal Code Pg. 19
- C. Ord. 1515, Authorizing the Mayor to Execute a Contract with Curran-McLeod, Inc. Consulting Engineers for Design and Construction Phase Engineering Services for the 2019 Wastewater Treatment Plant Primary Clarifier Improvements Pg. 457
- D. Ord. 1516, Proclaiming Annexation into the City of Canby, Oregon All Remaining Portions of SE Township Road Public Right-Of-Way (ROW), Roughly 2.4 Acres, Located Between the Western Boundary of the Molalla Forest Road and the Western Boundary of Mulino Road, Including the Portion of ROW that Crosses Union Pacific Railroad Crossing DOT 760205P, MP 748.30 Pg. 476
- E. Ord. 1517, Authorizing the City Administrator to Execute a Contract with Owen Equipment for the Purchase of One 2019 Elgin Crosswind 1 Street Sweeper for the Canby Public Works Department Pg. 509
- F. Ord. 1518, Establishing a Budget of \$475,000 for the Construction of a Splash Pad and Related Improvements and Authorizing the City Administrator to Execute a Contract with 2KG Contractors, Inc. for Design and Construction of a Splash Pad and Related Improvements, and Authorizing the City Administrator to Approve Change Orders Within the Established Budget, and to Sign Those Other Documents Required for the Completion of the Project, And Declaring An Emergency Pg. 517
- G. Ord. 1519, Authorizing the City Administrator to Execute a Contract with Landscape Structures, Inc. in the Amount of \$81,905.00, and Declaring an Emergency Pg. 557

**9. NEW BUSINESS**

**10. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS**

**11. CITIZEN INPUT**

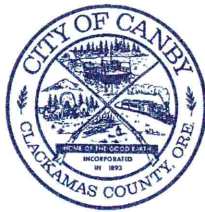
**12. ACTION REVIEW**

**13. EXECUTIVE SESSION: ORS 192.660(2)(h) Litigation**

**14. ADJOURN**

\*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Joshua Davis at 503.266.0638. A copy of this Agenda can be found on the City's web page at [www.canbyoregon.gov](http://www.canbyoregon.gov). City Council and Planning Commission Meetings are broadcast live and can be viewed on CTV Channel 5. For a schedule of the playback times, please call 503.263.6287.





Term To Expire 6/30/2021

**CITY OF CANBY  
COMMITTEE, BOARD, &  
COUNCIL APPOINTMENT APPLICATION**

Date: July 14<sup>th</sup>, 2019      Position Applying For: Traffic Safety Commission

Name: Tom Rushton      Occupation: Retired

Home Address: [REDACTED]

Employer: [REDACTED]      Position: [REDACTED]

Daytime Phone: [REDACTED]      Cell Phone: [REDACTED]

E-Mail Address: [REDACTED]

What are your community interests (committees, organizations, special activities)?

Restoring Canby as a Community. The needs of the elderly.

What are your major interests or concerns in the City's programs?

Having Canby develop as a safe community for all involved. A safe, walkable downtown.

Reason for your interest in this position:

I have been attending these safety meeting for a year or so now and citizen input does help things move forward.

Experience and educational background:

High School graduate 1971, community colleges & online studies

List any other City or County positions on which you serve or have served:

I was on the Clackamas Aging Council a couple years ago.

Referred by (if applicable):      Clint Coleman & Robert Cambra

***Please return to:***

***City of Canby - Attn: City Recorder***

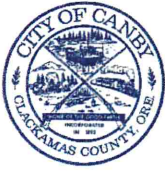
***PO Box 930, 222 NE 2nd Avenue, Canby, OR 97013***

***Phone: 503.266.0733 Fax: 503.266.7961 Email: [cityrecorder@canbyoregon.gov](mailto:cityrecorder@canbyoregon.gov)***

**Note: Information on this form may be available to anyone upon a Public Records Request and may be viewable on the City's web page.**

5/2017

Date Received: 07/14/2019      Date Appointed: \_\_\_\_\_      Term Expires: \_\_\_\_\_  
Date Resigned: \_\_\_\_\_      Destruction Date: \_\_\_\_\_



# City of Canby

PO Box 930 Phone: 503.266.4021  
222 NE 2nd Ave Fax: 503.266.7961  
Canby, OR 97013 [www.canbyoregon.gov](http://www.canbyoregon.gov)

## *M E M O R A N D U M*

**TO:** *Honorable Mayor Hodson and City Council*  
**FROM:** *Rick Robinson*  
**DATE:** *August 7, 2019*

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Issue: Highway 99E and the Union Pacific Railroad tracks have long been an obstacle to the provision of timely fire, medical and/or emergency response to residents on the north side of the highway. Residents of the Canby Fire District recently approved a bond measure that included funding for the establishment of a Canby Fire presence on the north side of town. Canby Fire and the City have worked collaboratively to identify available City owned land that could be used for this purpose, and are bringing forward a Proposed Lease agreement that, if approved, will enable the establishment of this important service in Canby north of Highway 99E.

Synopsis: Residents of the Canby Fire District recently approved a bond measure that included funding for the establishment of a Canby Fire presence on the north side of town. Recognizing that a short-term solution to siting a new north-side station would not be a productive outcome, we have worked closely with Canby Fire representatives to identify City owned property that could be made available on a long term basis to Canby fire. A one acre portion of City owned property immediately to the south of the Canby Public Works yard and sitting on the east side of the Public Works access road has been identified as a site that will both meet the needs of Canby Fire and fit well with the existing services that are provided out of our Public Works facilities.

We are currently in the process of completing a survey for the property, which will be approximately 145 feet deep and 300 feet wide. We are asking that the lease be approved, contingent upon the completion of the survey to the satisfaction of the Fire Chief and City Administrator.

Recognizing that these services fill an unmet need in our Canby community the agreement would span 50 years and the lease rate would be \$1.

Recommendation:                    *Staff recommends the Council approve Resolution 1324.*

Recommended Motion:        ***“I move to approve Resolution 1324, A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A GROUND LEASE BETWEEN THE CITY OF CANBY AND CANBY FIRE DISTRICT.***

Attachments:

- Resolution 1324
- Ground Lease between the City of Canby and Canby Fire District

**RESOLUTION NO. 1324**

**A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO  
EXECUTE A GROUND LEASE BETWEEN THE CITY OF CANBY AND CANBY FIRE  
DISTRICT**

**WHEREAS**, The City of Canby, Oregon, is the owner of approximately 29.99 acres of a certain property in north Canby, identified as Taxlot 31E27 00600, Parcel Number 00773764; and

**WHEREAS**, Canby Fire wishes to establish a presence on the north side of HWY 99E, within the Canby Fire District, in order to better respond to the emergency service needs of this area; and

**WHEREAS**, the establishment of a fire, medical, and/or emergency response station on the north side of HWY 99E will be a direct benefit to the residents of the Canby community; and

**WHEREAS**, The City of Canby wishes to designate approximately one acre of the above described property, for the purpose of maintaining a fire, medical, and/or emergency response station and directly related uses on the north side of Canby.

**NOW THEREFORE, IT IS HEREBY RESOLVED** by the City of Canby Council that the City Administrator shall execute the attached Ground Lease between the City of Canby and Canby Fire District.

This Resolution shall take effect on August 7, 2019.

ADOPTED this 7<sup>th</sup> day of August, 2019, by the Canby City Council.

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Brian Hodson  
Mayor

ATTEST:

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Rick Robinson  
City Recorder

## GROUND LEASE

THIS GROUND LEASE ("Lease") is entered into effective this 7<sup>th</sup> day of August, 2019 by and between the following parties:

LANDLORD: City of Canby, an Oregon  
Municipal Corporation  
P.O. Box 930  
Canby, OR 97013

and

TENANT: Canby Fire District  
221 S. Pine St.  
Canby, OR 97013.

Landlord owns the fee title to the following property (the "Property"):

Legally described in Exhibit "A" attached hereto and incorporated herein by reference.

NOW, THEREFORE, Landlord hereby leases the Property to Tenant, and Tenant leases the Property from Landlord, on the terms and conditions set forth in this Lease:

### **1. Lease of Property to Tenant; Lease Term; Possession**

1.1 **Lease of Property to Tenant.** Landlord hereby leases the Property to Tenant, and Tenant leases the Property from Landlord, for the term, at the rental, and upon all the conditions set forth in this Lease.

1.2 **Term of Lease.** The initial term of this Lease shall be fifty (50) years, plus the partial month, if any, in which the Lease commences, and the "Commencing Date" shall be upon Tenant obtaining all Governmental Approvals as defined below, or October 1, 2019, whichever date comes first. Tenant shall be entitled to enter onto the Property upon the effective date of this Agreement, the 7<sup>th</sup> day of August, 2019, for the purpose of conducting property inspections, including tests, hazardous materials, soil conditions and all other matters affecting the suitability of the Property for Tenant's intended uses. Tenant shall obtain, at Tenant's expense, all licenses and permits required for Tenant's use of the Property from all applicable government and/or regulatory entities (the "Governmental Approvals"). Landlord agrees to reasonably cooperate with Tenant (at no cost to Landlord), where required, to perform such procedures or provide consents to obtain Governmental Approvals; provided, however, Tenant shall be required to

comply with all applicable planning procedures and obtain necessary permits and approvals from Tenant. Tenant agrees to pursue all Governmental Approvals promptly, and Landlord agrees that Tenant shall have the right to immediately terminate this Lease if Tenant notifies Landlord of unacceptable results to any of Tenants due diligence analysis of the property or Tenant is unable to obtain Governmental Approvals upon terms and conditions acceptable to Tenant. In Tenant's sole discretion, Tenant may terminate this Lease at any time.

1.3 **Option to Renew.** This Lease shall automatically renew for one successive period of fifty (50) years on the following terms and conditions, unless either party wishing to terminate the Lease provides the other party notice of such intent to terminate the Lease on or before January 1<sup>st</sup>, prior to the expiration of the then existing Lease Term.

1.4 **Possession.** Tenant will be entitled to possession of the Property for purposes of this Lease upon the mutual execution of this Lease.

1.5 **Property Leased "As Is".** Except as otherwise expressly set forth in this Lease, the Property is leased to Tenant in its "As Is" condition, subject to any and all patent and latent defects and faults, without reliance upon any representation by Landlord as to the condition or suitability of Property for any intended use or purpose by Tenant and without any representation or warranty by Landlord as to its compliance with applicable Legal Requirements (as defined below) or other matters, and Tenant further acknowledges that Tenant will be relying solely on its own skill, judgment and discretion in deciding whether to lease the property.

## 2. **Rental**

2.1 **Base Rent.** Tenant shall pay to Landlord as rent for the Property the annual sum of \$1, with the payment due on or before August 31, 2019. The parties acknowledge that the rent payable under this Lease has been established to reflect the value of the service provided by Canby Fire to the citizens of Canby, and the additional benefit to the community associated with the establishment of fire, medical, and emergency services on the north side of HWY 99E.

2.2 **Net Lease.** The rental paid by Tenant shall be a fully net (sometimes referred to as "triple net" or "absolute net") return to Landlord, so that from and after the Commencement Date, this Lease shall yield the base rent to Landlord net of all operating costs, maintenance and repair costs, taxes, insurance charges, assessments, governmental charges, utility costs and fees, and all other expenses of whatever kind or nature pertaining to the operation of the Property. All such costs and expenses accruing after the Commencement Date shall be paid by Tenant as to the Property.

### 3. **Use of Property**

3.1 **Permitted Use.** Tenant shall use the Property primarily for the purpose of maintaining a fire, medical, and/or emergency response station and directly related uses on the north side of Canby. If Tenant proposes to change the use of the property, Tenant will not do so without first obtaining the prior written consent of Landlord to such change in use, which consent may be withheld in Landlord's sole discretion. If Tenant changes the use without the prior consent of Landlord, and upon discovery Landlord does not approve the use, this Lease will terminate within 30 days, and Tenant shall have the responsibility to remove all of Tenant's improvements and property from the Property, and return the Property to the condition prior to this Lease, unless Landlord agrees to other terms.

3.2 **Compliance with Legal Requirements.** In connection with its use, Tenant shall keep and maintain the Property in compliance with all applicable laws, rules, regulations and ordinances of all federal, state, county, municipal and other public authorities having or claiming jurisdiction, and other recorded covenants, conditions and restrictions affecting the Property (collectively, the "Legal Requirements").

3.3 **Non-disturbance.** The rights of Tenant to the Property shall not be disturbed, cancelled, terminated or otherwise interfered with by Landlord during the Term of this Lease.

3.4 **Hazardous Substances.** Landlord represents and warrants that, as of the date of this Lease, and to the best of Landlord's knowledge, no hazardous substances have been generated, released, stored or deposited over, beneath, or on the Property from any source whatsoever by Landlord, its agents, independent contractors or invitees, other than Permitted Products (as defined below).

Tenant (as to the Property, during the Term) and Landlord (as to any adjoining property owned or operated by it, if any), have not, and shall not, allow or permit any Hazardous Substances to be generated, released, used, stored or deposited on or in the Property or adjoining property, except in the ordinary course of maintaining and operating such property and in strict compliance with applicable Environmental Laws (as defined below).

Tenant will indemnify, hold harmless, and defend Landlord, and its successors and assigns, from any and all claims, losses, damages, response costs and expenses arising out of or in any way relating to the presence of hazardous substances in, on, or beneath the Property that first occurred or accrued from and after the date of turnover of possession of the Property to Tenant, whether caused by Tenant or third parties.



Landlord will indemnify, hold harmless, and defend Tenant, and its successors and assigns, from any and all claims, losses, damages, response costs and expenses arising out of or in any way relating to the presence of hazardous substances in, on, or beneath the Property that first occurred prior to the turnover of possession of the Property to Tenant, or which accrued from and after the date of turnover of possession of the Property to Tenant, whether caused by Landlord, its agents, independent contractors or invitees, including hazardous substances originating from adjoining property owned or operated by Landlord.

The term "hazardous substances" is used in its very broadest sense, and refers to materials which because of their quantity, concentration, or physical, chemical, or infectious characteristics may cause or pose a present or potential hazard to human health or the environment when improperly handled, treated, stored, transported, disposed of, or otherwise managed. The term shall include, but is not limited to, all hazardous substances, hazardous materials and hazardous wastes listed by the U.S. Environmental Protection Agency and the state in which the Property is located under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Resource Conservation and Recovery Act (RCRA), the Toxic Substances Control Act (TSCA), and the Federal Water Pollution Control Act (FWPCA), the Emergency Planning and Community Right-to-Know Act (EPCRA), the Clean Air Act (CAA) and any and all other federal, state and local statutes or ordinances applicable to the protection of human health or the environment (the "Environmental Laws"). However, the foregoing requirements and limitations will not apply to products such as landscape fertilizer, cleaning and other products and materials that are in ordinary quantities and customarily used in the cleaning, maintenance and operation of residential and commercial facilities (the "Permitted Products"), but each party will in any event cause any Permitted Products to be held or used in accordance with all applicable Environmental Laws.

#### **4. Maintenance; Taxes; Utilities**

4.1 **Maintenance.** Tenant will be responsible for maintaining the Property in good order, condition, repair, and appearance, and in accordance with all applicable Legal Requirements and Environmental Laws, including (without limitation) those requiring any structural or nonstructural alteration of the Property including, without limitation, all landscaping, buildings, driveways, parking lots, fences and signs located in the Property and all sidewalks and parkways adjacent to the Property. Tenant may restrict access to the Property, including the construction of a fence, without prior approval of Landlord.

4.2 **Taxes and Assessments.** Tenant shall pay (or cause to be paid) any property taxes, assessment and public charges ("taxes") on the land, and on the improvements thereon, subject to the provisions of this Lease.

4.3 **Tenant's Election to Contest.** Tenant may withhold payment of any tax or assessment on the Property if a good faith dispute exists as to the obligation to pay, so long as Landlord's property interest is not jeopardized. If the Property is subjected to a lien as a result of nonpayment, Tenant shall provide Landlord with assurances reasonably acceptable to Landlord that Tenant can and will satisfy the lien before enforcement against the Property.

4.4 **Utilities.** Tenant will be responsible for causing to be paid all charges for services and utilities incurred in connection with the use, occupancy and operation of the Property, including (without limitation) charges for electricity, gas, telephone service, water and sewer. If it is determined to be in the public interest for Tenant to purchase Utilities from or through Landlord, the terms and conditions for the provision of Utilities by Landlord, shall be by separate agreement.

## **5. Liens and Indemnification**

5.1 **Liens.** Tenant shall pay (or caused to be paid) as due all claims for work done on or for services rendered or material furnished to the Property, and shall keep the Property free from any liens which could result in foreclosure of Landlord's or Tenant's interest in the Property, except for financing by Tenant on its leasehold estate (which will bind Tenant's interest but not constitute a lien against Landlord's fee title). If Tenant fails to pay such claim or to discharge any lien Landlord may elect (in its discretion) to do so after at least ten (10) days' written notice to Tenant of Landlord's intention to do so, and in that event, Landlord may collect back from Tenant the amount so paid, as additional rent. Amounts paid by Landlord shall bear interest and be repaid by Tenant as provided in paragraph 10.4 below. Such payment by Landlord shall not constitute a waiver of any right or remedy Landlord may have because of Tenant's default.

5.2 **Indemnification.** Tenant (the "Indemnitor") shall indemnify the Landlord (the "Indemnitee") from any loss, liability, claim of liability or expense (including reasonable attorneys' fees and litigation expenses) arising out of or related to the Property or Building and arising out of or related to (i) any violation of law by the Indemnitor or its owners, agents, independent contractors, invitees, trespassers and employees (the "Covered Persons"), (ii) for any loss, injury or damage to Tenant or to any other person, or to its or their property, caused upon or about the Property, irrespective of the cause of such injury, damage or loss except to the extent caused by or resulting from the intentional torts of Landlord, or (iii) any negligent action or inaction of the Indemnitor or its Covered Persons. Further, Landlord shall not be liable: (i) for any damage caused by other persons in, upon or about the Property, or caused by operations in construction of any work on the Property; or (ii) in any event for

consequential damages, including lost profits of Tenant or any person claiming through or under Tenant. The provisions of this section shall survive the expiration or earlier termination of this Lease.

5.3 **Disclaimer of Landlord's Responsibilities.** Landlord shall not under any circumstances be liable to pay for any work, labor or services rendered or materials furnished to or for the account of Tenant, and no construction lien or other lien for such work, labor or services or material furnished shall attach to or affect the reversionary interest of Landlord in any building(s) or any construction, alteration, repair, or improvement erected or made by Tenant on the Property. Nothing contained in this Lease shall be deemed or construed in any way as constituting the request of consent of Landlord, either express or implied, to any contractor, subcontractor, laborer or materialman for the performance of any labor or the furnishing of any materials for any specific construction, alteration, repair or improvement to or on the Property or any part thereof, nor as giving Tenant any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials on behalf of Landlord that would give rise to the filing of any lien against Landlord's interest in the Property.

## 6. **Insurance; Restoration of Damage**

6.1 **Liability Insurance.** Tenant (as to the Property, during the Term) shall continuously maintain, at its expense, commercial general liability ("CGL") insurance with a combined single limit initially of \$2,000,000, or such greater amount approved by the parties as may from time to time customarily be furnished by tenants under comparable leases. Tenant shall name the Landlord as an additional insured, and the liability insurance will otherwise comply with paragraph 6.2 below.

6.2 **Form of Insurance.** All policies may be part of blanket coverage relating to properties owned or leased by Tenant. Tenant will deliver to Landlord certificates of such insurance coverage prior to or concurrent with Tenant's obtaining possession of the Property and thereafter, as to policy renewals, Tenant will deliver to Landlord certificates of coverage (or other confirmation of arrangements for coverage) within 15 days prior to the expiration of the term of each such policy. Tenant's insurance shall name Landlord as an additional insured. All of Tenant's insurance shall provide for thirty (30) days written notice to Landlord prior to cancellation, non-renewal or material modification.

## 7. **Condemnation**

If the entire Property is condemned, or if a portion is taken which causes the remainder to be reasonably unusable for the use permitted hereunder, then this Lease shall terminate as of the date upon which possession of the Property is taken by the

condemning authority. The net condemnation proceeds shall be divided between Landlord and Tenant in proportion to the value of their respective interests in the Property immediately prior to the taking. If only a portion of the Property is taken and this Lease is not terminated, then (i) Tenant shall use the condemnation proceeds to make necessary repairs and alterations to the Property to permit Tenant to continue its operations thereon, and (ii) the remaining balance, if any, of the condemnation award attributable to the Property and Building shall be divided between Landlord and Tenant in proportion to the value of their respective interests in the Property immediately prior to the taking.

Tenant will be entitled to retain any award specifically made to Tenant for interruption of business, moving expenses, or the taking of Tenant's improvements, equipment or fixtures. Landlord will be entitled to any award specifically made to Landlord as severance damages for the effect of any taking on any adjoining property owned by Landlord that is not part of the Property under this Lease.

In the event of condemnation, rent shall be abated during the period of restoration, and shall be reduced for the remainder of the lease Term to the extent and in the same proportion as the reduction in the fair market rental value of the Property caused by the Property. Sale of all or a part of the Property to a purchaser with the power of eminent domain in the face of a threat or the probability of the exercise of the power shall be treated as a taking by condemnation.

## **8. Transfers by Tenant.**

8.1 **Transfers Prohibited Without Consent.** Tenant shall not assign, pledge, hypothecate, encumber or otherwise transfer its leasehold interest and interest in the improvements on the Property without the written consent of Landlord, which consent may be withheld in Landlord's sole discretion. An unauthorized transfer under this section shall be deemed a default of this Lease and entitle Landlord to terminate this Lease.

## **9. Events of Default**

The following shall be "Events of Default":

9.1 **Unauthorized Transfer.** Tenant's assignment, pledge, sublease, encumbrance or other transfer of Tenant's leasehold interest or the building on the Property without the prior written consent of Landlord.

9.2 **Default in Other Covenants.** Failure of Tenant to comply with any other term or condition or fulfill any other obligation of this Lease within 30 days after written notice by Landlord specifying the nature of the default with reasonable particularity. If the default is of such a nature that it cannot be remedied fully within the 30-day period, this requirement shall be satisfied if Tenant begins correction of the default

within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.

9.4 **Notice of Action to Retake or File Suit.** Prior to taking any action to re-enter or retake possession of the Property, or to sue Tenant for damages for default, Landlord will provide Tenant with at least ten days' notice of Landlord's intent to pursue the particular remedy or remedies if the default is not cured within such time period. Such notice may be given concurrently with or separately from the notices specified above.

## **10. Remedies on Default**

Upon default, after expiration of notice and cure periods provided in Section 9, Landlord may exercise any one or more of the following remedies:

10.1 **Termination.** In the event of a default the Lease may be terminated at the option of Landlord by written notice to Tenant. Whether or not the Lease is terminated by election of Landlord or otherwise, Landlord shall be entitled to recover damages from Tenant for the default, and Landlord may reenter, take possession of the Property and remove any persons or personal property by legal action or by self-help with the use of reasonable force and without liability for damages and without having accepted a surrender.

10.2 **Re-letting.** Following reentry or abandonment, Landlord may re-let the property and in that connection may make any suitable alterations or refurbish the Property, or both, or change the character or use of the Property, but Landlord shall not be required to re-let for any use or purpose other than that specified in the lease or which Landlord may reasonably consider injurious to the Property or to any tenant that Landlord may reasonably consider objectionable. Landlord may re-let all or part of the Property, alone or in conjunction with other properties for a term longer or shorter than the term of this lease, on any reasonable terms and conditions, including the granting of some rent-free occupancy or other rent concession.

10.3 **Damages for Default.** Landlord may recover all damages caused by the default. Landlord may sue periodically to recover damages as they accrue during the remainder of the lease term without barring a later action for further damages. Landlord may at any time bring an action for accrued damages plus damages for the remaining lease term equal to the difference between the rent specified in this Lease and the reasonable rental value of the Property for the remainder of the term, discounted to the time of judgment at the rate of 9 percent per annum.

10.4 **Cure of Tenant's Default.** Without prejudice to any other remedy for default, Landlord may perform any obligation or make any payment required to cure a default by Tenant. The reasonable cost of performance, including reasonable attorneys'

fees and all disbursements shall immediately be repaid by Tenant upon demand, together with interest from the date of expenditure until full paid at the rate of 12 percent per annum, but not in any event at a rate greater than the maximum rate of interest permitted by law.

10.5 **Other Remedies.** Landlord may exercise any other remedy available under applicable law. Landlord may terminate this Lease and take possession of the Property, and Landlord may pursue any other legal remedy for breach of contract, including (without limitation) specific performance, collection of damages, and collection of attorneys' fees and other costs and expenses.

## **11. General Provisions**

11.1 **Modifications.** This Lease may not be modified except by endorsement in writing attached to this Lease, dated and signed by the parties. Neither party shall not be bound by any statement of any agent or employee modifying this Lease, except for any person which the party has specifically designated in writing as its representative.

11.2 **Nonwaiver.** Waiver of performance of any provision shall not be a waiver of nor prejudice the party's right otherwise to require performance of the same provision or any other provision.

11.3 **Succession.** Subject to the limitations on transfer of Tenant's interest, this Lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns.

11.4 **Entry by Landlord.** Except as otherwise provided herein, Landlord or its authorized representatives may enter the Property at any time without any restrictions from Tenant; however, Landlord or its authorized representatives may enter any building or improvement constructed on the Property under Tenant's exclusive control only upon 24 hours' notice to Tenant.

11.5 **Estoppel Certificates.** Within 10 days after receipt of written request, each party shall deliver a written statement to the requesting party stating the date to which the rent and other charges have been paid, whether the Lease is unmodified and in full force and effect, and any other matters that may reasonably be requested.

11.6 **Surrender of Premises; Demolition.** Upon the termination of this Lease, for any reason whatsoever, Tenant shall promptly vacate the property and deliver the same to Landlord in as good order and repair as said Property was at the commencement of this Lease, ordinary wear and tear accepted. Notwithstanding the foregoing, upon termination of this Lease and vacation of the Property by Tenant, Tenant

shall cause the demolition and removal of the swimming pool improvement on the property, and the re-grad ng of the property as necessary, prior to Tenant's surrender of the Property to Landlord. Except as provided above, all additions to or alterations of the Property, whether installed by Landlord or By Tenant, excluding any trade fixtures, shall at once become part of the realty and belong to Landlord. Tenant agrees to restore any damage caused by the removal of any property Tenant is entitled to remove, pursuant to this Section.

11.7 **Notices.** Unless otherwise specifically provided herein, all notices, consents, directions, approvals, instructions, requests and other communications required or permitted by the terms hereof to be given (collectively "Notices") shall be given in writing and effective upon receipt. Notices may be served: by certified or registered mail, postage paid with return receipt requested; by private courier, prepaid; by telex, facsimile, or other telecommunication device capable of transmitting or creating a written record; or personally. Mailed Notices shall be deemed received three business days after mailing, properly addressed. Couriered Notices shall be deemed received when delivered as addressed, or if the addressee refuses delivery, when presented for delivery notwithstanding such refusal. With respect to any notice sent by telex, facsimile or other telecommunication device, the term "receipt" will mean electronic verification that transmission to the recipient was completed, if such transmission occurs during the normal business hours, or otherwise on the next business day after the date of transmission. Personal delivery of Notices shall be effective when accomplished. Unless a party changes its address by giving notice to the other party as provided herein, Notices shall be delivered to the parties at the following addresses:

If to Landlord, to it at:

**City of Canby, an Oregon municipal Corporation**

Att: City Administrator

PO Box 930

Canby, OR 97013

Email Address: RobinsonR@canbyoregon.gov

If to Tenant, to it at:

**Canby Fire District**

Att: Fire Chief

221 S. Pine St.

Canby, OR 97013

Email Address: jdavis@canbyfire.org

From time to time any party may designate a new address for purposes of Notices hereunder by Notice to the other party. The email addresses for each party shall be modified, without further notice, to provide for notice to the then current City Administrator and to the



then current Fire Chief. Delivery of the copy of any notice to the places to which copies are to be sent is not a precondition to the effectiveness of the notice as to the parties to this Lease. As used in this Lease, the term "business day" means a day, other than Saturday or Sunday and national holidays, on which banking institutions in Portland, Oregon are generally open for business to the public, and "normal business hours" means 9:00 a.m. to 5:00 p.m. on any such business day.

11.8 **Attorneys' Fees.** In the event suit or action is instituted to interpret or enforce the terms of this Lease, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys' fees at trial, upon appeal and on any petition for review, in addition to all other sums provided by law.

11.9 **Relationship of Parties.** The relationship of the parties to this Lease is that of land lord and tenant. Landlord is not a partner or joint venture with Tenant in any respect or for any purpose in the conduct of Tenant's business or otherwise.

11.10 **Applicable Law.** The Property is located in the State of Oregon. The parties agree that the law of such State shall be applicable for purposes of construing and determining the validity of this Lease.

11.11 **Prior Agreements.** This Lease (including all exhibits, incorporated herein) is the entire, final, and complete agreement of the parties with respect to the matters set forth in this Lease, and supersedes and replaces all written and oral agreements previously made or existing by and between the parties or their representatives with respect to such matters.

11.12 **Validity of Provisions.** If any of the provisions contained in this Lease shall be invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions contained in this Lease shall not be affected.

11.13 **Recording; Quitclaim.** Tenant shall not file or record this Lease without the specific prior written consent of Landlord, but the parties may execute a good and sufficient memorandum of lease for purposes of recording in a form acceptable to Land lord. Upon expiration or earlier termination of this Lease, Tenant shall promptly execute, acknowledge and deliver to Landlord any quitclaim deed or other document required by Land lord or a title company to remove the cloud of this Lease from the Property and to evidence the termination of Tenant's interests in the Property and improvements that will remain on the Property.

11.14 **Merger of Estates.** In the event and at such time as Landlord may own and hold both the landlord's and tenant's interest under this Lease, this Lease will terminate automatically by merger of estates.

11.15 **Authorization of Lease; Facsimile Signatures.** Each party covenants and warrants to the other that the person(s) executing this Lease on behalf of the party is duly

authorized to execute and bind the party under this Lease. Facsimile transmission of any signed original document, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original. At the request of either party, the parties shall confirm facsimile-transmitted signatures by signing an original document.

11.16 **Brokers.** Neither party has used a real estate broker in connection with this transaction. Each party will defend, indemnify, and hold harmless from any claim, loss, or liability made or imposed by any other party claiming a commission or fee in connection with this transaction and arising out of its own conduct.

11.17 **Section Headings.** The headings to the sections and paragraphs of this Lease are included only for the convenience of the parties and shall not have the effect of enlarging, diminishing, or affecting the interpretation of its terms.

11.18 **Joinder in Instruments.** Upon reasonable request from time to time, Landlord shall join with Tenant in any conveyance, dedication, grant of easement or license or other instrument as shall be reasonably necessary or convenient to provide public utility service to the Property or in order to allow development or use of the Property by Tenant. Landlord shall not be required to incur any cost or expense by virtue of the provision of this paragraph.

11.19 **Exhibits.** All exhibits and attachments to the Lease are hereby incorporated as part of the body of this instrument.

IN WITNESS WHEREOF, the undersigned has caused this Ground Lease to be duly executed under seal by an officer thereunto duly authorized as of the date and year first above written.

TENANT:

**CANBY FIRE DISTRICT**, an Oregon rural fire protection district

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

LANDLORD:

**CITY OF CANBY**, an Oregon municipal corporation

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## **EXHIBIT "A"**

### **DESCRIPTION OF PROPERTY**

The parties are in the process of obtaining a survey for the Property. The Property will be approximately 145' x 300'. This Lease may be approved by the governing bodies of the Parties contingent upon the Parties acting by and through their Fire Chief and City Administrator to agree to the survey and location of the Property. The agreed upon survey and Property location will be initialed and attached to this Lease as Exhibit "A", and the Lease shall be deemed fully executed and effective without the need for further action by the governing bodies.



**Objectid:** 49837

**Primary Address:** 1470 NE Territorial Rd, Canby, 97013

**Jurisdiction:** Canby (<http://www.ci.canby.or.us/>)

**Map Number:** 31E27

**Taxlot Number:** 31E27 00600

**Parcel Number:** 00773764

**Document Number:**

**Census Tract:** 022905

## Assessment

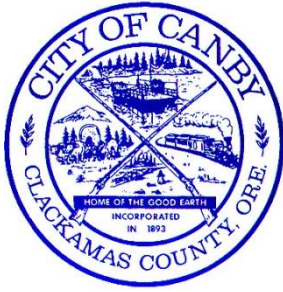
**Estimated Acres:** 29.99

**Current Year Assessed Value:** \$2,632,359.00

**Market Building Value:** \$2,330,120.00

**Market Land Value:** \$1,664,355.00

**Market Total Value:** \$3,994,475.00



# *City of Canby*

## **MEMORANDUM**

**DATE:** *Prepared: July 26, 2019 for August 7, 2019 Council Hearing*

**TO:** *Mayor and City Council*

**FROM:** *Bryan Brown, Planning Director*

**RE:** *Comprehensive Plan & Land Development and Planning Ordinance Text Amendments  
(File No. CPA/TA 19-01)*

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### **Background Summary:**

At their July 8, 2019 meeting, the Canby Planning Commission recommended that Comprehensive Plan and Land Development and Planning Ordinance amendments (**File CPA/TA 19-01**) be approved by the City Council. The proposed amendments are primarily legislative in terms of amending the "Text" for a single provision titled Area of Special Concern "K" in the Buildable Lands Section of the Canby Comprehensive Plan and to make amendments to various sections of 32 chapters and the table of contents of the Land Development and Planning Ordinance (Chapter 16 of the Canby Municipal Code).

The Comprehensive Plan amendment proposes to delete reference to Special Area of Concern "K" from the Plan document and make what could be considered a quasi-judicial amendment to change the associated Comprehensive Plan Map from the existing RC-Residential Commercial land use designation to the LDR-Low Density Residential designation so that it is consistent with the existing zoning of the property as R-1 Low Density Residential.

The Land Development Code amendments primarily provide clarity to improve administration of the code from items compiled by staff over several years of noting where problems have arose. In addition, a couple of updates are to bring the Code into conformance with changes in State Statute and to address an issue or two that were noted at public hearings to be a concern.

### **Discussion:**

The code improvement package was tailored to address many minor issues with little known or expected controversy to improve its day to day administration. A few topics areas garnered greater discussion through the 5-worksession's held by the Planning Commission from January through May, 2019 and the two public hearing held in June and July before forwarding a specific recommendation from the Planning Commission which is reflected in their Finding, Conclusion, & Final Order (CPA/TA 19-01 attached). The text amendment revisions recommended by the Planning Commission are reflected in the Code Revisions attached to the (July 8, 2019 Staff Memorandum to the Planning Commission) which contained new revisions to address concerns raised on four topic areas listed.

Amendment Topic Highlights Listed Include the four addressed in the Planning Commission Findings and Recommendation and a few others of Note:

- 1) Townhomes. How many attached units to allow, spacing between groupings, and whether rear secondary access to middle units is necessary.
- 2) Partitions. Elimination of the distinction between Major and Minor, moving review from Type III to Type II to be handled administratively, with recommendation to completely eliminate the appeal fee if administrative approval deemed appropriate.
- 3) Exception to Multi-family 15' Buffer/Step up Height Provisions. Based on request from a developer to eliminate the restrictive 15' buffer when an adjacent home to new multiple family development has a future land use designated for HDR High Density Residential as well based on the difficulty it poses to develop on new multiple family infill lots.
- 4) Private Street Use as it Impacts Minimum Lot Size and Density. Inclusion of private streets in all subdivisions and partitions within a separate tract so as not to impact lot sizes and density allowed.
- 5) Elimination of A Agriculture and CC Convenience/Commercial Zoning Districts considering these designations are not on shown on current Comprehensive Plan Map or Official Zoning Map and have not been used on any property to date.
- 6) Amendments to Several Definitions. Including Townhouse to clearly allow more than 2 attached units.
- 7) Eliminate use of Arbors as a way to build 8' tall screening fences.
- 8) List Mini-warehouse storage facilities and where allowed.
- 9) New driveway provisions to match those adopted in the Public Works Design Standards to eliminate differing standards.
- 10) Note desire to obtain a Street Tree Plan with new subdivisions in lieu of simple calculation of street fee due based on 1 tree for each 30 feet of street frontage.
- 11) Accessory Dwelling regulations to conform with State Statute to allow them as an outright permitted use whether interior to an existing home, attached to an existing home or as or within a detached structure on the same lot with a home. Kept our same detached accessory dwelling standards.
- 12) Differing Townhome provisions in both R 1.5 and R-2 zone.
- 13) Fix to the Residential Design Standards applicable to single-family detached homes to clear up confusing wording as to intent and what is or is not allowed.
- 14) Statement to clarify no rear yard setbacks in certain Commercial and Industrial zones unless adjacent to residential zoning.
- 15) Reduction of minimum "Employees per developed acre" standard in the Canby Industrial Overlay Zone from 12 (currently only aspirational as a result of Council Policy direction) to 3 as a reasonable alternative to eliminate certain uses from the Pioneer Industrial Park while allowing most as an outright permitted use rather than by Conditional Use Permit.
- 16) Reduction of minimum floor area ratio in the Outer Highway Subarea of the Downtown Canby Overlay zone.
- 17) Correction to reflect practice of undergoing a Site Plan review for all single-family and duplex residential dwellings for setbacks and conformance with residential design standards in Chapter 16.21.
- 18) Partitions. New revised code wording that eliminates distinction between Major and Minor Partition and moves to administrative approval with elimination of any appeal fee.
- 19) Minor rewording to setback description for flag lots.
- 20) Increased time frame for submittal of final plat after approval of preliminary plat from 1 year to 2 years.

- 21) Addition of an Administrative Review processing and procedure section to the code to incorporate instances of development related proposals that are not adequately addressed in any other chapter of the Code – such as new parking lot without a building, access exceptions, driveway spacing evaluations, etc.

**Planning Commission Recommendation:**

The Planning Commission found that the applicable review criteria had been followed for the proposed Comprehensive Plan and Land Development and Planning Ordinance amendments and recommended approval of the proposed amendments to the City Council subject to:

1. The revisions indicated within the Findings and Final Order of the Planning Commission for CPA/TA 19-01; and
2. Utilization of staff's revised text amendment language for the 3 topic area amendments recommended for adoption which are attached to the July 8 Supplemental Memorandum to the Planning Commission; and,
3. Not approving any proposed amendment to address providing an exception to the 15' buffer requirement pertaining to certain multiple family development.

**Recommended Council Motion:** I move to approve the CPA/TA 19-01 subject to the Findings and Final Order of the Planning Commission utilizing the revised text amendment language provided by staff which is attached to the July 8 Supplemental Memorandum to the Planning Commission.

**Attachments:**

- Planning Commission Final Findings for CPA/TA 19-01
- Planning Commission Minutes for 7.8.19
- July 8, 2019 Supplemental Memorandum to the Planning Commission with (Revised Text Amendment Language for 4 Topic Areas)
- Staff Report for CPA/TA 19-01 addressing review criteria.
- All Written Public Input Received
- Proposed Comprehensive Plan Text and Map Amendments
- Proposed Land Development and Planning Ordinance Text Amendments (Except for Revised Language for 4 Topic Areas Attached to July 8 Memorandum)





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

**A LEGISLATIVE AND QUASI-JUDICIAL  
AMENDMENT TO AMEND 32 SECTIONS  
OF THE LAND DEVELOPMENT AND  
PLANNING ORDINANCE, TITLE 16 OF THE CANBY  
MUNICIPAL CODE, AND AMEND A SECTION  
OF THE CANBY COMPREHENSIVE PLAN**

**FINDINGS, CONCLUSION, & FINAL ORDER**  
**CPA/TA 19-01**  
(City of Canby)

**NATURE OF APPLICATION**

This is a legislative and quasi-judicial amendment to amend various sections and the table of contents of the Land Development and Planning Ordinance in Chapter 16 of the Canby Municipal Code, and to amend a single provision titled Area "K" in the Buildable Lands Section of the Canby Comprehensive Plan. The legislative text amendment is intended to streamline, clarify, and update numerous sections of the Canby Land Development and Planning Ordinance to assist in implementation. The amendment proposes to delete reference to Special Area "K" from the Comprehensive Plan and to change the Comprehensive Plan Map from the existing RC-Residential Commercial land use designation to the LDR-Low Density Residential designation in order to be consistent with the current existing zoning of the property as R-1 Low Density Residential.

**HEARINGS**

The Planning Commission held public hearings on both June 10 and again on a continued public hearing on July 8, 2019 at which time provisions of this text amendment application were considered.

**CRITERIA AND STANDARDS**

In judging whether or not to approve amendments to the Comprehensive Plan and the Land Development and Planning Ordinance, the Planning Commission determines whether criteria from the Land Development and Planning Ordinance are met. Applicable criteria and standards were reviewed in the May 31, 2019 staff report and presented at the initial June 10, 2019 meeting of the Planning Commission with further focused review of general topic areas raised as concerns at the continued hearing held on July 8, 2019.

**FINDINGS AND REASONS**

The Planning Commission, after holding a continued public hearing on July 8 to address issues raised from citizen input at the initial evidentiary hearing held on June 10, 2019; moved to recommend to the City Council approval of the proposed amendments subject to deliberations and findings on four (4) additional topic areas as indicated below and addressed in a supplemental staff memorandum dated July 8, 2019 with revised text amendment language attached. The Commission adopted the findings and conclusions contained in the May 31, 2019 staff report along with the following topic heading findings to arrive at their recommendation for final wording to include within the text amendments proposed:

- 1) Townhouse Dwellings having Common Wall Construction. Citizen input insisted that all new townhouse development be served by rear alleys or common use public sidewalks to provide an alternative means of emergency escape for middle units. However, the Commission accepted staff's supplemental findings and revised text amendment language attached to the those findings in recognition that it is not practical in Canby to require rear access for all possible townhouse situations as many occur in infill redevelopment sites where the creation of an alley is simply not possible. The townhouse is a viable and more affordable housing type that Canby wants to encourage but requiring rear access in all possible locations would deter their development in most infill locations, while providing a means of rear access is a desired design feature and should be required where alleys were anticipated and approved as an option in advance in either a conceptual or master planned area. Staff's revised language attached to the supplemental

memorandum is recommended to be included as part of the text amendment to be approved.

- 2) Changing the Standard Review Process for Partitions from a Type III Public Hearing to a Type II Planning director Decision, deleting the distinction between Major and Minor Partitions, and providing the right of appeal with adopted \$250 appeal fee. After considerable deliberation, the majority of the Planning Commission recommended combining the Major and Minor Partition into a single Partition application eliminating the current only distinction which is when an additional means of access is proposed or not. They recognized this distinction was pretty much unique in Canby's Code and presented no practical processing difference except for a slightly lower fee for the Minor Partition. The greatest barrier or concern voiced to moving the Partition application to an administrative approval with right to appeal was the cost associated with an appeal which was recently lowered to comply with new State law from the previous \$1,900 + fee to the maximum now allowed for an appeal of a staff decision which is \$250. Moving the Partition approval to the director's administrative level was noted to still result in the same written review of all applicable review criteria and listing of conditions of approval. Partitions are considered a limited land use decision by Statute which are subject to "clear and objective standards" which are either met or not. The majority of the Commission supported moving Partitions to a staff level but only if the appeal application is at no cost to provide an easy pathway to hearing on this type of development if needed. Staff's revised text language attached to the supplemental memorandum is recommended as part of the proposed text amendment, making a Partition a planning director decision only if the \$250 appeal fee for a Partition is repealed. The current fee indicates it is refunded if the appellant prevails in their appeal, which is a Statute requirement.
- 3) Multiple-family 15' Buffer/Step-Up Height Exception. A developer who looks for opportunities to provide higher density housing options approached staff and suggested code wording that would provide an exception to these current standards that are applicable when multi-family development is proposed next to existing single-family detached residential dwellings when the adjacent single-family dwelling is indicated on the Comprehensive Plan map to also be suitable to rezone to high density development. The exception proposed was to eliminate the protective 15' wide buffer and step up height provisions when a two-story residential structure is built adjacent to an existing single story residential structure only when the adjacent R-1 or R-1.5 zone is designated on the Comprehensive Plan Map as suitable to be up-zoned to R-2 High Density zone. It was argued that the exception was necessary to better implement the Comprehensive Plan by facilitating the viability of rezones and development of higher density structures in infill/redevelopment situations which often become cost prohibitive when hampered by small lot sizes with little room to meet the minimum 14 unit per acre density standard when extra buffer and step-up-height setback standards are imposed! The Planning Commission recommended to the Council that no change to the existing Code be made to address this issue believing it best to continue to protect the adjacent single family property with the extra buffer and height restriction until they also decide to utilize the Comprehensive Plan high density land use designation to rezone and redevelop their property.
- 4) Private Street Use as it Impacts Minimum Lot Size and Density. Citizen input and the Planning Commission unanimously supported new language to require that the use of private streets with new subdivisions require the street area be designated as a separate Tract on the final plat to be recorded preventing any part of the street land area from qualifying as part of the minimum lot size. Counting the private street as part of the lot area has been utilized in a couple situations which has resulted in an increased housing density than would otherwise be allowed in a low density residential zone. Including private street area as part of the total lot size overstates the real "buildable" area of a lot. Citizen input requested that the proposed "private street Tract" requirement also be included in the Partition section of the Code. Staff has proposed additional wording as attached to the July 8 supplemental memorandum which would make it clear that if a new road were proposed to serve a Partition (up to 3 lots), that the access road will not be counted as part of the required minimum lot areas. Staff's additional text amendment language attached to the supplemental memorandum is recommended as part of the text amendment.

### **CONCLUSION**

The Planning Commission of the City of Canby concludes that based on public testimony, the recommendations and conclusions contained in the staff report, along with the text revisions attached to the supplemental July 8, 2019 staff memorandum and based on the Commission deliberations resulting in four topic area findings at that public hearing; that the proposal to amend 32 sections and the table of contents in Chapter 16 of the Canby Municipal Code, and to amend a provision titled Area "K" in the Buildable Lands Section of the Canby Comprehensive Plan is in conformance with the applicable criteria suitable for amendment except the recommended rejection of providing an exception to the 15' buffer/step-up height restriction as proposed.

### **ORDER**

**THE PLANNING COMMISSION** of the City of Canby recommends that the City Council **approve** CPA/TA 19-01 as indicated with the additional findings noted herein.

I CERTIFY THAT THIS ORDER approving CPA 19-01/TA 19-01 was presented to and APPROVED by the Planning Commission of the City of Canby.

DATED this 8th day of July, 2019

  
John Savory  
Planning Commission Chair

  
Bryan Brown  
Planning Director

  
Laney Fouse, Attest  
Recording Secretary

ORAL DECISION: July 8, 2019

Name	Aye	No	Abstain	Absent
John Savory	✓			
Larry Boatright	✓			
Derrick Mottern				✓
Andrey Chernishov	✓			
J. Ryan Adams	✓			
Jeff Mills		✓		
Jennifer Trundy				✓

WRITTEN DECISION: July 8, 2019

Name	Aye	No	Abstain	Absent
John Savory	✓			
Larry Boatright	✓			
Derrick Mottern				✓
Andrey Chernishov	✓			
J. Ryan Adams	✓			
Jeff Mills		✓		
Jennifer Trundy				✓

**PRESENT:** Commissioners John Savory, Larry Boatright, Andrey Chernishov, Jeff Mills and J. Ryan Adams  
**ABSENT:** Derrick Mottern and Jennifer Trundy  
**STAFF:** Bryan Brown, Planning Director, Sandy Freund, Senior Planner and Laney Fouse, Recording Secretary  
**OTHERS:** Gina and Robert Taylor, Lisa and Buzz Weygandt

## **CALL TO ORDER**

Chair Savory called the meeting to order at 7:00 p.m.

## **CITIZEN INPUT ON NON-AGENDA ITEMS – None**

## **MINUTES**

- a. Minutes not available.

## **NEW BUSINESS - None**

## **PUBLIC HEARINGS**

- a. City staff is requesting to annex all remaining portions of SE Township Rd public right-of-way (ROW), including the portion of ROW that crosses Union Pacific Railroad crossing DOT 760205P, MP 748.30. The public ROW subject to this annexation is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road. (ANN 18-06 SE Township Rd Annexation).

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare. There were none.

Sandy Freund, Senior Planner, entered her staff report into the record. This was a request to annex 2.32 acres of all remaining portions of the SE Township Road right-of-way. She pointed out a typo in the staff report. The portion of the right-of-way to be annexed was located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road and included one railroad crossing. There had been four annexations along Township, however only one of those four included right-of-way. This annexation proposed to bring in the remaining portions of Township into the City's jurisdiction. She reviewed the applicable criteria. Staff received one phone inquiry from Mr. Brink about how the annexation would affect his property. Staff recommended the Commission recommend approval of the annexation to the City Council.

Commissioner Mills said this annexation would stitch together all the property and make everything contiguous in this area. Ms. Freund said that was correct. It was a technical clean up.

There was no public testimony.

Chair Savory closed the public hearing.

**Motion:** A motion was made by Commissioner Boatright and seconded by Commissioner Chernishov to recommend approval to the City Council of ANN 18-06 SE Township Rd Annexation to annex all remaining portions of SE Township Rd public right-of-way (ROW), including the portion of ROW that crosses Union Pacific Railroad crossing DOT 760205P, MP 748.30. The public ROW subject to this annexation is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road. Motion passed 5/0.

- b. City staff is requesting consideration of a legislative text amendment to streamline, clarify, and update numerous sections of the Canby Land Development and Planning Ordinance Title 16 Canby Municipal Code (CMC). The text amendment proposal edits and updates 32 chapters and the Table of Contents from Title 16 of the Canby Municipal Code (CMC), and also amends one specific provision of the Canby Comprehensive Plan to delete Area “K” of Policy NO. 6 under Finding NO. 1 of the Buildable Lands Section. (TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K).

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare. There were none.

Bryan Brown, Planning Director, entered his staff report into the record. This hearing was continued from the last meeting. He would be addressing the concerns in the four page submittal from the first public hearing. The first concern was regarding townhomes with common walls and the requirement for an alley or sidewalk type connection at the rear so that middle units would be able to exit the rear yard. Mr. Brown responded by trying to make it clear that staff was supportive of townhomes that would be accessible by rear alleys, however requiring rear alleys or public sidewalk easements at the back would not always work. In the situations when they could plan ahead in the design of the block length and circulation pattern in an area they could get to the option or requirement of rear alleys. Usually alleys like that were private streets and maintained by the adjacent lot owners or HOA. He gave an example of the option for alleys for townhomes in N Redwood Landing, although detached single family homes with no alleys were ultimately built there. He proposed changing the wording to strengthen and clarify that the preference was to have alleys and in situations where there were master planned areas that alleys would be required. In-fill development sites where rear alley access could not be feasibly accommodated would be permitted to be excluded from this requirement. He recognized that none of the townhomes that had been built in the past had rear alleys and they would not have alleys added as there was no way to connect them to a public street. Staff had no knowledge of any building code requirements or fire safety code requirements that required rear access for middle units. He read the new wording that was proposed. The next concern was changing the standard review process for partitions from a Type III to a Type II review. It was also proposed to delete the distinction between a major and minor partition. There was a right to appeal the Type II decision with a \$250 appeal fee. The main concern was removing the option for public testimony in a Type III Planning Commission review to a Type II staff review. He thought it was suitable to be staff level approval as partitions were limited land use decisions that had to be

approved by clear and objective standards. Applications either met the standards or they did not and there was little room for discretion.

There was discussion regarding whether or not staff should be making these decisions and the amount of the appeal fee.

Mr. Brown said most jurisdictions did partitions administratively because of the clear and objective standards and it was similar to other administratively approved applications. These would be partitions that would result in no more than three lots.

Commissioner Adams would be comfortable with the staff approval if the appeal fee was \$0.

Commissioner Boatright thought the Commission needed to hear the public input. He was not in favor of administrative approval for partitions.

Chair Savory agreed with Commissioner Boatright as the public should have the opportunity to give input on partitions. People needed to feel connected to their government and putting distance between the government and the people was not good.

Mr. Brown said the next concern was the 15 foot buffer and step up height provision for multi-family development. The request was for an exception to the 15 foot buffer in the case where the Comprehensive Plan showed the adjacent property to also be high density suitable for rezoning but was still R-1 zoned today. It came down to what was more important, always protecting the existing house or recognizing there was a difference in protecting it when it was low density on the Comprehensive Plan and not protecting it as much when it was intended to transition to high density in the Comprehensive Plan. He read the new wording that was proposed.

There was discussion regarding HB 2001 where any zone that allowed a single family home also could allow a duplex.

Mr. Brown clarified that the exception would change the setback from 15 feet to 7 feet.

Commissioner Mills was opposed to this change as it would in effect change the zoning of the adjacent property whether they wanted it or not. He read an article from the City of Portland, titled, "What is the difference between the Comprehensive Plan Map and zoning?" He thought it was improper to utilize the Comprehensive Plan Map to effectively make a zoning change that had not been approved. It was not a proper use of the Comprehensive Plan.

Mr. Brown said the last concern was related to use of private streets in a manner that impacted minimum lot size and density. Whenever a private street was utilized it was the responsibility of the property owners to maintain it. This could be done by making it a separate tract and establish CC&R's and a HOA to collect money to repair the street. By making it a tract, that area could not be counted towards the lot areas and developers could not make a 7,000 square foot lot with one-third of it in the middle of the road, changing the density in that area.



Commissioner Mills pointed out they needed to change the language in the partition chapter to remove the “major” and “minor” terminology.

Commissioner Boatright supported getting rid of the terminology and did not mind the \$250 appeal fee, but still thought partitions should come before the Planning Commission.

Mr. Brown clarified the \$250 appeal fee would not be applicable if the partitions still came to the Planning Commission because it would be an appeal of the Planning Commission’s decision, not of the staff’s decision, which was \$2,000.

Commissioner Boatright asked what if instead of putting in the alleys for middle units, they could put in sprinkler systems.

Mr. Brown said neither the building code nor fire code had any requirements for alleys for middle units.

Commissioner Chernishov explained how fire trucks needed a minimum of 250 feet for the fire hoses to wrap around the building. If they did not have the 250 feet, there needed to be an access into the property to get within 250 feet. If that could not be done, then fire sprinklers were required.

#### Public Testimony:

Gina Taylor, Canby resident, submitted a copy and read her public comments into the record. She did not think they should amend the major and minor partitions from Type III to Type II decisions as eliminating both public testimony and review by the Planning Commission eliminated the expertise these individuals could provide. She gave examples of this from her own experience on previous land use applications where the public had found requirements that staff had missed. Land use decisions were complicated and they needed to retain the current process which promoted and encouraged public participation. She pointed out the lack of attention to detail that included grammatical and technical errors that occurred in the reports submitted by the Planning Director and his staff. She was confused about in which zones the 10 foot separation between townhomes would be enforced. Her fifth concern was not addressed in the staff report where she had asked what provisions would be imposed on the 10 foot separation between townhomes. She thought the Commission should limit the authority of the Planning Director to Type I review only and not include Type II review. She asked the Commission to create an enforceable definition of a private street. She had requested including rear sidewalks or alleys for townhomes that included a middle unit and asked that the Commission individually give their opinions on this topic.

Mr. Brown explained how some of the examples Ms. Taylor gave did not apply.

Chair Savory closed the public hearing.

#### Commission Deliberation:

1. Townhouse Dwellings having Common Wall Construction.

Commissioners Mills, Chernishov, Adams, and Savory were in support of the exception as they thought the Fire Department would review these applications and raise any fire safety issues.

Commissioner Boatright was opposed to requiring back alleys for any application.

2. Changing the Standard Review Process for Partitions from a Type III Public Hearing to a Type II Planning Director Decision, now deleting the distinction between Major and Minor Partitions, and providing the right of appeal with adopted \$250 appeal fee.

Commissioner Chernishov supported changing partitions to a Type II review as most jurisdictions did them as administrative review and it made the process easier for developers.

Commissioner Adams was against the change as citizens gave valuable input and he did not think there should be a \$250 appeal fee as it could be a barrier to citizens from having access to their government.

Commissioner Boatright was against the change of review. He was not opposed to getting rid of the major and minor partition terminology as long as the applications came before the Planning Commission. He thought the opportunity for public input was important to maintain.

Commissioner Mills was supportive of the language change and deleting the major and minor partition. He would support changing it to a Type II if there was a \$0 appeal fee.

Chair Savory thought the more public access the better and was not in support of the \$250 appeal fee. He was fine with eliminating the major and minor partition distinction, but was against changing it to a Type II decision with an appeal fee.

Commissioner Chernishov asked who paid for the costs incurred for an appeal.

Mr. Brown said if the appeal was zero cost, the tax payers would be paying for the administrative work required. He noted if the appellant was successful and the Type I or Type II decision was overturned, the \$250 fee was refunded.

There was consensus to get rid of the “major” and “minor” terminology and the majority was in agreement to change the partitions to a Type II decision with a zero appeal fee.

3. Multiple family 15’ Buffer/Step-up Height Provision.

All of the Commission was opposed to allowing an exception for the 15 foot buffer/step up height provision.

4. Private Street Use as it Impacts Minimum Lot Size and Density

All of the Commission was in favor of this change.

**Motion:** A motion was made by Commissioner Adams and seconded by Commissioner Mills to recommend approval to the City Council of TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area L. The text amendment proposal edits and updates 32 chapters and the Table of Contents from Title 16 of the Canby Municipal Code (CMC), and also amends one specific provision of the Canby Comprehensive Plan to delete Area “K” of Policy NO. 6 under Finding NO. 1 of the Buildable Lands Section with the changes discussed tonight by the Planning Commission. Motion passed 5/0.

## **FINAL DECISIONS**

- a. ANN 18-06 SE Township Rd Annexation

**Motion:** A motion was made by Commissioner Mills and seconded by Commissioner Adams to approve the final findings for ANN 18-06 SE Township Rd Annexation. Motion passed 5/0.

- b. TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K

**Motion:** A motion was made by Commissioner Chernishov and seconded by Commissioner Adams to approve the final findings for TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K. Motion passed 4/1 with Commissioner Boatright opposed.

## **ITEMS OF INTEREST/REPORT FROM PLANNING STAFF**

- a. Next regularly scheduled Planning Commission meeting – Monday, July 22, 2019

Mr. Brown discussed the items that would be on the next agenda.

## **ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

- a. Status Update of HB 2001: Requires the allowance of duplexes in all residential zoned areas.

Mr. Brown passed out an article from the Sunday *Oregonian* regarding HB 2001. He also discussed the summary from the League of Oregon Cities. They would have to wait to see what needed to be done as far as implementing the bill.

Chair Savory thought this was a bad idea.

There was discussion regarding what could be done about the bill and encouraging citizens to contact their elected representatives about it.

## **ADJOURNMENT**

Chair Savory adjourned the meeting at 9:25 p.m.

JULY 8, 2019 SUPPLEMENTAL MEMORANDUM TO THE PLANNING COMMISSION WITH  
(REVISED TEXT AMENDMENT LANGUAGE FOR 4 TOPIC AREAS)



## MEMORANDUM

**DATE:** July 8, 2019

**TO:** Planning Commission

**FROM:** Bryan Brown, Canby Planning Director

**RE:** *Response to Citizen Concerns on Specific Text Amendments (File No. TA/CPA 19-01)  
(Corrections Bolded and Noted in Parenthesis)*

At the June 10, 2019 Planning Commission public hearing held for Comprehensive Plan and Text Amendment (TA/CPA 19-01) the Planning Commission received four pages of written comments and public testimony from Regina Taylor (attached) voicing concerns about the code objectives and specific proposed wording dealing with the following topics headings and corresponding sections of the code:

1. **Townhouse Dwellings having Common Wall Construction.** *Section 16.04.195; 16.18.010.c; 16.20.030.G.6; Pages 26, 90, 99 of the packet respectively.*

Concern was voiced about the need to require either a rear alley or at least a rear sidewalk when 3 or more townhouses are attached to assure maximum egress safety and maintenance to the middle unit and activity in the rear yards that would otherwise be inaccessible in an emergency without going through the homes front doors, over their roofs, or over neighboring back yard fencing to get to the rear of the units.

**Response:** The provision of providing a rear alley when building townhouses is a desirable and common development practice presenting an aesthetically pleasing and pedestrian friendly front façade free from garages and driveways and would be staff's preferred design technique when this housing type is chosen within Canby. To better assure that this is a viable option, annexation concept plans or master planned unit development neighborhoods need to be designed to accommodate possible rear alley access in their design and layout. This occurred with the street and block layout within the North Redwood Concept Plan but the developer opted out in the final design of Redwood Landing subdivision choosing to utilize the more conventional detached home design option without use of rear alleys.

Townhouse development projects that have been built in Canby have not utilized the rear alley design almost exclusively because they have occurred, and in the foreseeable future, will continue to occur on infill or redevelopment parcels where the existing street pattern is set and therefore not conducive or possible in most of these sites to use a rear alley design at any cost. The use of an additional rear alley design is considered to be a somewhat more expensive option. Since most projects in Canby and suburban locations projects provide a garage, the alley is an excellent location for the garage access freeing up the front façade with

a more pedestrian feel uninterrupted by driveways. Many urban townhouse rows have neither a garage or rear alley. It may be suitable or reasonable to introduce a requirement for a common sidewalk to cross property lines in the rear of townhouses to provide for extra emergency access and improved safety for those middle units. Such a sidewalk would require an easement and could connect to a public street or wrap around the side of an interior unit back out to the front yard street. The typical non-alley townhouse project results in small fenced back yards as a key feature to give the semblance of an outdoor space. The use of a common rear sidewalk would eliminate the provision of private rear yards which could present an adverse marketing factor for the sale of these kind of homes. Staff is not aware of the building code or national fire code prohibiting the permitting of interior units of townhomes in the past or those that might be proposed in the future that are not served by a rear alley or alternative pedestrian emergency access.

Staff desire is to encourage and facilitate the construction of townhouses and other “missing middle” housing types as an option to the standard single-family detached home. The proposed language puts limits on the overall bulk, length, or size of the townhouse structures by setting a limit on the number of units to be attached depending on the zone district and provides for a 10’ separation/open space between structures to further address adjacent use compatibility. Staff believes a requirement for all townhouse developments to be served by a rear alley will severely limit the use of this type of housing except in green field developments that have been master planned with block sizes and/or with street circulation options that will accommodate rear alleys.

**New Text Change:** Staff has proposed further amending the townhouse text language to strengthen our commitment to obtain rear alley access when possible for townhouse developments but still recognizing there will still be many possible sites that are zoned properly where this just won’t be feasible at any cost. (Attached) We think is important to provide this type of housing option and are convinced that our safety experts that provide for building code and fire code provisions and our first responders at townhouse developments can continue to obtain adequate access for emergency situations. Although there may be a degree of reduced routes out a backyard of middle units it is not likely worse than the restrictions in that are present to home buyers in many other apartment and high rise living arrangements. Staff is particularly sold on alley access for the style and pedestrian friendly street scape and public sidewalk which results with rear garage arrangement.

Concern was raised that proposed text wording is not clear in the application of the 10-foot separation between groupings of townhomes in both the R 1.5 zone and the R-2 zone in applying to all groupings of any number of proposed unit groupings at 3 or above as allowed. All Townhouses on platted on individual lot so the standard separation between the end units will be 14’ wall to wall due to the standard side yard setback of 7’. Townhouses in the R-1.5 zone are proposed to be limited to **(no more than 3 attached units without then providing a 10’ separation from an adjacent townhome property line.)** Townhouses in R-2 zone are proposed to be limited to **(no more than 6 attached units without then providing a 10’ separation from an adjacent townhome property line.)** The previously proposed minimum 10-foot separation proposed would be applied from the common unit property line creating a minimum **(24’)** actual wall to wall separation to provide a visual as well as physical separation between each grouping of any number of allowed townhouses to facilitate compatibility of townhouse development with adjacent single-family development.

**Text Change:** Staff proposes amending the townhouse text language to assure that the 10' separation between a groupings of no more than 3 attached units in the R 1.5 zone and 10' separation between groupings of no more than 6 attached units in the R-2 zone is clearly stated to be from the common property line and apply to any configuration of allowed units.

2. **Changing the Standard Review Process for Partitions from a Type III Public Hearing to a Type II Planning Director Decision, now deleting the distinction between Major and Minor Partitions, and providing the right of appeal with adopted \$250 appeal fee. Section 16.60; Page 289-294**

Concern was voiced in removing the option for citizen testimony at a public hearing for Partition applications. Administrative approvals reduce the opportunity to hear about citizen concerns. Interpretations of the ordinance provisions may not always be as intended. The notice radius would be reduced when changing from a Type III to a Type II application. The cost of an appeal of a Planning Director decision was considered to be unreasonable if someone wishes to appeal a staff level decision.

**Response:** Staff stands by the fact that State Statute clearly indicates that a Partition is a limited land use decision which is approved by clear and objective review criteria which implies that you generally either meet the standards or you don't. There is very little room for discretion in the decision process. This is the primary basis for determining when an application may be suitable to be made at the professional staff level. As previously mentioned in the amendment "staff comments", most all communities process Partitions administratively.

Changing the review process from a Type III to a Type II process does not reduce the fact notice is still provided to all property owners and residents within the prescribed radius of the site. The Partition radius as a Type III application is currently just 200' while most Type III applications have a 500' notification radius. Most Type II applications do have just a 100' radius notification but we could easily retain the 200' radius notification.

The cost of an appeal of an administrative Planning Director Decision has now been reduced to \$250 dollars effective July 1, 2019. It so happens, this is now the maximum allowed by State Statute for staff level decisions. This significantly reduces the burden if an appeal is deemed needed.

The staff reports for a Type II Partition versus the current Type III must be essentially the same to assure conformance with the objective review criteria and to assist the applicant in compliance with the listing of necessary conditions of approval. The main difference is a reduction in notice from 20 day to 10 days prior to a decision which is made without benefit of a public hearing but still offers an opportunity for comments to be phoned in, emailed, or sent by mail. Staff considers the relevance of all comments received and attempts to provide a response in the staff decision report and amend recommendations when deemed appropriate toward meeting relevant approval criteria.

**Text Change:** Staff has maintained our position that Partitions should be relegated to a Type II application approved by the Planning Director appealable to the Planning Commission though the new State Statute mandated \$250 appeal fee for a Planning Director Decision. We have

taken our proposed changes a step further by proposing the elimination of the distinction between a Major and Minor Partition as it is pretty unique to Canby and not needed. We either keep all Partitions as a public hearing review or we move them to an administrative review and common 200 radius notice due to the clear and objective review criteria that are provided for this kind of limited land division. Problems that might arise are readily appealable. New amendments are provided.

**3. Multiple family 15' Buffer/Step Up Height Provision. *Section 16.20.A.5.c.; Section 16.20.D.3***

Staff believes the objective to provide an exception to the 15-foot buffer raised by Jason Bristol is appropriate in order to better implement the Comprehensive Plan and protect and provide reasonable opportunities for viable higher density developments while still protecting R-1 or R 1.5 zoned properties that are not invited to transition to higher density in the future by the Comprehensive Plan.

**Text Change:** Staff has provided improved text amendment language that we believe makes the provision for the exception more clear and provides the reasoning for it as well.

**4. Private Street Use as it Impacts Minimum Lot Size and Density. *Section 16.64.010.P.; Section 60.020***

Staff proposed including a requirement to place private streets when used in a subdivision within a separate tract so that the private street area was not utilized to attain necessary minimum lot area sizes which would prevent a possible increase in allowed density by allowing a greater number of lots than could otherwise be fit within the area. The suggestion was made to also include this provision in the Partition chapter. There is a provision for the creation of flag lots which prohibits the inclusion of an access easement portion of the lot from meeting the minimum lot area standard which already exists, but it seems reasonable to also include this provision in the Partition chapter.

**Text Change:** It is a bit unclear where this new provision should be inserted in the Partition chapter but we have provided a possible location.

**Possible Planning Commission Decision Options:**

There are five topic areas in which concern was raised about the proposed text language or the intended objective. A summary of those topics and possible Planning Commission options with regard to each is indicated below:

**1) *Topic 1: Townhouse Provisions.***

***\* Recommend staff's Alternative Proposed Text Amendments;***

***\* Recommend an Alternative Amendment that requires townhouse groupings of 3 or more groupings to have rear alley access and/or public sidewalk or other means of available access across neighboring properties in the rear yards to address emergency safety considerations;***

**2) *Topic 2: Review Process for Partitions.***

***\* Recommend staff's Alternative Proposed Text Amendment that eliminates the differentiation***



*between a Major & Minor Partition and continues to change the review process from a Type III public hearing to a Type II Planning Director Decision with notice and right of appeal or Director discretion to call for a public hearing (Note we now have a new \$250 Type II appeal fee).*

*\* Recommend retaining the existing Type III Public Hearing process for Partitions but include eliminating the differentiation between a Major & Minor Partition.*

*\* Recommended retaining the existing review process and code language for Major and Minor Partitions.*

- 3) *Topic 3: Multiple family 15' buffer/Step Up Height Provision Adjacent to Single-family with Option to Transition to Multiple Family.*

*\* Recommend staff's Alternative Proposed Text Amendment language that more fully explains the nature of the exception from the buffer and step up height requirement in recognition of the importance in facilitating the development of designated transition areas for higher density development within the community and will meet Jason Bristol's objective.*

*\* Recommend the Proposed Text Amendment language presented by Mr. Bristol which staff believes leaves too much room for misinterpretation of its meaning.*

*\* Recommend that we retain the existing protective measures that the existing buffer and step up height standards offer to single-family zoned lots when multi-family development occurs next door by leaving the existing code in place.*

- 4) *Topic 4: Private Street Use as it Impacts Minimum Lot Size and Density.*

*\* Recommend staff's Original Public Hearing Text Amendment language to place private streets in a Tract separate from the lots within a subdivision or partition also include it within Section 16.60.020 Partition Chapter.*

- 5) ***(Topic 5: What if any provisions do we impose on the 10 foot separation between Townhouses?)***

***\*Staff recommends that parameters on how the 10' separation space between groupings of attached townhouses are managed is best left to be determined at the time an individual subdivision application is reviewed. Existing land use regulations should be adequate to address the use of and care of the land area by an HOA, and suitability of using the space for anything else can be determined at the time of development approval.)***

#### **Attachments:**

- Staff Alternative Text Amendment Proposed Language for:
  1. Townhouse Provisions
  2. Move the Review of Major/Minor Partitions from a Type III Review to a Type II Review
  3. Current 15' Buffer/Step Up Height Provision when Multifamily Development proposed next existing single-family detached use and zone designated to transition to R-2 by Comp Plan Land Use Map
  4. Private Street Use as it Impacts Lot Size and Density

## Chapter 16.04

### DEFINITIONS

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

#### Sections:

16.04.010 Grammatical interpretation.  
16.04.020 Generally.  
16.04.030 Abutting-adjoining-adjacent.  
16.04.035 Acceptable site.  
16.04.036 Access.  
16.04.037 Access classification.  
16.04.038 Access connection.  
16.04.039 Access management.  
**16.04.040 Accessory Dwelling Unit.**  
~~16.04.040~~ **043** Accessory structure or use.  
16.04.045 Accessway.  
16.04.050 Agriculture.  
16.04.060 Alley.  
16.04.061 Antenna.  
16.04.063 Application.  
16.04.064 Attached WTS facility.  
16.04.065 Backhaul network.  
16.04.066 Bed and Breakfast.  
16.04.068 Bicycle Facilities.  
16.04.070 Billboard.  
16.04.080 Boarding, lodging or rooming house.  
16.04.090 Building.  
16.04.100 Building line.  
16.04.105 Cell.  
16.04.110 Central business district (CBD).  
16.04.120 City.

16.04.125 City Planner.  
16.04.127 Collocation.  
16.04.128 Commercial Recreation Uses.  
16.04.130 Commission.  
16.04.135 Conditionally suitable site.  
16.04.137 Corner clearance.  
16.04.140 Council.  
16.04.145 Cross access.  
16.04.150 Curb line.  
16.04.155 Day care facility.  
16.04.158 Detached WTS facility.  
16.04.160 Development plan.

**16.04.170 Dwelling, duplex-dwelling, two family.**  
**16.04.180 Dwelling, multi-family.**  
**16.04.190 Dwelling, single-family.**  
**16.04.195 Dwelling, townhouse.**  
16.04.200 Dwelling unit.  
16.04.210 Easement.  
16.04.212 Eco-roof  
16.04.215 Equipment shelters.  
16.04.218 Façade.  
16.04.220 Family.  
  
~~16.04.222~~ **16.04.221** Floor area ratio.  
  
**16.04.222 Foster Home,**

16.04.223 Frontage road.  
 16.04.225 FCC.  
 16.04.228 Grade plane.  
16.04.230 Height of building.  
 16.04.240 Home occupation.  
 16.04.250 Hotel.  
 16.04.253 Impervious Surface.  
 16.04.255 Infill homes.  
 16.04.275 Infiltration.  
 16.04.260 Intersection.  
 16.04.265 Joint access (or shared access).  
 16.04.270 Kennel.  
 16.04.275 Lattice tower.  
 16.04.280 Loading space.  
 16.04.290 Lot.  
 16.04.300 Lot area.  
 16.04.310 Lot, corner.  
 16.04.315 Lot depth.  
 16.04.318 Lot, flag.  
 16.04.320 Lot front.  
 16.04.321 Lot frontage.  
 16.04.330 Lot, interior.  
 16.04.340 Lot line.  
 16.04.350 Lot line, interior.  
 16.04.360 Lot line, street.  
 16.04.370 Lot, through.  
 16.04.380 Lot width.  
 16.04.383 Low impact development.  
 16.04.385 Lowest floor.  
~~16.04.387 Manufactured home~~  
~~manufactured housing unit~~  
~~16.04.390 Mobile Manufactured home.~~  
16.04.400 Manufactured (mobile) home park.  
16.04.410 Manufactured (mobile) home subdivision.  
 16.04.420 Modular home.  
 16.04.425 Monopole.  
 16.04.430 Motel.  
  
16.04.433 Nail Salons  
  
 16.04.435 Neighborhood activity center.  
 16.04.438 Nonconforming access features.  
 16.04.440 Nonconforming structure, lot or use

16.04.445 Nursing Home  
 16.04.450 Parent parcel.  
 16.04.460 Parking space.  
 16.04.470 Partition.  
 16.04.480 Pedestrian way.  
 16.04.490 Person.  
 16.04.500 Planning Commission.  
 16.04.510 Plat.  
 16.04.512 Porches, covered.  
 16.04.514 Preapplication conference  
 16.04.515 Preferred site.  
 16.04.516 Public facility, major  
 16.04.517 Public facility, minor  
 16.04.519 Reasonably direct.  
 16.04.520 Recommendation.

#### 16.04.525 Residential Facility

#### 16.04.527 Residential Home

16.04.530 Right-of-way.  
 16.04.540 Roadway.  
 16.04.545 Safe and convenient bicycle and pedestrian routes.

#### 16.04.547 Self-Storage/Mini-Storage Warehouse

16.04.550 Setbacks.  
 16.04.560 Sidewalk.  
 16.04.565 Stealth design.  
 16.04.567 Story above grade plane.  
 16.04.570 Street.  
 16.04.580 Structural alteration.  
 16.04.590 Structure.  
 16.04.595 Stub-out (or stub street)  
 16.04.600 Subdivide land.  
 16.04.610 Subdivision.  
 16.04.615 Traffic impact analysis.  
 16.04.620 Trailer coach.  
 16.04.630 Trailer park.  
 16.04.035 Trip generation study.

16.04.640 Urban Growth Boundary (UGB).  
 16.04.650 Urbanizable.  
 16.04.660 Use.  
 16.04.666 Vicinity.

**16.04.670 Vision clearance area.**  
**16.04.671 Walkway.**  
**16.04.672 Wireless telecommunications facility.**  
**16.04.676 Wireless telecommunications systems (WTS).**  
**16.04.680 Yard.**  
**16.04.690 Yard, interior.**  
**16.04.700 Yard, rear.**  
**16.04.710 Yard, street.**  
**16.04.715 Zero-lot line development.**

**16.04.010 Grammatical interpretation.**

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

**16.04.020 Generally.**

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

**16.04.030 Abutting-adjoining-adjacent.**

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

**16.04.035 Acceptable site.**

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

**16.04.036 Access.**

Access means a way or means of approach to provide pedestrian, bicycle, or motor vehicle entrance or exit to a property. (Ord. 1043 section 3, 2000).

**16.04.037 Access classification.**

Access classification means a ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties, and existing level of access control. (Ord. 1043 section 3, 2000)

**16.04.038 Access connection.**

Access connection means any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system. (Ord. 1043 section 3, 2000)

**16.04.039 Access management.**

Access management means the process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed. (Ord. 1043 section 3, 2000)

**16.04.040 Accessory Dwelling.**

Accessory dwelling is an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

**16.04.040 043 Accessory structure or use.**

Accessory structure or use means a detached structure or use not intended for human habitation, incidental and subordinate to the main use of the property and which is located on the same lot with the main use such as, but not limited to, garage, carport, tool shed, private greenhouse or utility building. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.045 Accessway.**

Accessway means a walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians. (Ord. 1043 section 3, 2000)

**16.04.050 Agriculture.**

Agriculture means the tilling of the soil, the raising of crops, silviculture and horticulture. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.060 Alley.**

Alley means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting another street. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.061 Antenna.**

The specific device used to capture an incoming and/or transmit an outgoing radio-frequency signal. This definition shall include omni-directional (whip) antennas; directional (panel) antennas; parabolic (microwave dish) antennas; and ancillary antennas (i.e., GPS). All other transmitting or receiving equipment not specifically described herein shall be regulated in conformity with the type of antenna described herein which most closely resembles such equipment. (Ord. 981 section 17, 1997)

**16.04.063 Application.**

Application for a land use permit (site and design review, conditional use permit, annexation, zone change, subdivision, etc.) means a package of information that includes:

- A. The application form filled out and signed by the owner;
- B. Site plan and/or narrative describing the proposal;
- C. List of property owners on mailing labels (1" x 2 5/8"); and

D. The application fee. (Ord. 981 section 1, 1997)

**16.04.064 Attached WTS facility.**

An existing pole, tower or other structure capable of accommodating a WTS facility antenna, whether originally intended for such use or not. (Ord. 981 section 17, 1997)

**16.04.065 Backhaul network.**

The land lines that connect a WTS provider's radio signals to one or more cellular telephone switching offices and/or local or long distance providers, or the public switched telephone network. (Ord. 981 section 17, 1997)

**16.04.066 Bed and Breakfast.**

Bed and Breakfast means any single-family residential dwelling having rooms for rent to travelers or transients for a charge or fee paid, for rental or use for a period of less than thirty (30) days. Additionally, such establishment serving only one meal per day prior to the noon hour. (Ord. 890 section 4, 1993; renumbered due to Ord. 981 amendments)

**16.04.068 Bicycle facilities.**

Bicycle facilities is a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways. (Ord. 1043 section 3, 2000)

**16.04.070 Billboard.**

Billboard means a sign which has a surface space upon which advertising may be posted, painted, or affixed, and which is generally, although not necessarily, designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.080 Boarding, lodging or rooming house.**

Boardinghouse, lodging house or rooming-house means a building where lodging with or without meals is provided for compensation for at least four, but not more than ten guests. Board and care, foster care and similar accommodations are considered boardinghouses for the purposes of this title. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.090 Building.**

Building means a structure built for the shelter or enclosure of persons, animals, chattels or property of any kind. (Ord. 740 section 10.1 .20(B)[part], 1984)

**16.04.100 Building line.**

Building line means a line on a plat indicating the limit beyond which buildings or structures may not be erected. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.105 Cell.**

A geographic area where a single radio transmission sending/receiving station (per provider) and the equipment necessary to connect these radio calls to land lines or other cells are located. (Ord. 981 section 17, 1997)

**16.04.110 Central business district (CBD).**

Central business district (CBD) means the downtown area of Canby, defined generally by zoning or designation on the Land Use Map of the Comprehensive Plan for downtown commercial development. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.120 City.**

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

**16.04.125 City Planner.**

City Planner means the person appointed by the city administrator as supervisor of the day-to-day operations of Canby's city planning functions, or another staff person he or she designates for a particular function. Also referred to as "Planning Director." (Ord. 890 section 5, 1993; Ord. 1080, 2001)

**16.04.127 Collocation.**

Two or more WTS providers utilizing a structure or site specifically designed and/or approved for such multiple use, and including equipment shelters. (Ord. 981 section 17, 1997)

**16.04.128 Commercial Recreation Uses.**

Commercial recreation uses means uses intended to provide for gymnastics, tennis, racquetball and other sport-related centers that require oversized indoor space and facilities. (Ord. 960, section 1, 12/18/96)

**16.04.130 Commission.**

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

**16.04.135 Conditionally suitable site.**

For purposes of siting wireless telecommunications systems facilities, any land planned and zoned Residential/ Commercial, Convenience Commercial, or Downtown Commercial. (Ord. 981 section 17, 1997)

**16.04.137 Corner clearance.**

Corner clearance means the distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way. (Ord. 1043 section 3, 2000)

**16.04.140 Council.**

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

**16.04.145 Cross access.**



Cross access means a service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system. (Ord. 1043 section 3, 2000)

**16.04.150 Curb line.**

Curb line means a line along the edge of the curb nearest the street lot line, not necessarily the right-of-way line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.155 Day care facility.**

Day care facility means any facility that provides day care to children, including a day nursery, nursery school group, home of a family day care provider, or similar unit operating under any name, but not including any:

- A. Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day.
- B. Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion.
- C. Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.
- D. Facility operated by a school district, political subdivision of this state, or a governmental agency.
- E. Residential facility licensed under ORS 443.400 to 443.455.
- F. Babysitters. (Ord. 890 section 6, 1993)

**16.04.158 Detached WTS facility.**

A pole, tower or other structure designed and intended to support WTS facility antennas. (Ord. 981 section 17, 1997)

**16.04.160 Development plan.**

Development plan means any plan adopted by the Planning Commission for the guidance of growth and improvement of the city, including modifications or refinements which may be made from time to time. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.170 Dwelling, duplex-dwelling, two-family.**

Duplex dwelling or two-family dwelling means a building containing two dwelling units **located on the same lot or parcel**. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.180 Dwelling, multi-family.**

Multi-family dwelling means a building containing three or more dwelling units **located on the same lot or parcel**. (Ord. 740 section 10.1.20(B) [part], 1984)

**~~16.04.190 Dwelling, single-family.~~**

~~Single-family dwelling means a detached building containing one dwelling unit. Attached or common wall single-family dwellings, may also exist provided that each is situated on a separate lot and provided that each such unit shall not contain a common wall with more than one other dwelling unit. Mobile homes shall not be considered to be single-family dwellings for the purposes of this chapter unless found to meet all city building, mechanical, electrical and other construction codes applicable to conventional units built on the site. (Ord. 740 section 10.1.20 (B)[part], 1984)~~

**16.04.190 Dwelling, single-family.** Single-family dwelling means a detached building containing one dwelling unit. Manufactured homes shall not be considered to be single-family dwellings for the purposes of this chapter unless found to meet all city building, mechanical, electrical and other construction codes applicable to conventional units built on the site. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.195 Dwelling, Townhouse (Common Wall).** Means single-family attached common wall dwellings with each dwelling unit located on a separate lot. There shall be no more than six attached townhouse dwelling units in a row, and the combined single-family units shall not exceed 120 feet in length.

*The above definitions are separated and rewritten for clarity. Common wall single-family dwellings, (townhouses) are not usually limited to "one other dwelling unit" in most jurisdictions. The intent of the R-1.5 and R-2 zone, where this use is allowed, is to increase density and multiple units with common walls are generally allowed in high density zones and permit needed urban housing. The change to six units is consistent with provisions in the code that allow a maximum building width of 120 feet and a minimum lot width of 20 feet.*

**16.04.200 Dwelling unit.**

Dwelling unit means one or more rooms designed for occupancy by one family and not having more than one cooking facility. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.210 Easement.**

Easement means a grant of the right to use an area of land for specific purposes. (Ord. 740 section 10.1 20(B)[part], 1984)

**16.04.212 Eco-roof**

Eco-roof means a vegetated roof constructed for water quality and quantity control. Eco-roofs are vegetated roof covers with growing media and plants taking the place of bare membrane, gravel ballast, shingles or tiles. The number of layers and the layer placement vary from system to system and roof type, but all eco-roofs include a single

to multi-ply waterproofing layer, drainage, growing media and the plants, covering at least 50% of the roof deck surface. (Ord. 1338, 2010)

**16.04.215 Equipment shelters.**

For purposes of siting wireless telecommunications systems facilities, the buildings, structures, cabinets or vaults used to house and protect the equipment necessary to connect/relay radio signals from cell site to cell site and to land line systems. Associated equipment such as air conditioning or emergency generators shall be included in this definition of equipment shelters. (Ord. 981 section 17, 1997)

**16.04.218 Façade.**

Façade means an exterior face of a building. (Ord 1296, 2008)

**16.04.220 Family.**

Family means an individual or two or more individuals related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit in which meals or lodging may also be provided for not more than two additional individuals excluding servants; or a group of not more than five individuals, excluding servants, who need not be related by blood, marriage, adoption or legal guardianship living together in a dwelling unit. Five or fewer handicapped persons, along with those individuals charged with caring for such persons and sharing a common dwelling unit, shall be considered to be a family for purposes of this title. (Ord. 740 section 10.1.20(B) [part], 1984)

**~~16.04.222~~ 16.04.221 Floor area ratio.**

Floor area ratio means a method of calculating structural massing on a lot. Floor Area Ratio is expressed as a ratio of x divided by y, where x is equal to the sum of the gross floor area of all stories above grade plane, as measured to the outside surface of exterior walls, and y is equal to the lot area net of any publicly dedicated right-of-way or land. Detached accessory structures and detached or attached parking structures above grade plane are not included in the gross floor area calculation. (Ord 1296, 2008)

**16.04.222 Foster Home.**

**“Foster home” means any home maintained by a person who has under the care of the person in the home any child under the age of 21 years unattended by the child’s parent or guardian, for the purpose of providing the child with care, food and lodging, but does not include items listed in ORS 418.625 a-f,**

*This definition was added to clarify the deference between foster home, residential home, childcare facility, etc.*

**16.04.223 Frontage road.**

Frontage road means a public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street (see also service roads). (Ord. 1043 section 3,

2000)

**16.04.225 FCC.**

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

**16.04.228 Grade plane.**

Grade plane means the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building. (Ord 1296, 2008)

**16.04.230 Height of building.**

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

*Changed for clarity and implementation*

**16.04.240 Home occupation.**

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

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

**16.04.250 Hotel.**

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

**16.04.253 Impervious surface**

Impervious surface means a surface area that creates a barrier to or hinders the entry of water into the soil in comparison with natural conditions prior to development, thus causing water to run off the surface in greater quantities or at an increased rate of flow. Impervious surfaces include, but are not limited to, buildings, paved parking areas and driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses. (Ord. 1338, 2010)

**16.04.255 Infill homes.**

Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes and triplexes on lots that are located in an R-1 or R-1.5 zoning district, and that have existing homes on two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval). (Ord. 1107, 2002; Ord 1237, 2007; Ord 1323, 2010)

**16.04.257 Infiltration**

Infiltration means the process or rate at which water percolates from the land surface into the ground. Infiltration is also a general category of best management practices (BMP) designed to collect runoff and allow it to flow through the ground for pollutant removal. (Ord. 1338, 2010)

**16.04.260 Intersection.**

Intersection means the place where two streets meet or cross. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.265 Joint access (or shared access).**

Joint access (or shared access) means a driveway connecting two or more contiguous sites to the public street system. (Ord. 1043 section 3, 2000)

**16.04.270 Kennel.**

Kennel means a place where four or more dogs more than four months of age are kept on one lot or contiguous lots under one ownership. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.275 Lattice tower.**

For purposes of siting wireless telecommunications systems facilities, a WTS support structure which consists of metal crossed strips or bars and which supports antennas and related equipment for one or more WTS provider. (Ord. 981 section 17, 1997)

**16.04.280 Loading space.**

Loading space means an off-street space for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which space has access to a street. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.290 Lot.**

Lot means a single parcel or tract of land for which a legal description has been filed in the office of the county recorder or the boundaries of which are shown on a recorded subdivision plat. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.300 Lot area.**

Lot area means the total horizontal area within the boundary lines of a lot, excluding the access strip servicing a flag lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.310 Lot, corner.**

Corner lot means a lot abutting two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than one hundred thirty-five degrees. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.315 Lot depth.**

Lot depth means the average distance from the front lot line to the rear lot line. (Ord. 1043 section 3, 2000)

**16.04.318 Lot, flag.**

A flag lot is a lot that does not meet minimum frontage requirements and where access to the public road is by a narrow, private right-of-way. (Ord. 1043 section 3, 2000)

**16.04.320 Lot front.**

Lot front means the street lot line on a corner lot which the principal use or structure is facing. If no such use or structure exists, it means the street side having the shorter length. If the sides are of approximately equal length, the City Planner may designate the lot front. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.321 Lot frontage.**

Lot frontage means that portion of a lot extending along a street right-of-way line. (Ord. 1043 section 3, 2000)

**16.04.330 Lot, interior.**

Interior lot means a lot other than a corner lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.340 Lot line.**

Lot line means the property line bounding a lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.350 Lot line, interior.**

Lot line, interior means all lot lines which separate one parcel from another, other than street lot lines. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.360 Lot line, street.**

Street lot line means a lot line that separates the lot from a street other than an alley. The street lot line is not generally the same as the curb line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.370 Lot, through.**

Through lot means a lot having frontage on two parallel or approximately parallel streets other than alleys. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.380 Lot width.**

Lot width means the average width of a lot when measured at the front and rear setback lines for a principal use. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.383 Low impact development**

Low impact development (LID) means a stormwater management and land development strategy applied at the parcel, multiple parcel and/or subdivision level that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale controls to more closely mimic predevelopment hydrologic functions. LID tools are designed to reduce environmental impacts of development, such as increased storm water runoff due to impervious areas, poor water quality and inconsistent water quantity in streams and rivers. LID techniques control storm water runoff volume and reduce pollutant loadings to receiving waters. Not all sites are suitable for LID. Considerations such as soil permeability, depth of water table and slope should be considered, in addition to other factors. LID techniques may not completely replace the need for conventional stormwater controls. (Ord 1338, 2010)

**16.04.385 Lowest floor.**

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title found in Chapter 16.40 (Hazard Overlay Zone). (Ord. 804 section 2(A), 1987)

**~~16.04.387 Manufactured home – manufactured housing unit.~~**

~~Manufactured home and manufactured housing unit mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes only, the term~~

~~manufactured home also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes and for Chapter 16.16, the term manufactured home does not include park trailers, travel trailers and other similar vehicles. For purposes of Chapter 16.16, a manufactured home shall be certified to meet the 1976 HUD Standards, as amended. (Ord. 859 section 1, 1991; Ord. 804 section 2(B), 1987)~~

**~~16.04.390 Mobile home.~~**

~~Mobile home means a movable structure which is certified to have been designed and constructed in compliance with the 1976 construction standards of the Federal Department of Housing and Urban Development and as may be amended. (Ord. 740 section 10.1.20(B) [part], 1984)~~

**16.04.390 Manufactured home (Mobile Home)**

“Manufactured home” means a structure constructed for movement on public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. This definition includes manufactured dwelling, manufactured home, mobile home, and residential trailer as those terms are defined in ORS 446.003. A manufactured home shall be certified to meet the 1976 HUD Standards, as amended. The definition does not include recreational vehicles, travel trailers, park trailers or structures or vehicles which have a state of Oregon or U.S. Government label designating them as a recreational vehicle. It also does not include buildings or structures subject to the Structural Specialty Code adopted pursuant to ORS 455.100 through 455.450.

The above changes are to clarify and update the specifications of a manufactured home and mobile home.

**16.04.400 Manufactured (Mobile) home park.**

Manufactured (Mobile) home park means a tax lot or lots where two or more manufactured mobile homes are used for human occupancy and where the space is available for rent or lease. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.410 Manufactured (Mobile) home subdivision.**

Manufactured (Mobile) home subdivision means a subdivision of property where individual lots are available for the placement of manufactured mobile homes. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.420 Modular home.**

Modular home means a residential structure constructed of one or more prefabricated parts which meet all city building, plumbing, mechanical, electrical and other



construction codes applicable to conventional units which might be built on the site. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.425 Monopole.**

For purposes of siting wireless telecommunications systems facilities, a WTS support structure which consists of a single tapered steel pole and which supports antennas and related equipment for one or more WTS provider. (Ord. 981 section 17, 1997)

**16.04.430 Motel.**

Motel means a building or group of buildings on the same lot containing guest units with separate and individual entrances and consisting of individual sleeping quarters, detached or in connected rows, with or without cooking facilities, for rental. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.433 Nail Salons.**

**Establishments primarily engaged in providing nail care services, such as manicures, pedicures, and nail extensions.**

*This use has increased in popularity and should be clarified.*

**16.04.435 Neighborhood activity center.**

Neighborhood activity center means an attractor or destination for residents of surrounding residential areas. Includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops, and employment areas. (Ord. 1043 section 3, 2000)

**16.04.438 Nonconforming access features.**

Nonconforming access features means features of the property access that existed prior to the date of ordinance adoption and do not conform with the requirements of this ordinance. (Ord. 1043 section 3, 2000)

**16.04.440 Nonconforming structure, lot or use.**

Nonconforming structure, lot or use means a structure, lot or use which lawfully existed prior to the adoption of zoning requirements for the zone in which it is located and with which it does not comply. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.445 “Nursing home” means any institution or facility defined as a long term care facility for licensing purposes under state statute or the rules of the Department of Human Services, including a long term care facility operated as part of a dual facility. “Dual facility” means a facility that operates both a hospital and a long term care facility on the same campus. (ORS 678.710)**

*This use was added to clarify the definition from similar uses.*

**16.04.450 Parent parcel.**

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

**16.04.460 Parking space.**

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

**16.04.470 Partition.**

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

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

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

**16.04.480 Pedestrian way.**

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

**16.04.490 Person.**

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

**16.04.500 Planning Commission.**

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

**16.04.510 Plat.**

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

**16.04.512 Porches, covered.**

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

**16.04.514 Preapplication conference.**

Preapplication conference means a meeting of the representatives of the city departments and other affected agencies, as determined by the City, to review and provide initial input on land use applications or other proposals. (Ord. 1237, 2007)

**16.04.515 Preferred site.**

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

**16.04.516 Public facility, major.**

A major public facility is any public service improvement or structure, other than transportation projects, developed by or for a public agency that is not defined as a minor public facility. Transportation projects are covered by Section 16.08.130. (Ord. 1237, 2007)

**16.04.517 Public facility, minor.**

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

- A. Minor utility structures, except substations, but including poles, lines, pipes, telecommunications facilities or other such facilities.
- B. Sewer, storm drainage, or water system structures except treatment plants or reservoirs, but including pump stations, manholes, valves, hydrants or other portions of the collection, treatment and distribution systems located within public property or public easements.
- C. Street improvements within existing developments including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.
- D. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right of way or public easements or on public property.
- E. School improvements which will not increase the capacity of the school nor create significant additional traffic or other impacts on the surrounding neighborhood.
- F. Park improvements which will not create significant additional motor or foot traffic impact on the surrounding neighborhood. (Ord. 1237, 2007)

**16.04.519 Reasonably direct.**

A reasonably direct route does not deviate unnecessarily from a straight line or is a route that does not involve a significant amount of out-of-direction travel for likely users. (Ord. 1043 section 3, 2000; Ord. 1237, 2007)

**16.04.520 Recommendation.**

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

**16.04.525 “Residential facility” means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. (ORS 197.660)(1) Under ORS 197.667(4), the city may require an applicant proposing to site a residential facility to supply the city with a copy of the entire application and supporting documentation for state licensing of the facility except for information that is exempt from public disclosure.**

**16.04.527 “Residential home” means a residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. (ORS 197.660)(2)**

*The two uses are similar and sometimes lead to confusion and need to be clearly defined.*

**16.04.530 Right-of-way.**

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

**16.04.540 Roadway.**

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

**16.04.545 Safe and convenient bicycle and pedestrian routes.**

Safe and convenient bicycle and pedestrian routes:

A. Are reasonably free from hazards; and

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

**16.04.547 Self Storage Unit/Ministorage Warehouse (NAICS 531130)**

**Establishments primarily engaged in renting or leasing space for self-storage. These establishments provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods.**

*This is a common use that is not defined in the code. It is sometimes confused with an industrial warehouse that serves a different purpose and has a separate definition.*

**16.04.550 Setback.**

Setback means a distance which a structure is required to be set back from a lot line. Where specified in this title, some setbacks are measured from curbs or projected curb lines rather than lot lines. ~~Railing for decks less than~~ **Decks** 30 inches or less above grade are exempt from setback standards. (Ord. 830 section 2, 1989; Ord. 740 section 10.1.20(B) [part], 1984; Ord. 955 section 1, 1996)

*The above definition was not clear and seems to mean that if the deck does not have a railing it has to meet the setback regardless of the height. The changes reflect how the City and other jurisdiction apply the exemption.*

**16.04.560 Sidewalk.**

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

**16.04.565 Stealth design.**

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

**16.04.567 Story above grade plane.**

Story above grade plane means any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is either (1) more than 6 feet above grade plane, or (2) more than 12 feet above the finished ground level at any point. (Ord 1296, 2008)

**16.04.570 Street.**

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

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

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

**C. Collector** means a street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas used to some extent for through traffic and to some extent for access to abutting properties.

**D. Neighborhood connector** means a street supplementary to the collector street system providing local access to adjacent properties as well as movement into or out of a neighborhood or between neighborhoods.

**E. Cul-de-sac** (dead-end street) means a short street having one end open to traffic and being terminated by a vehicle turnaround.

**F. Half-street** means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

**G. Marginal access or frontage street** means a minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

**H. Minor street** means a street intended exclusively for access to abutting properties. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1043 section 3, 2000)

**I. Green street** means a street that has been designed to integrate a system of stormwater management within its right of way. Green streets are intended to reduce the amount of runoff that is piped directly to the city stormwater system and/or streams and rivers. Green streets make the best use of the street tree canopy and natural filtration and drainage systems for stormwater interception and provide temperature mitigation and air quality improvements. (Ord. 1338, 2010)

**16.04.580 Structural alteration.**

**Structural alteration** means any change in the supporting members of a structure, including the supporting parts of foundations, bearing walls or partitions, columns, beams, girders, or the roof. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.590 Structure.**

**Structure** means that which is built or constructed. Structure means an edifice or building of any kind or any piece of work artificially built up or composed of parts joined in some manner and which requires a location on the ground. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.595 Stub-out (or stub street).**

Stub-out (or stub street) means a portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future. (Ord. 1043 section 3, 2000)

**16.04.600 Subdivide land.**

Subdivide land means to divide a parcel of land into four or more lots in a given calendar year for the purpose of transfer of ownership or building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.610 Subdivision.**

Subdivision means either an act of subdividing land or tract of land subdivided as defined in this chapter. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.615 Traffic Impact Analysis.**

Traffic Impact Analysis A comprehensive traffic analysis of a development proposal which includes trip generation, analysis of access/egress, accident analysis, intersection analysis, and traffic flow analysis. (Ord. 1019 section 22, 1999)

**16.04.620 Trailer coach.**

Trailer coach means a trailer or motor home not certified as meeting the HUD 1976 standards or as may be amended for design and construction of a mobile home. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.630 Trailer park.**

Trailer park means a tax lot or lots where space is rented or leased for the location of two or more trailer coaches, or some combination of mobile homes and trailer coaches for human habitation. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.635 Trip generation study.**

Trip Generation Study means an analysis of the number of vehicle trips generated by a development proposal. Trip generation for commercial/industrial/residential/ institutional projects are estimated through the Institute of Transportation Engineers' manual. The results of the trip generation study will determine the need for a Traffic Impact Analysis. If the trip generation study determines the use will generate more than 100 vehicle trips per day, the City Traffic Engineer may require a Traffic Impact Analysis. (Ord. 1019 section 23, 1999)

**16.04.640 Urban Growth Boundary (UGB)**

Urban Growth Boundary (UGB) means the area specifically delineated in the city's comprehensive plan as being already urbanized or available for urban development. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.650 Urbanizable.**

Urbanizable is the term applied to property which is within the city's Urban Growth Boundary and which is planned for eventual urban development. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.660 Use.**

Use means the purpose for which land or a structure is designed, arranged, or for which it is occupied or maintained. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.666 Vicinity.**

Vicinity means nearby; within the same neighborhood. It should be noted that in applying the criteria of this chapter, the term vicinity will be applied to a larger area when warranted by a large project or a project which is expected to have an impact on a large area. (Ord. 805 section 1, 1987)

**16.04.670 Vision clearance area.**

Vision clearance area means the triangle area at the intersection of two streets, a driveway and a street, or a street and a railroad, two sides of which are measured from the corner intersection of the existing or proposed curb lines to a distance specified in this title. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the curb lines at intersections have rounded corners, the curb lines will be extended in a straight line to their points of intersection. No plantings, structures, or temporary or permanent obstructions shall be located within a vision clearance area, extending from two and one-half to ten feet above the curb or street elevation. Except, however, that one tree trunk not greater than eighteen inches in diameter shall be permitted within a vision clearance area. (Ord. 830 section 3, 1989; Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.672 Walkway.**

Walkway means a hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways. (Ord. 1043 section 3, 2000)

**16.04.672 Wireless telecommunications facilities.**

The site, structures, equipment and appurtenances used to transmit, receive, distribute, provide or offer wireless telecommunications services. This includes, but is not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, electronics and switching equipment. (Ord. 981 section 17, 1997)

**16.04.676 Wireless telecommunications systems (WTS).**

The sending and receiving of radio frequency transmissions and the connection and/or relaying of these signals to land lines and other sending and receiving stations (cell sites), and including cellular radiotelephone, personal communications services, enhanced/specialized mobile radio, and commercial paging services. (Ord. 981 section 17, 1997)

**16.04.680 Yard.**



Yard means an open space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot upward, except as otherwise provided in this title. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.690 Yard, interior.**

Interior yard means a yard lying between the nearest point of a building and measured horizontally to an interior lot line. (Ord. 1296; 2008; Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.700 Yard, rear.**

Rear yard means a yard lying to the rear of the principal building on the lot and generally opposite the lot front. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.710 Yard, street.**

Street yard means a yard lying between the nearest point of a building and the street and measured horizontally to the street lot line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.715 Zero-lot line development.**

Zero-lot line development means detached dwellings required to have a side yard setback on only one side. (Ord. 1111 section 4, 2003)

## Chapter 16.18

### R-1.5 MEDIUM DENSITY RESIDENTIAL ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

#### Sections:

**16.18.010 Uses permitted outright.**

**16.18.020 Conditional uses.**

**16.18.030 Development standards.**

#### **16.18.010 Uses permitted outright.**

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

**A.** Uses permitted outright in the R-1 zone;

**B.** Two-family or three-family dwellings. One duplex or triplex on each lot. (Ord. 740 sect. 10.3.20 (A), 1984)

**C.** Single-family **townhouse** dwellings having common wall construction. (Ord. 740 sect. 10.3.20(B), 1984; Ord. 1080, 2001) **The townhouse construction is limited to a maximum grouping of three dwelling units. If more than one group of dwellings is developed then a ten foot distance shall be maintained from the common property line of an adjacent group of attached dwelling units providing a minimum wall to wall separation of 20 feet between end unit groupings.**

#### **16.18.020 Conditional uses.**

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

**A.** Uses listed as conditional in the R-1 zone; except as modified by Section 16.18.010, above;

**B.** Four-family dwellings;

**~~C. Single-family dwellings having common wall construction. (Ord. 740 sect. 10.3.20(B), 1984; Ord. 1080, 2001)~~**

#### **16.18.030 Development standards.**

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

**A. Minimum and maximum lot area:**

- 1. For single family dwellings: five thousand (5,000) square feet minimum and six thousand five hundred (6,500) square feet maximum.**
- 2. For townhomes dwelling units having common wall construction: three thousand (3000) square foot minimum lot size.**

Comment: Since townhomes are a permitted use, a minimum lot size should be established outright. Townhome proposals usually result in a partition to create the new lots.

~~**2. For two, three, or four family dwellings: minimum of six units per acre and a maximum of 13 units per acre. Density is calculated by dividing the number of dwelling units by the property area in acres (minus area required for street right-of-way and public park/open space areas). Decimals are rounded to the nearest whole number.**~~

**3. Minimum residential density: For two, three, and four family dwellings: new development shall achieve a minimum density of 6 units per acre and a maximum of 13 units per acre. Minimum density for a property is calculated by multiplying its area in acres (minus area required for street right-of-way and public park/open space areas) by the density standard. For example, 0.32 acres x 6 units/acre = minimum of 1.92 units. Decimals are rounded to the nearest whole number (e.g., a minimum of 1.92 units becomes a minimum of 2 units per acre). The Planning Commission may modify the density standard if it cannot be met due to existing lot dimensions, road patterns, or other site characteristics.**

The change is to establish a maximum number of units that is less than the 14 unit minimum allowed in the R-2 zone. It also prevents an increase in density that would not be appropriate in the zone. Additionally, an explanation for density calculation is clarified.

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

**B. Lot area exceptions:**

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

**a.** The average area of all lots and open space tracts created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than five thousand square feet and no greater than six thousand five hundred square

feet. Non-required significant natural resource areas shall be included in the average lot size calculation to enable a transfer of density onto buildable portions of the site. Required areas include identified parks, wetland areas, riparian corridors, and other areas in which building is not permitted under local, state, or federal laws or regulations. For land in the North Redwood DCP area, the Planning Commission may allow public park land dedications to be included in the lot size averaging calculation in order to achieve community development goals and allow protection of natural resources; in this case, the resulting average lot size shall not be less than 4,000 square feet;

**b.** No lot shall be created that contains less than four thousand square feet, unless the alternative lot layout option provided in Section 16.64.040 is used; and

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

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

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

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

Moved to section 16.18.020 and rewritten.

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

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

**D.** Minimum yard requirements:

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

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

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

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

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

**E. Maximum building height:**

1. Principal building: thirty-five feet.

2. Detached accessory structure:

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

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

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

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

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

F. The maximum amount of impervious surface allowed the R-1.5 zone shall be 70 percent of the lot area.

1. Impervious surface includes all surface areas that create a barrier to or hinder the entry of water into the soil in comparison with natural conditions prior to development. Impervious surface include, but are not limited to, buildings, parking areas, driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses.

2. To limit impervious surface, alternative surfacing materials may be used. Alternative surfacing includes, but is not limited to paving blocks, turf block, pervious concrete, and porous asphalt. Other similar approved materials are encouraged. Utilization of alternative surfacing methods shall be subject to review and approval by the City Public Works Department for compliance with other applicable regulations and development standards. Maintenance of alternative surfacing materials located on private property are the responsibility of the property owner.

G. Other regulations:

1. Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway, and thirty feet from a street to any other street.

2. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet; mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements. **A chimney for a fireplace or stove shall not exceed a two foot projection.**

3. **To provide shade,** required yards on southern and western exposures may be reduced by not more than five feet for eaves, ~~or~~ canopies, **and patio covers, if the patio posts still comply with required setbacks.** ~~to provide shade.~~

4. Accessory buildings shall not have a larger footprint than the primary building. (Ord. 890 sect. 19, 1993; Ord. 740 sect. 10.3.20(C), 1984; Ord. 955 sect. 6, 1996; Ord. 981 sect. 46, 1997; Ord. 1019 sect. 8, 1999; Ord. 1080, 2001; Ord 1237, 2007; Ord. 1338, 2010.)

**5. Townhouse (common wall) development shall not exceed three dwelling units as defined in Chapter 16.04.195. Townhouse development consisting of three or more side-by-side attached units for which a garage is included, shall provide vehicle access from a public or private rear alley when said alley already exists; or when rear alley service was planned as a viable design alternative as part of an adopted annexation Development Concept**

Plan, Planned Unit Development or other Master Planned area. Infill development sites proposed for townhouses which cannot feasibly accommodate an alley to provide for rear alley access, shall be permitted to exclude this requirement. Where three or fewer townhouses with front loaded garages and driveways are proposed, it shall be permissible to back out directly into the public right-of-way, only if that right-of-way is classified as a Local or Neighborhood Collector Street. Otherwise, all access must be able to exit the townhomes moving in a forward direction into the public street. Any grouping of three attached townhouses shall be separated by a minimum of ten feet from the interior side property line to provide a minimum of 20' of open space from wall to wall of the next Townhouse.

## Chapter 16.20

### R-2 HIGH DENSITY RESIDENTIAL ZONE

(Ord 890 section 20, 1993)

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

#### Sections:

**16.20.010 Uses permitted outright.**

**16.20.020 Conditional uses.**

**16.20.030 Development standards.**

#### **16.20.010 Uses permitted outright.**

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

- A.** Uses permitted outright in the R-1.5 zone, subject to the density standards in Section 16.20.030(A);
- B.** Single family **townhouse** dwellings having common wall construction;
- C.** Boarding, lodging or rooming house;
- D.** Multi-family dwelling;
- E.** Manufactured and mobile home or trailer parks, subject to the criteria of Chapter 16.44;
- F.** Bed and Breakfast. (Ord. 890 section 21, 1993; Ord. 740 section 10.3.21(A), 1984; Ord. 1019 section 9, 1999; Ord. 1080, 2001)

#### **16.20.020 Conditional uses.**

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

- A.** A use listed as conditional in the R-1 zone and not listed as permitted outright in section 16.20.010;



**B.** Uses listed as permitted outright in the C-R zone (Section 16.24.010), not to exceed 3,000 square feet, and only when part of a Planned Unit Development. All such uses shall be subject to site and design review.

**C.** Zero-lot line development for uses otherwise allowed, provided that the minimum side yard setback shall be 7 feet when adjacent to housing with standard setbacks. Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero-lot line housing that guarantees rights for the purpose of construction and maintenance of structures and yards. The easement shall stipulate that no fence or other obstruction shall be placed in a manner that would prevent maintenance of structures on the subject lot; and the building placement, landscaping, and/or design of windows shall provide a buffer for the occupants of abutting lots. (Ord. 890 section 22(A)(B), 1993; Ord. 740 section 10.3.21 (B), 1984; Ord. 1080, 2001)

#### **16.20.030 Development standards.**

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

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

**A. Minimum residential density: New development shall achieve a minimum density of 14 units per acre. Minimum density for a property is calculated by multiplying its area in acres (minus area required for street right-of-way and public park/open space areas) by the density standard. For example, 0.18 acres x 14 units/acre = minimum of 2.52 units. Decimals are rounded to the nearest whole number (e.g., a minimum of 2.52 units becomes a minimum of 3 units). The Planning Commission may modify the density standard if it cannot be met due to existing lot dimensions, road patterns, or other site characteristics.**

**B. Townhouses with common wall construction must be placed on a maximum 3000 square foot lot in order to meet the density required in this section.**

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

~~**D.**~~ **D.** Minimum yard requirements:

1. Street yard: twenty feet on side with driveway; fifteen feet for all other street sides; except that street yards may be reduced to ten feet for covered porches only. Street yards for multifamily development (3 or more units located on the same

property) located adjacent and on the same side of the street to an R-1 (Low Density Residential) or R-1.5 (Medium Density Residential) zone shall establish a front yard setback that is within 5 feet of the front yard setback of the adjacent home in the R-1 or R-1.5 zone but shall not be less than 10 feet from the property line. This standard does not apply if the closest adjacent home has a front yard setback greater than 30 feet.

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

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

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

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

a. Site obscuring landscaping shall be required. The Planning Commission may require retention of existing vegetation; installation of a 6-foot minimum height site-obscuring fence with shade trees planted a maximum of 30 feet on center; and/or other landscaping to provide visual buffering.

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

**c. If proposed multi-family developments are adjacent to lots currently zoned R-1 or R-1.5, but the R-1 or R-1.5 zoned properties are designated HDR (High Density Residential) on the Comprehensive Plan Map (and therefore available for future high density development), then the multi-family development is not subject to the 15-foot buffer criteria listed in this section and can provide the normal setbacks for the zone.**

**This caveat is intended to protect the land value of lots zoned for high density and avoid unduly burdening them with providing buffers next to land that is also intended for future high density uses in the long-term per the Comprehensive Plan. Proposed multi-family developments are still required to provide a minimum 15-foot buffer adjacent to lots zoned for R-**

**1 or R-1.5 uses that are also designated for LDR in the Comprehensive Plan; in these locations, the additional buffer would protect low-density residential uses not expected to be redeveloped in the future.**

Comment:

This change was suggested by Jason Bristol. The proposal makes sense because properties that are adjacent to lots designated for future High Density development can also be rezoned high density (R-2) consistent with the Comprehensive Plan designation. This buffer requirement makes the transition or redevelopment of properties having the HDR designation much less likely to ever occur unless all contiguous properties are rezoned together simultaneously. Correspondingly, protection of the existing low density use will become less likely without the buffer requirement that is currently in place. However, the existing R-1 zone on the properties is inconsistent with the desired future transition to higher density as designated in the Comprehensive Plan and that is the key to allowing the proposed exception for use of the buffer.

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

**D E.** Maximum building height and length:

1. Principal building: thirty-five feet.
2. Detached accessory structure:
  - a. If located inside the allowed building footprint for the principal building, a detached accessory structure may be up to twenty-two feet tall, as measured to the highest point of the roof.
  - b. If located outside the allowed building footprint for the principal building, a detached accessory structure is subject to a step-up height standard, and is allowed outright only if it meets this standard. The structure shall not exceed eight feet tall, as measured to the highest point of the roof, at a distance of three feet from the property line. The structure may increase in height by one foot vertically for every one foot horizontally away from the three foot line, up to the maximum height of twenty-two feet.
  - c. A conditional use permit is required to locate the structure outside of the allowed building footprint for the principal building in violation of the step-up height standard.
  - d. Detached accessory structures over twenty-two feet tall are not permitted.

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

4. Maximum building length shall be 120 feet. **This “step-up” standard does not apply when the adjacent R-1 or R-1.5 zoned property is designated HDR (High Density Residential) on the Comprehensive Plan Map; in these locations, adjacent higher density development is anticipated in the future; therefore, normal maximum building heights in the R-2 zone apply.**

**F. F.** The maximum amount of impervious surface allowed in the R-2 zone shall be 70 percent of the lot area.

1. Impervious surface includes all surface areas that create a barrier to or hinder the entry of water into the soil in comparison with natural conditions prior to development. Impervious surfaces includes, but are not limited to, buildings, parking areas, driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered ‘pervious’ when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses.

2. To limit impervious surface, alternative surfacing materials may be used. Alternative surfacing includes, but is not limited to paving blocks, turf block, pervious concrete, and porous asphalt. Other similar approved materials are encouraged. Utilization of alternative surfacing methods shall be subject to review and approval by the City Public Works Department for compliance with other applicable regulations and development standards. Maintenance of alternative surfacing materials located on private property are the responsibility of the property owner.

**F. G.** Other regulations:

1. Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway, and thirty feet from a street to any other street.

2. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet; mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements. **A chimney for a fireplace or stove shall not exceed a two foot projection.**

3. **To provide shade,** required yards on southern and western exposures may be reduced by not more than five feet for eaves, ~~or~~ canopies, **and patio covers, if patio posts still comply with required setbacks.** ~~to provide shade.~~

4. Multi-family developments exceeding ten units shall provide 150 square feet of recreation space per dwelling unit. Recreation spaces shall be no less than 1,500 square feet in size.

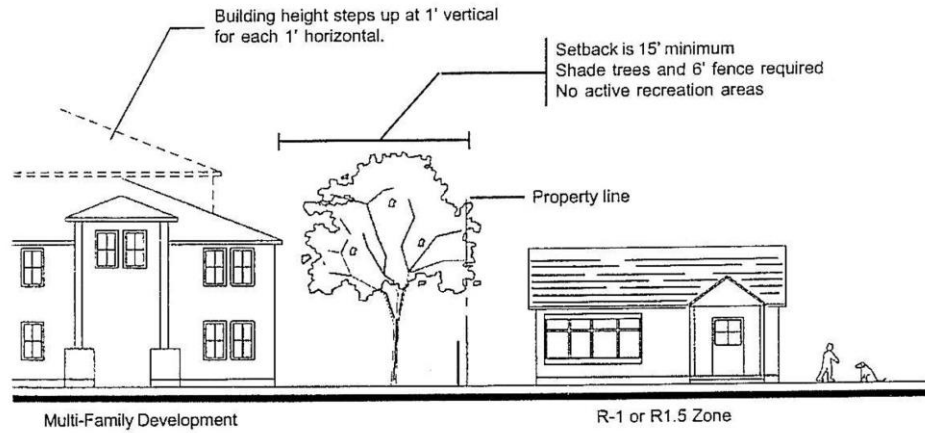
5. Accessory buildings shall not have a larger footprint than the primary building. (Ord. 890 sect. 23, 1993; Ord. 740 sect. 10.3.21 (C), 1984; Ord. 955 sect. 7, 1996; Ord. 981 sect. 47, 1997; Ord. 1080, 2001; Ord. 1107, 2002; Ord. 1237, 2007; Ord. 1338, 2010)

**6. Townhouse (common wall) development shall not exceed a single grouping of six dwelling units as defined in Chapter 16.04.195. Townhouse development consisting of three or more side-by-side attached units for which a garage is included, shall provide vehicle access from a public or private rear alley when said alley already exists; or when rear alley service was planned as a viable design alternative as part of an adopted annexation Development Concept Plan, Planned Unit Development or other Master Planned area. Infill development sites proposed for townhouses which cannot feasibly accommodate a rear alley access, shall be permitted to exclude this requirement. Where three or fewer townhouses with front loaded garages and driveways are proposed, it shall be permissible to back out directly into the public right-of-way, only if that right-of-way is classified as a Local or Neighborhood Collector Street. Otherwise, all access must be able to exit the townhomes moving in a forward direction into the public street. Any grouping of up to the allowed six attached townhouses shall be separated by a minimum of ten feet from the interior side property line to provide a minimum of 20' of open space from wall to next wall of the next Townhouse.**

Comment:

Townhomes fit the trend toward providing higher density develop that is being encouraged at the State legislative level. Requiring a developer to universally provide a rear alley or other means of common pedestrian access would make them unfeasible in many locations in Canby having the appropriate zone. Therefore requiring rear access when we can, but providing for front access when not feasible is the best way to assure this housing type will continue to be encouraged as an option within Canby.

Figure 16.20-1  
Special Transition and Compatibility Standards  
when Multi-Family is adjacent to R-1 or R1.5



## Chapter 16.60

### MAJOR OR MINOR PARTITIONS

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

16.60.010	Filing procedures
16.60.020	Standards and criteria
16.60.030	<del>Minor partitions</del> <b><u>Partitions</u></b>
<del>16.60.040</del>	<del>Major partitions</del>
<b><u>16.60.050</u></b> 040	<b><u>Flag lots</u></b>
16.60.050 <b><u>050</u></b>	<b><u>Planning Commission Director action</u></b>
16.60.060 <b><u>060</u></b>	<b><u>Final procedures and recordation</u></b>
<b><u>16.60.070</u></b> 070	<b><u>Public hearing required for appeal process</u></b>

The changes in this chapter are intended to “streamline” the land use process for citizens proposing partition requests on their property. A partition is generally a straight-forward division of land that is processed through a pre-app conference that includes public works and utility providers. By the time a decision is ready to move forward, the Planning Director, planning staff, and agency personnel have addressed issues, solved problems, and worked with the applicant to make the request successful. ~~The hearings process is time consuming and burdensome to the public when a partition could be addressed and decided by the Planning Director administratively in a timely manner. Most partition requests are not of enough significance to warrant a public hearing before the Planning Commission. However, the Planning Director still has the option of sending the case to the Commission when the request poses an unusual amount of impact. Of course, All Type I and Type II decisions rendered by the Planning Director or authorized staff, are appealable to the Planning Commission the decision could still be brought to a public hearing through the appeal process. These changes essentially~~ The proposed amended language moves a Partition Application from a Type III to a Type II procedure that still requires notification of the surrounding property owners **consistent with all Type II noticing procedures as outline in Chapter 16.89.** This **proposed** procedure is common in most other jurisdictions.

#### **16.60.010 Filing procedures.**

Application procedures shall be as described in Chapter 16.89. (Ord. 740 section 10.4.30(A), 1984; Ord. 981 section 9, 1997; Ord. 1019 section 17, 1999; Ord. 1080, 2001)

#### **16.60.020 Standards and criteria.**

The same improvements shall be installed to serve each building site of a partition as is required of a subdivision, and the same basic design standards shall apply. **Private streets created by a partition shall be designated as a separate "tract" on a partition plat to prevent the private street area from being included in the lot area size minimum requirements.** If the improvements are not constructed or installed prior to the filing of the signed partition plat with the county, they shall be guaranteed in a manner approved by the City Attorney. However, if the ~~commission~~ **Planning Director** finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the ~~commission~~ **Planning Director** shall except those improvements. In lieu of excepting an improvement, the ~~commission~~ **Planning Director** may recommend to the ~~council~~ Commission that the improvement be installed in the area under special assessment financing or other facility extension policies of the city. **The Planning Director shall send the partition request directly to the Planning Commission for their decision if there are issues presented by the applicant or surrounding property owners that cannot be resolved prior to the issuance of decision.** (Ord. 890 section 51, 1993; Ord. 740 section 10.4.30(B) [part], 1984)

#### Comment:

~~Because the planning director "shall" send the partition request to the planning commission, if there are unresolvable issues, then there is no appeal and no need for a reduced appeal fee. Staff believes that a major partition should be included with a minor partition in the review and decision process. The criteria is basically the same for the two types of partitions with the exception of 16.60.040(F) below requiring street dedication. Additionally, separating the two partitions into separate types of decisions adds confusion to the planning process.~~

~~All decisions by the Planning Director can be appealed by those who have standing to appeal, to the Planning Commission. The appeal fee has been reduced to \$250, per state law.~~

#### **16.60.040 030 Minor partitions Partitions.**

**A minor partition means a partition which does not include the creation of a road or street. Partition means to divide an area or tract of land into two or three parcels within the calendar year. An** Application for a ~~minor~~ partition shall be evaluated based upon the following standards and criteria:

- A.** Conformance with the text and applicable maps of the Comprehensive Plan;
- B.** Conformance with all other applicable requirements of the Land Development and Planning Ordinance;
- C.** The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed



necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;

**D.** No **minor** partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels;

**E.** It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division. (Ord. 740 section 10.4.30 (B)(1), 1984)

~~16.60.040 — Major partitions.~~

~~A major partition means a partition which includes the creation of a road or street. Application for a major partition shall be evaluated based upon the following standards and criteria:~~

- ~~—— A. Conformance with the text and applicable maps of the Comprehensive Plan.~~
- ~~—— B. Conformance with other applicable requirements of the Land Development and Planning Ordinance.~~
- ~~—— C. The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.~~
- ~~—— D. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division.~~
- ~~—— E. In no case shall the use of a private road be approved for partitioning unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels.~~
- ~~—— F. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions except, however, the commission Planning Director shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:~~
  - ~~1. The establishment of the public street is initiated by the council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.~~

~~2. The tract in which the street is to be dedicated is a major partition within an isolated ownership of not over one acre or is of such size and characteristic as to make it impossible to develop building sites for more than three dwelling units. (Ord. 890 section 52, 1993; Ord. 740 section 10.4.30(B)(2), 1984)~~

Comment:

The above language has been deleted because it is not necessary. Partitions of land are a form of Land Divisions, as defined by the Oregon Revised Statutes. Partitions are for the creation of up to two or three lots. If more than three lots, then it falls into the category of Subdivision. The review criteria and findings are the same except the private and public road requirements. Criteria C above covers access requirements. Additionally, all access requirements, public or private are reviewed by the City Engineer at the time of review of a Partition application. All access requirements will be conditioned accordingly.

**16.60.050 040 Flag Lots**

**Flag Lots or Panhandle-shaped Lots. The commission may allow the creation of flag lots provided that the following standards are met:**

**A. Not more than one flag lot shall be created to the rear of any conventional lot and having frontage on the same street unless it is found that access will be adequate and that multiple flag lots are the only reasonable method to allow for development of the site. Every flag lot shall have access to a public street.**

**B. The access strip is to be a minimum of twenty feet in width and shall be paved for its full width from its connection with the public street to the main body of the lot. Except, however, that the width requirement may be reduced to twelve feet, for accessing a single flag lot, where the total length of the access strip does not exceed one hundred feet. Access strips not less than ten feet in width may be permitted where two such drives abut and are provided with reciprocal easements for use. For drives accessing more than two flag lots, the access strip shall be a minimum of twenty feet with reciprocal access and maintenance agreements for all lots.**

**C. For residential flag lots, a minimum building setback of five feet from the access strip shall be maintained where such buildings exist prior to the creation of the flag lot.**

**D. Design and locations of buildings on flag lots shall be such that normal traffic will have sufficient area to turn around, rather than necessitating backing motions down the access strip. The commission may establish special setback requirements at the time of approving the creation of flag lots.**

**E. Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials.**

**F. The area of a panhandle shaped or flag lot shall be considered to be the rear or buildable portion of the lot and shall not include the driveway or access strip.**

**G. For the purposes of defining setbacks, flag lots shall have three side yards and one rear yard of 20 feet on the garage side of the dwelling. The rear yard may be placed on any side of the main dwelling.**

*The description of the yard as "rear" is confusing for the builder because with a flag lot, the front and rear of the lot is not easy to determine. The dwelling does not always face a street frontage, and the garage could enter on any side of the residence. The setback is to provide turning space for vehicles to maneuver and proceed forward on the access to the street.*

*This criteria above was copied from Chapter 16.64, Subdivision. It also belongs in the chapter because flag lots are common in the partition process.*

**16.60.050 060 050 Planning Commission Planning Director action**

**A.** Tentative maps shall be submitted to the **commission Planning Director** for review and determination that the proposal will be compatible with the Comprehensive Plan and the requirements of the Land Development and Planning Ordinance. The **commission Planning Director** may require such dedication of land easements and may specify such conditions or modifications to the tentative map as are deemed necessary to carry out the Comprehensive Plan. In no event, however, shall the **commission Planning Director** require greater dedications or conditions than would be required if the parcel were subdivided. For residentially zoned land, the **Planning Commission Director** shall require, for newly created lots adjacent to existing residential development, that homes built on such lots be designated on the plat or included in the deed restrictions as "Infill Homes" as defined by 16.04.255 and therefore subject to any or all of the requirements of 16.21.050 Infill Homes. The **Planning Commission Director** may modify the minimum lot coverage and/or maximum height standard if the applicant can demonstrate that 50% or more of adjacent lots exceed these standards.

**B.** Upon action by the **commission Planning Director** the applicant shall be notified in writing of the decision reached and the steps which must be taken before the parcels can be transferred or utilized for separate development.

**C.** One copy of the tentative map, clearly marked approved, denied or modified shall be retained in an appropriate file and one copy of same returned to the applicant. (Ord. 740 section 10.4.30(C), 1984; Ord. 1107, 2002)

**16.60.060 070 060 Final procedures and recordation**

**A.** Following the action of the city in approving or conditionally approving a tentative map for a partition, the applicant shall be responsible for the completion of all required improvements, or the posting of adequate assurances in lieu thereof, to the

satisfaction of the city engineer prior to the transfer of title of any of the parcels involved.

**B.** Recordation of an accurate survey map, prepared by a registered engineer or licensed surveyor, must be completed within ~~one-year~~ **two years** of the approval of the tentative map. One copy of the recorded survey map shall be filed with the City Planner for appropriate record keeping.

**C.** The applicant shall bear full responsibility for compliance with applicable state and city regulations regarding the recordation of documents and subsequent transfer of ownership.

**D.** The Planning Director may approve a single one-year extension to the original **two** ~~one~~-year period. Applicants must file a request for such extension in writing, stating the reasons the request is needed. The Planning Director shall review such requests and may issue the extension after reviewing any changes that may have been made to the text of this title and any other pertinent factors, including public comment on the original application. (Ord. 740 section 10.4.30(D), 1984; Ord. 1080, 2001)

**16.60.080 070 Public hearing required for appeal process**

**Each properly that filed application for an appeal of a Planning Director's partition application decision shall be considered by the Planning Commission following a public hearing advertised and conducted in the manner prescribed in Division VIII. (Ord. 740 section 10.3.75 (C), 1984)**

*This section was added to establish an appeal process of the Planning Director's decision.*

# City of Canby

## TEXT AMENDMENT STAFF REPORT

FILE #: CPA/TA 19-01

Prepared for the June 10, 2019 Planning Commission Meeting

**APPLICANT:** City of Canby

**APPLICATION TYPE:** Comprehensive Plan/Text Amendment (Type IV)

**CITY FILE NUMBER:** CPA/TA 19-01

### I. **Overview:**

City Staff is requesting consideration of a legislative text amendment to streamline, clarify, and update numerous sections of the Canby *Land Development and Planning Ordinance* Title 16 Canby Municipal Code (CMC). The text amendment proposal edits and updates 32 chapters and the Table of Contents from Title 16 of the Canby Municipal Code (CMC), and also amends one specific provision of the Canby Comprehensive Plan to delete Area “K” of Policy NO. 6 under Finding NO. 1 of the Buildable Lands Section.

### **Comprehensive Plan Amendment:**

The creation of Area “K” was initiated for a single 2.5 acre parcel in order to accommodate a possible future rezoning of the property to C-R or C-C zone while the parcel actually remained in the R-1 zone. The property has been vacant and recent attempts to develop has resulted in confusion because of the “duel” zoning designation implied by the Area “K” statement in the Comprehensive Plan (see attached) and the fact that the C-R or C-C zone was never adopted by a Comprehensive Plan Amendment. A recent land use decision clearly established that the City Council wishes the R-1 zone to remain in place on the property. Staff proposes to delete the special area from the Comprehensive Plan and to change the Comprehensive Plan Map from the existing RC-Residential Commercial designation to a LDR-Low Density Residential designation in order be consistent with the current zoning map and to avoid any confusion that the R-1 zone is appropriate and the only zone designation suitable for the property.

### **Text Amendment Revised Chapters:**

Title Chapter

Chapter 16.04	Chapter 16.18	Chapter 16.28	Chapter 16.42	Chapter 16.54	Chapter 16.88
Chapter 16.08	Chapter 16.20	Chapter 16.30	Chapter 16.44	Chapter 16.60	Chapter 16.89
Chapter 16.10	Chapter 16.21	Chapter 16.32	Chapter 16.46	Chapter 16.64	
Chapter 16.12	Chapter 16.22	Chapter 16.34	Chapter 16.48	Chapter 16.66	
Chapter 16.14	Chapter 16.24	Chapter 16.35	Chapter 16.49	Chapter 16.68	
Chapter 16.16	Chapter 16.26	Chapter 16.41	Chapter 16.52	Chapter 16.76	

**II. APPLICABLE REGULATIONS**

**City of Canby General Ordinances:**

16.88 Amendments to text of title

**III. MAJOR APPROVAL CRITERIA**

**Section 16.88.160 Amendments to Text of Title**

**Section 16.88.180 Comprehensive Plan Amendments**

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

- A. 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:**

**Findings:**

**Public Facilities and Services: N/A**

**Transportation Element: N/A**

**Urban Growth Element:** The goals of this element is to preserve and maintain designated agricultural and forest land and provide for the transition from rural to urban land use. However, there is no designated agriculture or forest land on the City Of Canby official Zoning Map or the Comprehensive Plan Map. The small amount of acreage in the City that is currently still in farm use can remain in agriculture as a permitted non-conforming use. Subsequently, there is insignificant impact to the Urban Growth Element of the Comprehensive Plan.

**Land Use Element:** The goal is to guide the orderly, efficient, aesthetically pleasing, and suitably of land use development. The changes in the code are intended to meet this goal.

**Citizen Involvement Element.** The Citizen Involvement Element is met with public hearings for this application.

**Economic Element. N/A**

Staff concludes that the proposed Text Amendment and Comprehensive Plan Amendment is consistent with the above criteria as well as the remaining policies of the Comprehensive Plan as required under 16.88.180(C)(1).

- B. A public need for change**

- C. Whether the proposed change will serve the public need better than any other change which might be expected to be made**

- D. Whether the change will preserve and protect the health, safety and general welfare of the residents in the community**

- E. Statewide planning goals**

The following Statewide Planning Goals apply to this application:

**Goal 1: Citizen Involvement.**

*The Planning Commission will make a recommendation to the City Council on this application in a public hearing which was noticed in the Canby Herald.*

**Goal 11: Public Facilities and Services.**

*Although this goal is not directly applicable to the changes, some of the text amendments, such as changes to access standards, will improve public facilities.*

**Findings:**

**The proposed edits are considered to be a viable and desirable options toward improving, updating, and clarifying standards relevant to the development process and the code and will clarify a provision of the Comprehensive Plan. The proposed changes therefore serve the public need and do not affect the code's protection of Canby's health, safety, and general welfare and meet the above approval criteria.**

**IV. RECOMMENDATION**

Based on the findings and conclusions presented in this report, and without benefit of a public hearing, staff recommends that the Planning Commission advance a recommendation of approval on to the City Council the changes outlined in CPA/TA 19-01

**V. ATTACHMENTS:**

- A.** Proposed Comprehensive Plan Text and Map Amendment
- B.** Areas of Special Concern Map – “Area K”
- C.** 32 Proposed Text Amendments – Title 16
- D.** List of Planning Commission Study Sessions Held for CPA/TA 19-01



of the area obviates any need for an immediate zone change at this time. Any proposals for new development or redevelopment of the area, other than for one single-family dwelling, per lot, will require prior upzoning to R-2.

9. *Area "I"* consists of a wide strip of property bordering N.E. Territorial Road. It includes properties which are planned for medium density residential use and properties planned for high density residential use. Present development in the area includes apartments, condominiums, single-family dwellings, and vacant lots. Present zoning includes some R-2 areas and a predominance of R-1 areas. Street dedications and, in some cases, street improvements are needed to make some of the properties suitable for higher density development. New developments, other than one single-family dwelling per lot, will require prior upzoning to either R-1.5 or R-2, as appropriate.
10. *Area "J"* is a large area of multiple owners bounded on the west side by Highway 99E, SE 1<sup>st</sup> Avenue to the South, Haines Road to the East, and the Urban Growth Boundary to the north. The area contains numerous single family homes, a pub (The Spinning Wheel), several churches, and significant open space and natural features, the most notable is a large, man-made lake located in the approximate center of the area. Because of the existing mix of uses, this area presents a unique opportunity for the City to master plan the area and create appropriate zoning language and/or zoning overlays to encourage a mixed density neighborhood. Until a master plan is adopted, this area should be held in reserve and properties in this area should remain a low priority for annexation. The creation of this master plan should be high on the priority list for long-range planning project for the City. Through the 2002-2003 public process to locate appropriate areas for Medium and High Density Residential Land, this area was found to be appropriate for the equivalent of a minimum of 12 acres of High Density Residential Development and a minimum of 15 acres of Medium Density Development. During the master planning process, these numbers should be used as a guideline, but could be increased if, through a public input process, more is deemed desirable, especially if it is to protect existing open spaces, natural features, or other desirable elements for the area. Development of the master plan should concentrate on protecting the special natural and physical characteristics of the area
11. *Area "K"* – Removed (Ord. 1514, 2019).
12. *Area "L"* comprises approximately 30 acres of parcels zoned for low density residential development. The parcels have been farmed for many years and were outside the Urban Growth Boundary of the City until 2003.

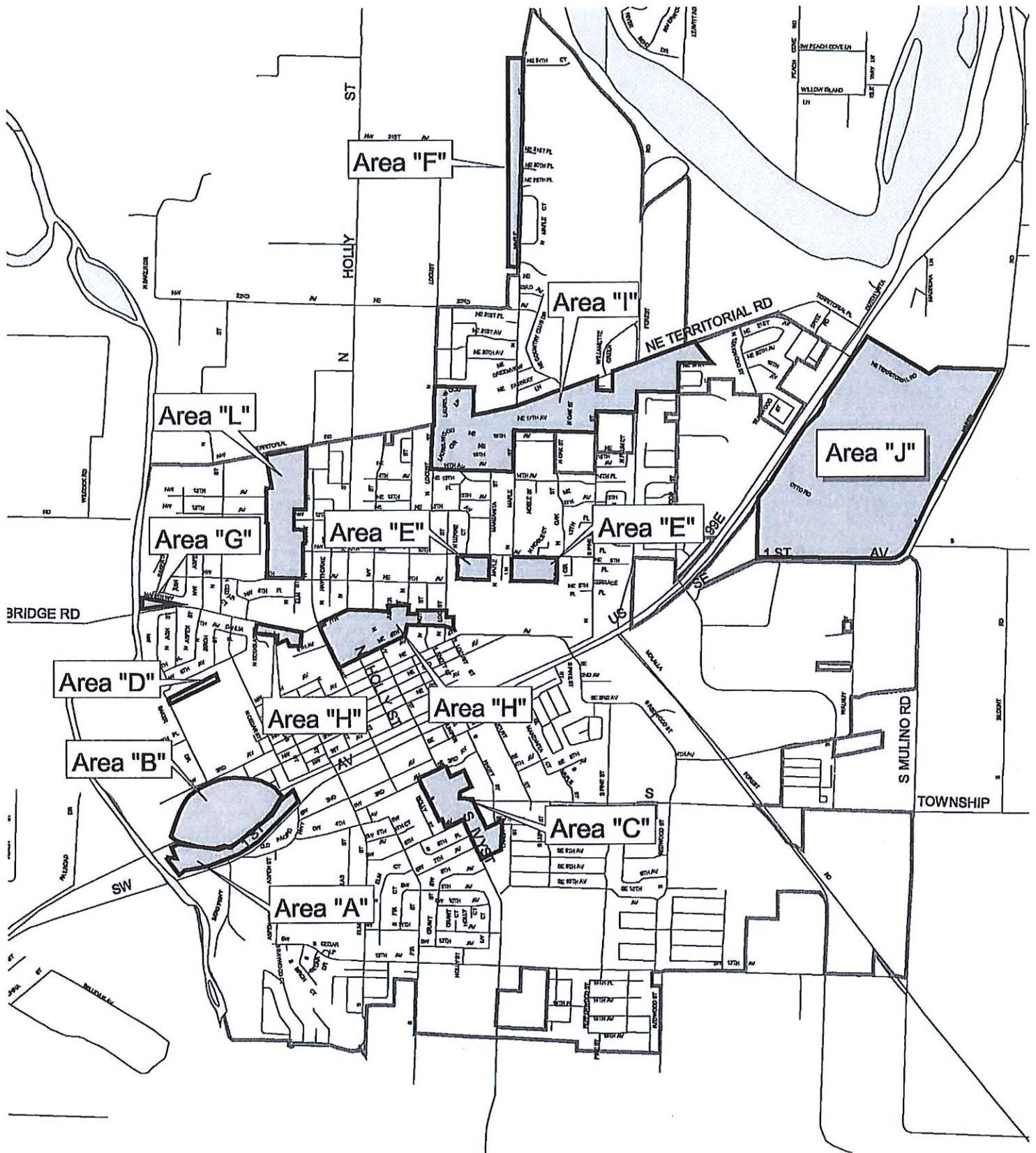
The area presents a unique challenge because it is surrounded by existing neighborhoods that could be negatively impacted by development. In addition, the City has infrastructure requirements that must be developed following a comprehensive master plan addressing parks and/or open space provision, street and infrastructure design, public safety facilities, buffering, and other relevant issues. The master plan should integrated reasonable foreseeable uses of adjacent properties, Subdivision of the property should not occur unless such a master plan is approved by the Planning Commission. Creation of the master plan should include input from the public and neighborhood association.

- C) In each of the examples listed above where one single family dwelling per lot is to be allowed prior to upzoning, the City will review the plot plans of such dwelling units and set such conditions regarding building setbacks or orientation as may be necessary to assure that future higher densities or intensities of development will not be precluded because of such building placement.

**POLICY NO. 7: CANBY SHALL STRIVE TO ENSURE THE EFFICIENT AND EFFECTIVE PROVISION OF INFRASTRUCTURE TO SERVE NEWLY ANNEXED AREAS.**

**IMPLEMENTATION MEASURES:**

- A) The City of Canby's annexation Development Map shall be used to identify properties required to adopt a Development Concept Plan (DCP) or Development Agreement (DA) prior to annexation

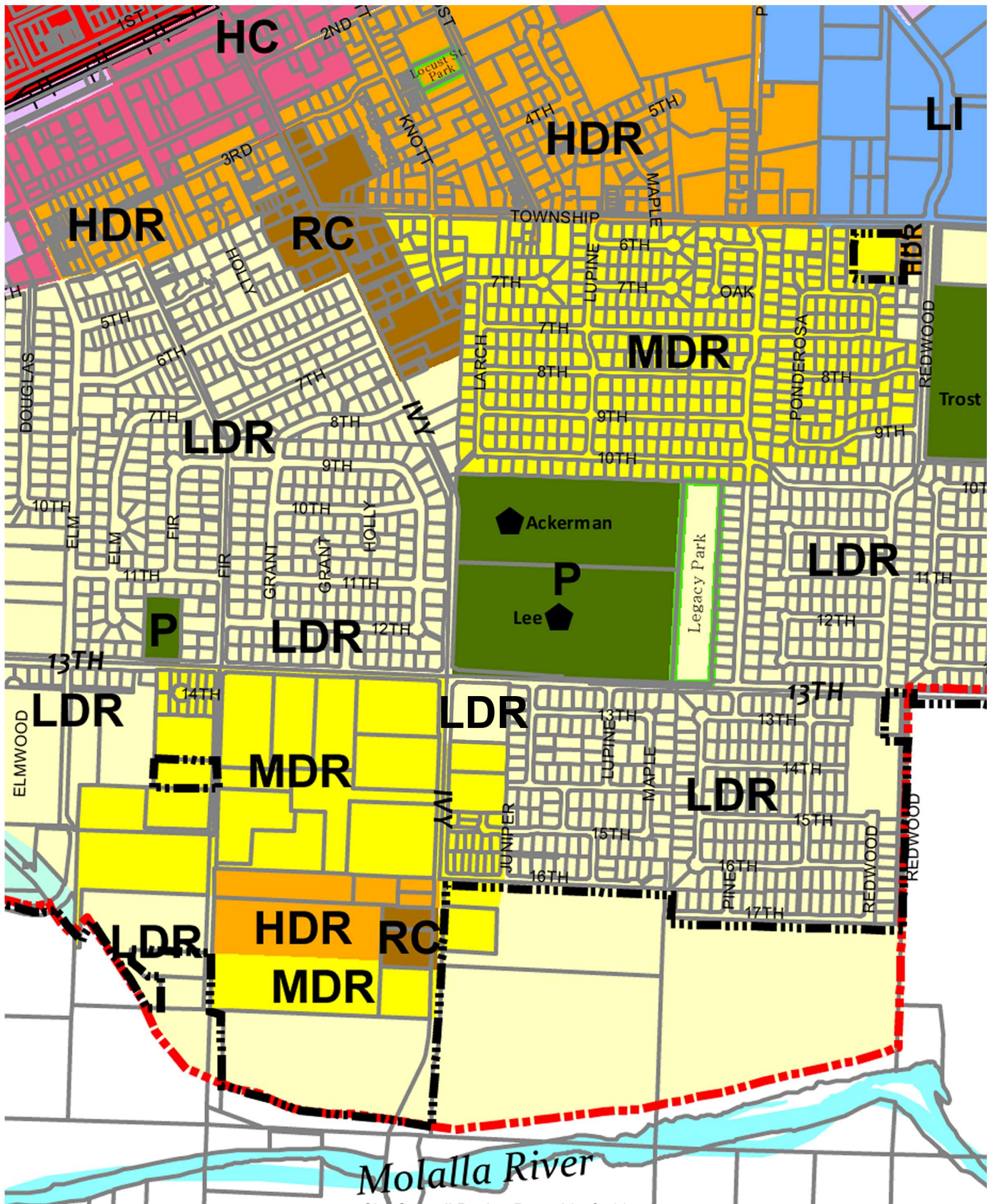


# City of Canby

## Areas of Special Concern







ALL WRITTEN PUBLIC INPUT RECEIVED

08 July 2019 Planning Commission Meeting.

I was unable to find a kind, gracious way to deliver this message in the short amount of time I have to testify, so I apologize if my words sound caustic or "mean". I honestly only want to help, and I honestly have great respect for our Planning Department, Commissioners and Council. Please, take this to heart as you hear my message. Please, please, please accept these comments as being constructive in nature, and not destructive. (My intent is to build up and improve, not to tear down or destroy).

**Please do not amend Major and Minor Partitions from Type III to Type II because:**

- 1) Eliminating both Public Testimony and review by the Commissioners eliminates the expertise the individuals in each group can provide.
- 2) It is not possible for any single individual (in this case, the Planning Director) to have the experience, foresight and knowledge that the community as a whole can provide to the decision-making process, or the application review process.

I make these comments based upon my own past experience:

In the fall of 2017, a developer filed an application to develop 3 partials in my neighborhood. I had not been interested in Land Use prior to this time. I found the Staff Report online and read the criteria the Planning Department had used to APPROVE the application. I suddenly became interested in Land Use and studied the resources on the city website. For the 1<sup>st</sup> time in my life I submitted public comments and testified at the public hearing. (Ivy Park, PC Meeting 09 Oct 2017)

In my ignorance of Land Use, I had stumbled upon and raised these questions or concerns:

- 1) The Planning Staff's review failed to uncover that all 3 partials were labeled "Area of Special Concern C" in the Comprehensive Plan, so Staff had not required the developer to follow those additional restrictions.
  - 2) The Planning Staff's interpretation of the words "access easement" allowed the developer to overlay a private road on top of the individual lots, and they gave approval for High Density housing in a Medium density zone.
  - 3) The Planning Staff approved locating 4 guest parking spots on one-person's lot, which also skewed the density since paved guest parking is really not "useable" by the lot owner.
  - 4) The Planning Staff approved the application, which lacked the sidewalks required by ordinance.
  - 5) Planning Staff approved a 2 foot setback between a driveway and existing dwelling when Ordinance requires 5 feet.
- OUTCOME: The developer indicated making the requested changes would reduce the number of lots, and not financially feasible at this time.

Later, I participated in three additional Land Use decisions:

In July 2018, I emailed Bryan Brown about the 38 high density townhouses the Planning Department had approved for the corner of Ivy and 13<sup>th</sup> Street, and asked him to verify when the land had been rezoned from R-1? After my inquiry, the Planning Department determined the land had never been rezoned, but they had overlooked this fact in the year it took them to review the application. I also testified that the Planning Department was in error in approving the application that included up to 9 linked townhouses since our ordinance limit is 2 linked units, the length of these buildings exceeded our ordinance, and a rainwater swale cannot be considered to satisfy the requirement for Open Space. (The Application was ultimately denied). RE: Ivy Street Townhouses at corner Ivy/13<sup>th</sup> Street. (Canby Townhouses, PC 10 Sept 2018)

In September 2018 I testified regarding an application for two 3-unit townhouses in a R-2 zone, referencing the ordinance that limits townhouses to 2 linked units; ultimately the Commission approved the application but simultaneously requested an update to the townhouse ordinance. Pine Place Townhouses PC 24 Sept 2018)

In 2018 I gave public testimony for a Partition Application in which a homeowner on SW 8<sup>th</sup> Avenue had 2 options for placing the driveway for access to the flag lot they intended to create behind their home. The Staff Report said the flag lot required a minimum 12 foot wide driveway. The application showed the driveway was to be placed immediately adjacent the existing home. I testified that the roof overhang of the home reduced the actual useable driveway area to less than 12 feet. I recommended the driveway to the flag lot be placed on the other side of her home, where 38 feet of clear space was available to locate the driveway. The Commissioners approved the application as it had been filed (following the advice of the Planning Commission). I have since identified an Ordinance that the Planning Department

did not apply in their review process (and maybe the tenured Commissioners should have been aware of), which requires a 5 foot setback from the access strip. The Planning Staff overlooked or failed to apply this ordinance during their review of the partition request. See the screenshot below; (Does this mean the Planning Staff allowed creation of an illegal lot? The \$419,000 home that was built on the lot and is listed for sale): (2017 Partition Application for 113 SW 8<sup>th</sup> Ave, Canby, Oregon)

3. For residential flag lots, a minimum building setback of five feet from the access strip shall be maintained where such buildings exist prior to the creation of the flag lot.

Ordinance 16.64.040(l)3:

While these cases represent the limit of my experience in Land Use decisions, I have witnessed how very complicated Land Use decisions can be. They are proof that our most expert Planning Department employees overlook vital resources, misinterpret and/or misapply our Ordinances.

**Please** retain our current process for Major and Minor Partitions, which promotes and encourages public participation (without a \$250 appeal fee). My own experience displays how an extra set of eyes on an application can spot irregularities that slip past the Planning Department. Our current process also places each application before Planning Commission for additional review and input.

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Other topics:

I want to highlight the lack of attention to detail that occurs in the reports submitted by the Planning Director and his Staff. *Please understand* my goal is to provide constructive criticism and not "tear down" anyone. I simply want to impress how important it is for us to retain the ability for citizens and the Commissioners to remain involved in ALL Land Use decisions, including partitions.

Please Refer to Bryan Browns' Memorandum dated July 8, 2019 (for tonight's meeting), located in Packet 2, pages 1 thru 5 of the 426 page document. Below is a screenshot of page 2 of the Planning Director's Memorandum: Ignoring the grammatical errors, there are significant technical errors:

Concern was raised that proposed text wording is not clear in the application of the 10-foot separation between groupings of townhomes in both the R 1.5 zone and the R-2 zone in applying to all groupings of any number of proposed unit groupings at 3 or above as allowed. All Townhouses on platted on individual lot so the standard separation between the end units will be 14' wall to wall due to the standard side yard setback of 7'. Townhouses in the R-1.5 zone are proposed to be limited to 3 attached units without providing a separation. Townhouses in R-2 zone are proposed to be limited to 6 attached units without providing a separation. The previously proposed minimum 10-foot separation proposed would be applied from the common unit property line creating a minimum 20' actual wall to wall separation to provide a visual as well as physical separation between each grouping of any number of allowed townhouses to facilitate compatibility of townhouse development with adjacent single-family development.

Notice the Math:

Bryan says  $7+7+10=20$  feet

Gina says  $7+7+10=24$  feet

Bryan says Townhouses in R-1.5 will be limited to 3 attached units **WITHOUT PROVIDING A (10-ft) SEPARATION**

Bryan says Townhouses in R-2 will also be limited to 6 attached units **WITHOUT PROVIDING (10-ft) SEPARATION**

Townhouses are only allowed in those 2 zones, so where exactly WILL the 10 foot separation be enforced?

It is important for the Commissioners to clarify in which zones the 10 foot separation should apply-- but also to have a venue for monitoring the adherence to the ordinance, since the Planning Director seems confused by it!

Notice the amended text in the body of Ordinance 16.18.010( C ) references the separation *and* includes the bad math. (Which perhaps indicates Bryan does intend to update R-1.5 after all? The inconsistency is baffling).



Below is a screenshot of page 4 of Planning Director's Memorandum: (Packet 2 pgs 1-5 of the 426 page document)

There are five topic areas in which concern was raised about the proposed text language or the intended objective. A summary of those topics and possible Planning Commission options with regard to each is indicated below:

While Bryan states there are 5 topics, **he only addresses 4 of them**. The Planning Director omitted question #5, where I had asked "What provisions do we impose on the 10 foot separation between Townhouses? Do they require a separate deed, and HOA, etc?"

Please review the proposed wording of 16.89.100 in the screenshot below: I urge the Commission to limit the authority of the Planning Director to Administrative Review **TYPE ONE only**, and do not include TYPE TWO as it appears the Commission has NOT discussed this topic, but the generic wording "Administrative Review" would encompass both levels I and II. This is far too much authority for one individual to wield! Further, Bryan's comments and reasoning regarding the medical hardship applications or licensing requirements for daycare facilities will not carry forth with the amended text, inadvertently allowing it to be applied to un-intended and widespread applications by future employees of the Planning Department and others involved in Land Use decisions. It simply appears the Planning Department was in too much of a rush to amend the Ordinances.

16.89.100 Administrative Reviews.

Where a determination about a proposed use, structure or the legality of a parcel cannot be made without interpretation or the exercise of factual, policy or legal judgment, the proposed use, structure, or the legality of a lot or parcel may be reviewed as an administrative review subject to submittal of an application as provided in this chapter. The administrative review procedures, as provided below, shall be followed in making these decisions.

- A. The decision shall be made on the basis of the applicable city comprehensive plan and applicable standards and criteria in the City Of Canby land development and planning ordinance. The Planning Director or

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designee may attach any conditions of approval deemed necessary to ensure conformance of the use, structure, lot or parcel to the standards or criteria. Administrative Review Applications may be submitted and shall be signed as required in this chapter. Notwithstanding any other provisions of this title, the Planning Director or designee may forward any land use permit or application to the planning commission for a public hearing and initial decision.

Please create an *enforceable* definition of a Private Street so developers will not be able to trick the Planning Staff as they have done in the past, by using the words "private access easement", "private road", or other secretive, vague or unenforceable phrases.

Refer to the current proposed language in Packet 2, page 56/426:

"Private streets created by the partition shall be designated as a separate "tract" on a partition plat to prevent the private street area from being included in the lot area minimum requirements."



I attended all 5 of the meetings for text amendments, submitted 3 public comments and testified at the last Planning Commission meeting, making a plea for the inclusion of a sidewalk or alley behind townhouses that include a middle unit.

Thus far, I have not heard the opinion of the individuals on the Commission on this topic, and I am asking them to individually and publicly announce their stance on this subject, as a courtesy to me, the Planning Staff, the City Council and the citizens of Canby. Your rejection or inclusion of these attributes will be shaping our future neighborhoods for decades. I feel certain the City Council would like to know your thoughts on the subject when they review these suggested amendments.

I admit I have not reviewed every text amendment that has been proposed. I hope the Commissioners have taken the time to thoughtfully review each and every one, and I thank you for your time and efforts as you serve the citizens of Canby.

Regards,  
Regina Taylor  
173 SW 6<sup>th</sup> Ave,  
Canby, OR

**RE: Proposed amendments to Chapter 16 Canby Land Use Ordinances**

In the Work Sessions leading up to tonight's meeting, the requirement for a "10 foot distance between groupings of townhouses" was proposed with the intent to create a visual as well as physical separation between the groupings of townhouses.

In addition, was the discussion of the need to provide access to the backyards of middle unit townhouses by requiring a rear alley or pedestrian passageway, for safety and maintenance purposes.

1) The language of the proposed amendments has flaws and will not accomplish these goals.

16.18.010.c: (Medium Density). Packet 2, page 90 of 365

**C. Single-family townhouse dwellings having common wall construction. (Ord. 740 sect. 10.3.20(B), 1984; Ord. 1080, 2001) The townhouse construction is limited to a maximum grouping of three dwelling units. If more than one group of dwellings is developed then a ten foot distance shall be maintained between an adjacent group of dwelling units.**

16.20.030.G.6: (High Density). Packet 2, page 99 of 365

**6. Townhouse (common wall) development shall not exceed six dwelling units as defined in Chapter 16.04.195. Where possible, the six unit development should include the placement of an alley or sidewalk along the rear boundary of the properties for fire and emergency access to the rear of the properties. If more than one group of six dwelling units is constructed, then the groups shall be separated by ten feet of open space.**

Notice the language in the proposed amendment for the Medium Density zone, in Packet 2, page 90, is missing the requirement for a rear alley or sidewalk, it only mentions the 10 foot open space corridor.

And notice the language for High Density in Packet 2 page 99: "Where possible, the six unit development should include the placement of an alley or sidewalk along the rear boundary of the properties for fire and emergency access to the rear of the properties".

In the Work Sessions, the Commissioners never indicated the features of rear alleys or sidewalks and the 10 feet of open space corridor should be limited to developments in the High Density Zone and only if they consist of exactly six dwelling units. The features should be a requirement with the creation of any middle unit townhouse in either zone.

The use of the imprecise words "where possible" and "should" make this ordinance impossible to enforce. Developers will simply state the alley is not economically or conveniently "possible". The ordinance does not state a 10 foot separation "shall" be provided, therefore it is not enforceable and developers can ignore it. "Should" is a recommendation. "Shall" is a command.

Dwellings that have backyards with no access points either from a side yard, or a rear alley/sidewalk create a hazardous situation for the occupants and emergency personnel, and suffers physical barriers for maintenance and upkeep of the rear yard. By simultaneously approving these ordinances for 10-foot separation corridors AND rear alley/sidewalk, we provide opportunity to link the two features and avoid

the creation of dead-end areas that would attract unsavory activity. The 2 features are dependent upon each other.

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*Townhomes fit the trend toward providing higher density develop that is being encouraged at the State legislative level. Requiring a developer to try and place an alley behind the townhouses regardless of the size, shape, or setting of the lot would discourage the property owner from proceeding with the project.*

In Packet 2, page 100 is a statement which reveals Staff's bias against rear alleys/sidewalks, because of the financial impact to developers. I believe safety is worth the cost. Developers historically complain about the cost of including safety features, but the market adjusts to these costs. Developers shunned the cost of using fire resistant building materials until the catastrophic fires wiped out Chicago, Seattle and San Francisco, forcing updates to building ordinances. The markets adjusted to the new requirements. Modern developers across the United States have learned to satisfy codes for tornado, hurricane or earthquake safety measures. Why is Canby still behind the times and debating the need to include access for fire and emergency personnel to have access the rear of a townhouse? Commissioners, to your knowledge, how many other jurisdictions allow townhouses that have no access to the rear yard?

I reluctantly admit I am fighting the subconscious feeling the Planning Staff deliberately sabotaged the language of the townhouse amendments to apply to the fewest townhouses possible, to protect the financial status of developers. (Their proposed language would affect only groupings where exactly 6 units are connected).

The individuals on our Planning Staff are intimately familiar with the workings of ordinances, making it difficult to understand their choice of sloppy language. I suffer an uneasy feeling knowing this same Staff also drafted changes to ordinances that lower Major and Minor Partitions from a Type III procedure with 500 foot notification and public hearings-- to Type II procedure with 100 foot notification and NO PUBLIC HEARING, while extending authority for the Planning Director to make their final decisions. This means future partition applications that involve building townhouses will rely on these new ordinances that have flawed verbiage. This makes me feel uncomfortable.

*The changes in this chapter are intended to "streamline" the land use process for citizens proposing partition requests on their property. A partition is generally a straight-forward division of land that is processed through a pre-app conference that includes public works and utility providers. By the time a decision is ready to move forward, the Planning Director, planning staff, and agency personnel have addressed issues, solved problems, and worked with the applicant to make the request successful. The hearings process is time consuming and burdensome to the public when a partition could be addressed and decided by the Planning Director administratively in a timely manner. Most partition requests are not of enough significance to warrant a public hearing before the Planning Commission. However, the Planning Director still has the option of sending the case to the Commission when the request poses an unusual amount of impact. Of course, the decision could still be brought to a public hearing through the appeal process. These changes essentially move a Partition Application from a Type III to a Type II procedure that still requires notification of the surrounding property owners. This procedure is common in most other jurisdictions.*

Packet 2, page 289 **16.60 Major and Minor Partitions:** The Planning Staff states they desire to "streamline" the Partition process because it is too time consuming and burdensome to the public, and "are not of enough significance to warrant a public hearing before the Planning Commission" and that it

is common for Partitions to be handled as Type II procedures in most other jurisdictions. Their solution is for all Partitions to be addressed and decided solely by Planning Director.

My rebuttal: We should keep our current Partition procedure. Those other jurisdictions that use Type II procedures have undergone the arduous task of using citizen input to pre-establish numerous micro-zones and micro-requirements within their cities, so that subsequent Partition Applications can be efficiently processed as a Type II without additional citizen input. But Canby has failed to establish micro-zones, so our citizens continue to rely on the Type III procedure, with citizen testimony at public hearings on the Partition applications as they are submitted.

I admit that in Canby, we have seen how *SUBDIVISION Applications*, which can involve the creation of dozens of lots, are more complex, more controversial, involve drawn-out debate, drama and long meetings. But Partition applications have been simpler; they involve a maximum of 3 lots by definition, and consume less time and energy. They are not a burden to process using the Type III procedure.

With literally hundreds of changes being proposed to our current Land Use ordinances, THIS is not a good time to change the procedure for processing Partitions. It is certainly possible that the verbiage of some of the newly amended ordinances could be interpreted in manners not intended. Citizens deserve the chance to provide public testimony, including Partition Applications. Future Partition Applications will be more complex as we begin to apply the new amendments. But they should not have to pay a \$1,920 to be heard thru an appeal process. Instead, we need to keep our current Partition Application a Type III process. Citizen input will help work out the minute kinks in these new ordinances. I hope the Commissioners do not consider it burdensome to listen to citizens explain their concerns in such situations, nor should they attempt to squelch the citizen's voices.

Let's look at Packet 2, page 97: I recommend the complete elimination of the proposed changes to 16.20.030.D.c. because the potential impact to our city is too large. In this proposal, future Partition Applications in High Density zones but located adjacent to Low Density property (which was labeled for potential future rezoning to High Density) would be EXEMPT from the 15 foot buffer criteria, giving developers the opportunity to build within a mere 7 feet of the Low Density neighbor. I envision long time R-1 residents utterly astonished to watch towering new residential buildings arise 7 feet from their property line and have new neighbors peering down into their backyard. We SHOULD CONTINUE TO REQUIRE a 15 foot buffer between High Density and existing Low Density neighborhoods! Developers have already successfully removed the "Step Up" provision from our ordinances during past ordinance amendments; we should resist additional buffer or yard setback reductions. Canby is rare in not having a "Step Up" provision between two diverse adjacent zones!!!!

16.20.030.D.c.

**c. If developing multi-family properties are adjacent to lots currently zoned R-1, but the R-1 zoned properties are designated HDR (High Density Residential) on the Comprehensive Plan Map, and therefore available for future high density development, then the multi-family development is not subject to the 15 foot buffer criteria listed in this section and can use the normal setbacks for the zone.**

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Packet 2, page 298: **16.64.010.P. Subdivision Design Standards:** This proposed amendment requires a Private Street to be designated as a separate tract and ends the current practice of overlaying a private street over portions of a lot to skew minimum lot sizes. Staff added the following amendment to the Subdivision Chapter, but there are other situations that cause the creation of a Private Street, such as during a major Partition, therefore I suggest a better option is to place the verbiage under Definitions, under Street/Private , but also place it under Partitions, so it will not be overlooked.

**P. Private streets created within a new subdivision or partition shall be designated as a separate "tract" on the submitted plat map.**

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Lastly, I want to offer the following suggestions regarding the creation of the 10-foot separation between townhouse groups:

To maintain the ability to accurately calculate and enforce minimum/maximum lot sizes and densities, we need to remove ambiguity and limit potential misunderstanding of this space, to avoid co-mingling or co-use of the space.

- No portion of the 10 foot separation can be used to satisfy any other requirement.

- No portion of the minimum side yard setback can be used to satisfy the 10 foot separation.

- No portion of the 10 foot separation can be used to satisfy side yard setback.

- Utilities can be placed in the 10 foot separation.

Parameters should be set for the management of the land set aside for the 10 foot of separation between groupings of townhouses. Who will own this land, development and maintain it?

- Does the 10 foot separation require a separate deed? Is an HOA required?

- Must it be developed like a sidewalk, or landscaped? Can it be fenced, gated? A dog park?

- Can it be used for parking? Can a storage shed or garbage receptacle be placed there?

- Can it be deeded to the city? Will they be allowed to dead-end if there is no alley?

Thank you for your time,  
Regina Taylor  
173 SW 6<sup>th</sup> Ave  
Canby, OR 97013  
reginaewood@yahoo.com

## Laney Fouse

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**From:** Gina Taylor <reginaewood@yahoo.com>  
**Sent:** Friday, April 19, 2019 11:49 AM  
**To:** PublicComments  
**Subject:** PUBLIC COMMENTS. Please include in meetings connected to amending the Planning and Zoning (Land Use) Ordinances.

### Public Comments:

Please include these 2 Public Comments in the meetings connected to amending the Planning and Zoning (Land Use) Ordinances.

1) **RE: Townhouses.** Canby's ordinance regarding townhouses is currently under review for amendment. Our current ordinance limits townhouses to only 2 linked units, so our current ordinance requires each townhouse to have a front, side and rear yard.

The proposal to increase in the number of units allowed to be linked to 3-6 units would allow creation of "middle unit" townhouses (units that have no side yards).

Canby's current Land Use ordinances do NOT require these townhouse developments to have a rear alley or pedestrian pathway sufficient to support emergency vehicles. Developers would be allowed to build long rows of townhouses, with the rear yards tucked up against the rear yards of the existing neighborhood (with no alley or pathway separating the old neighborhood from the new one), essentially creating a series of dead-end, inaccessible and unsafe rear yards. You can visualize how the ONLY way to access the rear yard or backside of middle unit townhouse in these developments is thru the front door of the dwelling.

Consider what a nightmare this situation would become, in the unfortunate event of a multi-unit fire, such as the massive blaze that occurred this month at the Villebois Village in nearby Wilsonville (April 2019). Residents could attempt to flee the fire out the back door, and find themselves trapped by a six foot fence they may not have the physical ability to cross, and emergency personnel would be hampered by the lack of an alley, for unencumbered access to the fire or injured.

I have researched numerous Oregon municipalities, and the majority already require townhouses of 3+ linked units to have an alley. A handful allow an exception to allow for a pedestrian pathway.

Recommendation: I recommend discussion to require all linked units have provision for emergency access to the rear yard, either by a side yard (such as end-unit townhouses) or via alley or pedestrian pathway (for middle units). I also recommend involving Canby Fire Department personnel in this discussion.

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2) **RE: Private streets/roads/access included in lot square footage.** Since the Planning Commission is reviewing the entire Land Use manual for Canby, this is the perfect time to address the inadequacy of our ordinances in protecting the density and minimum lot square footage of our zones, which have been widely ignored or manipulated in recent land use applications.

Canby's current definition of Street in CMC 16.04.570 says: "Street means the entire width between the right-of-way line of every way which provides for **public** use for the purpose of vehicular and pedestrian traffic, and the placement of utilities and including the terms road, highway, lane, place, avenue, alley, or other similar designations." (Problem: the ordinance is mute regarding private streets)

Combine this with Canby's current Design Standards, 'Compliance with Title' CMC 16.08.010 which states "No lot area, yard, or **required off-street parking** or loading area existing on or after the effective date of the ordinance codified in this title shall be reduced in area, dimension, or size below the minimums required by this title, nor shall any lot area, yard, or **required off-street parking** or loading area that is required by this title for one use be used to satisfy the lot area, yard, off-street parking or loading area requirement for any other use, except as may be provided in this title." (Problem: the ordinance is mute regarding placement of a private street—the driving lanes).

Developers have taken advantage of the specific wording of the ordinances and are successfully crafting PRIVATE streets in their developments, which they locate on top of the individual lots, so that essentially, a significant portion of the minimum lot square footage is actually under the shared-access private road, and not available for the individual land owner to utilize. The minimum lot size requirements become a laughing point, since a large portion of the minimum lot is underneath the street. Note that minimum lot size is a function of density, but wording of our current ordinances allows the intent of density to be significantly compromised and ignored. Developers can build high density dwellings in a medium density zone, simply by calling the street a "private street".

Recommendation: I recommend discussion of the wording of our current ordinances, to update the ordinances with wording that prevents abuse of the minimum lot size and density requirements, and the provides enforceable instruction for handling the placement of private streets.

Below is an example of possible wording, copied from the **City of Newberg, Oregon**:

Lot Requirements: 15.405 010(C) C. In calculating lot area for this section, lot area does not include land within public or private streets. In calculating lot area for maximum lot area/minimum density requirements, lot area does not include land within stream corridors, land reserved for public parks or open spaces, commons buildings, land for preservation of natural, scenic, or historic resources, land on slopes exceeding 15 percent or for avoidance of identified natural hazards, land in shared access easements, public walkways, or entirely used for utilities, land held in reserve in accordance with a future development plan, or land for uses not appurtenant to the residence.

Thank you for your time,

Regina Taylor  
173 SW 6th Ave  
Canby, OR 97013  
503-989-9221

## Laney Fouse

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**From:** Gina Taylor <reginaewood@yahoo.com>  
**Sent:** Tuesday, March 26, 2019 10:09 AM  
**To:** PublicComments  
**Subject:** RE: Amendments to Ordinances and next Worksession

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Canby Planning Department and Planning Commission:

I extend my thanks to the Planning Department and the City Commissioners for thier hard work and dedication to reviewing the proposed changes to Chapter 16 Ordinances.

In the Work Session meeting held March 25, believe I understood that there will be at least one more Worksession, to be held the end of April, for an additional review of the proposed amendments that have already covered, plus the introduction of a couple of new amendments.

In the next Worksession meeting, I would like to have the Commissioners specifically discuss the proposed amendment to the Townhouse definition and especially my concern that the limit of linked townhouses should be adjusted to fit the Zone; I feel a maximum of 3 linked units is appropriate for R-1.5 Medium Density Zone and a maximum of 6 is appropriate for R-2 High Density Zone, with no change to the R-1 Low Density zone which currently prohibits townhouses. (This approach closely coincides with the Land Use Ordinances used in the majority of incorporated Oregon municipalities with a population of 9,000-100,000).

I Propose:

R-1 Low Density:	NO Townhouses (no change to current ordinance)
R-1.5 Medium Density:	Maximum of 3 linked Townhouses
R-2 High Density:	Maximum of 6 linked Townhouses
PUD application:	Provides flexibility (additional linked units possible) in exchange for amenities/more open space
16.64.040 Alternative Lot Layout:	Provides flexibility (additional linked units possible) in exchange for amenities/more open space

The townhouse topic was *very briefly touched* on the first worksession, which also happened to be the inaugural meeting for our 3 new commissioners, and I believe the topic deserves to be looked at again, now that the 3 new Commissioners have a bit more experience with our Ordinances and service on the Canby Commission.

I also ask that the Planning Commission please bring the **current Zone map** and the future **Comprehensive Plan Zone map** to the next Worksession meeting, so the Commissioners can visually SEE the zones and locations that townhouses could be located in Canby.

Please let the Commissioners know that I appreciate their work on this project and would like them to discuss the Townhouse definition.



Thank you again for all of the hard work that has been invested in this project.

Regards,

Regina Taylor  
173 SW 6th Ave  
Canby, OR 97013

## Laney Fouse

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**From:** Gina Taylor <reginaewood@yahoo.com>  
**Sent:** Thursday, March 7, 2019 4:16 PM  
**To:** PublicComments  
**Subject:** Please forward this message to the Planning Commissioners (Public Comment for Work Session March 11, 2019)

**PLANNING DEPARTMENT:** Please forward the following message to the members of the Planning Commission on my behalf.

**Greetings to Canby's Planning Commissioners.** I am submitting the following public comments to you to be considered during the Work Sessions for the Amendment of Canby's Land Use Ordinances, since the duties and powers Commissioner include to "Act as the City's official citizen involvement entity, hearing any and all comments, criticisms and suggestions concerning city planning policies, procedures, or regulations as members of the public may wish to convey to the city." I feel comfortable that this message will not be considered ex-parte contact since it involves no specific Land Use Application.

RE: Work Session for Proposed amendments to these two ordinances:  
Townhouses ("TH")  
Conditional Use

Out of curiosity, I read the Ordinances for other dozens Oregon incorporated cities with populations between 9,000 and 100,000 and learned that Canby has established fewer Residential Zones than most other Oregon cities, which causes Canby to have a heavier reliance on "Conditional Use" decision procedures:

### **Canby: Utilizes 3 Residential Zones**

Low Density: NO TH allowed.  
Med Density: TH allowed only as **Conditional Use**; MAX 2 connected Units\*.  
High Density: TH allowed outright. MAX 2 connected units\*.

1) OPTION: Canby's PUD application AND 16.64 Alternative Lot Layout both allow applicants the option for design flexibility/clustering in exchange for amenities like additional open space. By utilizing either of these two options, it would not be necessary to amend our Townhouse guidelines since the desired results can be achieved thru these methods (but it would require enforcement).

2) ADDITIONAL: Canby is unique in NOT requiring access to the rear yard of the middle unit of townhouse developments that have 3 or more linked units (beyond the access available by traveling thru the dwelling), while most other cities DO require vehicle access rear-alley (or a public pedestrian path in the rear, of sufficient width for emergency vehicles).

\*For the last decade, the city (The Planning Dept, Commission and Council) has not enforced the Ordinance with the 2-unit limit, while simultaneously not imposing the PUD or Alternative Lot Layout options for townhouse developments exceeding 2 units.

### **Other Oregon Cities: Utilize 5 to 15 Residential Zones or Overlays, as example:**

Low Density: NO TH allowed  
Low Density 2: TH allowed but **only on corner lots**, Max 2 units.

Med Density 1: TH allowed, up to 3 (three) connected units; when 3 or more units, rear-alley vehicle access is required. Generous lot sizes.

Med Density 2: TH allowed, up to 4 (four) connected units; when 3 or more units, rear-alley vehicle access is required. Smaller lots than MD-1, and located on arterial/collector streets.

High Density 1: TH allowed, up to 5 (five) connected units, when 3 or more units, rear-alley vehicle access is required.

High Density 2: TH allowed, up to 6 (six) connected units, when 3 or more units, rear-alley vehicle access is required. This Zone is located near arterial/collector streets, or public transportation & requires

less parking space but more Open Space.

(Each additional Zone has increasingly more specific guidelines)

1) OPTION: PUD application for design flexibility/clustering in exchange for amenities.

2) ADDITIONAL: Developments 3 or more connected TH units require vehicle access rear-alley.

### **Correlation between Townhouse Units and Safety, Quality and Circulation:**

If the townhouse definition in Canby is amended to allow 3 or more connected units, **then our ordinances should also be amended to also require rear alley vehicle access** (or a public pedestrian pathway with sufficient width/access for emergency vehicles), as imposed by the majority of jurisdictions in Oregon. Without a requirement for rear access, developers will be creating Middle-Unit townhouses with rear-yards that can only be accessed by walking thru the dwelling itself. Closed-off, inaccessible, tiny rear-yards without an "eye on the street" are a safety hazard (fire, burglary), attract unsavory conditions (harbor for trash, pets and their waste, lacking access for maintenance, lack escape route) a situation avoided by most Municipalities! I urge the Commissioners to recall the design of townhouse developments they have witnessed in other cities; can you remember any that did not have a rear alley or pedestrian pathway?

### **Correlation between number of available Zones and Conditional Use:**

By using 5 to 15 small residential "micro-zones" or overlays, the majority of Oregon cities are able to precisely identify locations within their city for a variety of dwelling types, densities and building requirements that are most appropriate for each area. These cities endured extensive citizen input and planning to determine the details for each micro-zone, but the payoff is the higher volume of applications that can be processed under the decision making authority of the Director, as TYPE II Procedures. In about 25% of the Oregon cities I surveyed, the Director has full decision-making authority for up to 3 townhouse units (exclusive of TH development using PUD/Master Plans).

In comparison, Canby has only 3 residential zones, with heavy reliance upon "Conditional Use" which allows citizen input on a high volume of applications. Currently in Canby, Conditional Use is a Type III decision that allows public testimony with decision authority by the Planning Commissioners. The Commissioners are a rotating group of individuals appointed for a 3 year term, with a variety of attitudes, interests, opinions, backgrounds and experiences. Each Commissioner has expertise to share without being able to dominate the decisions.

The Canby Planning Department has proposed to amend our Conditional Use from Type III (Planning Commission Decision after public hearing) to a Type II (Planning Director decision without option for public hearing). They also propose to reduce the radius for a Type II notification from 500 to 100 feet, to reduce the number of citizens that are notified of proposed Land Use applications. And further, A Type II Decision can only be appealed to the Planning Commission with the payment of a \$1,920 fine (called a "fee"), which punishes any citizen who would like to make comments on those Land Uses that are controversial enough to be classified as a Conditional Use. This gives the distinct appearance that the Planning Department would like to reduce the ability of citizens to learn about proposed townhouses in the Medium Density Zone, and to hush up citizen concerns (no public hearing), and to effectively fine them \$1,920 if they insist on discussing it with the Planning Commission.

With only 3 zones, it would be NOT be appropriate for Canby to entrust sole decision-making authority for Conditional Use to the Planning Director, since the Director's constant contact with developers and presumed prevailing emphasis toward higher density could be perceived as having undue influence on (and contaminate) the decision-making ability. With an appeal "fee" of \$1,920, very few citizens would be able to afford to appeal the decision of the Director, making the Planning Department essentially a dictatorship over many aspects of Land Use Planning in Canby.

A better course of action appears to be investing time (and citizen input) in our ordinances to establish a variety of more efficient micro-zones or Overlays to enable a reduction in the Conditional Use procedure. For the current time, it may be better to postpone amendments to the Townhouse or Conditional Use ordinances until more attention can be applied to the issues.

I have created a spreadsheet that compares the townhouse and conditional use Ordinances of Canby to dozens of other Oregon cities of similar population, and includes the web addresses for each city. If you are interested in viewing it, please contact me and I will happily forward it to you.

Regards,

Regina Taylor  
173 SW 6<sup>th</sup> Ave, Canby, OR  
(503) 989-9221  
reginaewood@yahoo.com



June 10, 2019

City of Canby Planning Commission  
222 NE 2nd Avenue  
Canby, OR 97013

**Re: Comprehensive Plan/Text Amendment (Type IV) (CPA/TA 19-01)**

Dear Commissioners:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

As you know, all amendments to the City's Comprehensive Plan and Zoning map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). When a decision is made affecting the residential land supply, the City must refer to its Housing Needs Analysis (HNA) and Buildable Land Inventory (BLI) in order to show that an adequate number of needed housing units (both housing type and affordability level) will be supported by the residential land supply after enactment of the proposed change.

The staff report for the proposed legislative text amendment to both the Canby Land Development and Planning Ordinance and the Comprehensive Plan, recommends its approval. However, the report does not include findings for Statewide Goal 10, describing the effects of the amendment on the housing supply within the City. Goal 10 findings must demonstrate that the amendment does not leave the City with less than adequate residential land supplies in the types, locations, and affordability ranges affected. *See Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731 (1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also, *Home Builders Assn. of Lane Cty. v. City of Eugene*, 41 Or LUBA



370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations). Further, because the text amendment is designed to clarify and streamline the development process within the City, the report should reference how this change aligns with the housing needs as dictated by Canby's HNA. Only with a complete analysis showing any gain or loss in needed housing as compared to the BLI can housing advocates and planners understand whether the City is achieving its goals through these amendments.

HLA and FHCO urge the Commission to defer adoption of the Comprehensive Plan/Text Amendment until Goal 10 findings can be made, and the proposal evaluated under the HNA and BLI. Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Louise Dix at [ldix@fhco.org](mailto:ldix@fhco.org) or reach her by phone at (541) 951-0667.

Thank you for your consideration.

A handwritten signature in blue ink that reads "Louise Dix".

Louise Dix  
AFFH Specialist  
Fair Housing Council of Oregon

A handwritten signature in blue ink that reads "Jennifer Bragar".

Jennifer Bragar  
President  
Housing Land Advocates

cc: Kevin Young ([kevin.young@state.or.us](mailto:kevin.young@state.or.us))



Phone: 503-823-7700 (<http://www.portlandoregon.gov/tel:503-823-7700>)

Curbside Hotline: 503-823-7202 (<http://www.portlandoregon.gov/tel:503-823-7202>)

1900 SW 4th Ave, Suite 7100, Portland, OR 97201 **More Contact Info** (<http://www.portlandoregon.gov/bps/article/136170>)

# What is the difference between the Comprehensive Plan Map and zoning?

Both depict how land can be used and developed over time, using a set of "designations" and "zones" (shown as colors on the maps). Both show broad categories of uses, such as residential, mixed use, industrial, employment and open space. They also convey information about the scale of future development (the type and size of buildings).

The Comprehensive Plan Map is about the future...

The Comprehensive Plan Map depicts a long-term vision of how and where the city will grow and change over the next 20 years to accommodate expected population and job growth.

The Zoning Map is about what is allowed today...

Decisions about Comprehensive Plan designations directly guide subsequent decisions about zoning. The City's Zoning Map tells us how land can be used and what can be built on any given property today. Zones are more specific than the Comprehensive Plan designations and come with a set of rules (included in the City's Zoning Code) that clarify what uses are allowed (e.g., residences, businesses, manufacturing), and how buildings may be developed or changed (e.g., maximum heights and required setbacks from property lines).

The Comp Plan Map and the Zoning Map are like a leader and a follower. The plan map is the leading map and the zone map is the following map. The zone map can "catch up" to the plan map, but it can't go past it.

The plan map is a long-range map saying what will be allowed 20 years from now, while the zone map says what is allowed now. For most properties in the city, what is allowed now and what will be allowed 20 years from now are essentially the same.

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PROPOSED COMPREHENSIVE PLAN TEXT AND MAP AMENDMENTS



of the area obviates any need for an immediate zone change at this time. Any proposals for new development or redevelopment of the area, other than for one single-family dwelling, per lot, will require prior upzoning to R-2.

9. *Area "I"* consists of a wide strip of property bordering N.E. Territorial Road. It includes properties which are planned for medium density residential use and properties planned for high density residential use. Present development in the area includes apartments, condominiums, single-family dwellings, and vacant lots. Present zoning includes some R-2 areas and a predominance of R-1 areas. Street dedications and, in some cases, street improvements are needed to make some of the properties suitable for higher density development. New developments, other than one single-family dwelling per lot, will require prior upzoning to either R-1.5 or R-2, as appropriate.
10. *Area "J"* is a large area of multiple owners bounded on the west side by Highway 99E, SE 1<sup>st</sup> Avenue to the South, Haines Road to the East, and the Urban Growth Boundary to the north. The area contains numerous single family homes, a pub (The Spinning Wheel), several churches, and significant open space and natural features, the most notable is a large, man-made lake located in the approximate center of the area. Because of the existing mix of uses, this area presents a unique opportunity for the City to master plan the area and create appropriate zoning language and/or zoning overlays to encourage a mixed density neighborhood. Until a master plan is adopted, this area should be held in reserve and properties in this area should remain a low priority for annexation. The creation of this master plan should be high on the priority list for long-range planning project for the City. Through the 2002-2003 public process to locate appropriate areas for Medium and High Density Residential Land, this area was found to be appropriate for the equivalent of a minimum of 12 acres of High Density Residential Development and a minimum of 15 acres of Medium Density Development. During the master planning process, these numbers should be used as a guideline, but could be increased if, through a public input process, more is deemed desirable, especially if it is to protect existing open spaces, natural features, or other desirable elements for the area. Development of the master plan should concentrate on protecting the special natural and physical characteristics of the area
11. *Area "K"* – Removed (Ord. 1514, 2019).
12. *Area "L"* comprises approximately 30 acres of parcels zoned for low density residential development. The parcels have been farmed for many years and were outside the Urban Growth Boundary of the City until 2003.

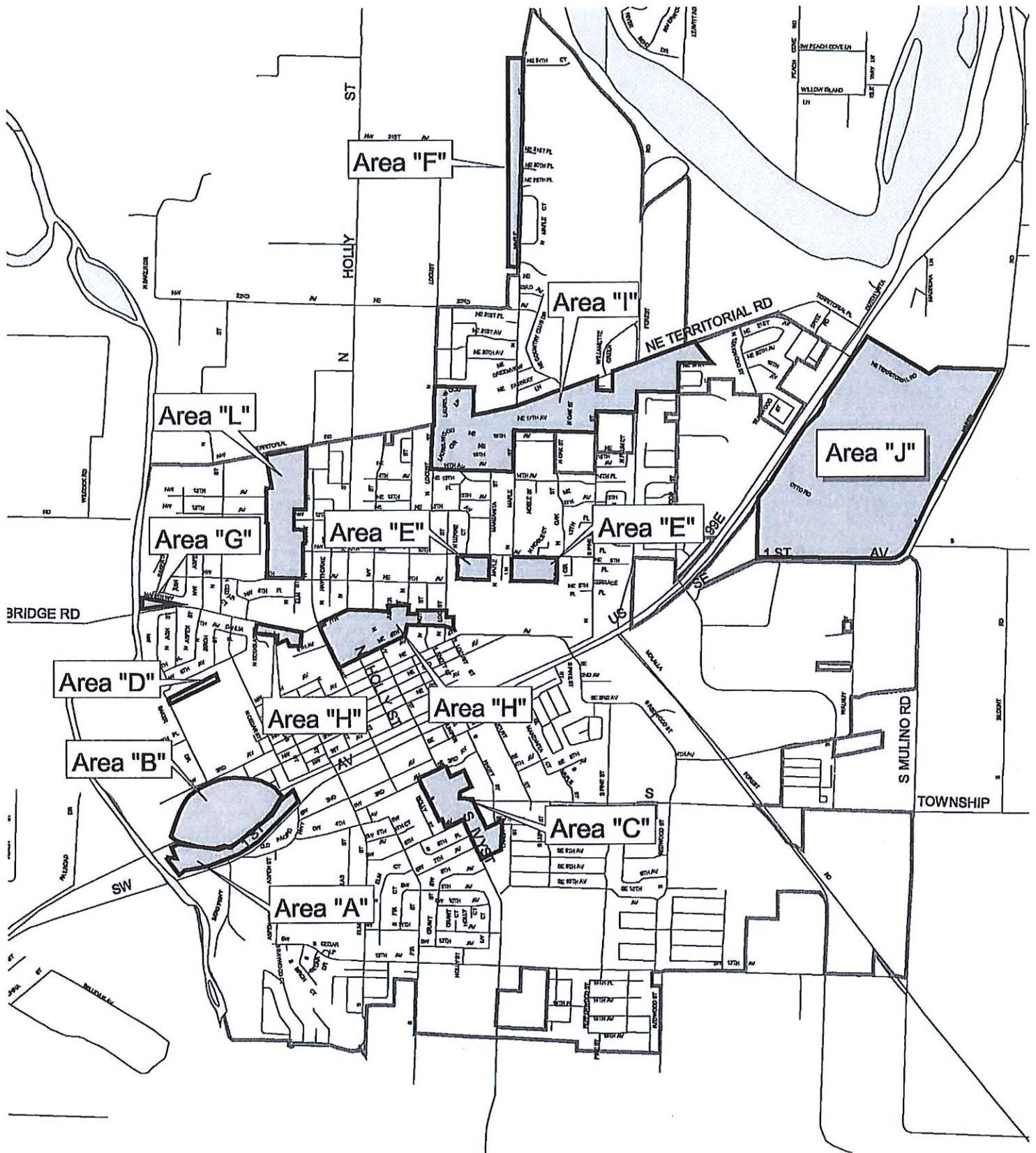
The area presents a unique challenge because it is surrounded by existing neighborhoods that could be negatively impacted by development. In addition, the City has infrastructure requirements that must be developed following a comprehensive master plan addressing parks and/or open space provision, street and infrastructure design, public safety facilities, buffering, and other relevant issues. The master plan should integrated reasonable foreseeable uses of adjacent properties, Subdivision of the property should not occur unless such a master plan is approved by the Planning Commission. Creation of the master plan should include input from the public and neighborhood association.

- C) In each of the examples listed above where one single family dwelling per lot is to be allowed prior to upzoning, the City will review the plot plans of such dwelling units and set such conditions regarding building setbacks or orientation as may be necessary to assure that future higher densities or intensities of development will not be precluded because of such building placement.

**POLICY NO. 7: CANBY SHALL STRIVE TO ENSURE THE EFFICIENT AND EFFECTIVE PROVISION OF INFRASTRUCTURE TO SERVE NEWLY ANNEXED AREAS.**

**IMPLEMENTATION MEASURES:**

- A) The City of Canby's annexation Development Map shall be used to identify properties required to adopt a Development Concept Plan (DCP) or Development Agreement (DA) prior to annexation

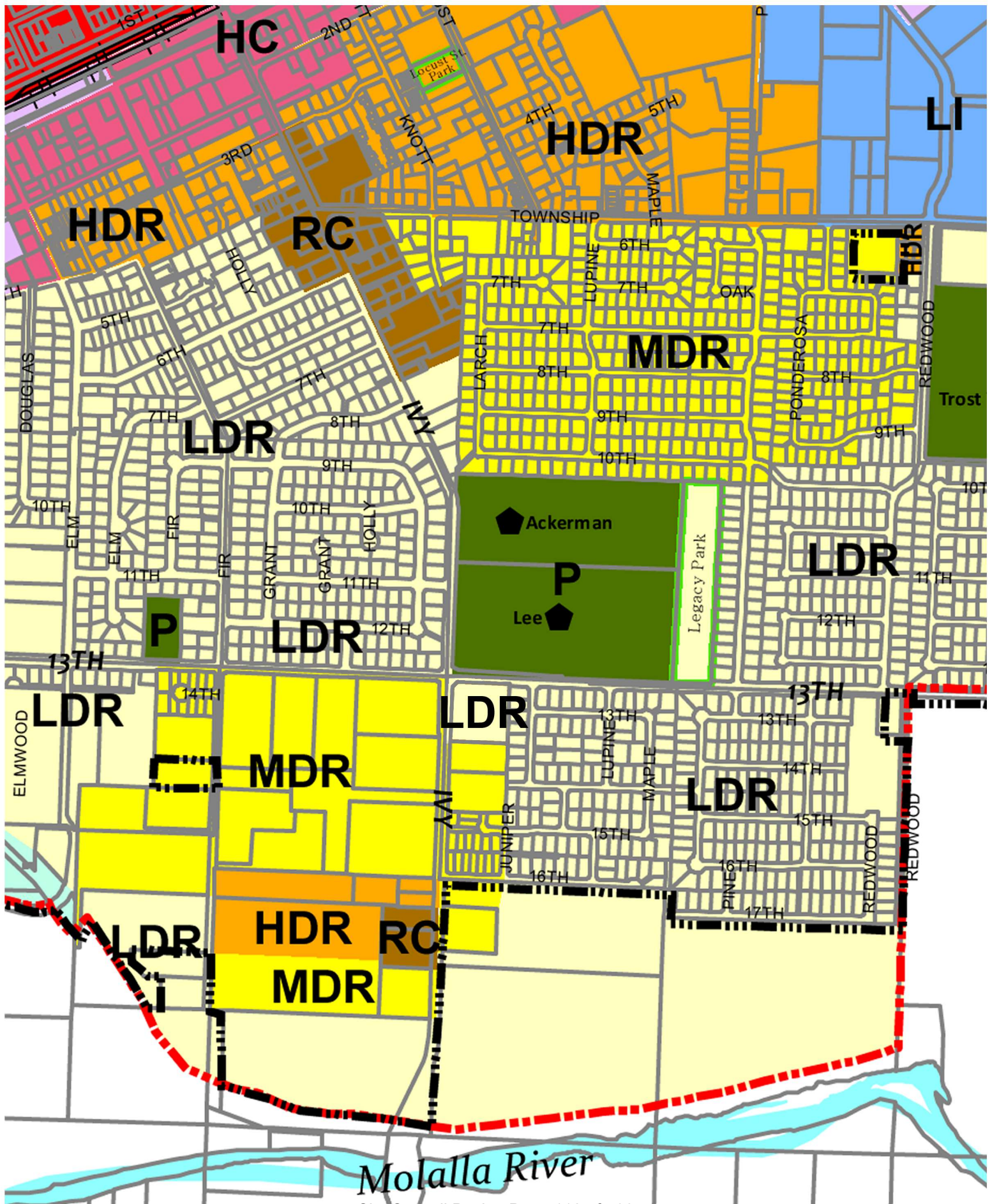


# City of Canby

## Areas of Special Concern







**PLANNING COMMISSION WORK STUDY SESSIONS FOR**  
**COMP PLAN AMENDMENT & TEXT AMENDMENTS**  
**CITY FILE# CPA/TA 19-01**

Work Study Session #1	January 28, 2019
Work Study Session #2	February 25, 2019
Work Study Session #3	March 11, 2019
Work Study Session #4	March 25, 2019
Work Study Session #5	April 22, 2019

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# TITLE 16

## PLANNING AND ZONING

July 2019

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *Italics and Underline*

### Chapters:

#### Division I. General Provisions

- 16.02 Title
- 16.04 Definitions
- 16.05 Interpretations

#### Division II. Planning Commission

- 16.06 Planning Commission

#### Division III. Zoning

- 16.08 General Provisions
- 16.10 Off-street Parking and Loading
- 16.12 Classification of Zones
- 16.13 Plan Districts
- ~~16.14 **AG. Agricultural Zone**~~ **Repeal** *There is no Agricultural Zoned property in Canby*
- 16.16 R-1 Low Density Residential Zone
- 16.18 R-1.5 Medium Density Residential Zone
- 16.20 R-2 High Density Residential Zone
- 16.21 Residential Design Standards
- 16.22 C-1 Downtown Commercial Zone
- 16.24 C-R Residential/Commercial Zone
- ~~16.26 **C-C Convenience/Commercial Zone**~~ **Repeal** *There is no CC zoned property in Canby*
- 16.28 C-2 Highway Commercial Zone
- 16.30 C-M Heavy Commercial/Manufacturing Zone
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- 16.34 M-2 Heavy Industrial Zone
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#### **Division VI. Annexations**

- 16.84 Regulations

#### **Division VII. Street Alignments**

- 16.86 Regulations

#### **Division VIII. General Standards and Procedures**

- 16.88 ~~General~~ Standards and Procedures;  
**General, Text Amendments, Comprehensive Plan Amendments, and Transportation Planning** *Retitled for clarification*
- 16.89 Application and Review Procedures

#### **Division X. Historic Preservation**

- 16.110 General Provisions

#### **Division XI. Park, Open Space and Recreation Land**

**16.120**     General Provisions

**Division XII. Riparian Preservation**

**16.130**     General Provisions

**Division XIII. Wetland Preservation**

**16.140**     General Provisions

*Chapter 16 was updated by the City of Canby City Council on 9/17/14 with Ord. 1398, 2/20/2013 with Ord. 1369, 7/16/08 with Ord. 1286, 9/3/08 with Ord. 1294 and 10/1/08 with Ord. 1296, 10/21/15 with Ord. 14.*

## Chapter 16.04

### DEFINITIONS

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

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16.04.035 Acceptable site.  
16.04.036 Access.  
16.04.037 Access classification.  
16.04.038 Access connection.  
16.04.039 Access management.  
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~~16.04.040~~ **043** Accessory structure or use.  
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16.04.050 Agriculture.  
16.04.060 Alley.  
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16.04.065 Backhaul network.  
16.04.066 Bed and Breakfast.  
16.04.068 Bicycle Facilities.  
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16.04.120 City.

16.04.125 City Planner.  
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16.04.128 Commercial Recreation Uses.  
16.04.130 Commission.  
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16.04.137 Corner clearance.  
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16.04.145 Cross access.  
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16.04.158 Detached WTS facility.  
16.04.160 Development plan.

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**16.04.010 Grammatical interpretation.**

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

**16.04.020 Generally.**

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

**16.04.030 Abutting-adjoining-adjacent.**

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

**16.04.035 Acceptable site.**

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

**16.04.036 Access.**

Access means a way or means of approach to provide pedestrian, bicycle, or motor vehicle entrance or exit to a property. (Ord. 1043 section 3, 2000).

**16.04.037 Access classification.**

Access classification means a ranking system for roadways used to determine the appropriate degree of access management. Factors considered include functional classification, the appropriate local government's adopted plan for the roadway, subdivision of abutting properties, and existing level of access control. (Ord. 1043 section 3, 2000)

**16.04.038 Access connection.**

Access connection means any driveway, street, turnout or other means of providing for the movement of vehicles to or from the public roadway system. (Ord. 1043 section 3, 2000)

**16.04.039 Access management.**

Access management means the process of providing and managing access to land development while preserving the regional flow of traffic in terms of safety, capacity, and speed. (Ord. 1043 section 3, 2000)

**16.04.040 Accessory Dwelling.**

Accessory dwelling is an interior, attached, or detached residential structure that is used in connection with, or that is accessory to, a single-family dwelling.

**16.04.040 043 Accessory structure or use.**



Accessory structure or use means a detached structure or use not intended for human habitation, incidental and subordinate to the main use of the property and which is located on the same lot with the main use such as, but not limited to, garage, carport, tool shed, private greenhouse or utility building. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.045 Accessway.**

Accessway means a walkway that provides pedestrian and bicycle passage either between streets or from a street to a building or other destination such as a school, park, or transit stop. Accessways generally include a walkway and additional land on either side of the walkway, often in the form of an easement or right-of-way, to provide clearance and separation between the walkway and adjacent uses. Accessways through parking lots are generally physically separated from adjacent vehicle parking or parallel vehicle traffic by curbs or similar devices and include landscaping, trees, and lighting. Where accessways cross driveways, they are generally raised, paved, or marked in a manner that provides convenient access for pedestrians. (Ord. 1043 section 3, 2000)

**16.04.050 Agriculture.**

Agriculture means the tilling of the soil, the raising of crops, silviculture and horticulture. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.060 Alley.**

Alley means a narrow street through a block primarily for vehicular service access to the back or side of properties otherwise abutting another street. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.061 Antenna.**

The specific device used to capture an incoming and/or transmit an outgoing radio-frequency signal. This definition shall include omni-directional (whip) antennas; directional (panel) antennas; parabolic (microwave dish) antennas; and ancillary antennas (i.e., GPS). All other transmitting or receiving equipment not specifically described herein shall be regulated in conformity with the type of antenna described herein which most closely resembles such equipment. (Ord. 981 section 17, 1997)

**16.04.063 Application.**

Application for a land use permit (site and design review, conditional use permit, annexation, zone change, subdivision, etc.) means a package of information that includes:

- A. The application form filled out and signed by the owner;
- B. Site plan and/or narrative describing the proposal;
- C. List of property owners on mailing labels (1" x 2 5/8"); and

D. The application fee. (Ord. 981 section 1, 1997)

**16.04.064 Attached WTS facility.**

An existing pole, tower or other structure capable of accommodating a WTS facility antenna, whether originally intended for such use or not. (Ord. 981 section 17, 1997)

**16.04.065 Backhaul network.**

The land lines that connect a WTS provider's radio signals to one or more cellular telephone switching offices and/or local or long distance providers, or the public switched telephone network. (Ord. 981 section 17, 1997)

**16.04.066 Bed and Breakfast.**

Bed and Breakfast means any single-family residential dwelling having rooms for rent to travelers or transients for a charge or fee paid, for rental or use for a period of less than thirty (30) days. Additionally, such establishment serving only one meal per day prior to the noon hour. (Ord. 890 section 4, 1993; renumbered due to Ord. 981 amendments)

**16.04.068 Bicycle facilities.**

Bicycle facilities is a general term denoting improvements and provisions made to accommodate or encourage bicycling, including parking facilities and all bikeways. (Ord. 1043 section 3, 2000)

**16.04.070 Billboard.**

Billboard means a sign which has a surface space upon which advertising may be posted, painted, or affixed, and which is generally, although not necessarily, designed for the rental or lease of such sign space for advertising not relating to the use of the property upon which the sign exists. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.080 Boarding, lodging or rooming house.**

Boardinghouse, lodging house or rooming-house means a building where lodging with or without meals is provided for compensation for at least four, but not more than ten guests. Board and care, foster care and similar accommodations are considered boardinghouses for the purposes of this title. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.090 Building.**

Building means a structure built for the shelter or enclosure of persons, animals, chattels or property of any kind. (Ord. 740 section 10.1 .20(B)[part], 1984)

**16.04.100 Building line.**

Building line means a line on a plat indicating the limit beyond which buildings or structures may not be erected. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.105 Cell.**

A geographic area where a single radio transmission sending/receiving station (per provider) and the equipment necessary to connect these radio calls to land lines or other cells are located. (Ord. 981 section 17, 1997)

**16.04.110 Central business district (CBD).**

Central business district (CBD) means the downtown area of Canby, defined generally by zoning or designation on the Land Use Map of the Comprehensive Plan for downtown commercial development. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.120 City.**

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

**16.04.125 City Planner.**

City Planner means the person appointed by the city administrator as supervisor of the day-to-day operations of Canby's city planning functions, or another staff person he or she designates for a particular function. Also referred to as "Planning Director." (Ord. 890 section 5, 1993; Ord. 1080, 2001)

**16.04.127 Collocation.**

Two or more WTS providers utilizing a structure or site specifically designed and/or approved for such multiple use, and including equipment shelters. (Ord. 981 section 17, 1997)

**16.04.128 Commercial Recreation Uses.**

Commercial recreation uses means uses intended to provide for gymnastics, tennis, racquetball and other sport-related centers that require oversized indoor space and facilities. (Ord. 960, section 1, 12/18/96)

**16.04.130 Commission.**

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

**16.04.135 Conditionally suitable site.**

For purposes of siting wireless telecommunications systems facilities, any land planned and zoned Residential/ Commercial, Convenience Commercial, or Downtown Commercial. (Ord. 981 section 17, 1997)

**16.04.137 Corner clearance.**

Corner clearance means the distance from an intersection of a public or private road to the nearest access connection, measured from the closest edge of the pavement of the intersecting road to the closest edge of the pavement of the connection along the traveled way. (Ord. 1043 section 3, 2000)

**16.04.140 Council.**

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

**16.04.145 Cross access.**

Cross access means a service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system. (Ord. 1043 section 3, 2000)

**16.04.150 Curb line.**

Curb line means a line along the edge of the curb nearest the street lot line, not necessarily the right-of-way line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.155 Day care facility.**

Day care facility means any facility that provides day care to children, including a day nursery, nursery school group, home of a family day care provider, or similar unit operating under any name, but not including any:

- A. Facility providing care that is primarily educational, unless provided to a preschool child for more than four hours a day.
- B. Facility providing care that is primarily supervised training in a specific subject, including but not limited to dancing, drama, music or religion.
- C. Facility providing care that is primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group.
- D. Facility operated by a school district, political subdivision of this state, or a governmental agency.
- E. Residential facility licensed under ORS 443.400 to 443.455.
- F. Babysitters. (Ord. 890 section 6, 1993)

**16.04.158 Detached WTS facility.**

A pole, tower or other structure designed and intended to support WTS facility antennas. (Ord. 981 section 17, 1997)

**16.04.160 Development plan.**

Development plan means any plan adopted by the Planning Commission for the guidance of growth and improvement of the city, including modifications or refinements which may be made from time to time. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.170 Dwelling, duplex-dwelling, two-family.**

Duplex dwelling or two-family dwelling means a building containing two dwelling units **located on the same lot or parcel**. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.180 Dwelling, multi-family.**

Multi-family dwelling means a building containing three or more dwelling units **located on the same lot or parcel**. (Ord. 740 section 10.1.20(B) [part], 1984)

**~~16.04.190 Dwelling, single-family.~~**

~~Single-family dwelling means a detached building containing one dwelling unit. Attached or common wall single-family dwellings, may also exist provided that each is situated on a separate lot and provided that each such unit shall not contain a common wall with more than one other dwelling unit. Mobile homes shall not be considered to be single-family dwellings for the purposes of this chapter unless found to meet all city building, mechanical, electrical and other construction codes applicable to conventional units built on the site. (Ord. 740 section 10.1.20 (B)[part], 1984)~~

**16.04.190 Dwelling, single-family.** Single-family dwelling means a detached building containing one dwelling unit. Manufactured homes shall not be considered to be single-family dwellings for the purposes of this chapter unless found to meet all city building, mechanical, electrical and other construction codes applicable to conventional units built on the site. (Ord. 740 section 10.1.20 (B)[part], 1984)

**16.04.195 Dwelling, Townhouse (Common Wall).** Means single-family attached common wall dwellings with each dwelling unit located on a separate lot. There shall be no more than six attached townhouse dwelling units in a row, and the combined single-family units shall not exceed 120 feet in length.

*The above definitions are separated and rewritten for clarity. Common wall single-family dwellings, (townhouses) are not usually limited to "one other dwelling unit" in most jurisdictions. The intent of the R-1.5 and R-2 zone, where this use is allowed, is to increase density and multiple units with common walls are generally allowed in high density zones and permit needed urban housing. The change to six units is consistent with provisions in the code that allow a maximum building width of 120 feet and a minimum lot width of 20 feet.*

**16.04.200 Dwelling unit.**

Dwelling unit means one or more rooms designed for occupancy by one family and not having more than one cooking facility. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.210 Easement.**

Easement means a grant of the right to use an area of land for specific purposes. (Ord. 740 section 10.1 20(B)[part], 1984)

**16.04.212 Eco-roof**

Eco-roof means a vegetated roof constructed for water quality and quantity control. Eco-roofs are vegetated roof covers with growing media and plants taking the place of bare membrane, gravel ballast, shingles or tiles. The number of layers and the layer placement vary from system to system and roof type, but all eco-roofs include a single

to multi-ply waterproofing layer, drainage, growing media and the plants, covering at least 50% of the roof deck surface. (Ord. 1338, 2010)

**16.04.215 Equipment shelters.**

For purposes of siting wireless telecommunications systems facilities, the buildings, structures, cabinets or vaults used to house and protect the equipment necessary to connect/relay radio signals from cell site to cell site and to land line systems. Associated equipment such as air conditioning or emergency generators shall be included in this definition of equipment shelters. (Ord. 981 section 17, 1997)

**16.04.218 Façade.**

Façade means an exterior face of a building. (Ord 1296, 2008)

**16.04.220 Family.**

Family means an individual or two or more individuals related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit in which meals or lodging may also be provided for not more than two additional individuals excluding servants; or a group of not more than five individuals, excluding servants, who need not be related by blood, marriage, adoption or legal guardianship living together in a dwelling unit. Five or fewer handicapped persons, along with those individuals charged with caring for such persons and sharing a common dwelling unit, shall be considered to be a family for purposes of this title. (Ord. 740 section 10.1.20(B) [part], 1984)

**~~16.04.222~~ 16.04.221 Floor area ratio.**

Floor area ratio means a method of calculating structural massing on a lot. Floor Area Ratio is expressed as a ratio of x divided by y, where x is equal to the sum of the gross floor area of all stories above grade plane, as measured to the outside surface of exterior walls, and y is equal to the lot area net of any publicly dedicated right-of-way or land. Detached accessory structures and detached or attached parking structures above grade plane are not included in the gross floor area calculation. (Ord 1296, 2008)

**16.04.222 Foster Home.**

**“Foster home” means any home maintained by a person who has under the care of the person in the home any child under the age of 21 years unattended by the child’s parent or guardian, for the purpose of providing the child with care, food and lodging, but does not include items listed in ORS 418.625 a-f,**

*This definition was added to clarify the deference between foster home, residential home, childcare facility, etc.*

**16.04.223 Frontage road.**

Frontage road means a public or private drive which generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the arterial street (see also service roads). (Ord. 1043 section 3,

2000)

**16.04.225 FCC.**

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

**16.04.228 Grade plane.**

Grade plane means the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building. (Ord 1296, 2008)

**16.04.230 Height of building.**

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

*Changed for clarity and implementation*

**16.04.240 Home occupation.**

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

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

**16.04.250 Hotel.**

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

**16.04.253 Impervious surface**

Impervious surface means a surface area that creates a barrier to or hinders the entry of water into the soil in comparison with natural conditions prior to development, thus causing water to run off the surface in greater quantities or at an increased rate of flow. Impervious surfaces include, but are not limited to, buildings, paved parking areas and driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses. (Ord. 1338, 2010)

**16.04.255 Infill homes.**

Infill homes mean existing and new single family dwellings, manufactured homes, two-family dwellings, duplexes and triplexes on lots that are located in an R-1 or R-1.5 zoning district, and that have existing homes on two adjacent sides. Each adjacent home must be within 25 feet of the common lot line with the infill homes and have pre-existed for at least 5 years (dated from the existing homes final building permit approval). (Ord. 1107, 2002; Ord 1237, 2007; Ord 1323, 2010)

**16.04.257 Infiltration**

Infiltration means the process or rate at which water percolates from the land surface into the ground. Infiltration is also a general category of best management practices (BMP) designed to collect runoff and allow it to flow through the ground for pollutant removal. (Ord. 1338, 2010)

**16.04.260 Intersection.**

Intersection means the place where two streets meet or cross. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.265 Joint access (or shared access).**

Joint access (or shared access) means a driveway connecting two or more contiguous sites to the public street system. (Ord. 1043 section 3, 2000)

**16.04.270 Kennel.**

Kennel means a place where four or more dogs more than four months of age are kept on one lot or contiguous lots under one ownership. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.275 Lattice tower.**



For purposes of siting wireless telecommunications systems facilities, a WTS support structure which consists of metal crossed strips or bars and which supports antennas and related equipment for one or more WTS provider. (Ord. 981 section 17, 1997)

**16.04.280 Loading space.**

Loading space means an off-street space for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which space has access to a street. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.290 Lot.**

Lot means a single parcel or tract of land for which a legal description has been filed in the office of the county recorder or the boundaries of which are shown on a recorded subdivision plat. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.300 Lot area.**

Lot area means the total horizontal area within the boundary lines of a lot, excluding the access strip servicing a flag lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.310 Lot, corner.**

Corner lot means a lot abutting two intersecting streets other than an alley, provided that the streets do not intersect at an angle greater than one hundred thirty-five degrees. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.315 Lot depth.**

Lot depth means the average distance from the front lot line to the rear lot line. (Ord. 1043 section 3, 2000)

**16.04.318 Lot, flag.**

A flag lot is a lot that does not meet minimum frontage requirements and where access to the public road is by a narrow, private right-of-way. (Ord. 1043 section 3, 2000)

**16.04.320 Lot front.**

Lot front means the street lot line on a corner lot which the principal use or structure is facing. If no such use or structure exists, it means the street side having the shorter length. If the sides are of approximately equal length, the City Planner may designate the lot front. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.321 Lot frontage.**

Lot frontage means that portion of a lot extending along a street right-of-way line. (Ord. 1043 section 3, 2000)

**16.04.330 Lot, interior.**

Interior lot means a lot other than a corner lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.340 Lot line.**

Lot line means the property line bounding a lot. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.350 Lot line, interior.**

Lot line, interior means all lot lines which separate one parcel from another, other than street lot lines. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.360 Lot line, street.**

Street lot line means a lot line that separates the lot from a street other than an alley. The street lot line is not generally the same as the curb line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.370 Lot, through.**

Through lot means a lot having frontage on two parallel or approximately parallel streets other than alleys. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.380 Lot width.**

Lot width means the average width of a lot when measured at the front and rear setback lines for a principal use. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.383 Low impact development**

Low impact development (LID) means a stormwater management and land development strategy applied at the parcel, multiple parcel and/or subdivision level that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale controls to more closely mimic predevelopment hydrologic functions. LID tools are designed to reduce environmental impacts of development, such as increased storm water runoff due to impervious areas, poor water quality and inconsistent water quantity in streams and rivers. LID techniques control storm water runoff volume and reduce pollutant loadings to receiving waters. Not all sites are suitable for LID. Considerations such as soil permeability, depth of water table and slope should be considered, in addition to other factors. LID techniques may not completely replace the need for conventional stormwater controls. (Ord 1338, 2010)

**16.04.385 Lowest floor.**

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this title found in Chapter 16.40 (Hazard Overlay Zone). (Ord. 804 section 2(A), 1987)

**~~16.04.387 Manufactured home – manufactured housing unit.~~**

~~Manufactured home and manufactured housing unit mean a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes only, the term~~

~~manufactured home also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes and for Chapter 16.16, the term manufactured home does not include park trailers, travel trailers and other similar vehicles. For purposes of Chapter 16.16, a manufactured home shall be certified to meet the 1976 HUD Standards, as amended. (Ord. 859 section 1, 1991; Ord. 804 section 2(B), 1987)~~

**~~16.04.390 Mobile home.~~**

~~Mobile home means a movable structure which is certified to have been designed and constructed in compliance with the 1976 construction standards of the Federal Department of Housing and Urban Development and as may be amended. (Ord. 740 section 10.1.20(B) [part], 1984)~~

**16.04.390 Manufactured home (Mobile Home)**

“Manufactured home” means a structure constructed for movement on public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. This definition includes manufactured dwelling, manufactured home, mobile home, and residential trailer as those terms are defined in ORS 446.003. A manufactured home shall be certified to meet the 1976 HUD Standards, as amended. The definition does not include recreational vehicles, travel trailers, park trailers or structures or vehicles which have a state of Oregon or U.S. Government label designating them as a recreational vehicle. It also does not include buildings or structures subject to the Structural Specialty Code adopted pursuant to ORS 455.100 through 455.450.

*The above changes are to clarify and update the specifications of a manufactured home and mobile home.*

**16.04.400 Manufactured (Mobile) home park.**

Manufactured (Mobile) home park means a tax lot or lots where two or more manufactured mobile homes are used for human occupancy and where the space is available for rent or lease. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.410 Manufactured (Mobile) home subdivision.**

Manufactured (Mobile) home subdivision means a subdivision of property where individual lots are available for the placement of manufactured mobile homes. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.420 Modular home.**

Modular home means a residential structure constructed of one or more prefabricated parts which meet all city building, plumbing, mechanical, electrical and other

construction codes applicable to conventional units which might be built on the site. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.425 Monopole.**

For purposes of siting wireless telecommunications systems facilities, a WTS support structure which consists of a single tapered steel pole and which supports antennas and related equipment for one or more WTS provider. (Ord. 981 section 17, 1997)

**16.04.430 Motel.**

Motel means a building or group of buildings on the same lot containing guest units with separate and individual entrances and consisting of individual sleeping quarters, detached or in connected rows, with or without cooking facilities, for rental. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.433 Nail Salons.**

Establishments primarily engaged in providing nail care services, such as manicures, pedicures, and nail extensions.

*This use has increased in popularity and should be clarified.*

**16.04.435 Neighborhood activity center.**

Neighborhood activity center means an attractor or destination for residents of surrounding residential areas. Includes, but is not limited to, existing or planned schools, parks, shopping areas, transit stops, and employment areas. (Ord. 1043 section 3, 2000)

**16.04.438 Nonconforming access features.**

Nonconforming access features means features of the property access that existed prior to the date of ordinance adoption and do not conform with the requirements of this ordinance. (Ord. 1043 section 3, 2000)

**16.04.440 Nonconforming structure, lot or use.**

Nonconforming structure, lot or use means a structure, lot or use which lawfully existed prior to the adoption of zoning requirements for the zone in which it is located and with which it does not comply. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.445 “Nursing home” means any institution or facility defined as a long term care facility for licensing purposes under state statute or the rules of the Department of Human Services, including a long term care facility operated as part of a dual facility. “Dual facility” means a facility that operates both a hospital and a long term care facility on the same campus. (ORS 678.710)**

*This use was added to clarify the definition from similar uses.*

**16.04.450 Parent parcel.**

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

**16.04.460 Parking space.**

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

**16.04.470 Partition.**

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

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

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

**16.04.480 Pedestrian way.**

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

**16.04.490 Person.**

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

**16.04.500 Planning Commission.**

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

**16.04.510 Plat.**

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

**16.04.512 Porches, covered.**

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

**16.04.514 Preapplication conference.**

Preapplication conference means a meeting of the representatives of the city departments and other affected agencies, as determined by the City, to review and provide initial input on land use applications or other proposals. (Ord. 1237, 2007)

**16.04.515 Preferred site.**

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

**16.04.516 Public facility, major.**

A major public facility is any public service improvement or structure, other than transportation projects, developed by or for a public agency that is not defined as a minor public facility. Transportation projects are covered by Section 16.08.130. (Ord. 1237, 2007)

**16.04.517 Public facility, minor.**

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

- A. Minor utility structures, except substations, but including poles, lines, pipes, telecommunications facilities or other such facilities.
- B. Sewer, storm drainage, or water system structures except treatment plants or reservoirs, but including pump stations, manholes, valves, hydrants or other portions of the collection, treatment and distribution systems located within public property or public easements.
- C. Street improvements within existing developments including sidewalks, curbs, gutters, catch basins, paving, signs and traffic control devices and street lights.
- D. Transit improvements, such as shelters or pedestrian and bicycle safety improvements, located within public right of way or public easements or on public property.
- E. School improvements which will not increase the capacity of the school nor create significant additional traffic or other impacts on the surrounding neighborhood.
- F. Park improvements which will not create significant additional motor or foot traffic impact on the surrounding neighborhood. (Ord. 1237, 2007)

**16.04.519 Reasonably direct.**

A reasonably direct route does not deviate unnecessarily from a straight line or is a route that does not involve a significant amount of out-of-direction travel for likely users. (Ord. 1043 section 3, 2000; Ord. 1237, 2007)

**16.04.520 Recommendation.**

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

**16.04.525 “Residential facility” means a residential care, residential training or residential treatment facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility. (ORS 197.660)(1) Under ORS 197.667(4), the city may require an applicant proposing to site a residential facility to supply the city with a copy of the entire application and supporting documentation for state licensing of the facility except for information that is exempt from public disclosure.**

**16.04.527 “Residential home” means a residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home. (ORS 197.660)(2)**

*The two uses are similar and sometimes lead to confusion and need to be clearly defined.*

**16.04.530 Right-of-way.**

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

**16.04.540 Roadway.**

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

**16.04.545 Safe and convenient bicycle and pedestrian routes.**

Safe and convenient bicycle and pedestrian routes:

A. Are reasonably free from hazards; and

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

**16.04.547 Self Storage Unit/Ministorage Warehouse (NAICS 531130)**

**Establishments primarily engaged in renting or leasing space for self-storage. These establishments provide secure space (i.e., rooms, compartments, lockers, containers, or outdoor space) where clients can store and retrieve their goods.**

*This is a common use that is not defined in the code. It is sometimes confused with an industrial warehouse that serves a different purpose and has a separate definition.*

**16.04.550 Setback.**

Setback means a distance which a structure is required to be set back from a lot line. Where specified in this title, some setbacks are measured from curbs or projected curb lines rather than lot lines. ~~Railing for decks less than~~ **Decks** 30 inches **or less** above grade are exempt from setback standards. (Ord. 830 section 2, 1989; Ord. 740 section 10.1.20(B) [part], 1984; Ord. 955 section 1, 1996)

*The above definition was not clear and seems to mean that if the deck does not have a railing it has to meet the setback regardless of the height. The changes reflect how the City and other jurisdiction apply the exemption.*

**16.04.560 Sidewalk.**

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

**16.04.565 Stealth design.**

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

**16.04.567 Story above grade plane.**

Story above grade plane means any story having its finished floor surface entirely above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is either (1) more than 6 feet above grade plane, or (2) more than 12 feet above the finished ground level at any point. (Ord 1296, 2008)

**16.04.570 Street.**

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

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



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

**C. Collector** means a street supplementary to the arterial street system and a means of intercommunication between this system and smaller areas used to some extent for through traffic and to some extent for access to abutting properties.

**D. Neighborhood connector** means a street supplementary to the collector street system providing local access to adjacent properties as well as movement into or out of a neighborhood or between neighborhoods.

**E. Cul-de-sac** (dead-end street) means a short street having one end open to traffic and being terminated by a vehicle turnaround.

**F. Half-street** means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street could be provided in another subdivision.

**G. Marginal access or frontage street** means a minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

**H. Minor street** means a street intended exclusively for access to abutting properties. (Ord. 740 section 10.1.20(B) [part], 1984; Ord. 1043 section 3, 2000)

**I. Green street** means a street that has been designed to integrate a system of stormwater management within its right of way. Green streets are intended to reduce the amount of runoff that is piped directly to the city stormwater system and/or streams and rivers. Green streets make the best use of the street tree canopy and natural filtration and drainage systems for stormwater interception and provide temperature mitigation and air quality improvements. (Ord. 1338, 2010)

**16.04.580 Structural alteration.**

Structural alteration means any change in the supporting members of a structure, including the supporting parts of foundations, bearing walls or partitions, columns, beams, girders, or the roof. (Ord. 740 section 10.1.20(B)[part], 1984)

**16.04.590 Structure.**

Structure means that which is built or constructed. Structure means an edifice or building of any kind or any piece of work artificially built up or composed of parts joined in some manner and which requires a location on the ground. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.595 Stub-out (or stub street).**

Stub-out (or stub street) means a portion of a street or cross access drive used as an extension to an abutting property that may be developed in the future. (Ord. 1043 section 3, 2000)

**16.04.600 Subdivide land.**

Subdivide land means to divide a parcel of land into four or more lots in a given calendar year for the purpose of transfer of ownership or building development, whether immediate or future, when such parcel exists as a unit or contiguous units under a single ownership. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.610 Subdivision.**

Subdivision means either an act of subdividing land or tract of land subdivided as defined in this chapter. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.615 Traffic Impact Analysis.**

Traffic Impact Analysis A comprehensive traffic analysis of a development proposal which includes trip generation, analysis of access/egress, accident analysis, intersection analysis, and traffic flow analysis. (Ord. 1019 section 22, 1999)

**16.04.620 Trailer coach.**

Trailer coach means a trailer or motor home not certified as meeting the HUD 1976 standards or as may be amended for design and construction of a mobile home. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.630 Trailer park.**

Trailer park means a tax lot or lots where space is rented or leased for the location of two or more trailer coaches, or some combination of mobile homes and trailer coaches for human habitation. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.635 Trip generation study.**

Trip Generation Study means an analysis of the number of vehicle trips generated by a development proposal. Trip generation for commercial/industrial/residential/ institutional projects are estimated through the Institute of Transportation Engineers' manual. The results of the trip generation study will determine the need for a Traffic Impact Analysis. If the trip generation study determines the use will generate more than 100 vehicle trips per day, the City Traffic Engineer may require a Traffic Impact Analysis. (Ord. 1019 section 23, 1999)

**16.04.640 Urban Growth Boundary (UGB)**

Urban Growth Boundary (UGB) means the area specifically delineated in the city's comprehensive plan as being already urbanized or available for urban development. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.650 Urbanizable.**

Urbanizable is the term applied to property which is within the city's Urban Growth Boundary and which is planned for eventual urban development. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.660 Use.**

Use means the purpose for which land or a structure is designed, arranged, or for which it is occupied or maintained. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.666 Vicinity.**

Vicinity means nearby; within the same neighborhood. It should be noted that in applying the criteria of this chapter, the term vicinity will be applied to a larger area when warranted by a large project or a project which is expected to have an impact on a large area. (Ord. 805 section 1, 1987)

**16.04.670 Vision clearance area.**

Vision clearance area means the triangle area at the intersection of two streets, a driveway and a street, or a street and a railroad, two sides of which are measured from the corner intersection of the existing or proposed curb lines to a distance specified in this title. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the curb lines at intersections have rounded corners, the curb lines will be extended in a straight line to their points of intersection. No plantings, structures, or temporary or permanent obstructions shall be located within a vision clearance area, extending from two and one-half to ten feet above the curb or street elevation. Except, however, that one tree trunk not greater than eighteen inches in diameter shall be permitted within a vision clearance area. (Ord. 830 section 3, 1989; Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.672 Walkway.**

Walkway means a hard-surfaced area intended and suitable for pedestrians, including sidewalks and the surfaced portions of accessways. (Ord. 1043 section 3, 2000)

**16.04.672 Wireless telecommunications facilities.**

The site, structures, equipment and appurtenances used to transmit, receive, distribute, provide or offer wireless telecommunications services. This includes, but is not limited to antennas, poles, towers, cables, wires, conduits, ducts, pedestals, vaults, buildings, electronics and switching equipment. (Ord. 981 section 17, 1997)

**16.04.676 Wireless telecommunications systems (WTS).**

The sending and receiving of radio frequency transmissions and the connection and/or relaying of these signals to land lines and other sending and receiving stations (cell sites), and including cellular radiotelephone, personal communications services, enhanced/specialized mobile radio, and commercial paging services. (Ord. 981 section 17, 1997)

**16.04.680 Yard.**

Yard means an open space on a lot which is unobstructed from a point two and one-half feet above the general ground level of the graded lot upward, except as otherwise provided in this title. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.690 Yard, interior.**

Interior yard means a yard lying between the nearest point of a building and measured horizontally to an interior lot line. (Ord. 1296; 2008; Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.700 Yard, rear.**

Rear yard means a yard lying to the rear of the principal building on the lot and generally opposite the lot front. (Ord. 740 section 10.1.20 (B) [part], 1984)

**16.04.710 Yard, street.**

Street yard means a yard lying between the nearest point of a building and the street and measured horizontally to the street lot line. (Ord. 740 section 10.1.20(B) [part], 1984)

**16.04.715 Zero-lot line development.**

Zero-lot line development means detached dwellings required to have a side yard setback on only one side. (Ord. 1111 section 4, 2003)

## DIVISION III. – ZONING

### Chapter 16.08

#### GENERAL PROVISIONS

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

- 16.08.010 Compliance with title.
- 16.08.020 Zoning map.
- 16.08.030 Zone boundaries.
- 16.08.040 Zoning of annexed areas.
- 16.08.050 Prohibited parking.
- 16.08.070 Illegally created lots.
- 16.08.080 Area and yard reductions.
- 16.08.090 Sidewalks required.
- 16.08.100 Height allowances.
- 16.08.110 Fences.**
- 16.08.115 Arbors**
- 16.08.120 Siting and review process for  
Wireless Telecommunications Systems Facilities.
- 16.08.130 Standard transportation improvements.
- 16.08.140 Temporary vendor.
- 16.08.150 Traffic Impact Study (TIS).
- 16.08.160 Safety and Functionality Standards

#### **16.08.010 Compliance with title.**

No building, structure, or land shall hereafter be used or occupied, and no building, structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered contrary to the provisions of this title. No lot area, yard, or required off-street parking or loading area existing on or after the effective date of the ordinance codified in this title shall be reduced in area, dimension, or size below the minimums required by this title, nor shall any lot area, yard, or required off-street parking or loading area that is required by this title for one use be used to satisfy the lot area, yard, off-street parking or loading area requirement for any other use, except as may be provided in this title. (Ord. 740 section 10.3.05(A), 1984)

#### **16.08.020 Zoning map.**

**A.** The location and boundaries of the zones designated in this division are established as shown on the map entitled "Zoning Map of the City of Canby" dated with the effective date of the ordinance codified in this title and signed by the Mayor and the city recorder and hereafter referred to as the zoning map.

**B.** The signed copy of the zoning map shall be maintained on file in the office of the city recorder and is made a part of this title. (Ord. 740 section 10.3.05(B), 1984)

**16.08.030 Zone boundaries.**

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

**16.08.040 Zoning of annexed areas.**

Zoning of newly annexed areas shall be considered by the Planning Commission in its review and by the Council in conducting its public hearing for the annexation. (Ord. 740 section 10.3.05(D), 1984)(Ord. 1294, 2008)

**16.08.050 Prohibited parking.**

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

**16.08.060**

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

**16.08.070 Illegally created lots.**

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

**16.08.080 Area and yard reductions.**

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

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

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

**D.** Where two or more contiguous substandard recorded lots are in common ownership and are of such size to constitute at least one conforming zoning lot, such lots or portions thereof shall be so joined, developed, and used for the purpose of forming an effective and conforming lot or lots. Such contiguous substandard lots in common ownership shall be considered as being maintained in common ownership after the effective date of the ordinance codified in this title for zoning purposes. (Ord. 740 section 10.3.05(H), 1984; Ord. 1237, 2007)

**16.08.090 Sidewalks required.**

**A.** In all commercially zoned areas, the construction of sidewalks and curbs (with appropriate ramps for the handicapped on each corner lot) shall be required as a condition of the issuance of a building permit for new construction or substantial remodeling, where such work is estimated to exceed a valuation of twenty thousand dollars, as determined by the building code. Where multiple permits are issued for construction on the same site, this requirement shall be imposed when the total valuation exceeds twenty thousand dollars in any calendar year.

**B.** The Planning Commission may impose appropriate sidewalk and curbing requirements as a condition of approving any discretionary application it reviews. (Ord. 740 section 10.3.05(I), 1984)

**16.08.100 Height allowances.**

The following types of structures or structural posts are not subject to the building height limitations: chimneys, cupolas, tanks, church spires, belfries, derricks, fire and hose towers, flagpoles, water tanks, elevators, windmills, utility poles and other similar projections. The height of wireless telecommunications systems facilities shall be in accordance with section 16.08.120. (Ord. 740 section 10.3.05(J), 1984; Ord. 981 section 18, 1997)

**16.08.110 Fences.**

**A.** Fences not more than three and one-half feet in height may be constructed within the street setbacks of any R-1, R-1.5, R-2 or C-1 zone. Fences not more than six feet in height may be constructed in any interior yard, rear yard, or street yard along an alley; provided, however, that in no case shall a fence be constructed in violation of the requirements of a vision clearance area.

**B.** On corner lots, the 3.5-foot height limit will apply within the required setback along both street-facing yards.

~~C. Arbors that are added to a fence that is constructed of proper design (height and setbacks) and in accordance with this section (16.08.110), are allowed with the following limitations:~~

- ~~1. The arbor shall not exceed eight (8) feet in height (including the fence and vegetation);~~
- ~~2. The arbor, or any part of the arbor, shall not obstruct the view of drivers or pedestrians navigating the streets and/or sidewalks in the area;~~
- ~~3. Vegetation on the arbor shall not be allowed to grow solid at any time, creating a solid barrier that blocks visibility;~~
- ~~4. If the vegetation becomes too full or too high, the owner is financially responsible to rectify the situation, and to maintain the vegetation, fence, and arbor;~~
- ~~5. Color, construction, and design must be consistent with other like arbors/fences in the immediate area;~~
- ~~6. The arbor shall not block, or in any way impede any present significant vistas enjoyed by neighboring homes and/or other points of interest existing at the time of the building of the fence or arbor;~~
- ~~7. The primary purpose of the arbor is to support and sustain foliage/vegetation.~~

*Because of conflicting uses, arbors are separated from fencing and moved, with changes, to 16.08.115 below.*

~~D C.~~ No more than one row of fencing is allowed within a required street yard setback.

~~E D.~~ The Planning Commission may require sight-blocking or noise mitigating fences for any development it reviews.

~~F E. The Planning Commission may require~~ Fences of up to eight feet in height are permitted for any development in C-2, C-M, M-1 or M-2, or Planned Unit Development zones.

~~G E.~~ No fence/wall shall be constructed throughout a subdivision, planned unit development or be part of a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission. (Ord. 890 section 8, 1993; Ord. 740 section 10.3.05(K), 1984; Ord. 955 section 2, 1996; Ord. 981 section 43, 1997)



**H G.** In all zones, private fences along a public pedestrian/bicycle pathway shall comply with the following in order to provide security and visibility for pathway users while maintaining privacy for the residence.

1. Fencing installed as part of a new subdivision shall comply with either (a) or (b) below.
2. Fencing installed by a property owner on an individual lot shall comply with either (a), (b), or (c) below.
  - a. Solid fencing shall be no greater than four (4) feet in height; or
  - b. Fencing shall be constructed with black open wire material, wooden slats, or some other material that allows visual access between the pathway and adjacent uses; or
  - c. Solid fencing shall be set back at least three (3) feet from the property line that abuts the pathway. (Ord 1338, 2010)

**H. Use of hazardous materials.**

**Fences and walls shall not be constructed of or contain any material which will do bodily harm, such as electric or barbed wire, razor wire, broken glass, spikes, or any other hazardous or dangerous material, except as follows:**

- a. Barbed wire or electrified fences enclosing livestock are permitted in any zone permitting farm use. Electrified fences shall be posted or flagged at not less than 25-foot intervals with clearly visible warnings of the hazard when adjacent to developed areas.**
- b. In commercial and industrial zones barbed wire is permitted attached to the top of a fence that is at least six foot in height above grade; provided, that barbed wire shall not extend over a street, sidewalk, alley or roadway. The attached barbed wire shall be placed at least six inches above the top of the fence.**

*These changes are added to restrict barbed wire and other hazardous fences material in the residential zones and is consistent with Chapter 8, CMC, Health and Safety.*

**16.08.115 Arbors**

**A.** Arbors that are ~~added to a fence that is~~ constructed of proper design (height and setbacks) and in accordance with ~~this section (16.08.110),~~ **the design standards of the particular zone where it is located** are allowed with the following limitations:

1. ~~The arbor shall not exceed eight (8) feet in height (including the fence and vegetation);~~  
**Arbors shall be stand-alone structures and shall not be attached to a fence.**

**2 The arbor shall not exceed eight feet in height and shall maintain a five foot setback from the property line.**

- 3.** If the vegetation becomes too full or too high, the owner is financially responsible to rectify the situation, and to maintain the vegetation, **fence**, and arbor;
- 4.** The primary purpose of the arbor is to support and sustain foliage/vegetation, **provide shade, recreational space, and ascetic amenity.**

Arbors, when attached to a fence, have resulted in conflicts with neighboring property owners and enforcement action by city staff. Generally, arbors are not kept up and fall out of compliance with the criteria listed above. If arbors are stand-alone structures limited in height, and maintain a five foot setback from adjacent properties, they are less likely to cause conflicts and still provide a recreational use to a property owner.

**16.08.120 Siting and review process for Wireless Telecommunications Systems Facilities.**

**A.** The purpose of this section is to provide standards and review process for wireless telecommunications systems facilities locating within the City of Canby. This purpose shall be realized by implementing new provisions of the Canby Land Development and Planning Ordinance that will:

1. Regulate the placement, appearance and number of wireless telecommunications systems facilities;
2. Ensure that the citizens of Canby will have access to a variety of wireless telecommunications systems and providers;
3. Reduce the visual impact of certain wireless telecommunications systems facilities by encouraging collocation;
4. Establish a graduated system of review that will expedite facilities placement in preferred locations; and
5. Implement the applicable provision of the Federal Telecommunications Act of 1996.

**B.** The siting and review process for WTS facilities is based on the type of facility (lattice, monopole, attached, stealth design or collocation) and its proposed location in a Preferred Site (M-1 or M-2 zoning districts), Acceptable Site (C-2 or C-M zoning districts), or Conditionally Suitable Site (C-R, C-C or C-1 zoning districts).

**C.** The development review process for wireless telecommunications systems (WTS) facilities shall be as follows:

1. Building and Electrical Permits only:

- a.** An attached WTS facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached WTS facility is no more than 10 feet higher than the existing structure.
  - b.** A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and less than 150 feet in height, including antennas.
  - c.** A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 60 feet high.
- 2.** Building and Electrical Permits, and Site and Design Review (16.49):
  - a.** An attached WTS facility (existing structure, including collocation on cell tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site or Acceptable Site, where the height of the attached WTS facility is more than 10 feet higher than the existing structure.
  - b.** A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.
  - c.** A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and under 100 feet in height, including antennas.
  - d.** A detached WTS facility (lattice tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and under 150 feet in height, including antennas.
  - e.** A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, and less than 100 feet high, including antennas.

- 3.** Building and Electrical Permits, Site and Design Review (16.49), and Conditional Use Permit (16.50):
  - a.** A detached WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, within 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 100 feet in height, including antennas.
  - b.** A detached WTS facility (lattice tower), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on a Preferred Site, set back at least 660 feet from Highway 99E or land either planned or zoned for residential use, and equal to or over 150 feet in height, including antennas.
  - c.** A detached, stealth design WTS facility (monopole), including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, on an Acceptable Site, set back from all property lines a distance equal to or greater than the height of the tower, including, unless it is demonstrated that locating the proposed facility within the required setback area will take advantage of an existing natural or artificial feature to conceal the facility or minimize its visual impacts, and equal to or over 100 feet high, with a maximum height of 130 feet.
  - d.** An attached WTS facility (existing structure, including collocation on cell tower) on a Conditionally Suitable Site, including equipment shelters, buildings and cabinets housing WTS land line switching/connection equipment, where the height of the attached WTS facility is no more than 10 feet higher than the existing structure.

**D.** Standards for siting WTS facilities shall be as follows:

- 1.** Site and Design Review standards and criteria (section 16.49.040) shall apply to all WTS facilities requiring Site and Design approval.
- 2.** Conditional Use Permit standards and criteria (section 16.50.010) shall apply to all WTS facilities requiring Conditional Use Permit approval.
- 3.** All WTS facilities shall observe minimum lot size, lot coverage, building height and building setback requirements of the underlying zoning district unless specifically exempted or otherwise regulated by this section. Underground facilities may encroach upon required yards or may be placed in appropriate easements.
- 4.** All detached WTS facilities shall be landscaped at the base of the towers/poles, and completely around the equipment shelters. The landscaping shall conform to the ODOT standards for plant size and spacing.

**5.** Lighting for all WTS facilities shall be as required by the FAA or recommended by ODOT Aeronautics Division. All other lighting must be deflected away from adjoining property.

**6.** All detached WTS facilities shall be screened from the public right-of-way and abutting property by a security fence or wall at least 6 feet in height consisting of chain link fencing with vinyl slats, solid wood fencing, concrete masonry unit block, or brick.

**7.** Attached WTS facilities shall be painted to match the color of the mechanical screen wall or building to which it is attached.

**8.** Equipment shelters, buildings and cabinets housing radio electronics equipment shall be concealed, camouflaged or placed underground.

**9.** Any WTS facility sited on or designed with any of the following attributes shall first receive FCC approval, as specified in FCC Rules 1.1301 - 1.1319, as a condition of city approval prior to construction; Wilderness Area; Wildlife Preserve; Endangered Species; Historical Site; Indian Religious Site; Flood Plain; Wetlands; High Intensity White lights in residential neighborhoods; Excessive radio frequency radiation exposure.

**E.** Application requirements for WTS facilities shall be as follows:

**1.** WTS providers whose proposals conforms with the provisions of subsection (C)(1) of this section (16.08.120) shall submit the following information with the application for permits:

**a.** A copy of that portion of the lease agreement (or lease memo) with the property owner, facility removal within 90 days of the abandonment and a bond to guarantee removal shall be submitted for review prior to development permit approval.

**b.** A map of the city showing the approximate geographic limits of the cell to be created by the facility. This map shall include the same information for all other facilities owned or operated by the applicant within the city, or extending within the city from a distant location, and any existing detached WTS facilities of another provider within 1,000 feet of the proposed site.

**c.** A plot plan showing:

**i.** The lease area;

**ii.** Antenna structure;

**iii.** Height above grade and setback from property lines;

**iv.** Equipment shelters and setback from property lines;

- v.** Access;
  - vi.** Connection point with land line system; and
  - vii.** All landscape areas associated with the WTS facility.
- d.** Anticipated capacity of the WTS facility (including number and types of antennas which can be accommodated).
  - e.** The method(s) of stealth design (where applicable).
  - f.** An engineer's statement that the radio frequency emissions at grade, or at the nearest habitable space when attached to an existing structure comply with FCC rules for such emissions; the cumulative radio frequency emissions if collocated.
  - 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 in section (E) 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)

#### **16.08.130 Standard transportation improvements.**

**A.** Pursuant to the Transportation Planning Rule, projects that are specifically identified in the Canby Transportation System Plan, for which the City has made all the required land use and goal compliance findings, are permitted outright and subject only to the standards established by the Transportation System Plan. This section pertains to additional transportation projects that may not be identified in the Canby Transportation System Plan, and whether the use is permitted outright or permitted subject to the issuance of a conditional use permit.

**1.** Except where otherwise specifically regulated by this ordinance, the following improvements are permitted outright:

- a.** Normal operation, maintenance, repair, and preservation of existing transportation facilities.
- b.** Installation of culverts, pathways, medians, fencing, guardrails, lighting, and similar types of improvements within the existing right-of-way.
- c.** Projects specifically identified in the Transportation System Plan as not requiring further land use regulation.
- d.** Landscaping as part of a transportation facility.
- e.** Emergency measures necessary for safety and the protection of property.
- f.** Acquisition of right-of-way for public roads, highways, and other transportation improvements designated in the Transportation System Plan, except for those that are located in exclusive farm use or forest zones.

**g.** Construction of a local street or road as part of subdivision or land partition approved consistent with this Ordinance.

**2.** Except where otherwise specifically regulated by this ordinance, the following improvements are permitted as a conditional use:

**a.** Construction, reconstruction, or widening, and other projects authorized by the Transportation System Plan but not included in the list of projects in the Transportation System Plan. These projects shall comply with the Transportation System Plan and applicable standards, and shall address the following criteria. For State projects that require an Environmental Impact Statement (EIS) or Environmental Assessment (EA), the draft EIS or EA shall be reviewed and used as the basis for findings to comply with the following criteria:

**i.** The project is designed to be compatible with existing land use and social patterns, including noise generation, safety, and zoning.

**ii.** The project is designed to minimize avoidable environmental impacts to identified wetlands, wildlife habitat, air and water quality, cultural resources, and scenic qualities.

**iii.** The project preserves or improves the safety and function of the facility through access management, traffic calming, or other design features.

**iv.** The project includes provision for bicycle and pedestrian circulation as consistent with the Comprehensive Plan and other requirements of this ordinance.

**b.** If review under this section indicates that the use or activity is not clearly authorized by the Transportation System Plan or this ordinance, a plan amendment shall be undertaken prior to or in conjunction with the conditional use permit review. (Ord. 1043 Section 3, 2000)

#### **16.08.140 Temporary vendor.**

Any person who exhibits goods or services for sale or for offer in a temporary manner on private property, from a vehicle, trailer, tent, canopy, shipping container, or other temporary structure, or from one's person or displayed on the ground or off the ground, shall first obtain permit approval in compliance with the following standards, and shall operate in compliance with this section and with all other applicable sections of the Canby Municipal Code.

**A.** Exemptions. The following temporary activities do not require a Temporary Vendor permit, and are exempt from the standards in this section:

**1.** Any person engaged in the mere delivery of any goods or services to a site, which were purchased from a regular place of business inside or outside the city;



2. Any person engaged in delivery, exhibition, sale or offering of food on a site for a period of time not to exceed 2 hours during any 24 hour period;
3. Any contractor who is engaged in constructing, maintaining, or repairing a structure, utility, equipment, or landscaping on a site; or
4. Any person conducting a garage sale per Section 5.04.020.

**B. Permit process.**

1. A request for a Temporary Vendor permit shall be processed as a Type I decision pursuant to the procedures set forth in Chapter 16.89. A Temporary Vendor permit applicant shall demonstrate that the proposed activity meets all fire and life safety codes, and is in compliance with this section and with all other applicable sections of the Canby Municipal Code.
2. An application for a Temporary Vendor permit shall include a site plan drawn to scale, which includes all existing lot lines, setbacks, structures, landscaped areas, paved areas, and parking and loading spaces; and illustrates the proposed location and layout of all the Temporary Vendor's structures, equipment, furnishings, signage, and inventory.
3. The Temporary Vendor activity (e.g., retail, restaurant, etc) shall be an outright permitted use in the zoning district in which it is located; Or if the use is conditionally permitted in the zoning district, a Conditional Use Permit approval shall be required prior to issuance of a Temporary Vendor permit.
4. A "Site and Design Review" permit is not required for a permitted Temporary Vendor.
5. Any signage displayed by the Temporary Vendor must be in compliance with Chapter 16.42 sign standards, and all required Sign permits must be obtained.
6. A Temporary Vendor must obtain a City of Canby business license.

**C. Duration.** A Temporary Vendor permit may be granted for a site for up to 90 consecutive calendar days, and then may be renewed once upon request for an additional 90 days, provided that the temporary vendor activity has been conducted in compliance with all applicable codes, and no public safety incidents have occurred on the site related to the temporary vendor activity. In no case shall a site be permitted to host Temporary Vendor activity for more than 180 days in any 12 month period.

**D.** A Temporary Vendor shall be located on a paved surface with adequate vehicular and pedestrian ingress and egress, in compliance with Section 16.10.070. Inventory and equipment shall not be displayed or stored in any landscaped areas.

**E.** A Temporary Vendor shall comply with all required development standards, such as height limitations, setbacks, vision clearance areas, and applicable conditions of any previous land use decisions for the site.

**F.** Equipment such as trash cans, fuel tanks, or generators shall be screened such that it is not visible from any abutting public right-of-way.

**G.** A Temporary Vendor shall not displace any vehicle parking spaces that are required to meet the minimum off-street parking requirements of another use on site or on a nearby site. A Temporary Vendor shall not encroach into required loading space areas, driveways, or vehicle maneuvering areas.

**H.** A Temporary Vendor that displaces one or more vehicle parking spaces is prohibited for any site that:

1. Is non-conforming in terms of meeting minimum required vehicle parking or loading space requirements; or
2. Has been granted a vehicle parking exception, and currently has less than the required minimum number of off-street vehicle parking spaces.

**I.** The property owner and the temporary vendor permit holder shall be jointly and severally responsible for any violation of this section or other applicable sections of the Canby Municipal Code. Any such violation may result in the immediate revocation or non-renewal of a temporary vendor permit, and may result in the denial of any future temporary vendor permit for the site upon which the violation occurred. (Ord 1315, 2009)

#### **16.08.150 Traffic Impact Study (TIS).**

**A. Purpose.** The purpose of this section of the code is to implement Section 660-012-0045(2)(b) of the State Transportation Planning Rule, which requires the city to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards to determine when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities: what information must be included in a Traffic Impact Study; and who is qualified to prepare the Study.

**B. Initial scoping.** During the pre-application conference, the city will review existing transportation data to determine whether a proposed development will have impacts on the transportation system. It is the responsibility of the applicant to provide enough detailed information for the city to make a determination. If the city cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate

mitigation of impacts. If a TIS is required, the city will provide the applicant with a “scoping checklist” to be used when preparing the TIS.

C. Determination. Based on information provided by the applicant about the proposed development, the city will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.
2. Changes in use or intensity of use.
3. Projected increase in trip generation.
4. Potential impacts to residential areas and local streets.
5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to school routes and multimodal street improvements identified in the TSP.
6. Potential impacts to intersection level of service (LOS).

D. TIS General Provisions

1. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.
2. Prior to TIS scope preparation and review, the applicant shall pay to the city the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The city's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.
3. For preparation of the TIS, the applicant may choose one of the following:
  - a. The applicant may hire a registered Oregon Traffic or Civil Engineer to prepare the TIS for submittal to the city. The city Traffic Engineer will then review the TIS and the applicant will be required to pay to the city any fees associated with the TIS review; or
  - b. The applicant may request that the city Traffic Engineer prepare the TIS. The applicant will pay to the city any fees associated with preparation of the TIS by the city Traffic Engineer.
4. The TIS shall be submitted with a concurrent land use application and associated with application materials. The city will not accept a land use application for process if it does not include the required TIS.

5. The city may require a TIS review conference with the applicant to discuss the information provided in the TIS once it is complete. This conference would be in addition to any required pre-application conference. If such a conference is required, the city will not accept the land use application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.
6. A TIS determination is not a land use action and may not be appealed.

E. TIS Scope. The city shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a ½-mile radius of the development site. If the city determines that development impacts may extend more than ½ mile from the development site, a larger study area may be required. Required study intersections will generally include (in addition to the primary access points) collector/collector and above intersections with an anticipated peak hour traffic increase of five-percent from the proposed project.
2. If notice to ODOT or other agency is required pursuant to noticing requirements in Chapter 16.89, the city will coordinate with those agencies to provide a comprehensive TIS scope. ODOT may also require a TIS directly to support an OR 99E approach permit application.

F. TIS Content. A project-specific TIS checklist will be provided to the applicant by the city once the city has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the city.

1. Introduction and Summary. This section shall include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for city and county streets and volume to capacity for state roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; traffic queuing and delays at study area intersections; and proposed mitigation(s).
2. Existing Conditions. This section shall include a study area description, including information about existing study intersection level of service.
3. Impacts. This section should include the proposed site plan, evaluation of the proposed site plan, and a project-related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) also shall be provided. For subdivision and other developments, the future analysis shall be for the year of proposed site build-out. For proposed comprehensive plan and/or zoning map amendments, the future

analysis year shall be 20 years from the date of the City's adopted TSP, or 15 years, whichever is greater.

4. Mitigation. This section shall include proposed site and area-wide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts. See Subsection K below for rough proportionality determination.
5. Appendix. This section shall include traffic counts, capacity calculations, warrant analysis, and any other information necessary to convey a complete understanding of the technical adequacy of the TIS.

G. TIS Methodology. The City will include the required TIS methodology with the TIS scope.

H. Neighborhood Through-Trip Study. Any development projected to add more than 30 through-vehicles in a peak hour or 300 through-vehicle per day to an adjacent residential local street or neighborhood route will be require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study may be required as a component of the TIS or may be a stand-alone study, depending on the level of study required in the scoping checklist. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.
2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.
3. Traffic management strategies to mitigate for the impacts of projected through-trip consistent.

If a residential street is significantly impacted, mitigation shall be required. Thresholds used to determine if residential streets are significantly impacted are:

1. Local residential street volumes should not increase above 1,200 average daily trips
2. Local residential street speeds should not exceed 28 miles per hour (85<sup>th</sup> percentile speed).

I. Mitigation. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area. Mitigation measures may be suggested by the applicant or recommended by ODOT or Clackamas County in circumstances where a state or county facility will be impacted by a proposed development. The city shall determine if the proposed mitigation measures are

adequate and feasible. ODOT must be consulted to determine if improvements proposed for OR 99E comply with ODOT standards and are supported by ODOT. The following measures may be used to meet mitigation requirements:

1. On-and off-site improvements beyond required standard frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction, if construction is not feasible.
4. Correction of off-site transportation deficiencies within the study area that are substantially exacerbated by development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

**J. Conditions of Approval.** The city may deny, approve, or approve with appropriate conditions a development proposal in order to minimize impacts and protect transportation facilities.

1. Where the existing transportation system will be impacted by the proposed development, dedication of land for streets, transit facilities, sidewalks, bikeways, paths, or accessways may be required to ensure that the transportation system is adequate to handle the additional burden caused by the proposed use.
2. Where the existing transportation system is shown to be burdened by the proposed use, improvements such as paving, curbing, installation or contribution to traffic signals, traffic channelization, construction of sidewalks, bikeways, accessways, paths, or street that serve the proposed use may be required.
3. The city may require the development to grant a cross-over access easement(s) to adjacent parcel(s) to address access spacing standards on arterials and collector roadways or site-specific safety concerns. Construction of shared access may be required at the time of development if feasible, given existing adjacent land use. The access easement must be established by deed.

**K. Rough Proportionality Determination.** Improvements to mitigate impacts identified in the TIS shall be provided in rough proportion to the transportation impacts of the proposed development.

1. The TIS shall include information regarding how the proportional share of improvements was calculated, using the ratio of development trips to growth trips and the anticipated cost of the full Canby Transportation System Plan. The calculation is provided below:

$$\text{Proportionate Share Contribution} = \frac{[\text{Net New Trips}/(\text{Planning Period Trips}-\text{Existing Trips})]}{\text{Estimated Construction Cost}} \times$$

- a. Net new trips means the estimated number of new trips that will be created by the proposed development within the study area.
- b. Planning period trips means the estimated number of total trips within the study area within the planning period identified in the TSP.
- c. Existing trips means the estimated number of existing trips within the study area at the time of TIS preparation.
- d. Estimated construction cost means the estimated total cost of construction of identified improvements in the TSP. (Ord 1340, 2011)

#### **16.08.160 Safety and Functionality Standards.**

The City will not issue any development permits unless the proposed development complies with the city's basic transportation safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submission of a development permit application, an applicant shall demonstrate that the development property has or will have the following:

- A. Adequate street drainage, as determined by the city.
- B. Safe access and clear vision at intersections, as determined by the city.
- C. Adequate public utilities, as determined by the city.
- D. Access onto a public street with the minimum paved widths as stated in Subsection E below.
- E. Adequate frontage improvements as follows:
  - 1. For local streets and neighborhood connectors, a minimum paved width of 16 feet along the site's frontage.
  - 2. For collector and arterial streets, a minimum paved width of 20 feet along the site's frontage.
  - 3. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.
- F. Compliance with mobility standards identified in the TSP. If a mobility deficiency already exists, the development shall not create further deficiencies. (Ord 1340, 2011)

## Chapter 16.10

### OFF-STREET PARKING AND LOADING

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections

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

#### 16.10.010 Off-street parking required – exceptions.

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

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

**C.** At the time of enlargement of an existing structure or use, the provisions of this section shall apply to the enlarged structure or use only. (Ord. 1304, 2009; Ord. 1237, 2007; Ord. 890 section 9, 1993; Ord. 872, 1992; Ord. 854 section 2, 1991; Ord. 848, Part V, section 1, 16.10.010(A)(B), 1990)



**16.10.020 Definitions.**

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

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

**16.10.030 General requirements.**

**A.** Should the owner or occupant of a structure change the use to which the building is put, thereby increasing parking or loading requirements, the increased parking/loading area shall be provided prior to commencement of the new use.

**B.** Parking and loading requirements for structures not specifically listed herein shall be determined by the City Planner, based upon requirements of comparable uses listed.

**C.** In the event several uses occupy a single structure, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately. If the applicant can demonstrate that the uses do not have overlapping parking needs (based on days and hours of operation) and can share parking, the total requirement for combined uses may be reduced by up to 60 percent.

**D.** Off-street parking spaces for dwellings shall be located on the same lot, or adjacent lot, with the dwelling. Parking spaces located within an on-site garage shall count toward the minimum parking requirement for residential uses. Other required parking spaces may be located on a separate parcel, provided the parcel is not greater than five hundred (500) feet from the entrance to the building to be served, measured along the shortest pedestrian route to the building. The applicant must prove that the parking located on another parcel is functionally located and that there is safe vehicular and pedestrian access to and from the site.

**E.** Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business.

**F.** Institution of on-street parking shall not be allowed for off-street parking, where none is previously provided, and shall not be done solely for the purpose of relieving crowded parking lots in commercial or industrial planning districts.

**G.** Parking facilities may be shared by users on adjacent parcels if all of the following standards are met, or the Planning Commission determines a lesser combination meets the intent of the ordinance:

1. One of the parcels has excess parking spaces, considering the present use of the property; and the other parcel lacks sufficient area for required parking spaces. Excess parking spaces can be determined by considering when the uses need the parking spaces, such as time of day or day of week.
2. The total number of parking spaces meets the standards for the sum of the number of spaces that would be separately required for each use. If the applicant can demonstrate that the uses do not have overlapping parking needs (based on days and hours of operation) and can share parking, the total requirement for combined uses may be reduced by up to 60 percent.
3. Legal documentation, to the satisfaction of the City Attorney, shall be submitted verifying present use of the excess parking area on one lot by patrons of the uses deficient in required parking areas.
4. Physical access between adjoining lots shall be such that functional and reasonable access is provided to uses on the parcel deficient in parking spaces.
5. Adequate directional signs shall be installed specifying the joint parking arrangement.

**H.** The number of vehicular spaces required in Table 16.10.050 may be reduced by up to 10% if one of the following is demonstrated to the satisfaction of the Planning Director or Planning Commission:

1. Residential densities greater than nine units per gross acre (limit parking to no less than one space per unit for multi-family structures); or
2. The proposed development is pedestrian-oriented by virtue of a location which is within convenient walking distance of existing or planned neighborhood activities (such as schools, parks, shopping, etc.) and the development provides additional pedestrian amenities not required by the code which, when taken together, significantly contribute to making walking convenient (e.g., wider sidewalks, pedestrian plazas, pedestrian scale lighting, benches, etc.). (Ord. 890 section 10, 1993; Ord. 854 section 2 [part], 1991; Ord. 848, Part V, section 16.10.030, 1990; Ord. 1043 section 3, 2000; Ord. 1338, 2010)

**16.10.040 Prohibited near intersections.**

In no case will off-street parking be allowed within a vision clearance area of an intersection. (Ord. 740 section 10.3.10(D), 1984)

**16.10.050 Parking standards designated.**

The parking standards set out in Table 16.10.050 shall be observed. (Ord. 854 section 2, [part], 1991; Ord. 848 section 1, 16.10.050, 1990; Ord. 740 section 10.3.10(E), 1984; Ord. 981 section 20, 1997)

**TABLE 16.10.050**

Off-street Parking Provisions - The following are the minimum standards for off-street vehicle parking:

USE	PARKING REQUIREMENT
<b><i>Residential Uses:</i></b>	
a. Single-family dwellings	2.00 spaces per dwelling unit for new construction. (Existing single-family dwellings having only a single parking space shall not be considered to be nonconforming.)
b. Two-family dwellings	2.00 spaces per dwelling unit.
c. Multi-family dwellings in complexes with private internal driveways	One space per studio or 1-bedroom unit. 2.00 spaces per 2-bedroom or larger unit. One additional guest parking space shall be provided for every five units for each development often or more units.
d. Retirement/assisted living	1.0 spaces per unit
e. Residential day care facility and	1.00 space per employee
<b><i>Institutions:</i></b>	
a. Convalescent home, nursing home or sanitarium	1.00 spaces per two beds for patients or residents, plus 1.00 space per employee
b. Hospital	4.00 spaces per two beds
<b><i>Places of Public Assembly:</i></b>	
a. Library, reading room	1.00 space per 400 square feet of public area
b. Nursery, primary/elementary, or junior high school	2.00 spaces per employee
c. Senior high school	1.00 space per classroom, plus 1.00 space per six students
d. Other places of public assembly, including churches	1.00 space per four seats or eight feet of bench length
<b><i>Commercial Amusement:</i></b>	
a. Theater	1.00 per six seats
b. Bowling alley	3.0 spaces per 1,000 square feet of floor area
c. Dance hall, skating rink	3.0 spaces per 1,000 square feet of floor area
d. Racquet courts, health clubs	3.0 spaces per 1,000 square feet of floor area
<b><i>Commercial</i></b>	
a. Retail shops (under 100,000 sq. ft.	2.00 spaces per 1,000 square feet of floor area
b. Retail store handling exclusively bulky merchandise such as furniture, automobile and service repair shops	1.00 space per 1,000 square feet of sales floor area
c. Shopping center (over 100,000 square feet of gross leasable area)	3.00 spaces per 1,000 square feet of gross leasable area
d. Banks/savings and loans	2.00 spaces per 1,000 gross square feet of floor area
e. Medical/dental offices	3.00 spaces per 1,000 gross square feet of floor area
f. General offices	2.00 spaces per 1,000 gross square feet of floor area
g. Real estate offices	2.00 spaces per 1,000 gross square feet of floor area
h. Government offices	3.50 spaces per 1,000 gross square feet of floor area
i. Restaurant	8.00 spaces per 1,000 gross square feet of floor area
j. Take-out restaurant	8.00 spaces per 1,000 gross square feet of floor area
k. Motel	0.75 spaces per rentable room
l. Residential hotel, rooming house,	0.75 spaces per rentable room
m. Hotel	0.75 spaces per rentable room

n. Club or lodge	1.00 space per 200 square feet of floor area
o. Day care , adult or child care; does not include Family Daycare (12 or fewer children) under ORS 657A.250	1.00 space per 500 square feet of floor area
p. All others	1.00 space per 550 square feet
q. Wireless telecommunication systems	1.00 space per site
<b><u>r. Self Storage (Mini) Warehouse</u></b>	<b><u>2.00 spaces per 1000 gross square feet of office space</u></b>
<b><i>Industrial:</i></b>	
a. Manufacturing	2.00 spaces per 1,000 gross square feet of office space, plus 1.00 space per 1,000 gross square feet of non-office manufacturing space. Minimum of 5 parking spaces overall.
b. Warehousing	2.00 spaces per 1,000 gross square feet of office space, plus 1.00 space per 1,000 gross square feet of non-office warehousing space. Minimum of 5 parking spaces overall.
c. Wholesale establishments	2.00 spaces per 1,000 gross square feet of office space, plus 1.50 spaces per 1,000 gross square feet of non-office wholesale space. Minimum of 5 parking spaces overall.

(Ord 1296, 2008, Ord. 1338, 2010)

#### **16.10.060 Off-street loading facilities**

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

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

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

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

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

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

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

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

**G.** The Planning Commission may exempt a building from the loading berth requirement, or delay the requirement, based on findings that loading berths are not needed for a particular building or business. (Ord. 854 section 2[part], 1991; Ord. 848, Part V, section 1, 16.10.060, 1990; 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 or Planning Commission may approve the use of an engineered aggregate system for outdoor storage and/or non-required parking areas 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 decision maker may impose conditions as necessary to meet City Standards.

b. Use of permeable surfacing materials for parking lots and driveways is encouraged whenever site and soil conditions make permeable surfacing

feasible. Permeable surfacing includes, but is not limited to: paving blocks, turf block, pervious concrete, and porous asphalt. All permeable surfacing shall be designed, constructed, and maintained in accordance with the Canby Public Works Design Standards and the manufacturer's recommendations. Maintenance of permeable surfacing materials located on private property are the responsibility of the property owner.

- 4.** The full width of driveways must be paved in accordance with (3) above:
  - a.** For a minimum of 20 feet from the right-of-way line back into the private property to prevent debris from entering public streets, and
  - b.** To within 150 feet of all portions of the exterior wall of the first story of any structure(s) served by the driveway to ensure fire and emergency service provision.
- 5.** Except for parking to serve residential uses, parking areas adjacent to or within residential planning districts or adjacent to residential uses shall be designed to minimize disturbance of residents. Artificial lighting, which may be provided, shall be so deflected as not to shine or create glare in any residential planning district or on any adjacent dwelling, or any street right-of-way in such a manner as to impair the use of such way.
- 6.** Groups of more than four (4) parking spaces shall be so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley.
- 7.** Off-street parking areas, and the accesses to them, shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress and the maximum safety of pedestrian and vehicular traffic on the site and in adjacent roadways. The Planning Director or Planning Commission may require engineering analysis and/or truck turning diagrams to ensure safe and efficient traffic flow based on the number and type of vehicles using the site, the classification of the public roadway, and the design of the parking lot and access drives.
- 8.** Parking bumpers or wheel stops shall be provided to prevent cars from encroaching on the street right-of-way, adjacent landscaped areas, or adjacent pedestrian walkways.
- 9.** Accessible parking shall be provided, constructed, striped, signed and maintained as required by ORS 447.233 and all Oregon Structural Specialty Code requirements.

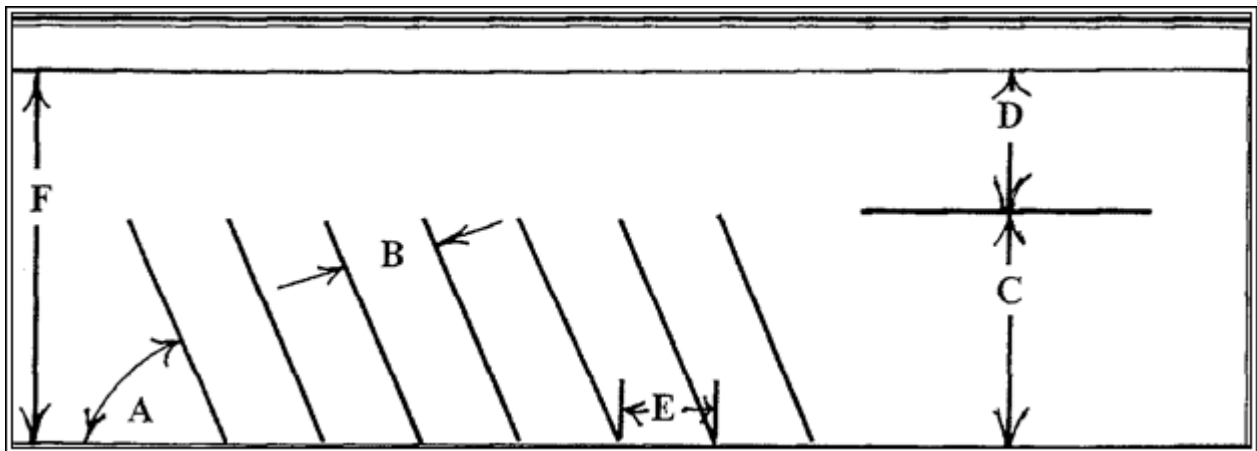
**TABLE 16.10.070**  
**Minimum dimensional Standard for Parking**

This table and Figure 16.10.070 provide the minimum dimensional standards for parking areas and spaces.

A = Parking angle in degrees  
B = Minimum stall width  
C = Minimum stall depth

D = Minimum clear aisle width  
E = Minimum clear stall distance at bay side  
F = Minimum clear bay width

A	B	C	D	E	F
0 (parallel)	8'0"	-	12'0"	22'0"	20'0"
30	8'6"	16'4"	12'0"	17'0"	28'4"
45	8'6"	18'9"	12'6"	12'0"	31'3"
60	8'6"	19'10"	18'0"	9'10"	37'10"
90	8'6"	18'0"	24'0"	8'6"	42'0"



Above Table moved from page 11. Describes parking standards for the above section.

### **B. Access.**

1. The provision and maintenance of vehicular and pedestrian ingress and egress from private property to the public streets as stipulated in this ordinance are continuing requirements for the use of any structure or parcel of real property in the City of Canby. No building permit or other permits shall be issued until scale plans are presented that show how the ingress and egress requirement is to be fulfilled. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing ingress and egress requirements, it shall be unlawful and a violation of this ordinance to begin or maintain such altered use until the required increase in ingress and egress is provided.
2. The City of Canby encourages joint/shared access. Owners of two (2) or more uses, structures, or parcels of land may agree to, or may be required by the City to, utilized jointly the same ingress and egress when the combined ingress and egress of both uses, structures, or parcels of land satisfies their combined requirements as designed in this ordinance, provided that satisfactory legal evidence is presented to

the City Attorney in the form of deeds, easements, leases or contracts shall be placed on permanent files with the city recorder.

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

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

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

6. To afford safe pedestrian access and egress for properties within the city, a sidewalk shall be constructed along all street frontages, prior to use or occupancy of the building or structure proposed for said property. The sidewalks required by this section shall be constructed to city standards except in the case of streets with inadequate right-of-way width or where the final street design and grade have not been established, in which case the sidewalks shall be constructed to a design, and in a manner approved by the Site and Design Review Board. Sidewalks approved by Board may include temporary sidewalks and sidewalks constructed on private property; provided, however, that such sidewalks shall provide continuity with sidewalks of adjoining commercial developments existing or proposed. When a sidewalk is to adjoin a future street improvement, the sidewalk construction shall include construction of the curb and gutter section to grade and alignment established by the Site and Design Review Board.

7. The standards set forth in this ordinance are minimum standards for access and egress, and may be increased through the site and design review process in any particular instance where the standards provided herein are deemed insufficient to protect the public health, safety and general welfare. (Ord. 890 section 12, 1993; Ord. 1237, 2007; Ord. 1338, 2010)

### Minimum Access Requirements

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

<i>Dwelling units</i>	<i>Minimum number of accesses required</i>	<i>Minimum access width</i>	<i>Sidewalks &amp; Curbs (in addition to driveways)</i>
1 or 2	1	12 feet	none required
3-19	1	20 feet	Minimum of one sidewalk connection to residences and parking areas; curb required if sidewalk adjacent to driveway.
20-49	Option A: 1 access OR	20 feet  12 feet	Minimum of one sidewalk connection to residences and parking areas; curb required if sidewalk adjacent to driveway.



	Option B: 2 accesses		
50-499	Option A: 1 access OR Option B: 2 accesses	30 feet  20 feet	Curbs required; Minimum of one sidewalk connection to residences and parking areas
Over 500	As required by Site and Design Review Board		As required by Public Works Director
16.10.070(B)(9): Minimum access requirements for commercial or institutional uses - ingress and egress for commercial uses shall not be less than the following:			
Parking spaces required	Minimum number of accesses required	Minimum access width	Sidewalks & curbs (in addition to driveways)
1-4	1	12 feet	None required
5-99	1	20 feet	Curbs required; sidewalk on one side minimum
100-249	2	20 feet	Curbs required; sidewalk on one side minimum
Over 250	As required by Site and Design Review Board	As required by Public Works Director	
16.10.070(B)(10): Minimum access requirements for industrial uses - ingress and egress for industrial uses shall not be less than the following:			
Parking spaces required	Minimum number of accesses required	Minimum access width	Sidewalks & curbs (in addition to driveways)
1-250	1	24 feet	Curbs required; sidewalks on one side minimum
Over 250	As required by Public Works Director		

**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 The hard surfaced pavement of one-way drives shall not be less than twelve (12) feet for multi-family residential, commercial or industrial uses.**

There is no subsection (H), (I), (J)

Most of the provisions below are taken from the Public Works Design Standards, Chapter 2 – Streets, starting at Page 2 - 6

## **9. Driveways:**

a. Access to private property shall be permitted with the use of driveway curb cuts. The access points with the street shall be the minimum necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Driveways shall meet all applicable guidelines of the Americans with Disabilities Act (ADA). Driveway distance shall be measured from the curb intersection point [as measured for vision clearance area (16.04.670)]. Distances to an intersection shall be measured from the stop bar at the intersection.

b. Driveways shall be limited to one per property except for certain uses which include large commercial uses such as large box stores, large public uses such as schools and parks, drive through facilities, property with a frontage of over 250-feet and similar uses.

c. Double frontage lots and corner lots may be limited to access from a single street, usually the lower classification street. Single family residential shall not have access onto arterials, and shall have access onto collectors only if there is no other option.

d. If additional driveways are approved by the City Administrator or designee, a finding shall be made that no eminent traffic hazard would result and impacts on through traffic would be minimal. Restrictions may be imposed on additional driveways, such as limited turn movements, shared access between uses, closure of existing driveways, or other access management actions.

e. Within commercial, industrial, and multi-family areas, shared driveways and internal access between similar uses are encouraged to reduce the access points to the higher classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared driveways or internal access between uses will be established by means of common access easements at the time of development.

f. Driveway widths shall be as shown on the following table.

Driveway Widths (Minimum/Maximum, Ft.)

<u>Street Classification</u>	<u>Res.</u>	<u>Comm.</u>	<u>Ind.</u>
<u>Arterial:</u>	<u>NA (1)</u>	<u>12/36</u>	<u>12/36</u>
<u>Industrial:</u>	<u>NA (1)</u>	<u>12/36</u>	<u>12/36</u>
<u>Collector:</u>	<u>12/24 (2)</u>	<u>12/36</u>	<u>12/36</u>
<u>Neighborhood Route:</u>	<u>12/24 (2)</u>	<u>12/36</u>	<u>12/36</u>
<u>Local:</u>	<u>12/24 (2)</u>	<u>12/36</u>	<u>12/36</u>
<u>Cul-de-sac:</u>	<u>12/24 (2)</u>	<u>12/36</u>	<u>12/36</u>
<u>Public Alley</u>	<u>12/24 (2)</u>	<u>NA</u>	<u>NA</u>

Res. = Residential Zone

Comm. = Commercial Zone  
Ind. = Industrial Zone

Notes: (1) Special conditions may warrant access.

(2) 28' maximum width for 3-car garage.

g. Driveway spacing shall be as shown in the following table.

Minimum Driveway Spacing

<u>Street Classification</u>	<u>Intersection</u>	<u>Driveway</u>
<u>Arterial (2)</u>	<u>330' (1)</u>	<u>330' (1)</u>
<u>Industrial Streets (2)</u>	<u>100' (1)</u>	<u>100' (1)</u>
<u>Collector (2)</u>	<u>100' (1)</u>	<u>100' (1)</u>
<u>Neighborhood Route</u>	<u>50' (1)(3)</u>	<u>10'</u>
<u>Local (all)</u>	<u>50' (1)(3)</u>	<u>10'</u>
<u>Cul-de-sac</u>	<u>50' (1)(3)</u>	<u>10'</u>
<u>Public Alley</u>	<u>50' (1)(3)</u>	

Notes: (1) Minimum distance or no closer than 60% of parcel frontage unless this prohibits access to the site, in which case City Administrator or designee may approve a deviation.

(2) Direct access to this street will not be allowed if an alternative exists or is planned.

(3) For single-family residential houses, the minimum distance between driveways and an intersection shall be thirty (30) feet.

h. Curb cuts shall be a minimum of five feet from the property line, unless a shared driveway is installed. Single driveways may be paved up to an adjacent property line but shall maintain a five (5) foot separation from the side property line where the driveway enters the property. Driveways shall not be constructed within the curb return of a street intersection. Deviations may be approved by the City Administrator or designee.

i. For roads with a classification of Collector and above, driveways adjacent to street intersections shall be located beyond the required queue length for traffic movements at the intersection. If this requirement prohibits access to the site, a driveway with restricted turn movements may be permitted.

j. Multi-family access driveways will be required to meet the same access requirements as commercial driveways if the multi-family site generated 100 or more trips per day.

The above provisions are taken from Public Works Design Standards and replaces and sometimes combines the driveway provisions listed below. The two sections of standards are inconsistent and in conflict concerning some items. Planning has already been deferring to the Public Works Design Standards in land use cases because the provisions are more current than what is being removed below.

**~~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.k For circular type driveways, the minimum distance between the two driveways driveway curb cuts 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.~~

**~~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.~~

10. ~~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 Works Supervisor may approve the location of a driveway closer than fifty (50) feet from the intersection of collector or arterial streets, based on written findings of fact in support of the decision. Said written approval shall be incorporated into the recommended decision of the City Planner for the site and design review plan under the process set forth.

~~f. The minimum distance between driveways for single-family residential houses and an intersection shall be thirty (30) feet. The distance shall be measured from the curb intersection point [as measured for vision clearance area (16.04.670)]. (Ord. 890 section 12, 1993; Ord. 872, 1991; Ord. 854 section 2 [part], 1991; Ord. 848, Part V, section 16.10.070 (A)(B) 1990; Ord. 955 section 3 & 4 1996; Ord. 981 section 44, 1997; Ord. 1019 section 5, 1999; Ord. 1237, 2007)~~

11. Where an existing alley is 20 feet or less in width, the property line setback abutting the alley shall increase to provide a minimum of 24 feet for maneuvering and backing movements from, garages, carports, or parking areas.

*This provision was added to solve a consistent problem of vehicular maneuvering space in narrow alleys located within the city.*

#### 16.10.080 ~~Streets.~~ Street Tree Plan

~~To be established. Street Tree Plan should be incorporated into this section. (Ord. 854, 1991; Ord. 848, Part VI, section 1, 1990)~~

A Street Tree Plan can be provided in lieu of meeting the requirement of planting a tree every 30 feet of street frontage as stated in Ordinance 1385 Exhibit B. The Street Tree Plan can compensate for driveways, utilities, or other obstructions that inhibit the 30 foot spacing requirement. The requirement for the planting of street trees is required under Chapter 12.32 CMC. (Ord. 854, 1991; Ord. 848, Part VI, section 1, 1990)

#### 16.10.090 Drive-up uses.

A. Drive-up uses shall provide a minimum stacking area clear of the public right-of-way or parking lot aisle from the window service to the vehicles as follows:

1. All drive-up uses. – Each lane shall provide a minimum capacity for two (2) to eight (8) automobiles, as determined by the Site and Design Review Board.
2. For purposes of this section, an automobile shall be considered no less than twenty (20) feet in length. The width and turning radius of drive-up aisles shall be approved by the City Public Works Director.

**B.** The stacking area shall not interfere with safe and efficient access to other parking areas on the property. Traffic aisles shall be wide enough to accommodate backing movements where adjacent to parking stalls. Parking maneuvers shall not occur in the stacking area. (Ord. 848, Part VII, section 16.10.090, 1990)

**16.10.100 Bicycle Parking.**

Bicycle parking shall be provided for all multi-family residential, institutional, commercial, and industrial uses.

**A.** Dimensions and characteristics: Bicycle parking spaces shall be a minimum of six (6) feet long and two (2) feet wide, and overhead clearance in covered spaces shall be a minimum of seven (7) feet. A minimum five (5) foot aisle for bicycle maneuvering shall be provided and maintained beside or between each row of bicycle parking. Bicycle racks located on a sidewalk shall provide a minimum of two (2) feet between the rack and a wall or other obstacle, and between the rack and curb face. Bicycle racks or lockers shall be securely anchored to the surface or a structure. Bicycle racks located in the Downtown Commercial Zone shall be of the inverted U style (a.k.a. staple racks). See Figure 20 of the Canby Downtown Plan for correct rack placement.

**B.** Location: Bicycle parking shall be located in well-lit, secure locations within fifty (50) feet of the main entrance to a building, but not further from the entrance than the closest automobile parking space, and in no case further than 50 feet from an entrance when several entrances are involved.

**C.** Number of spaces: The bicycle parking standards set out in Table 16.10.100 shall be observed. (Ord. 1019 section 1, 1999; Ord. 1076, 2001)

**TABLE 16.10.100 BICYCLE PARKING STANDARD**

LAND USE CATEGORY	MINIMUM REQUIRED BICYCLE PARKING SPACES
Residential Multi-family residential, general Multi-family residential, seniors or with physical disabilities	1 space per unit 4, or 1 space per 5 units, whichever is greater
Institutional Schools – Elementary Schools - Jr. High/Middle School Schools - St. High College Transit Centers/Park & Ride Lots Religious Institutions Hospitals Doctor, Dentist Offices Libraries, Museums, etc.	To be determined through design review To be determined through design review To be determined through design review To be determined through design review 5% of auto spaces <i>(or 100% of demand, depending on accessibility to bicyclists)</i> 1 space per 40 seat capacity 1 space per 5 beds 2, or 1 space per 1000 ft <sup>2</sup> , whichever is greater 2, or 1 space per 1000 ft <sup>2</sup> , whichever is greater

Commercial	
Retail Sales	0.33 space per 1000 ft <sup>2</sup> , whichever is greater
Auto-oriented Services	2, or 0.33 space per 1000 ft <sup>2</sup> , whichever is greater
Groceries/Supermarkets	0.33 space per 1000 ft <sup>2</sup>
Offices	2, or 1 space per 1000 ft <sup>2</sup> , whichever is greater
Restaurants	1 space per 1000 ft <sup>2</sup>
Drive-in Restaurants	1 space per 1000 ft <sup>2</sup>
Shopping Centers	0.33 space per 1000 ft <sup>2</sup>
Financial Institutions	2, or 0.33 space per 1000 <sup>2</sup> , whichever is greater
Theaters, Auditoriums, etc.	1 space per 30 seats
Downtown Commercial Zone	4 spaces per block
Industrial	
Industrial Park	2, or .1 space per 1000 ft <sup>2</sup> , whichever is greater
Warehouse	2, or .1 space per 1000 ft <sup>2</sup> , whichever is greater
Manufacturing, etc.	2, or .15 space per 1000 ft <sup>2</sup> , whichever is greater

**NOTES:**

*Each individual use needs to be evaluated for bicycle parking – e.g., a commercial accessory use in an industrial district may have different requirements than the industrial uses around it. Similarly, in mixed-use developments, the amount of each use and required bicycle parking needs" evaluation. Finally, within each use category one needs to consider the different user categories - residents, employees, customers, etc. - and parking requirements for each.*

(Ord. 1019 section I, 1999; Ord. 1043 section 3, 2000; Ord. 1076, 2001)

## Chapter 16.12

### CLASSIFICATION OF ZONES

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics, underline, and bold*

There is no agriculture zoned property inside the city limits of Canby, and it is not shown on the official City of Canby Zoning Map or the Comprehensive Plan Map. Agriculture activities such as keeping on livestock is in conflict with Title 6, CMC that prohibits keeping of animals other than domestic pets without a special permit from the City Administrator. Agriculture activities preexisting the current zoning can continue as a non-conforming use as permitted under Chapter 16.52. Commercial agriculture uses preexisting the zone or "grandfathered" are generally on larger parcels that are less likely to conflict with the urbanized density currently in residential zones. Personal vegetable gardens etc. are added into residential zone chapters as a permitted use.

Additionally, there is no CC (Convenience Commercial zoned property within the City limits and the zone is not shown on the official Zoning or Comprehensive Plan maps. The CC zone permits commercial uses that are generally offered in the CR zone and is therefore repetitious and should be repealed.

#### Sections:

**16.12.010 Zones designated.**

**16.12.020 Uses permitted.**

#### **16.12.010 Zones designated.**

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

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



(Ord .890 section 14, 1003; Ord. 740 section 10.3.15 [part], 1984; Ord. 1008 section 1, 1998; Ord 1237, 2007)

**16.12.020 Uses Permitted**

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

## Chapter 16.14

### AG - AGRICULTURAL ZONE

#### Sections:

**16.14.010 Uses permitted outright.**

**16.14.020 Conditional uses.**

**16.14.030 Development standards.**

#### **16.14.010 Uses permitted outright.**

Uses permitted outright in the AG. Zone shall be as follows:

**A.** Agriculture, including all accessory structures used for and necessary to the conduct of agricultural activity but excluding commercial processing, sales, manufacturing, or packaging plants, except items grown primarily on the premises;

**B.** Accessory structures and uses, including those located on a lot which is adjacent to the lot housing the principal use or structure. (Ord 740 section 10.3.17(A), 1984)

#### **16.14.020 Conditional uses.**

Conditional uses in the AG. zone shall be as follows:

**A.** Public building or land use, including public utility;

**B.** Single-family dwelling; one single-family dwelling per lot. (Ord. 740 section 10.3.17(B), 1984)

#### **16.14.030 Development standards.**

The following subsections indicate the required development standards of the AG. zone:

**A.** Minimum lot area: five acres;

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

**C.** Minimum yard requirements:

1. Street yard, twenty feet,
2. Interior yard, ten feet;

**D.** Maximum building height: thirty-five feet;

**E.** Maximum lot coverage: sixty percent;

**F.** Other regulations: vision clearance distance shall be ten feet from an alley and thirty feet from any other street. (Ord. 740 section 10.3.17 (C), 1984)

## Chapter 16.16

### R-1 LOW DENSITY RESIDENTIAL ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

16.16.010 Uses permitted outright.

16.16.020 Conditional uses.

16.16.030 Development standards.

#### 16.16.010 Uses permitted outright.

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

A. Single-family dwelling; one single-family dwelling per lot;

~~B. Agriculture, including all accessory structures necessary to the conduct of agricultural activity but excluding commercial processing, sales, manufacturing, or packaging plants except when used primarily for items grown on the premises;~~

*There is no agriculture zoned property inside the city limits of Canby. This use is in conflict with Title 6, CMC that prohibits keeping of animals other than domestic pets without a special permit from the City Administrator. Agriculture activities preexisting the current zoning can continue as a non-conforming use as permitted under Chapter 16.52. Agriculture uses preexisting the zone or "grandfathered" are generally on larger parcels that are less likely to conflict with the urbanized density currently in residential zones. Personal vegetable gardens etc. are added under "B" as a permitted use.*

**B. Vegetable gardens, orchards and crop cultivation for personal use only, including greenhouses. No large-scale commercial sale of produce is permitted unless continued as a non-conforming use that was in place prior to the existing zoning designation. Keeping of animals other than domestic pets requires a special permit from the City Administrator unless a continuation of a non-conforming agriculture use.**

*This change allows agriculture activities for property owners that have a lot large enough for gardening, and the continuation of non-conforming farming that was in place prior to the application of non-agriculture zoning.*

C. Accessory uses and/or accessory structures;

~~D. Accessory dwellings attached to a primary dwelling (sharing a common wall) are permitted only when approved through administrative review, in conformance with Chapter 16.48. The administrative approval shall be based on findings that all of the following standards are met:~~

- ~~1. Compliance with the Oregon Structural Specialty Code;~~
- ~~2. Attached accessory dwellings are considered to be part of the primary dwelling for the purpose of meeting the development standards in Section 16.16.030;~~
- ~~3. The accessory dwelling does not exceed 800 square feet of floor area;~~
- ~~4. Not more than one accessory dwelling unit per lot;~~
- ~~5. One off-street parking space provided (i.e., in addition to any off-street parking required for other uses on the same lot);~~
- ~~6. Exterior siding and roofing must be similar in color, material and appearance to that used on the primary dwelling. Different siding or roofing may be approved by the planning commission if it finds that the proposed design is more compatible with surrounding residences;~~
- ~~7. The property owner resides on the subject property and uses it as his/her primary residence. It is the property owner's on-going responsibility to provide evidence showing that this standard is met;~~
- ~~8. Utility connections and metering comply with applicable city standards and those of utility providers;~~

D. Accessory dwelling, subject to review and approval through a Type 1 procedure (pursuant to Chapter 16.89.030) and must conform to the following standards:

1. Compliance with the Oregon Structural Specialty Code;
2. A maximum of one accessory dwelling is allowed per legal single-family dwelling. The unit may be a detached building, in a portion of a detached accessory building (e.g. above a garage or workshop), or a unit attached or interior to a primary dwelling (e.g. an addition or the conversion of an existing floor).

3. A detached accessory dwelling may not exceed 800 square feet of floor area or 75% of the primary dwelling's floor area, whichever is smaller.
4. Accessory dwellings that result from the conversion of a level or floor (e.g. basement, attic, or second floor) of the primary dwelling may occupy the entire level or floor, even if the floor area of the accessory dwelling would be more than 800 square feet.
5. Accessory dwellings must meet all other development standards (e.g. height, setbacks, lot coverage, etc.) for buildings in the zoning district, except that:
  - a. Conversion of an existing legal non-conforming structure to an accessory dwelling is allowed, provided the conversion does not increase the non-conformity; and
  - b. Chapter 16.21, Residential Design Standards do not apply.

Passage of SB 1051 and HB 4031 allowed all accessory dwellings as a permitted use in zones that permit detached single-family dwellings.

- E. Day care facility in a residential home, with twelve (12) or fewer children;
- F. Manufactured and mobile home subdivisions, where developed as planned unit developments, subject to the requirements of Divisions IV and V;
- G. Minor public facilities;
- H. Manufactured home - with the following additional approval criteria:
  1. Must be double-wide or wider and must enclose at least 1,000 square feet.
  2. Must be located not more than twelve (12) inches above grade on an excavated and back-filled masonry foundation which is enclosed at the perimeter.
  3. Must have a pitched roof with a minimum slope of at least a nominal three (3) feet in height for each twelve (12) feet in width.
  4. Exterior siding and roofing must be similar in color, material and appearance to that used on surrounding dwellings within three hundred (300) feet of the lot.
  5. The exterior thermal envelope must meet performance standards equivalent to those required for single family dwellings under the State Building Code.
  6. Must not have bare metal siding or roofing.

I. Home occupations which meet the strict definition of section 16.04.240. (Ord. 890 section 15, 1993; Ord. 859 section 1, 1991; Ord. 740 section 10.3.18(A), 1984; Ord. 1080, 2001; Ord 1237, 2007))

**J. Residential Facility - for six to fifteen individuals with the filing of a Type I Administrative Review Application and providing copies of appropriate license and/or registration from the Department of Human Services and The Oregon Health Authority. (Per ORS 197.667(4))**

**K. Residential Home/Adult Foster Home - for five or fewer individuals. (Per ORS 197.665).**

**L. Foster Care Home; as defined in Section 16.04**

*These uses are permitted in all residential zones or commercial zones that allow residential uses under ORS 197.660 through 667.*

**16.16.020 Conditional uses.**

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

A. Cemetery;

B. Church;

C. Day care facility, other than a residence or caring for more than twelve (12) children;

D. Hospital;

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

*The uses removed are not defined in the ORS. Foster care home is defined separately under Chapter 16.04 and added under "T" below.*

F. School;

G. Major public facilities;

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

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

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

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

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

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

**N.** Bed and Breakfast;

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

Accessory dwellings are now a permitted use under SB 1051 and HB 4031.

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

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

**RQ.** Detached accessory structure (not dwelling) up to twenty-two feet high which is located outside the allowed building footprint area for the principal structure and which does not meet the step-up height standard described in 16.16.030(E)(2)(b). (Ord. 890 section 16, 1993; Ord. 740 section 10.3.18(B), 1984; Ord. 1080, 2001; Ord. 1111 section 7, 2003; Ord 1237, 2007)

#### **16.16.030 Development standards.**

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

**A.** Minimum and maximum lot area: seven thousand (7,000) square feet minimum, and ten thousand (10,000) square feet maximum, per single-family dwelling. The maximum lot area standard does not apply to single family dwellings existing at the time of subdivision or partition plan approval; and the Planning Commission may approve smaller or larger lots in conformance with subsection B, below.



Preexisting, legally created lots of record shall be considered to be legally buildable and separately saleable, provided they contain at least five thousand (5,000) square feet; and further provided, that any new structures on such lots meet the required setbacks ~~from the lot lines which will result when these lots of record are separated. Lot width requirements may be reduced to a minimum of fifty feet, and side yard setbacks reduced to a minimum of five feet for such lots.~~

The above provisions are removed because an existing 5000 square foot lot cannot be further separated when the minimum lot size for a newly created lot is 7000 square feet.

**B. Lot area exceptions:**

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

a. The average area of all lots created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than seven thousand square feet and no greater than ten thousand square feet. Non-required significant natural resource areas shall be included in the average lot size calculation to enable a transfer of density onto buildable portions of the site. Required areas include identified parks, wetland areas, riparian corridors, and other areas in which building is not permitted under local, state, or federal laws or regulations. For land in the North Redwood DCP area, the Planning Commission may allow public park land dedications to be included in the lot size averaging calculation in order to achieve community development goals and allow protection of natural resources; in this case, the resulting average lot size shall not be less than 5,000 square feet.

b. No lot shall be created that contains less than six thousand square feet, unless the alternative lot layout option provided in Section 16.64.040 is used;

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

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

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

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

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

**D.** Minimum yard requirements:

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

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

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

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

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

**E.** Maximum building height:

**1.** Principal building: thirty-five feet.

**2.** Detached accessory structure:

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

**b.** If located outside the allowed building footprint for the principal building, a detached accessory structure is subject to a step-up height standard, and is allowed outright only if it meets this standard. The structure shall not exceed eight feet tall, as measured to the highest point of the roof, at

a distance of three feet from the property line. The structure may increase in height by one foot vertically for every one foot horizontally away from the three foot line, up to the maximum height of twenty-two feet.

- c. A conditional use permit is required to locate the structure outside of the allowed building footprint for the principal building in violation of the step-up height standard.
- d. Detached accessory structures over twenty-two feet tall are not permitted.

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

**F.** The maximum amount of impervious surface allowed the R-1 zone shall be 60 percent of the lot area.

1. Impervious surface includes all surface areas that create a barrier to or hinder the entry of water into the soil in comparison with natural conditions prior to development. Impervious surfaces include, but are not limited to, buildings, paved parking areas and driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses.

2. To limit impervious surface, alternative surfacing materials may be used. Alternative surfacing includes, but is not limited to paving blocks, turf block, pervious concrete, and porous asphalt. Other similar approved materials are encouraged. Utilization of alternative surfacing methods shall be subject to review by the City Public Works Department for compliance with applicable regulations and development standards. Maintenance of alternative surfacing materials located on private property are the responsibility of the property owner.

**G.** Other regulations:

1. Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway, and thirty feet from a street to any other street.

2. All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet; mechanical units, used for the heating/cooling of

residential units are exempt from interior and/or rear yard setback requirements. **A chimney for a fireplace or stove shall not exceed a two foot projection.**

**3. To provide shade,** required yards on southern and western exposures may be reduced by not more than five feet for eaves, ~~or~~ canopies, **and covered patios if patio posts still comply with required five foot setbacks.** ~~to provide shade.~~

**4.** Accessory buildings shall not have a larger footprint than the primary building, unless lot area exceeds twelve thousand square feet. (Ord. 890 section 17, 1993; Ord. 740 section 10.3.18(C), 1984; Ord. 955 section 5, 1996; Ord. 981 section 45, 1997; Ord. 1080, 2001; Ord. 1111 section 7, 2003; Ord 1237, 2007; Ord. 1338, 2010)

## Chapter 16.18

### R-1.5 MEDIUM DENSITY RESIDENTIAL ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

#### Sections:

**16.18.010 Uses permitted outright.**

**16.18.020 Conditional uses.**

**16.18.030 Development standards.**

#### **16.18.010 Uses permitted outright.**

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

**A.** Uses permitted outright in the R-1 zone;

**B.** Two-family or three-family dwellings. One duplex or triplex on each lot. (Ord. 740 sect. 10.3.20 (A), 1984)

**C.** Single-family **townhouse** dwellings having common wall construction. (Ord. 740 sect. 10.3.20(B), 1984; Ord. 1080, 2001) **The townhouse construction is limited to a maximum grouping of three dwelling units. If more than one group of dwellings is developed then a ten foot distance shall be maintained between an adjacent group of dwelling units.**

#### **16.18.020 Conditional uses.**

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

**A.** Uses listed as conditional in the R-1 zone; except as modified by Section 16.18.010, above;

**B.** Four-family dwellings;

~~**C.** Single-family dwellings having common wall construction. (Ord. 740 sect. 10.3.20(B), 1984; Ord. 1080, 2001)~~

#### **16.18.030 Development standards.**

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

**A. Minimum and maximum lot area:**

- 1. For single family dwellings: five thousand (5,000) square feet minimum and six thousand five hundred (6,500) square feet maximum.**
- 2. For townhomes dwelling units having common wall construction: three thousand (3000) square foot minimum lot size.**

*Comment: Since townhomes are a permitted use, a minimum lot size should be established outright. Townhome proposals usually result in a partition to create the new lots.*

~~**2. For two, three, or four family dwellings: minimum of six units per acre and a maximum of 13 units per acre. Density is calculated by dividing the number of dwelling units by the property area in acres (minus area required for street right-of-way and public park/open space areas). Decimals are rounded to the nearest whole number.**~~

**3. Minimum residential density: For two, three, and four family dwellings: new development shall achieve a minimum density of 6 units per acre and a maximum of 13 units per acre. Minimum density for a property is calculated by multiplying its area in acres (minus area required for street right-of-way and public park/open space areas) by the density standard. For example, 0.32 acres x 6 units/acre = minimum of 1.92 units. Decimals are rounded to the nearest whole number (e.g., a minimum of 1.92 units becomes a minimum of 2 units per acre). The Planning Commission may modify the density standard if it cannot be met due to existing lot dimensions, road patterns, or other site characteristics.**

*The change is to establish a maximum number of units that is less than the 14 unit minimum allowed in the R-2 zone. It also prevents an increase in density that would not be appropriate in the zone. Additionally, an explanation for density calculation is clarified.*

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

**B. Lot area exceptions:**

- 1.** The Planning Commission may approve an exception to the minimum and maximum lot area standards in subsection 16.18.030.A as part of a subdivision or partition application when all of the following standards are met:
  - a.** The average area of all lots and open space tracts created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than five thousand square feet and no greater than six thousand five hundred square feet. Non-required significant natural resource areas shall be included in the

average lot size calculation to enable a transfer of density onto buildable portions of the site. Required areas include identified parks, wetland areas, riparian corridors, and other areas in which building is not permitted under local, state, or federal laws or regulations. For land in the North Redwood DCP area, the Planning Commission may allow public park land dedications to be included in the lot size averaging calculation in order to achieve community development goals and allow protection of natural resources; in this case, the resulting average lot size shall not be less than 4,000 square feet;

**b.** No lot shall be created that contains less than four thousand square feet, unless the alternative lot layout option provided in Section 16.64.040 is used; and

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

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

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

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

Moved to section 16.18.020 and rewritten.

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

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

**D.** Minimum yard requirements:

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

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

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

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

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

**E. Maximum building height:**

1. Principal building: thirty-five feet.

2. Detached accessory structure:

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

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

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

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

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



**F.** The maximum amount of impervious surface allowed the R-1.5 zone shall be 70 percent of the lot area.

1. Impervious surface includes all surface areas that create a barrier to or hinder the entry of water into the soil in comparison with natural conditions prior to development. Impervious surface include, but are not limited to, buildings, parking areas, driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses.

2. To limit impervious surface, alternative surfacing materials may be used. Alternative surfacing includes, but is not limited to paving blocks, turf block, pervious concrete, and porous asphalt. Other similar approved materials are encouraged. Utilization of alternative surfacing methods shall be subject to review and approval by the City Public Works Department for compliance with other applicable regulations and development standards. Maintenance of alternative surfacing materials located on private property are the responsibility of the property owner.

**G.** Other regulations:

1. Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway, and thirty feet from a street to any other street.

2. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet; mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements. **A chimney for a fireplace or stove shall not exceed a two foot projection.**

3. **To provide shade,** required yards on southern and western exposures may be reduced by not more than five feet for eaves, ~~or~~ canopies, **and patio covers, if the patio posts still comply with required setbacks.** ~~to provide shade.~~

4. Accessory buildings shall not have a larger footprint than the primary building. (Ord. 890 sect. 19, 1993; Ord. 740 sect. 10.3.20(C), 1984; Ord. 955 sect. 6, 1996; Ord. 981 sect. 46, 1997; Ord. 1019 sect. 8, 1999; Ord. 1080, 2001; Ord 1237, 2007; Ord. 1338, 2010.)

## Chapter 16.20

### R-2 HIGH DENSITY RESIDENTIAL ZONE

(Ord 890 section 20, 1993)

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

#### Sections:

**16.20.010 Uses permitted outright.**

**16.20.020 Conditional uses.**

**16.20.030 Development standards.**

#### **16.20.010 Uses permitted outright.**

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

- A.** Uses permitted outright in the R-1.5 zone, subject to the density standards in Section 16.20.030(A);
- B.** Single family **townhouse** dwellings having common wall construction;
- C.** Boarding, lodging or rooming house;
- D.** Multi-family dwelling;
- E.** Manufactured and mobile home or trailer parks, subject to the criteria of Chapter 16.44;
- F.** Bed and Breakfast. (Ord. 890 section 21, 1993; Ord. 740 section 10.3.21(A), 1984; Ord. 1019 section 9, 1999; Ord. 1080, 2001)

#### **16.20.020 Conditional uses.**

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

- A.** A use listed as conditional in the R-1 zone and not listed as permitted outright in section 16.20.010;

**B.** Uses listed as permitted outright in the C-R zone (Section 16.24.010), not to exceed 3,000 square feet, and only when part of a Planned Unit Development. All such uses shall be subject to site and design review.

**C.** Zero-lot line development for uses otherwise allowed, provided that the minimum side yard setback shall be 7 feet when adjacent to housing with standard setbacks. Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero-lot line housing that guarantees rights for the purpose of construction and maintenance of structures and yards. The easement shall stipulate that no fence or other obstruction shall be placed in a manner that would prevent maintenance of structures on the subject lot; and the building placement, landscaping, and/or design of windows shall provide a buffer for the occupants of abutting lots. (Ord. 890 section 22(A)(B), 1993; Ord. 740 section 10.3.21 (B), 1984; Ord. 1080, 2001)

#### **16.20.030 Development standards.**

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

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

**A. Minimum residential density: New development shall achieve a minimum density of 14 units per acre. Minimum density for a property is calculated by multiplying its area in acres (minus area required for street right-of-way and public park/open space areas) by the density standard. For example, 0.18 acres x 14 units/acre = minimum of 2.52 units. Decimals are rounded to the nearest whole number (e.g., a minimum of 2.52 units becomes a minimum of 3 units). The Planning Commission may modify the density standard if it cannot be met due to existing lot dimensions, road patterns, or other site characteristics.**

**B. Townhouses with common wall construction must be placed on a maximum 3000 square foot lot in order to meet the density required in this section.**

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

~~**C D.**~~ Minimum yard requirements:

1. Street yard: twenty feet on side with driveway; fifteen feet for all other street sides; except that street yards may be reduced to ten feet for covered porches only. Street yards for multifamily development (3 or more units located on the same property) located adjacent and on the same side of the street to an R-1 (Low Density Residential) or R-1.5 (Medium Density Residential) zone shall establish a

front yard setback that is within 5 feet of the front yard setback of the adjacent home in the R-1 or R-1.5 zone but shall not be less than 10 feet from the property line. This standard does not apply if the closest adjacent home has a front yard setback greater than 30 feet.

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

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

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

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

a. Site obscuring landscaping shall be required. The Planning Commission may require retention of existing vegetation; installation of a 6-foot minimum height site-obscuring fence with shade trees planted a maximum of 30 feet on center; and/or other landscaping to provide visual buffering.

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

**c. If developing multi-family properties are adjacent to lots currently zoned R-1, but the R-1 zoned properties are designated HDR (High Density Residential) on the Comprehensive Plan Map, and therefore available for future high density development, then the multi-family development is not subject to the 15 foot buffer criteria listed in this section and can use the normal setbacks for the zone.**

Comment:

This change was suggested by Jason Bristol. The proposal makes sense because properties that are adjacent to lots designated for future High Density development can also be rezoned high density (R-2) consistent with the Comprehensive Plan designation. This buffer requirement makes the transition or redevelopment of properties having the HDR designation much less likely to ever occur unless all contiguous properties are rezoned together simultaneously. Correspondingly, protection of the existing low density use will become less likely without the buffer

requirement that is currently in place. However, the existing R-1 zone on the properties is inconsistent with the desired future transition to higher density as designated in the Comprehensive Plan and that is the key to allowing the proposed exception for use of the buffer.

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

**D E.** Maximum building height and length:

1. Principal building: thirty-five feet.

2. Detached accessory structure:

- a. If located inside the allowed building footprint for the principal building, a detached accessory structure may be up to twenty-two feet tall, as measured to the highest point of the roof.
- b. If located outside the allowed building footprint for the principal building, a detached accessory structure is subject to a step-up height standard, and is allowed outright only if it meets this standard. The structure shall not exceed eight feet tall, as measured to the highest point of the roof, at a distance of three feet from the property line. The structure may increase in height by one foot vertically for every one foot horizontally away from the three foot line, up to the maximum height of twenty-two feet.
- c. A conditional use permit is required to locate the structure outside of the allowed building footprint for the principal building in violation of the step-up height standard.
- d. Detached accessory structures over twenty-two feet tall are not permitted.

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

4. Maximum building length shall be 120 feet.

**E F.** The maximum amount of impervious surface allowed in the R-2 zone shall be 70 percent of the lot area.

1. Impervious surface includes all surface areas that create a barrier to or hinder the entry of water into the soil in comparison with natural conditions prior to development. Impervious surfaces includes, but are not limited to, buildings,

parking areas, driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses.

2. To limit impervious surface, alternative surfacing materials may be used. Alternative surfacing includes, but is not limited to paving blocks, turf block, pervious concrete, and porous asphalt. Other similar approved materials are encouraged. Utilization of alternative surfacing methods shall be subject to review and approval by the City Public Works Department for compliance with other applicable regulations and development standards. Maintenance of alternative surfacing materials located on private property are the responsibility of the property owner.

**F G.** Other regulations:

1. Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway, and thirty feet from a street to any other street.

2. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet; mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements. **A chimney for a fireplace or stove shall not exceed a two foot projection.**

3. **To provide shade,** required yards on southern and western exposures may be reduced by not more than five feet for eaves, ~~or~~ canopies, **and patio covers, if patio posts still comply with required setbacks.** ~~to provide shade.~~

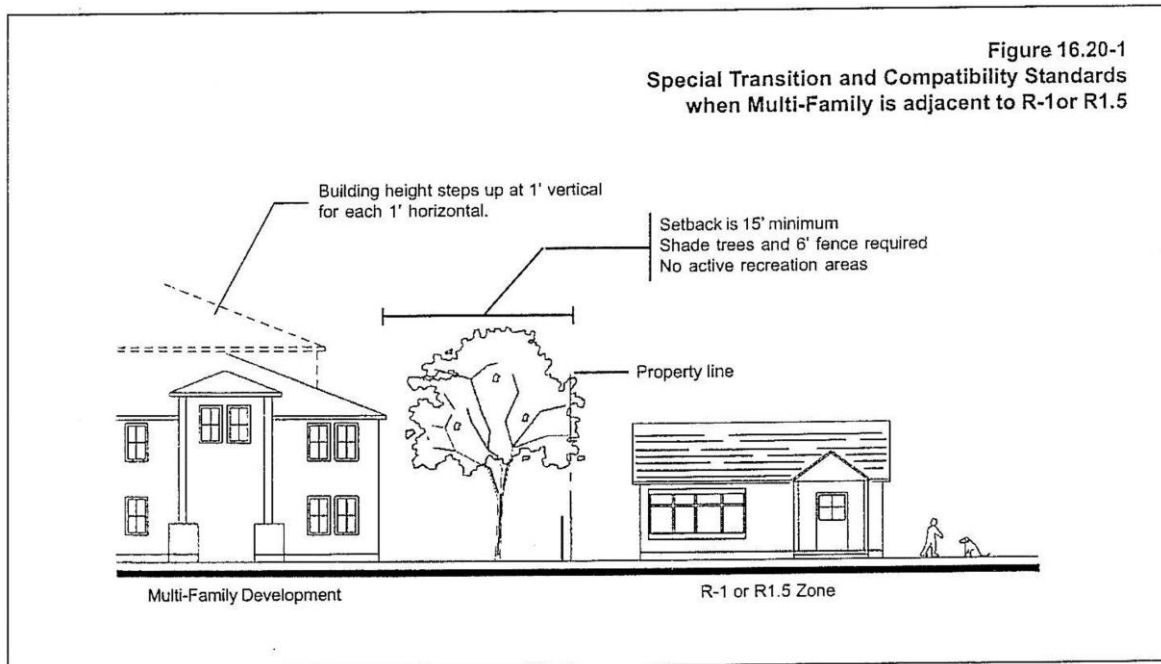
4. Multi-family developments exceeding ten units shall provide 150 square feet of recreation space per dwelling unit. Recreation spaces shall be no less than 1,500 square feet in size.

5. Accessory buildings shall not have a larger footprint than the primary building. (Ord. 890 sect. 23, 1993; Ord. 740 sect. 10.3.21 (C), 1984; Ord. 955 sect. 7, 1996; Ord. 981 sect. 47, 1997; Ord. 1080, 2001; Ord. 1107, 2002; Ord. 1237, 2007; Ord. 1338, 2010)

**6. Townhouse (common wall) development shall not exceed six dwelling units as defined in Chapter 16.04.195. Where possible, the six unit development should include the placement of an alley or sidewalk along the rear boundary of the properties for fire and emergency access to the rear of the properties. If more than one group of six dwelling units is constructed, then the groups shall be separated by ten feet of open space.**

Comment:

Townhomes fit the trend toward providing higher density develop that is being encouraged at the State legislative level. Requiring a developer to try and place an alley behind the townhouses regardless of the size, shape, or setting of the lot would discourage the property owner from proceeding with the project.



## Chapter 16.21

### RESIDENTIAL DESIGN STANDARDS

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics, and underlined*

#### Sections:

- 16.21.010 **Purpose.**
- 16.21.020 **Applicability and review procedure for single and two-family dwellings.**
- 16.21.030 **Single and two-family dwelling design menus.**
- 16.21.040 **Main entrances**
- 16.21.050 **Infill dwellings and lots.**
- 16.21.060 **Applicability and review procedure for multi-family dwellings.**
- 16.21.070 **Multi-family design standards.**

#### 16.21.010 **Purpose.**

The purpose of the residential design objectives are to promote:

- A.** Community livability through the creation of attractive design housing and streetscapes.
- B.** Compatibility (in height, bulk, setback and overall design) between infill housing and adjacent established housing, to the extent practicable. Additionally, the standards are intended to promote compatibility and transitions between multi-family housing and adjacent uses.
- C.** Community safety for neighborhood streets and front yards by providing “eyes on the street.”
- D.** Community interaction by designing neighborhood streets, front yards and open spaces so that they are attractive and inviting places for neighbors to interact.
- E.** Good design at reasonable cost through design standards that improve residential design within reasonable cost parameters, process, and with options for how to meet the standards. (Ord. 1107, 2002)



F. Low impact developments that manage stormwater through the use of on-site features, preserve natural conditions and open space, minimize impervious surfaces, and use land efficiently. (Ord. 1107, 2002; Ord. 1338, 2010)

**16.21.020 Applicability and review procedure for single family and two family dwellings.**

The standards in sections 16.21.030 through 16.21.050 apply to single family dwellings, manufactured homes, and two family dwellings (duplexes). Where a proposal is for an alteration or addition to a existing development, the standards of this section apply only to the portion being altered or added. If the applicant can demonstrate that implementation of the standards would be impractical due to lot size, shape, slope, or other natural feature of the property that does not generally apply to other properties in the city, the Planning Director may waive any of the standards which are demonstrated to be impractical. (Ord. 1107, 2002)

**16.21.030 Single family and two-family dwelling design menu.**

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

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

**B. All new single family dwellings, manufactured homes, townhouses, and two-family dwellings (duplexes) shall comply with the design features in this section along street facing facades.**

**1. Additions and alterations that add less than 50% to the existing floor area of the house (not including garage floor area) are exempt from this subsection, unless a new garage is being added. Additions or alterations that are not visible from the street side of the home are exempt.**

**Homes on corner lots and through lots shall comply with either option 1 or 2 above for the front of the lot (as defined by 16.04.320). The non-front side of the lot shall comply with 3 of the design menu standards in 16.21.030 (D).**

*Third paragraph moved to C(3)and C(1)(3) and rewritten*

The above paragraphs were separated, moved, or rewritten from “B” above for clarity. The options discussed as 1 and 2 are moved to become criteria in 16.21.030(C)(1) and (2).

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

**1. Garage Façade Length Standards:**

- a.1. A garage ~~may be~~ up to 50% of the length of the street-facing facade (see figure 16.21-1), shall meet 4 of the design standards in 16.21.030(D) or,**
- b.2. A garage ~~may be~~ up to 60% or more of the length of the facade, ~~if a portion of the garage wall is recessed a minimum of 2 feet from the remaining longest front street facing facade (see figure 16.21-2) shall meet 6 of the design standards in 16.21.030(D).~~**
- c. On corner lots, the non-front street side of the lot shall comply with 3 of the design menu standards in 16.21.030 (D).**

**2. Garage Façade Projection Standards:**

- a4. A garage wall that faces the street may be no closer to the street than the longest remaining street-facing wall front façade of the house, except as provided in subsections (b)(1) (5) and or (b)(2) (6) below.**
- b5. A garage may extend up to 6 feet in front of the longest remaining portion of the front facade if:**
  - 1. There is a covered front porch and the garage does not extend beyond the front line of the porch (see figure 16.21-3); or,**
  - 2. The garage is part of a ~~two-level dwelling's multi-gabled~~ façade that and has a window (minimum 6 square feet, with 4" trim or shutters) on the second level above the garage door or placed on another front façade gable that faces the street garage street frontage (see figure 16.21-4).**

The above changes were made to clarify this criteria that was confusing to staff and developers. Moved from B and rewritten.

- 3. On corner lots, and through lots, only one street-facing wall must meet the design standards required in 1 or 2 above for the front of the lot as defined in Section 16.04.320. ~~Homes on corner lots and through lots shall~~**

~~comply with either option 1 or 2 above for the front of the lot (as defined by 16.04.320).~~

*Moved from C(3) and B and rewritten*

- 4.** ~~6.~~ Garages may be side-oriented to the front lot line if windows occupy a minimum of 15% of the street-facing wall of the garage (see figure 16.21-5).

*Moved form C(6)*

- 5. The garage standards in this section do not apply to “flag lots” when the proposed dwelling cannot be clearly seen from the public street frontage or does not front on a public street.**

*This comment was added to point out that flag lots are exempt from this section.*

**D. Design Menu Standards**

1. Dormers
2. Gables, hip roof, or gambrel roof form.
3. Recessed entries (minimum 2 foot recess)
4. Covered porch entries (minimum 48 square feet, minimum 4 feet deep)
5. Bay windows
6. Any eaves of 12 inches or greater
7. Off-set of 16 inches or greater on building face or roof
8. Windows and main entrance doors occupy a minimum of 15% of the facade, not including the roof.
9. Window trim (minimum 4-inch) or shutters (minimum 8-inch)
10. Balconies or porch rail
11. Shakes, shingles, brick or other similar decorative materials occupy at least 60 square feet of the street facade. (Ord. 1107, 2002; Ord 1237, 2007)

**E. Residential Elevations**

- 1. Residential dwelling permits shall include delineated top of curb elevations at two property corners at the street frontage.**
- 2. Finished floor elevations at the front street side of the dwelling shall not exceed 30 inches above the average of the two measured elevations.**

#### **F. Garage Setback**

- 1. A minimum 19 foot setback shall be provided from the garage to the sidewalk when the sidewalk is an easement that extends onto private property to prevent vehicles parked in the driveway from protruding into the sidewalk area.**

*The above provisions are added to establish residential dwelling criteria to prevent dwellings that, if not regulated, can be elevated above grade to a height that eliminates privacy on adjacent lots and renders privacy fencing useless. Additionally, the 19 foot driveway setback minimum prevents parked vehicles from protruding over the sidewalk when sidewalks are constructed as an easement and impeding pedestrians along the property frontage.*

#### **G. Placement of Mobile Homes or Manufactured Homes on a lot in a residential zone, outside of a mobile home park, that is used as the primary residence must construct a carport or garage for at least one vehicle.**

*This provision is intended to help maintain the residential character of neighborhoods.*

#### **16.21.040 Main entrances for single family and two family dwellings.**

**A.** Purpose. These standards are intended to ensure there is a visual connection between the entry of the home and the street, and, provide for a pleasant pedestrian environment in residential areas.

**B.** At least one main entrance for each structure must:

1. Additions or alterations that are not visible from the street side of the home are exempt. or
2. Be at an angle up to 45 degrees from the street, or
3. Open onto a covered porch on the front or side of the residence that is at least 48 square feet in area and at least 4 feet in depth. (Ord. 1107, 2002)

#### **16.21.050 Infill Homes**

**A.** Purpose. The purposes of these standards are to promote compatibility between new development and existing homes, and, to provide for the efficient use of residential land.

**B.** Applicability. These standards apply to all new infill homes as defined by 16.04.255. The standards also apply to remodels of existing infill homes where the remodel increases the homes floor area by more than 50%, not including garage area.

**C.** Standards for Infill Homes (see figure 16.21-6)

1. Lot Coverage - Infill homes exceeding one story shall not exceed a lot coverage of 35%. In this standard, lot coverage applies to portion of the lot covered by structures, not including garage area.
2. Garage Standards - Infill homes must meet the Option 1 garage standards in 16.21.030. The infill home is exempt from garage standards if located on a flag lot, or, if an adjacent home fronting the same street does not comply with the garage standards in 16.21.030(C).
3. Similar Front Setback - Infill homes shall establish a front yard setback that is within 5 feet of the front yard setback for the closest adjacent home on the same side of the street. This standard does not apply if the closest adjacent home has a front yard setback greater than 30 feet.
4. Maximum Height. Infill homes shall have a maximum height of 28 feet.
5. Step-up Standard. At the interior and rear setback line, the infill home shall not exceed a single story exterior wall height (not to exceed 10 feet from finished floor to top plate). The area within a gable is not included in the wall height. Finished vaulted ceilings or unfinished attic spaces without exterior windows are allowed in the gable area. The building may increase in height by one foot vertically for every foot horizontally away from the setback line, up to the maximum height allowed. Building height is measured as defined by the Oregon Structural Specialty Code. The Planning Director or Planning Commission may exempt infill homes from this standard for any yard that abuts a property on which the existing home is greater than one story.

**16.21.060 Applicability and review procedure for multi-family dwellings.**

The standards in section 16.21.070 apply to multi-family dwellings. Where a proposal is for an alteration or addition to an existing development, the standards of this section apply only to the portion being altered or added. If the applicant can demonstrate that implementation of the standards would be impractical due to lot size, shape, slope, or other natural feature of the property that does not generally apply to other properties in the city, the Planning Director may waive any of the standards which are demonstrated to be impractical. (Ord. 1107, 2002)

**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 60 percent of the total possible points from the Design Menu are accumulated for the whole development;
3. 10 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 60% of total possible points shall be earned,  
(10% of the total possible points must be from LID elements)

<b>Design Criteria</b>	<b>Possible Points</b>				
<b>Parking</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</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%	-	-
<b>Tree Retention</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Percentage of trees retained	<10%	10-50%	51-75%	>75%	-
Replacement of trees removed	<50%	≥50%	-	-	-
<b>Building Orientation to the Street</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Primary entrances face the street	Not street-facing	Entrance breezeway faces street	All entrances face the street	-	-
<b>Building Orientation to the Street, cont.</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</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	-	-	-

Design Criteria	Possible Points				
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 gambel 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.	-	-	-
<b>Private Open Space and Landscaping, cont.</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Amount of grass (less grass is better) (% of total landscaped area)	>50%	25-50%	<25%	-	-
<b>Street and Block Framework</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>

Design Criteria	Possible Points				
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	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= 67 60%=40 points (rounding down), 10%=7 points (rounding up)</b>					

(Ord. 1338, 2010)



Figure 16.21-1  
Garage Standard 1

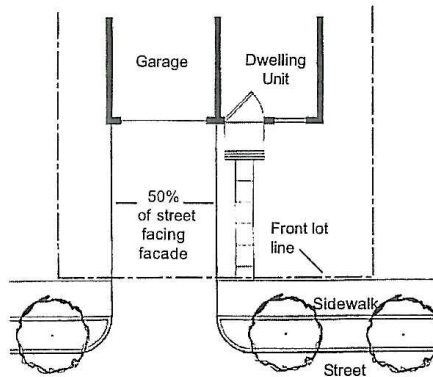


Figure 16.21-2  
Garage Standard 2

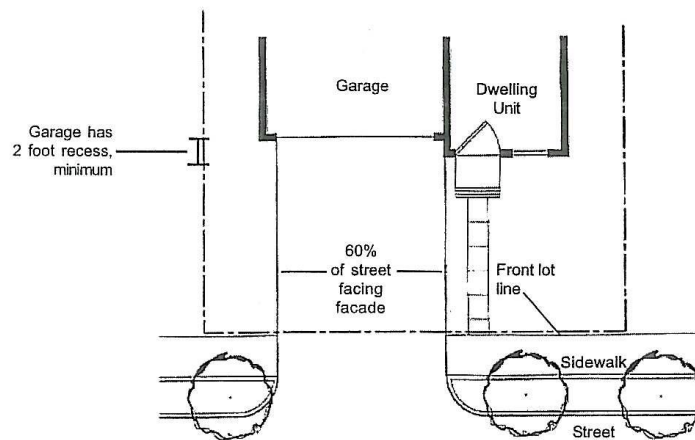


Figure 16.21-3  
Garage Standard 5a

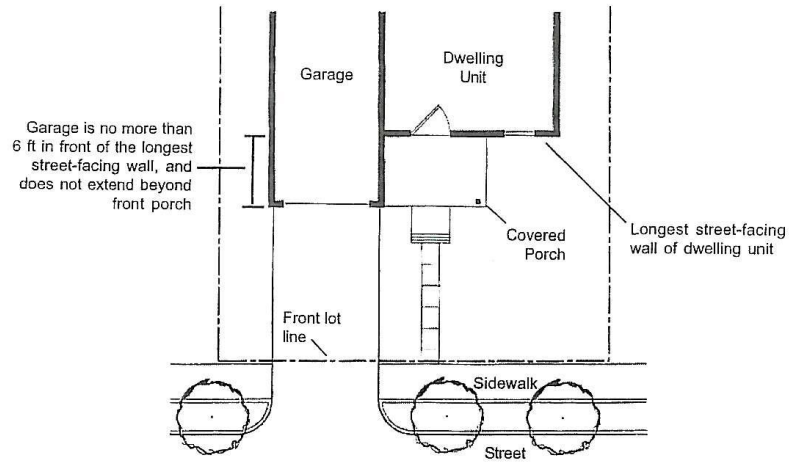


Figure 16.21-4  
Garage Standard 5b

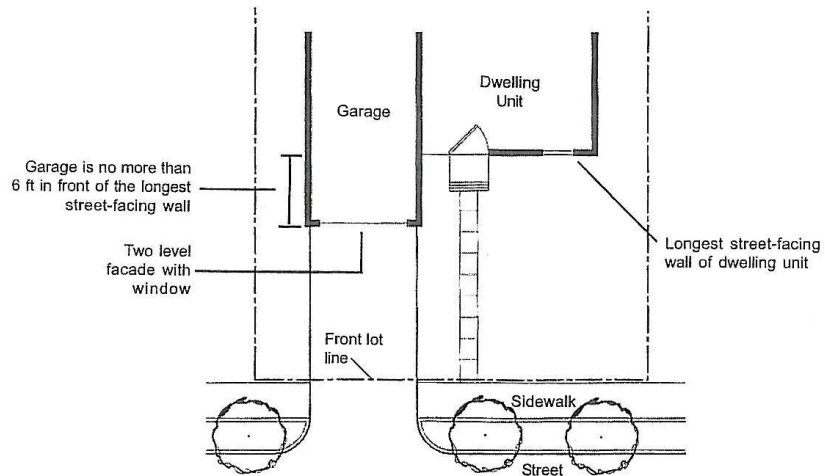


Figure 16.21-5  
Garage Standard 6

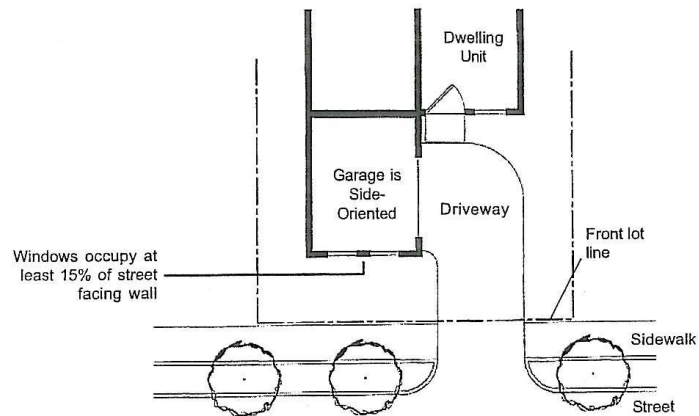
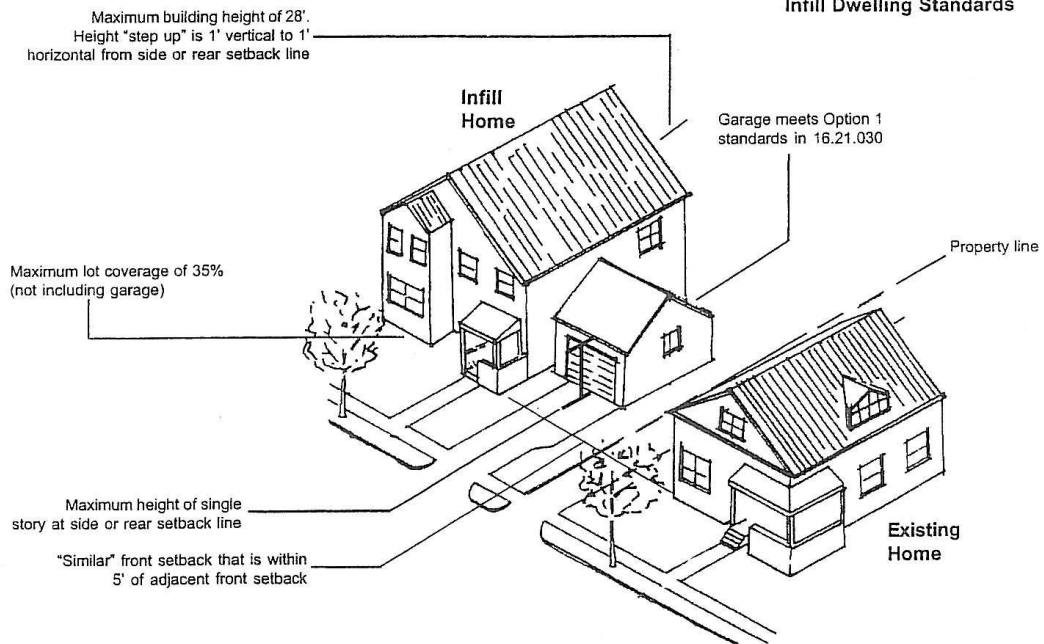


Figure 16.21-6  
Infill Dwelling Standards



## Chapter 16.22

### C-1 DOWNTOWN COMMERCIAL ZONE

Remove = ~~**Strikethrough and Bold**~~

Additions = **Bold and Underline**

Comments = *italics, and underlined*

#### Sections:

**16.22.010** **Uses permitted outright.**

**16.22.020** **Conditional uses.**

**16.22.030** **Development standards.**

**16.22.040** **Design Review Matrix.**

#### **16.22.010** **Uses permitted outright.**

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

**A. Residential.** Residential uses shall be permitted only when part of a mixed use development (residential with commercial, office, or public/institutional use). Both vertical mixed use (housing above the ground floor) and horizontal mixed use (housing on the ground floor) developments are allowed, as follows:

- 1.** Ground floor dwelling units that are incidental (less than 25% of the ground floor gross area) attached to any use allowed in a C-1 zone, and have access from a side or back entrance, or an entrance that is incidental to the commercial main ground floor use.
- 2.** Residential units occupying the second and/or third story of any structure in the C-1 zone, provided the primary ground floor use is listed in 16.22.010.
- 3. Limitation on street-level housing.** No more than fifty (50) percent of a single street frontage may be occupied by residential uses. This standard is intended to reserve storefront space for commercial uses and public/institutional uses; it does not limit residential uses above the street level on upper stories, or behind street-level storefronts. For parcels with street access at more than one level (e.g., sloping sites with two street frontages), the limitation on residential building space shall apply to all street frontages.

a. Density. There is no minimum or maximum residential density standard. Density shall be controlled by the applicable lot coverage and building height standards.

b. Parking, garages, and driveways. All off-street vehicle parking intended for residential use, including surface lots and garages, shall be oriented to alleys, placed underground, placed in structures above the ground floor, or located in parking areas behind or to the side of the building; except that side yards facing a street (i.e., corner yards) shall not be used for surface parking. All garage entrances facing a street (e.g., underground or structured parking) shall be recessed behind the front building elevation by a minimum of four (4) feet. On corner lots, garage entrances shall be oriented to a side street when access cannot be provided from an alley.

c. Creation of alleys. When a residential subdivision (e.g., four or more townhome lots) is proposed, a public alley shall be created for the purpose of vehicle access. Alleys are not required when existing development patterns or topography make construction of an alley impracticable. As part of a subdivision, the City may require dedication of right-of-way or easements, and construction of pathways between townhome lots (e.g., between building breaks) to provide pedestrian connections through a development site.

4. Existing dwelling units which are not incidental and attached to a use allowed in the C-1 zone may be altered, expanded (or rebuilt within one year of a fire or other act of nature) provided that any such additions or rebuilding comply with the development standards for dwelling units in the R-2 zone;

B. Retail store or shop, except those listed as permitted or conditional uses in the C-2 zone;

C. Amusement enterprise, including pool hall, bowling alley, dance hall, skating rink or theater, when enclosed in a building;

**D. Bakery, for retail sale primarily on premises;**

~~*Moved to conditional use section below because of potential issues of product being manufactured on the property that could lead to possible adverse impact on surrounding uses due to the type of equipment used, such as high temperature ovens, and issues related to traffic, etc., that should be addressed with conditions of approval.*~~

**D. Bakery, for retail sale primarily on premises; Establishments primarily engaged in the retail sale of bakery products. The products may be purchased from others or made on the premises. Provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5461**

*Moved back from conditional uses with new description*

E. Barber or beauty shop, nail salon;

- F.** Bank or other financial institution;
- G.** Bed and Breakfast, in an existing residence;
- H.** Bicycle sales, service, or repair;
- I.** Blueprinting, Photostatting, printing or other reproduction process;
- J.** Bus depot;
- K.** Business college;
- L.** Catering establishment;
- M.** Church **or places of worship;**
- N.** Club or lodge hall;
- N.** Day care facility;
- P.** Laundry or cleaning establishment;
- Q.** Frozen food lockers;
- R.** Hardware store, not including lumber or other large building materials requiring on-site outside or warehouse storage;
- S.** Hotel and apartment hotel;
- T.** Laboratory for experimental, photo or electronic testing research;
- U.** Locksmith or gunsmith;
- V.** Magazine or newspaper distribution agency;
- W.** Mortuary **(including those used for pets);**
- X.** Office, business or professional;
- Y.** Pawn shop;
- Z.** Public Transit Center;
- AA.** Restaurant, without drive-in service;
- BB.** Scientific or professional instrument sales or repair;

**CC.** Sales, rental or repair of small recreational, radio, television, business or household equipment;

**DD.** Studio, including music, art, dancing, photography or health;

**EE.** Taxidermy shop;

**FF.** Telephone or telegraph exchange;

**GG.** Theater, except drive-in;

**HH.** Auto parts store and incidental shop facilities;

**II.** Upholstery shop;

**JJ.** Watch and clock repair;

**KK.** Similar commercial uses as determined by the Planning Commission;

**LL.** Public building or land use such as fire station, city hall, park, playground, library or museum.

**MM.** Minor public facility. (Ord. 890 section 24, 1993; Ord. 805 section 2, 1987; Ord. 802 section 6, 1987; Ord. 740 section 10.3.24(A), 1984; Ord. 955 section 8, 1996; Ord. 981 section 21, 1997; Ord. 1076, 2001; Ord 1237, 2007)

**NN. Drinking Places (alcoholic Beverages) Establishments primarily engaged in the retail sale of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises. The sale of food frequently accounts for a substantial portion of the receipts of these establishments. SIC 5813**

*OO and PP new uses moved from conditional uses*

**OO. Brew Pub: General Manufacturing of products included in SIC 2082: Malt Beverages, provided the manufacturing does not exceed 7,000 square feet of total floor area per development site, and retail sales of the products manufactured is provided on-site, and the sale of food frequently accounts for a substantial portion of the receipts of the establishment.**

**PP. Confectionary Store: Establishments primarily engaged in manufacturing confectionery for direct sale on the premises to household consumers provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5441**

**16.22.020 Conditional uses.**

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

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

B. Parking lot or parking structures;

C. Attached WTS facilities (see 16.08.120). (Ord. 890 section 25, 1993; Ord. 740 section 10.3.24(B), 1984; Ord. 981 section 22, 1997; Ord. 1076, 2001; Ord 1237, 2007)

~~D. Brew Pub: General Manufacturing of products included in SIC 2082: Malt Beverages, provided the manufacturing does not exceed 7,000 square feet of total floor area per development site, and retail sales of the products manufactured is provided on-site, and the sale of food frequently accounts for a substantial portion of the receipts of the establishment.~~

~~E. Confectionary Store: Establishments primarily engaged in manufacturing confectionery for direct sale on the premises to household consumers provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5441~~

~~F. Bakery, for retail sale primarily on premises; Establishments primarily engaged in the retail sale of bakery products. The products may be purchased from others or made on the premises. Provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5461~~

#### 16.22.030 Development standards.

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

A. Minimum lot area: none;

B. Minimum width and frontage: none;

C. Minimum yard requirements:

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

2. Interior yard: none.

**3. Rear yard: none**

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet.

E. Maximum lot coverage: no limit;

F. Other regulations:



1. Vision clearance distances shall be ten feet from an alley and fifteen feet from any other street.
2. Sidewalks a minimum of eleven (11) feet in width shall be required in commercial locations unless existing building locations or street width necessitate a more narrow design.
3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet (not including awnings); mechanical units, used for the heating/cooling of residential units, are exempt from interior and/or rear yard setback requirements.
4. New commercial buildings, particularly retail shopping and offices, shall be oriented to the street, near or at the setback line. A main entrance shall be oriented to the street.
5. Off-street motor vehicle parking for new commercial developments shall be located at the side or behind the building(s). (Ord 740 section 10.3.24(C), 1984; Ord. 981 section 48, 1997; Ord. 1043 section 3, 2000; Ord. 1076, 2001; Ord 1237, 2007)

**16.22.040 Design Review Matrix.**

- A. For design review applications located in the C-1 zone the following matrix shall apply. This matrix replaces the general matrix contained in Chapter 16.49 for such applications.
- B. A design review application in the C-1 zone shall be considered to be compatible if a minimum of 65 percent of the total possible points (not including bonuses) are accumulated for the whole development, and if the applicant has received a minimum of one point in each applicable category. (Ord. 1076, 2001; Ord. 1080, 2001)

**TABLE 16.22.040**

CRITERIA		POSSIBLE SCORES		
<b>Building Location and Orientation</b>				
Building located at front of property line: Parking in front = 0; 50% of building front at property line = 1; 100% of building front at property line = 2.		0	1	2
Building oriented to street: No = 0; Yes = 2.		0		2
<b>Entrances</b>				
Major retail entrance on street: No = 0; Yes = 2		0		2
Corner building entrances on corner lots: No = 0; Yes = 1		0	1	
Entrance inset (not more than 3 feet behind front glass line except at corner entries): No = 0; Yes = 2.		0		2
<b>Windows</b>				
Regularly spaced and similar-shaped windows – around 70% of storefront area is glass (includes doors). (No mirrored glass): <50% = 0; 50% to 70% = 1; >70% = 2.		0	1	2
Second story windows (where applicable): No = 0; Yes = 2.		0		2
<b>Architectural Details</b>				
Blade sign or painted wall sign (no internally illuminated box signs): No = 0; Yes = 2		0		2
Brick, stucco, and horizontal lap or ship lap painted wood siding; concrete wood or wood siding = 0; concrete masonry, stucco, or similar material = 1; brick or similar appearance = 2.		0	1	2
Colors from recommended color palettes (on file with the City of Canby), or as otherwise approved: No = 0; Yes = 2.		0		2
Cornice treatments to emphasize building tops at parapet-type buildings: flat roofs behind parapets acceptable, otherwise visible roofs should be pitched: no treatment = 0; pitched roof = 1; parapet roof = 2.		0	1	2
All walls have doors, widows, or display windows (no blank walls). Murals, art niches, benches, or light sconces at blank walls where windows are not feasible: no treatment = 0; mural or other treatment = 1; windows or display windows = 2.		0	1	2
Awnings and rain protection of durable canvas, vinyl, glass or acrylic. No awning slope over 45 degrees, with flat or semi-flat awnings along First Avenue and at buildings with windows above entries. Awnings are discontinuous, with lengths generally under 30 linear feet for longer buildings: no awnings = 0; awnings meet criteria = 2.		0		2
<b>Parking</b>				
Off-street parking (if required) located behind or to side of building: No = 0; side = 1; behind = 2		0	1	2
<b>Bonus Points</b>				
Provide usable pedestrian space such as plaza, outdoor seating, or extra-wide pathway/sidewalk near one or more building entrances: No = 0; Yes = 1.		0	1	
Planters and window boxes: No = 0; Yes = 1.		0	1	
Public art (e.g., fountain, sculpture, etc.): No = 0; Yes = 1.		0	1	
Second story residential or office: No = 0; Yes = 1		0	1	

## Chapter 16.24

### C-R RESIDENTIAL/COMMERCIAL ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

#### Sections:

**16.24.010 Uses permitted outright.**

**16.24.020 Conditional uses.**

**16.24.030 Development standards.**

#### **16.24.010 Uses permitted outright.**

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

**A.** Uses permitted outright in the R-1.5 zone, conforming to the development standards of the R-1.5 zone;

**B.** Parking lots or parking structures;

~~**C.** Bakery, for retail sale on premises only;~~

**C. Bakery, for retail sale primarily on premises; Establishments primarily engaged in the retail sale of bakery products. The products may be purchased from others or made on the premises. Provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5461**

*Rewritten for clarity.*

**D.** Barber or beauty shop;

**E.** Bicycle service and repair shop with all business and storage conducted within an enclosed building;

**F.** Church **or places of worship;**

**G.** Ceramic, arts, crafts, or hobby shop, provided that adequate parking exists for any classes given;

- H. Day care center serving fifteen or fewer children or adults;
- I. Locksmith shop;
- J. Magazine or newspaper distribution agency;
- K. Sales, rental or repair of small recreational, radio, television, business or household equipment;
- L. Studio, including music, art, dance, photography or health;
- M. Upholstery shop;
- N. Watch or clock repair;
- O. Business or professional offices;
- P. Rooming or boarding houses;
- Q. Shoe repair;
- R. Dwelling units attached to any use allowed in the C-R zone. (Ord. 890 section 26, 1993; Ord. 740 section 10.3.25(A), 1984)
- S. Brew Pub: General Manufacturing of products included in SIC 2082: Malt Beverages, provided the manufacturing does not exceed 7,000 square feet of total floor area per development site, and retail sales of the products manufactured is provided on-site, and the sale of food frequently accounts for a substantial portion of the receipts of the establishment.**
- T. Confectionary Store: Establishments primarily engaged in manufacturing confectionery for direct sale on the premises to household consumers provided the manufacturing does not exceed 7000 square feet of floor space. SIC 5441**

#### **16.24.020 Conditional uses.**

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

- A. Uses listed as conditional in R-1 or R-1.5 zones, and not listed as permitted in section 16.24.010; residential development shall conform to the development standards of the R-2 zone.
- B. Uses listed as permitted outright in R-2 zones, and not listed as permitted in section 16.24.010. Such uses shall conform to the development standards of the R-2 zone.
- C. Motels or hotels.
- D. Attached WTS facilities (see 16.08.120).

E. Food services, excluding auto-oriented uses. (Ord. 890 section 27, 1993; Ord. 740 section 10.3.25(B), 1984; Ord. 981 section 23, 1997; Ord. 1080, 2001; Ord 1237, 2007)

**F. Self Storage/Miniwarehouse Units. As defined in 16.04.547**

*This use is listed in the NAICS (North American Industrial Classification System) and classified under "Lessors of Miniwarehouses and Self-Storage Units" while other warehouse uses such as general warehousing and other specific warehousing is listed under "Transportation and Warehousing," which is a different classification. The use has aspects that are more commercial or retail in nature and could be considered for some commercial zones. Because of the residential use allowed in the C-R zone, the self-storage use should be permitted with a conditional use application.*

**16.24.030 Development standards.**

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

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

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

C. Minimum yard requirements:

1. Street yard: twenty feet;

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

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

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet.

E. Maximum lot coverage: sixty percent;

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley and thirty feet from any other street or railroad.
2. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet. (Ord. 830, 1989; Ord. 740 section 10.3.25(C), 1984; Ord. 955 section 9, 1996; Ord 1237, 2007)

## Chapter 16.26

### C-C CONVENIENCE/COMMERCIAL ZONE

There is no land zoned C-C in the City limits and the zone is not shown on the City Zoning Map or the Comprehensive Plan Map. The C-R zone has generally the same uses and the zone is somewhat of a duplication. However, the zone is mentioned in the Comprehensive and must be addressed with a plan amendment.

#### Sections:

**16.26.010 Uses permitted outright.**

**16.26.020 Conditional uses.**

**16.26.030 Development standards.**

#### **16.26.010 Uses permitted outright.**

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

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

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

**B.** Minor public facilities. (Ord 740 section 10.3.26(A), 1984; Ord 1237, 2007)

#### **16.26.020 Conditional uses.**

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

**A.** Other commercial uses;

**B.** Dwelling units;

**C.** Attached WTS facilities (see 16.08.120).

**D.** Major public facilities. (Ord. 740 section 10.3.26(B), 1984; Ord. 981 section 24, 1997; Ord. 1237, 2007)

#### **16.26.030 Development standards.**

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

- A.** Minimum lot area: none;
- B.** Minimum width and frontage: none;
- C.** Minimum yard requirements:
  - 1. Street yard: twenty feet.
  - 2. Interior yard: none, except ten feet where adjoining a residential zone;
- D.** Maximum building height:
  - 1. Freestanding signs: thirty feet;
  - 2. All other structures: forty-five feet.
- E.** Maximum lot coverage: sixty percent;
- F.** Other regulations:
  - 1. Vision clearance distances shall be fifteen feet from any alley and thirty feet from any other street or railroad.
  - 2. Except in cases where existing building locations or street width necessitate a more narrow design, sidewalks eight feet in width shall be required:
    - a. In those locations where angle parking is permitted abutting the curb, and
    - b. For property frontage along Highway 99-E.
  - 3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet. (Ord. 830 section 5, 1989; Ord. 802 section 7 [part], 1987, Ord. 740 section 10.3.26 (C), 1984; Ord 1237, 2007)



## Chapter 16.28

### C-2 HIGHWAY COMMERCIAL ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

#### Sections:

**16.28.010 Uses permitted outright.**

**16.28.020 Conditional uses.**

**16.28.030 Development standards.**

#### **16.28.010 Uses permitted outright.**

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

- A.** A use permitted outright in a C-1 zone;
- B.** Miniature golf courses;
- C.** Automobile, motorcycle, boat or truck sales, service, repair, rental, storage or parking;
- D.** Theaters;
- E.** Restaurant, including drive-in;
- F.** Kennel;
- G.** Lumber yard;
- H.** Machinery, farm equipment or implement sales, service or rental;
- I.** Hotel or motel;
- J.** Service station;
- K.** Tire shop, including incidental tire recapping;
- L.** Veterinarian's office or animal hospital;

- M.** Fuel oil distribution, retail, provided all fuel oil storage is underground;
- N.** Nursery and greenhouse;
- O.** Feed and seed store;
- P.** Department store;
- Q.** Similar commercial uses as determined by the Planning Commission.
- R.** Attached WTS facilities (see 16.08.120).
- S.** Detached WTS facilities (monopole), less than 100 feet in height (see 16.08.120). (Ord. 890 section 28, 1993; Ord. 830 section 6, 1989; Ord. 740 section 10.3.28(A), 1984; Ord. 981 section 25, 1997; Ord. 1237, 2007)

**T. Self Storage/Miniwarehouse Units. As defined in 16.04.547**

*This use is listed in the NAICS (North American Industrial Classification System) and classified under "Lessors of Miniwarehouses and Self-Storage Units" while other warehouse uses such as general warehousing and other specific warehousing is listed under "Transportation and Warehousing." The use has aspects that are more commercial or retail in nature and could be considered for some commercials zones.*

**16.28.020 Conditional uses.**

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

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

**16.28.030 Development standards.**

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

- A.** Minimum lot area: none;
- B.** Minimum width and frontage: none;
- C.** Minimum yard requirements:
  - 1.** Street yard: twenty feet where abutting Highway 99-E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. Remaining property none, except ten feet where abutting a residential zone. Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be

measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within or to project over a street right-of-way;

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

**3. Rear yard: none, except ten feet where abutting a residential zone.**

*Interior yard generally refers to side yards only. Rear yard is added for clarification.*

D. Maximum building height:

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

E. Maximum lot coverage: sixty percent;

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad;
2. Except in cases where existing building locations or street width necessitate a more narrow design, sidewalks eight feet in width shall be required;
  - a. In those locations where angle parking is permitted abutting the curb, and
  - b. For property frontage along Highway 99-E.
3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet. (Ord. 830 section 7, 8, 1989; Ord. 802 section 7 [part], 1987; Ord. 740 section 10.3.28(C), 1984; Ord. 981 section 49, 1997; Ord. 1237, 2007)

## Chapter 16.30

### C-M HEAVY COMMERCIAL MANUFACTURING ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics, underlined*

#### Sections:

**16.30.010 Uses permitted outright.**

**16.30.020 Conditional uses.**

**16.30.030 Development standards.**

#### **16.30.010 Uses permitted outright.**

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

- A.** A use permitted outright in a C-2 zone, other than dwelling units;
- B.** Contractor's equipment yard;
- C.** Dwelling for watchman or caretaker working on premises;
- D.** Fuel distribution, wholesale;
- E.** Laundry or Laundromat, with or without dry cleaning operation;
- F.** Motor or rail freight terminal;
- G.** Railroad ~~trackage~~ **tracks** and related facilities;
- H.** Stone cutting and sales;
- I.** Tire retreading, recapping and sales;
- J.** Transfer or storage;
- K.** Utility storage or service yard;
- L.** Similar heavy commercial, storage, or light manufacturing uses as determined by

the Planning Commission.

**M.** Attached WTS facilities (see 16.08.120).

**N.** Detached WTS facilities (monopole), less than 100 feet in height (see 16.08.120). (Ord. 890 section 30, 1993; Ord. 740 section 10.3.29(A), 1984; Ord. 981 section 27, 1997; Ord. 1237, 2007)

**O. Self-Storage/Mini-Warehouse Units. As defined in 16.04.547**

*This use is listed in the NAICS (North American Industrial Classification System) and classified under “Lessors of Miniwarehouses and Self-Storage Units” while other warehouse uses such as general warehousing and other specific warehousing is listed under “Transportation and Warehousing.” The use has aspects that are more commercial or retail in nature but would fit into a commercial zone and should be listed separately for clarity.*

#### **16.30.020 Conditional uses.**

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

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

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

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

**D.** Detached WTS facilities (monopole), equal to or over 100 feet in height (see 16.08.120); (Ord. 740 section 10.3.29(B), 1984; Ord. 981 section 28 & 29, 1997; Ord. 1237, 2007)

#### **16.30.030 Development standards.**

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

**A.** Minimum lot area: none.

**B.** Minimum width and frontage: none.

**C.** Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. **Remaining property none, except ten feet where abutting a residential zone. Properties not fronting on Highway 99E or S. ivy Street shall maintain a 10 foot street yard setback.** Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within, or to project over, a street right-of-way.

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

**3. Rear yard: none, except ten feet where abutting a residential zone.**

D. Maximum building height:

1. Freestanding signs: thirty feet;

2. All other structures: forty-five feet.

E. Maximum lot coverage: sixty percent.

F. Other regulations:

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

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

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

b. For property frontage along Highway 99-E.

3. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet. (Ord 830 section 9, 10, 1989; Ord. 802 section 7 [part], 1987; Ord. 740 section 10.3.29(C), 1984; Ord. 981 section 50, 1997; Ord. 1237, 2007)

4. Outside storage areas abutting a residential zone shall be screened from view by a site-blocking fence, landscaping, or berm and shall be of such material and design as will not detract from adjacent residences.

## Chapter 16.32

### M-1 LIGHT INDUSTRIAL ZONE

Remove = ~~**Strikethrough and Bold**~~

Additions = **Bold and Underline**

Comments = *italics, underline*

#### Sections:

**16.32.010 Uses permitted outright.**

**16.32.020 Conditional uses.**

**16.32.030 Development standards.**

#### **16.32.010 Uses permitted outright.**

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

- A.** Manufacturing, fabricating, processing, compounding, assembling or packaging of products made from previously prepared materials such as cloth, plastic, paper, metal, wood (but not including sawmills or lumber mills), the operation of which will not result in
  - 1.** The dissemination of dusts, gas, smoke, fumes, odors, atmospheric pollutants or noise which exceed Oregon Department of Environmental Quality standards
  - 2.** Danger by reason of fire, explosion or other physical hazard;
  - 3.** Unusual traffic hazards;
- B.** Automobile body shop, or heavy repair shop;
- C.** Contractor's equipment or storage yard;
- D.** Dwelling for watchman or caretaker working on the property;
- E.** Food processing plant;
- F.** Fuel distribution, wholesale or retail;
- G.** Ice or cold storage plant;

- H.** Laundry or dry-cleaning plant;
- I.** Lumber yard;
- J.** Machinery, farm equipment or implement sales, service or rent;
- K.** Motor or rail freight terminal;
- L.** Railroad ~~trackage~~ tracks and related facilities;
- M.** Restaurant, when related and incidental to primary industrial uses of the area;
- N.** Service station, when related and incidental to primary industrial uses of the area;
- O.** Stone, marble, or granite cutting;
- P.** Tire retreading or recapping;
- Q.** Transfer and storage company;
- R.** Utility storage or service yard;
- S.** Veterinarian's office or animal hospital;
- T.** Warehouse;
- U.** Wholesale distribution, including warehousing and storage;
- V.** Wireless or cellular communications facility/tower;
- W.** Other light industrial uses as determined by the Planning Commission;
- X.** Business or professional office, when related and incidental to primary industrial uses of the area;
- Y.** Public building or uses such as fire station, or park or playground.
- Z.** Attached WTS facilities (see 16.08.120).
- AA.** Detached WTS facilities (monopole or lattice tower), under 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).
- BB.** Detached WTS facilities (monopole), under 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).



**CC.** Detached WTS facilities (monopole), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).

**DD.** Minor public facility. (Ord. 890 section 31, 1993; Ord. 749 section 1(A), 1984, Ord. 740 section 10.3.31(A), 1984; Ord. 995 section 10 & 11, 1996; Ord. 981 section 30 & 31, 1997; Ord. 1019 section 10, 1999; Ord. 1237, 2007)

**EE. Brewery: General Manufacturing of products included in SIC 208: Beverages.**

**16.32.020 Conditional uses.**

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

**A.** Commercial recreation uses;

**B.** Motels, hotels and similar accommodations;

**C.** Other heavy commercial or light industrial uses as determined by the Planning Commission;

**D.** Waste and/or recycling transfer operations.

**E.** Detached WTS facilities (monopole), equal to or over 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).

**F.** Detached WTS facilities (lattice tower), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).

**G.** Major public facility, except as modified by Section 16.32.010. (Ord. 960, section 2, 12/18/96; Ord. 890, section 32, 1993; Ord. 740 section 10.3.31(B), 1984; Ord. 981 section 32, 1997; Ord. 1237, 2007)

**16.32.030 Development standards.**

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

**A.** Minimum lot area: five thousand square feet;

**B.** Minimum width and frontage: fifty feet;

**C.** Minimum yard requirements:

1. Street yard: twenty feet where abutting Highway 99E and S. Ivy Street. Gas station canopies shall be exempted from the twenty foot setback requirements. **Remaining property none, except ten feet where abutting a residential zone. Properties not fronting on Highway 99E or S. Ivy Street shall maintain a 10 foot street yard setback.** Sign setbacks along Highway 99-E and S. Ivy Street are to be measured from the face of the curb rather than the lot line. Where no

curb exists, the setback shall be measured from the property line. Other than signs which are nonconforming structures and street banners which have been approved per the requirements of the Uniform Sign Code, no signs will be allowed to be located within, or to project over, a street right-of-way.

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

**3. Rear yard: none, except ten feet where abutting a residential zone.**

*A minimum front street setback should be imposed to prevent sight vision issues along the street frontage and to provide open space and areas for landscaping. Under current provisions large industrial/manufacturing buildings can be constructed to the property line along the street frontage.*

D. Maximum building height:

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

E. Maximum lot coverage: no limit.

F. Other regulations:

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad.
2. All setbacks to be measured from the foundation line of the building. Overhangs shall not exceed two feet.
3. Prior to issuance of a building permit, wireless/cellular towers require written certification of approval/compliance from the Federal Communications Commission, Federal Aviation Administration and the Oregon Department of Transportation (Department of Aeronautics). (Ord. 890 section 33, 1993; Ord. 830 section 11, 12, 1989; Ord. 740 section 10.3.31(C), 1984; Ord. 955 section 12, 1996; Ord. 981 section 51, 1997; Ord. 1237, 2007)
4. Outside storage areas abutting a residential zone shall be screened from view by a site-blocking fence, landscaping, or berm and shall be of such material and design as will not detract from adjacent residences.

## Chapter 16.34

### M-2 HEAVY INDUSTRIAL ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics, underline*

#### Sections:

**16.34.010 Uses permitted outright.**

**16.34.020 Conditional uses.**

**16.34.030 Development standards.**

**16.34.010 Uses permitted outright.**

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

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

**16.34.020 Conditional uses.**

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

A. Aggregate removal operations;

B. All other uses when evaluated on the standards and criteria specified in Chapter 16.50 and the point system set out in Table 16.34.020 for evaluating heavy industrial development proposals.

C. Detached WTS facilities (monopole), equal to or over 100 feet in height and less than 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120).

D. Detached WTS facilities (lattice tower), equal to or over 150 feet in height and at least 660 feet from the nearest land zoned or planned for residential use or Highway 99E (see 16.08.120). (Ord. 740 section 10.3.33(B), 1984; Ord. 981 section 33, 1997)

**16.34.030 Development standards.**

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

A. Minimum lot area: five thousand square feet;

B. Minimum width and frontage: fifty feet.

**C. Minimum yard requirements:**

1. Street yard: **ten feet**, twenty feet where abutting a residential zone;
2. Interior yard: none, except twenty feet where abutting a residential zone.
3. **Rear yard: none, except twenty feet where abutting a residential zone.**

A minimum front street setback should be imposed to prevent sight vision issues along the street frontage and to provide open space and areas for landscaping. Currently, large industrial buildings can be constructed along the street frontage property line.

**D. Maximum building height:**

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

**E. Maximum lot coverage: no limit.**

**F. Other regulations:**

1. Vision clearance distances shall be fifteen feet from any alley or driveway and thirty feet from any other street or railroad;
2. Outside storage areas abutting a residential zone shall be screened from view by a site-blocking fence, landscaping, or berm and shall be of such material and design as will not detract from adjacent residences.

**M-2 Conditional Use Review Matrix  
Table 16.34.020**

Explanation: When considering conditional use applications for the M-2 Zone, each of the following characteristics will be evaluated by the Planning Commission and assigned a certain number of points (positive and negative). A net point total of "0" will be considered to be the prerequisite for approval of an M-2 conditional use. In entering its findings of fact for its decision, the Commission shall indicate its findings regarding the following:

CRITERIA	POINTS
Traffic impacts, particularly heavy truck traffic and its impact on non-industrial areas and streets	-10 – 0
Noise impacts, especially loud and high-pitched noise and noise expected to occur at night	-10 – 0
Air pollution, including odors as well as measurable pollutants	-10 – 0
Water pollution, including impacts on groundwater and surface water as well as any unusual or hazardous discharges to the city sewage treatment facility	-10 – 0
Water consumption, especially where city water is utilized rather than a private source	-10 – 0
Electrical consumption	-10 – 0
Other adverse impacts, which may include factors not listed above or may be used to add more negative point to any of the items already listed, where extreme adverse impacts are expected	-40 – 0

Tax benefits to the community, particularly for property taxes beyond the costs of providing public services	0 - +20
Total number of persons to be employed	0 - +10
Number of local persons who can expect to be employed, based upon percentages of skilled, semi-skilled and unskilled positions	0 - +10
Reliance on locally produced resources and locally processed materials	0 - +10
Export characteristics and residual benefits to other local industries	0 - +10
Other community benefits, including particularly advantageous design characteristics, etc. May also be used to add more positive points to each of the factors listed above where extremely beneficial impacts are expected	0 - +40
Low Impact Design and sustainability Features	0 - +20

## Chapter 16.35

### CANBY INDUSTRIAL AREA OVERLAY (I-O) ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics, underlined, and bold*

#### Sections:

- 16.35.010 Purpose.
- 16.35.020 Applicability.
- 16.35.025 Pre-application review and conditions of approval.
- 16.35.030 Uses permitted outright.
- 16.35.040 Conditional uses.
- 16.35.045 Prohibited uses.
- 16.35.050 Development standards.
- 16.35.060 Design guidelines.
- 16.35.070 I-O design review matrix.

#### 16.35.010 Purpose.

The purpose of the Canby Industrial Area Overlay (I-O) zone is to implement the design guidelines and standards of the Canby Industrial Area Master Plan (Master Plan):

- A. Provide efficient circulation and access;
- B. Allow flexibility in siting development, including a range of industrial and commercial/industrial land uses;
- C. Provide visual continuity for streetscapes and developments;
- D. Encourage durable, high quality building materials.

The zone is intended to ensure high-quality industrial development with a mix of employment types and uses. (Ord. 1008 section 1 [part], 1998; Ord. 1057 section 2 [part], 2000)

#### 16.35.020 Applicability.

It is the policy of the City of Canby to apply the I-O zone to all lands within the Canby Pioneer Industrial Park Master Plan area and other areas determined by the City, as defined in the Industrial Area Master Plan. The Master Plan area generally includes the area bound by Highway 99E and 1<sup>st</sup> Avenue to the north, Mulino Road to the east, SE 13<sup>th</sup> Avenue to the

south, and the Molalla Forest Logging Road Trail to the west. The I-O zone has the following affect with regard to other chapters of this ordinance:

- A.** Incorporates the Canby Industrial Area Master Plan into Title 16. The Master Plans design guidelines, standards, and plan maps are hereby incorporated by reference.
- B.** Permits land uses which are permitted by the underlying zone districts (C-M, M-1, M-2), with some exceptions.
- C.** Replaces selected development standards contained in the C-M, M-1, and M-2 zones, for continuity and quality of site design within the Master Plan area.
- D.** Utilizes the City's processes for development review, including land divisions, conditional uses, and design reviews. Provides a design review matrix (i.e., replacing the table in Chapter 16.49) which is tailored to the Master Plan area.
- E.** Provides additional conditional use standards to ensure development compatibility.
- F.** Lists uses that are prohibited outright due to incompatibility with the goals for the area. (Ord. 1008 section 1 [part], 1998; Ord. 1057 section 2 [part], 2000)

#### **16.35.25 Pre-application review and conditions of approval**

- A.** A pre-application meeting with utility and service providers is required prior to any land use application, building permit application, or business license application in the I-O zone, unless this requirement is waived by the City Planner. The City Planner shall provide application forms for this purpose indicating all required information. The pre-application meeting shall allow utility and service providers to make a detailed assessment of the proposed use prior to forming a recommendation on approval. In addition, this meeting will allow the City to evaluate whether a Conditional Use Permit will be required.
- B.** At the pre-application meeting, the City shall determine the need for a Hazardous Materials Management Plan. If required by the City, the applicant shall prepare a plan meeting the relevant sections of the Oregon Fire Code as determined by the City. The Plan shall allow utility and service providers to review the health and safety impacts of any proposed use and ensure an adequate plan will be in place to address those impacts prior to forming a recommendation on approval.
- C.** The Planning Commission or City Council may impose conditions to protect public health and safety on any discretionary land use application. (Ord. 1057 section 2 [part], 2000; Ord. 1237, 2007)

#### **16.35.030 Uses permitted outright.**

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

#### **16.35.040 Conditional uses.**

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

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

1. Less than ~~12~~ **3** employees per developed acre. For the purposes of this section only, “developed” means all areas used for buildings, landscaping, vehicle maneuvering and parking areas, outdoor storage, and other areas occupied by the use. For the purposes of this section only, employees means full-time equivalents unless the City specifically allows other interpretations;

*The standard of 12 employees per developed acre is in conflict with almost every use that has been proposed in the Industrial Park over the past few years. The types of uses are warehouses, distribution, multi-use industrial buildings or other proposals have all required less than 12 employees and have been approved by the Planning Commission through the Conditional Use Permit process.*

2. More than 60 acres total in I-O zoning that is occupied by a single use or business. For the purposes of this section, businesses classified in the same NAICS industry group (four-digit code) are considered to be in the same use. This section is intended to apply cumulatively to all properties in the zone;
3. Utilization of any public service or utility to such an extent that the utility would not be able to supply all other uses projected in its current long-range plans;
4. Uses requiring an H occupancy under the Oregon Structural Specialty Code;
5. In any C-M zoning overlain by I-O zoning, any retail or commercial use with a building footprint exceeding 50,000 square feet;
6. In any M-1 or M-2 zoning overlain by I-O zoning, any retail or commercial use not related to or supportive of the primary industrial use of the park; or
7. In any M-1 or M-2 zoning overlain by I-O zoning, retail areas occupying more than 15% of the building footprint.

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

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



2. The proposed use does not pose a threat to public health or safety; and
3. The proposed use is beneficial to the overall economic diversity and vitality of the City.

These criteria are in addition to those provided in Section 16.50.010. In all other aspects, the conditional use process shall be as specified in Chapter 16.50. (Ord 1008 section 1 [part], 1998, Ord. 1057 section 2 [part], 2000; Ord. 1237, 2007).

**16.35.045 Prohibited uses.**

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

- A. Slaughter house;
- B. Rendering, reduction, or distillation of, or manufacturing from, animals, fish and their by-products;
- C. Auto, truck or motorcycle race track;
- D. Auto, truck, or motorcycle wrecking or salvage yard;
- E. Scrap metal storage and sales;
- F. Reclamation or manufacturing of steel barrels or drums;
- G. Dump or landfill, including rubbish, slag, organic materials, offal, or garbage in general;
- H. Livestock feeding pen, other than those associated with existing agricultural uses;
- I. Fireworks manufacturing or the manufacturing of ammunition or explosives;
- J. Nuclear power plant or similar use;
- K. Curing and storage of hides;
- L. Incinerator, smelter, blast furnace, or coke oven;
- M. Manufacture of oils, gasoline, or products made directly from petroleum, other oils, or tar products;
- N. Fertilizer production;
- O. Creosote production;
- P. Insecticide production;
- Q. Tire manufacturing;

R. Saw, shingle, or lumber mill; and

S. In any M-1 or M-2 zoning overlain by I-O zoning, commercial or retail uses over 50,000 square feet are prohibited.

This list should not be used to imply that any other use is permitted. (Ord. 1057 section 2 [part], 2000)

**16.35.050 Development standards.**

The following subsections indicate the required development standards of the I-O zone. These standards replace the standards of the C-M zone, M-1 zone, and M-2 zone, as follows:

A. Minimum lot area: none.

B. Minimum lot width and frontage: none.

C. Minimum yard requirements (measured from building foundation to right-of-way line):

1. Street yards(s): 20 feet for buildings up to 25 feet in height; 35 feet for buildings between 25 feet and 45 feet in height. Parking and internal drives (except curb cuts and entrance drives) are prohibited within the required 20 foot street yard.

2. Interior yard: 10 feet, except 20 feet where abutting a residential zone. Common-wall lot lines (attached buildings), and development which provide shared parking and circulation with abutting developments, are exempt from interior yard standards.

**3. Rear yard: 10 feet, except 20 feet where abutting a residential zone. Common-wall lot lines (attached buildings), and development which provide shared parking and circulation with abutting developments, are exempt from interior yard standards.**

D. Maximum building height: 45 feet.

E. Maximum lot coverage: 60 percent in the C-M zone; none in the M-1 and M-2 zones.

F. Street access (curb cuts) spacing shall be a minimum of 200 feet on designated parkway and collector streets.

G. Street right-of-way improvements shall be made in accordance with the Canby Transportation System Plan (TSP).

H. Building orientation standards. The following standards are intended to ensure direct, clear, and convenient pedestrian access:

1. Development in the M-1 zone and M-2 zone shall provide at least one public entrance facing the street. A direct pedestrian connection shall be provided between the primary building entrance and public sidewalk.

2. Developments within the C-M zone shall provide continuous, straight-line pedestrian connections between the street(s), buildings, and parking areas.

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

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

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

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

M. All landscaped areas shall be irrigated unless drought tolerant plants are installed and watered until well established and replaced in event of failure.

N. Other regulations: The C-M zone, M-1 zone, and M-2 zone provide other applicable regulations related to vision clearance, Highway 99E sidewalk width, setback measurement, outside storage, and wireless/cellular tower certification. (Ord. 1008 section 1[part], 1998; Ord. 1237, 2007; Ord. 1299, 2008)

**O. Open storage or “laydown yards” shall be screened by a six foot site-obscuring fence or hedge-type vegetation that would become a solid site obscuring barrier within three years of planting.**

*Based on advice of a nationwide industrial site selector, who visited Canby and stated that quality industry parks throughout the country screen outdoor storage areas, this provision should be added as a development standard. Also, the standard should be placed in fairness to existing surrounding business operations that have maintained landscaping over the years to enhance their business location. Additionally, screening would maintain the quality of the industrial park in order to attract future high-end industrial uses to Canby.*

#### **16.35.060 Design guidelines.**

The Industrial Area Master Plan provides design guidelines for reviewing development applications. The guidelines, which are incorporated into Table 16.35.040, encourage:

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

#### **16.35.070 I-O Design review matrix.**

The City uses the following matrix to evaluate compliance with the I-O design guidelines. The matrix substitutes for the general design review matrix provided in Chapter 16.49. Design review applications must comply with all other applicable provisions of Chapter 16.49, and achieve scores equal to or greater than the minimum acceptable scores in the matrix. (See Master Plan for illustrations.)

- A.** Exception: The City may reduce the minimum acceptable score(s) upon finding that certain provisions do not apply to a proposed development.

Industrial Overlay Design Review Matrix  
**Table 16.35.040**

CRITERIA	Possible Scores
<b><u>Parking</u></b>	
Parking areas located to the side or rear of buildings as viewed from public right-of-way: <50% of parking spaces=0; 50%-75%=1; 75%-100%=2.	<b>0   1   2</b>
Increase minimum interior parking lot landscape over the base 15%: 15%-18%=0; 18%-22%=1; >22%=2.	<b>0   1   2</b>
Increase the base number of trees required by 16.49.120 (all landscape islands must contain 1 tree, 1 tree for every 40' along the required setback): 100%-105% of base requirement=0; 105%-110% of base requirement=1; >110%=2; (# of trees proposed/# of trees required x100=% of base requirement)	<b>0   1   2</b>

Number of parking spaces provided: (% of required minimum): >110%=0; 110%-105%=1; 105%-100%=2. See Table 16.10.050 for required parking. (# of spaces proposed/# of spaces required x100=% of required minimum)	<b>0   1   2</b>
<b>Minimum Acceptable Score</b>	<b>4 points</b>

<b><u>Transportation/Circulation</u></b>	
Design private, on-site pedestrian pathways: 6' painted ways=0; 6' brick/paver ways=1; 6' brick/paver & raised concrete ways=2	<b>0   1   2</b>
Number of pedestrian connections between the street sidewalk and internal circulation system: One connection = 0 Two or more connections = 1	<b>0   1   2</b>
<b>Minimum Acceptable Score (some provisions may not apply)</b>	<b>2points</b>

<b><u>Landscaping</u></b>	
Trees installed at 3 inch caliper: <25% of trees=0; 25%-50%=1; 50%-100%=2.	<b>0   1   2</b>
Usable outdoor amenity provided with development (e.g., water features, plazas, seating areas, and similar features): no=0; yes=1; yes and for public use =2.	<b>0   1   2</b>
Amount of grass (less grass is better) (% of total landscaped area)>50%=0; 25%-50%=1; <25%=2	<b>0   1   2</b>
<b>Minimum Acceptable Score</b>	<b>3 points</b>

<b><u>Building Appearance and Orientation</u></b>	
Building orientation at or near the street: parking or drive separates building from street=0; at least 20% of elevation within 5 feet of minimum setback=1; at least 20% of elevation is at minimum setback=2.	<b>0   1   2</b>
Building entrances visible from the street: no=0; yes=1.	<b>0   1</b>
Buildings use quality materials: concrete, wood, or wood siding=0; concrete masonry, stucco, or similar material=1; brick or stone=2.	<b>0   1   2</b>
Articulation and/or detailing to break up large building surfaces and accentuate the building entrance(s): no=0; yes=2.	<b>0   2</b>
<b>Minimum Acceptable Score</b>	<b>4 points</b>

## Chapter 16.41

### DOWNTOWN CANBY OVERLAY (DCO) ZONE

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections

- 16.41.010 Purpose.**
- 16.41.020 Applicability.**
- 16.41.030 Uses permitted outright.**
- 16.41.040 Conditional uses.**
- 16.41.050 Development standards.**
- 16.41.060 DCO site and design review guidelines.**
- 16.41.070 DCO site and design review standards.**

#### **16.41.010 Purpose.**

The purpose of the Downtown Canby Overlay (DCO) zone is to:



**Figure 1**

Commercial development example concept



**Figure 2**

Cohesive architectural elements create a human-scale environment

**A.** Encourage more intense development in the Core Commercial area and allow for more intensive development in the Transitional Commercial area over time. Intensity of development and the relationship between setbacks, lot coverage and floor area ratio address this objective. Floor area ratios (FAR) are intended to work with building height and setback standards to control the overall bulk of the building. The proposed FAR in conjunction with the maximum lot coverage ensures that the development will be a minimum of two floors along the street in the C-1 portion of the Core Commercial area.

**B.** Create a pedestrian friendly environment in the Core Commercial and Transitional Commercial areas while allowing for a more auto-oriented focus in the Outer Highway Commercial area. A comfortable pedestrian-oriented environment and limited setbacks are important in the Core Commercial and



**Figure 3**

A high degree of transparency (windows) helps create a sense of interaction between activities inside and outside the building



**Figure 4**

More auto-oriented uses in the Outer Highway Commercial area



Transitional Commercial areas. In the Outer Highway Commercial area, a portion of development should be closer to the road to provide visual connection and signal that drivers are entering an urban area. Larger setbacks in the Outer Highway Commercial area also allows for more landscaping, access and other improvements between buildings and street.

**C.** Ensure that building sizes reflect desired uses in the Core Commercial and Transitional Commercial areas. Requirements limit the size of the building footprint to 40,000 square feet in these areas. For the purpose of understanding the scale of development, the proposed maximum allows for the creation of a high end grocery store (e.g., New Seasons, Whole Foods or Zupans). The proposed maximum differentiates developments in this area from those in the Outer Highway Commercial area. Maximum building footprints are much larger in the Outer Highway Commercial area.

**D.** Ensure compatibility among adjacent uses within the Transitional Commercial area as it changes over time. Requirements for massing and form will help ensure compatibility if uses in this area increase over time, while allowing for a broader range of building sizes than currently exists.

**E.** Maintain an attractive, visually pleasing environment that is relatively free of structures or activities that detract from it. Most buildings have areas devoted to services and equipment. These uses can be noisy, noxious and unsightly. Screening requirements reduce the impact of these structures and activities. Placement on an alley also may be an option. Furthermore, limitations on exterior storage and display will help reduce visual clutter while allowing flexibility for retail merchants and eating and drinking establishments.



**Figure 5**

Smaller-scale commercial use in the Transitional Commercial area

**F.** Ensure adequate accessibility to and within sites by a variety of travel modes, along with attractively designed parking and loading areas. Parking standards for automobiles and bicycles are intended to allow for ready access to commercial uses by all modes and create attractive “green” sites that enhance human and environmental health. (Ord 1296, 2008)

#### **16.41.020 Applicability.**

**A.** It is the policy of the City of Canby to apply the DCO zone to all lands located within the boundaries illustrated on the Downtown Canby Framework Diagram; the boundaries of the overlay district, and boundaries of the three sub-areas, are as shown in this chapter, Figure 11. The three sub-areas are established as follows:



**Figure 6**

Example of high-quality screening design



**Figure 7**

Example of well-planned landscaping

**1. Core Commercial Area.** This area straddles Highway 99E and includes portions of both the C-1 and C-2 zones and forms the densest commercial area of the city, as well as the city’s primary community facilities – city hall, police station, library, etc.

**2. Transitional Commercial Area.** This is the transitional area that lies between the more intense Downtown Core Commercial area and the established single-family neighborhoods to the north and northeast. The two Transitional Commercial nodes are tucked between 3<sup>rd</sup> and 4<sup>th</sup> and Fir and Douglas on the west side of Downtown, and 3<sup>rd</sup> and 4<sup>th</sup> and Holly and Knott on the east side.

**3. Outer Highway Commercial Area.** The Outer Highway Commercial area extends along Highway 99E both south of Elm Street and north of Locust Street. This area is quite different from the Core Commercial and Transitional Commercial areas, by nature of its highway access and orientation. The design focus in this area is less about creating a high-quality pedestrian experience, and more about



ensuring that automobile-oriented design is built to the highest standard possible.

**B.** The DCO zone has the following effect with regard to other chapters of this ordinance:

1. Permits land uses which are permitted by the underlying zone districts, with some exceptions, as set forth in Sections 16.41.030 and 16.41.040.
2. Replaces selected development standards in the underlying zone districts, as set forth in Section 16.41.050.
3. Sets forth alternative design review standards and criteria tailored to implement the goals of the overlay zone, as set forth in Section 16.41.060. (Ord. 1296, 2008)

**C.** The DCO does not apply to approved Public Art Murals as defined in CMC Chapter 2.80.020. (Ord. 1341, 2011)

**16.41.030 Uses permitted outright.**

Unless modified pursuant to the following Subsection, uses permitted outright in the underlying base zones are permitted outright in the DCO zone, subject to the respective zone district boundaries.

**A.** Uses permitted in the C-1 zone are permitted in the DCO zone, except in the Transitional Commercial (TC) sub-area, the following residential uses are also permitted, provided they meet all R-2 development standards in Chapter 16.20:

1. Single-family dwelling having common wall construction;
2. Two-family dwelling;
3. Multi-family dwelling;



**Figure 8**  
These buildings in the commercial core illustrate desired design features in that area



**Figure 9**  
Examples of less intensive development in the Transitional Commercial area



**Figure 10**

Examples of development in the Outer Highway Commercial area

4. Accessory dwelling attached to a primary dwelling (sharing a common wall);

5. Boarding, lodging or rooming house;

6. Nursing home: **as defined in Section 16.04** ~~convalescent home, home for the aged, board and care home, foster care home, etc;~~

*The terms for the uses removed seem to be outdated and did not appear in the ORS. Convalescent home is synonymous with Nursing Home. Foster care home is defined separately under Chapter 16.04 and added under "9" below.*

7. Zero-lot line development for uses otherwise allowed, provided that the minimum side yard setback shall be 7 feet when adjacent to housing with standard setbacks;

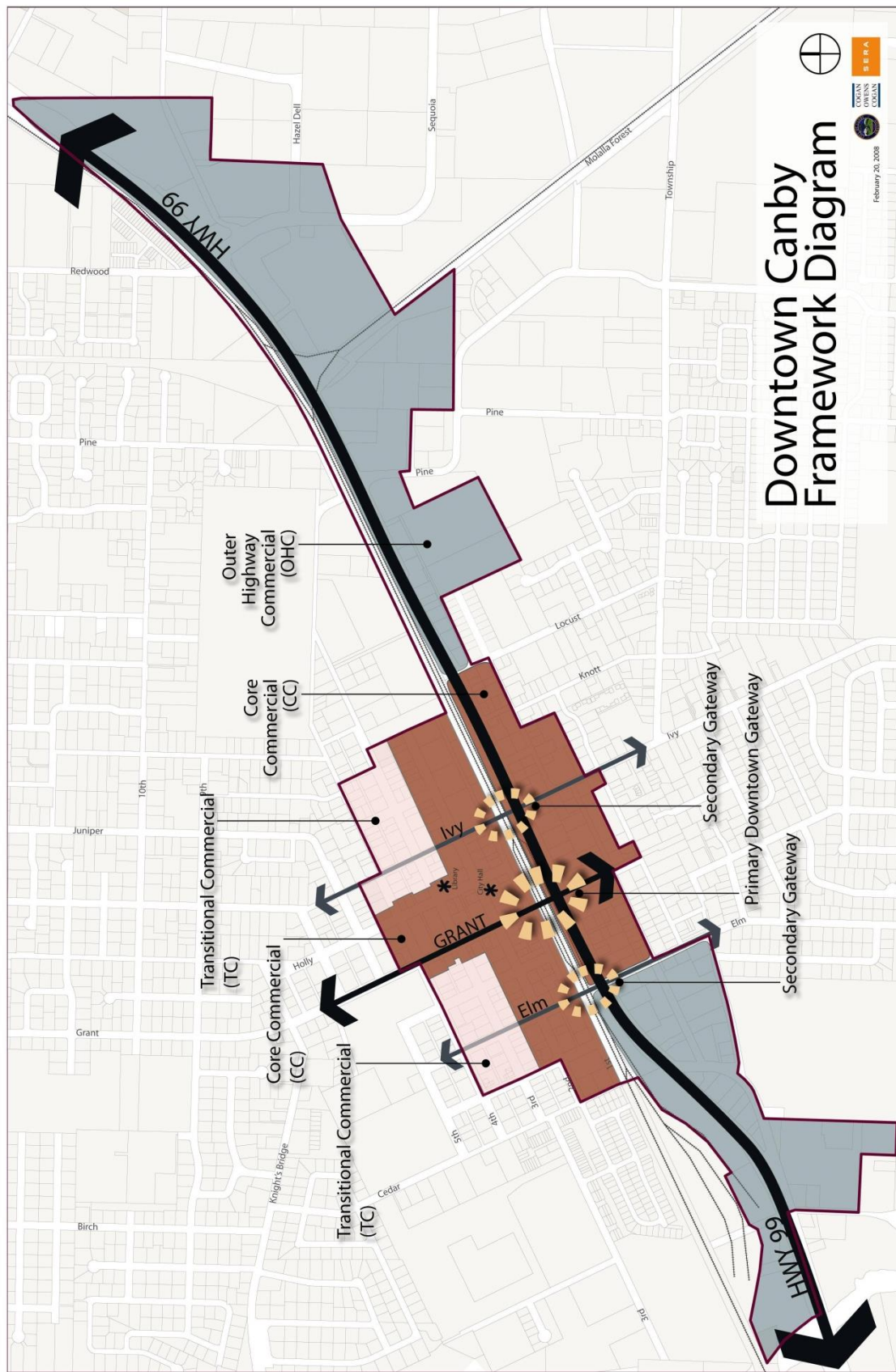
8. Accessory uses. (Ord 1296, 2008)

**9. Foster Care Home; as defined in Section 16.04**

#### **16.41.040 Conditional uses.**

Unless modified pursuant to the following Subsection, conditional uses in the underlying base zones are conditionally permitted in the DCO zone, subject to the respective zone district boundaries.

**A.** Uses conditionally permitted in the C-1 zone are conditionally permitted in the DCO zone, except in the Transitional Commercial (TC) sub-area, any use listed above in 16.41.030 is permitted outright. (Ord. 1296, 2008)



**Figure 11** Downtown Canby Overlay Zone

#### 16.41.050 Development standards.

The following subsections indicate development standards required in the DCO zone. These standards supplement, and in some cases replace, the development standards in the underlying base zones. Where the standards set forth in the following subsections conflict with standards in the underlying base zone, the DCO development standards set forth below supersede the base zone standards.

##### A. Setbacks, Floor Area Ratio, Building Footprint and Height Requirements.

1. Setbacks. Minimum and maximum setbacks for each DCO subarea are described in Table 1 and must meet the following requirements:

a. Mechanical units used for the heating/cooling of dwelling units are exempt from interior yard and rear yard setback requirements.

b. At least x% of the length of each lot frontage shall be developed with a building(s) built at the minimum setback from the street lot line (see Table 1 and 2 and Figure 12). **The remainder of the building frontage shall be setback no more than the maximum setback listed in Table 1 below,**

**Buildings located in the OHC and intended for uses that require a “drive through” and are permitted outright in the zone can increase the setback to a 20 foot maximum from the street lot line frontage.**

*These changes are for clarity of the provision and to allow additional space for drive through businesses that could not otherwise meet the setback criteria.*

c. Where feasible, buildings should be located at one or both street-facing corners of a lot.

d. At the street intersections identified as gateways in Figure 11 (Downtown Canby Overlay Zone Map), any new building shall be located at the corner of the lot facing the intersection.

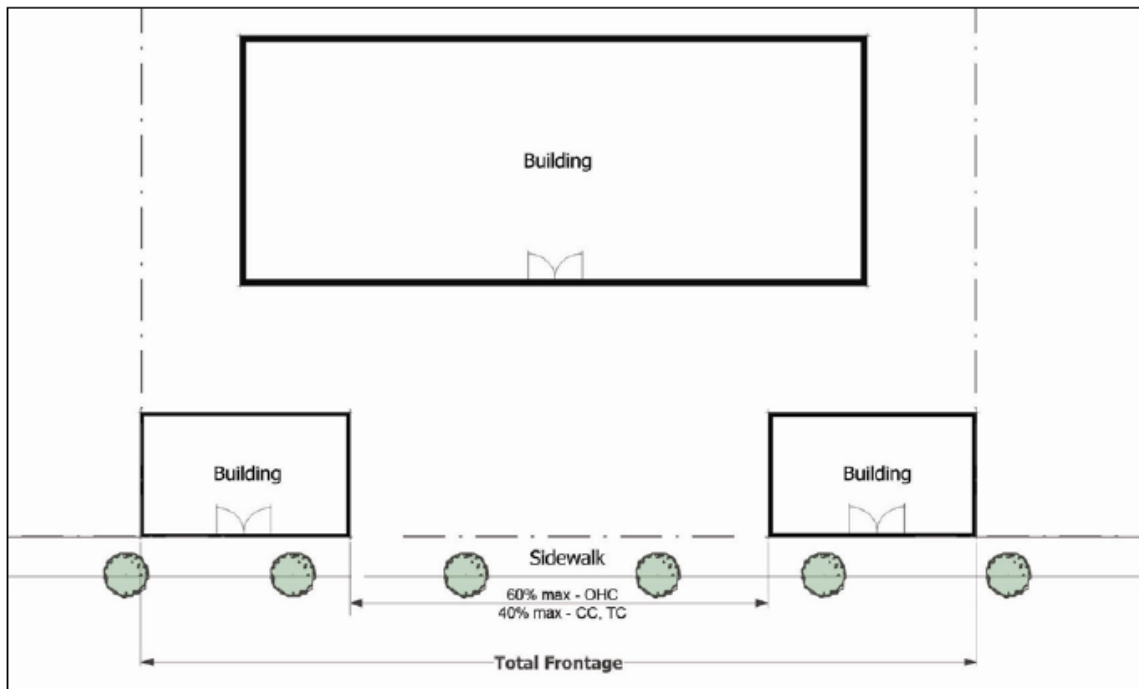
Table 1. Setback Requirements

Standards	CC subarea	TC subarea	OHC subarea
Minimum setback	0 feet	0 feet	10 feet
Maximum setback from street lot lines	10 feet	15 feet	--

Table 2. Street Lot Minimum Setback Requirements

Standards	CC subarea	TC subarea	OHC subarea
Minimum percentage (x)	60%	60%	40%

**Figure 12** Illustration of Building Façade Requirements



2. Floor area ratio, building footprint, and building height. Minimum floor area ratio, maximum building footprint, and maximum building height requirements for each DCO subarea are described in Table 3 and illustrated in Figures 13, 14, and 15. Footprints are exclusive of exterior displays or merchandise (e.g., garden centers).

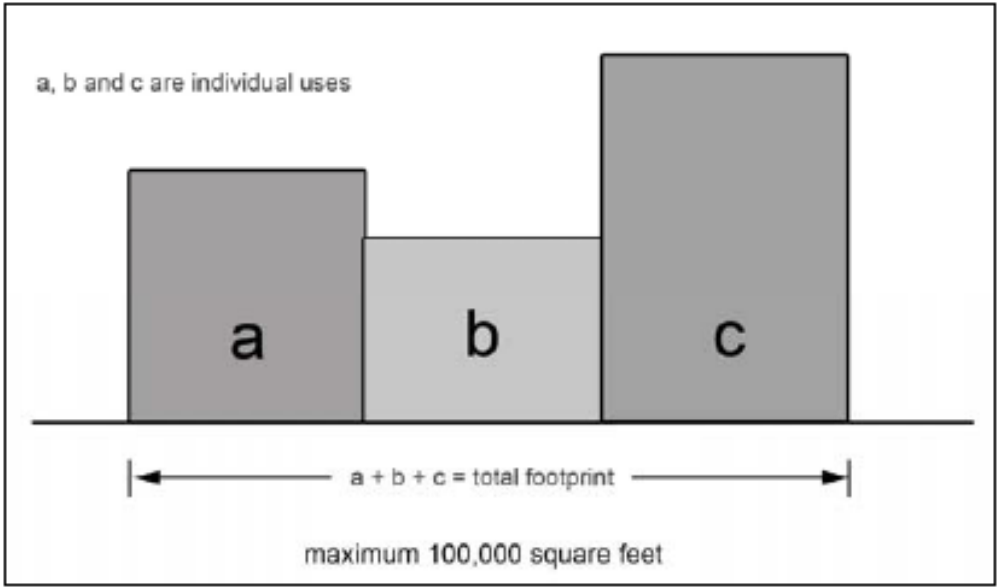
**Table 3.** Floor Area Ratio Requirements

Standards	CC subarea	TC subarea	OHC subarea
Minimum floor area ratio	0.8, C-1 zone only	0.4	<b><u>0.15</u> 0.25</b>
Maximum building footprint (square feet)	30,000 total	20,000 total	80,000 per use 100,000 all uses within footprint if more than 1 use (see Figure 13)
Maximum building height (see Figure 14)	60 feet	45 feet	45 feet

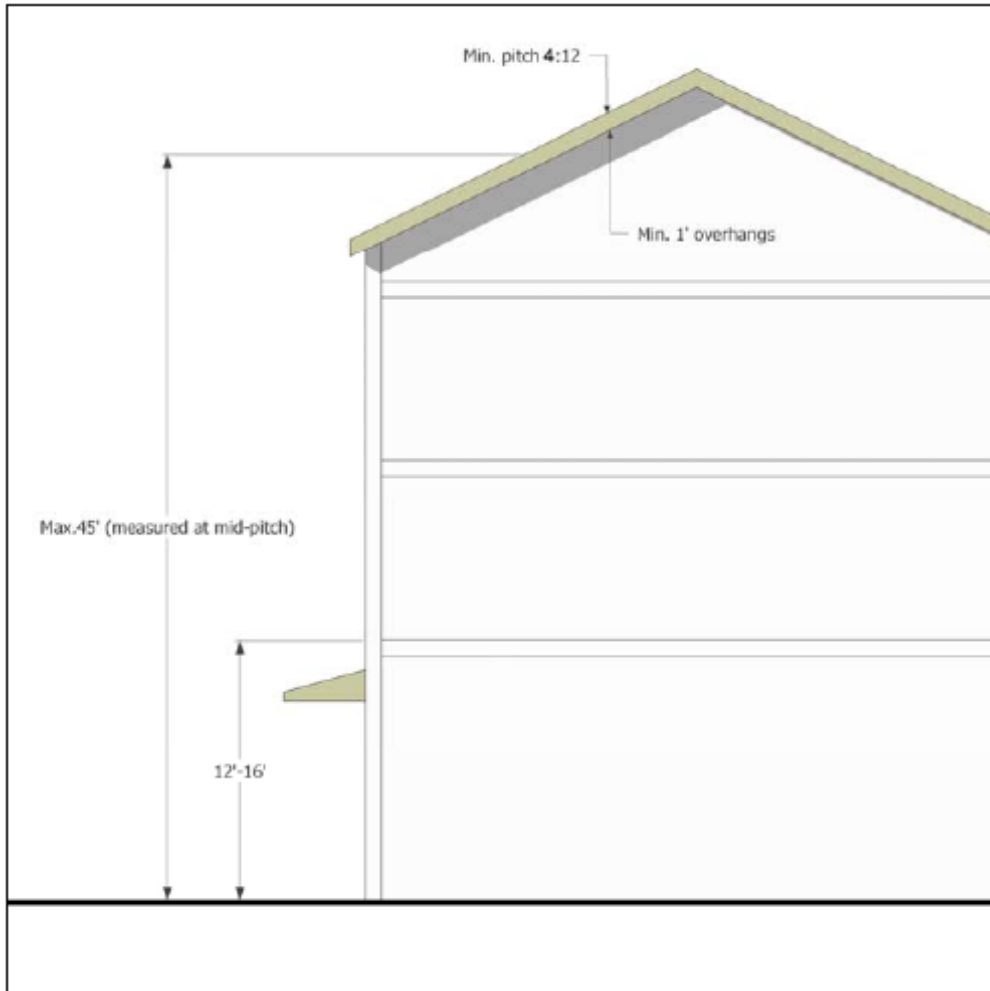
Based on a number of cases that have been processed, it is apparent that the 0.25 minimum floor area ratio for the OHC is too high. These applications for retail uses did not meet this standard. Businesses that are common in OHC subarea include buildings of around 6000 square feet that cluster assorted businesses and shopping

plazas. A lower ratio is more appropriate for the uses that occur along Highway 99E and on other lots that are intended for highway oriented businesses.

**Figure 13** Building Footprint for Multi-Use Structure

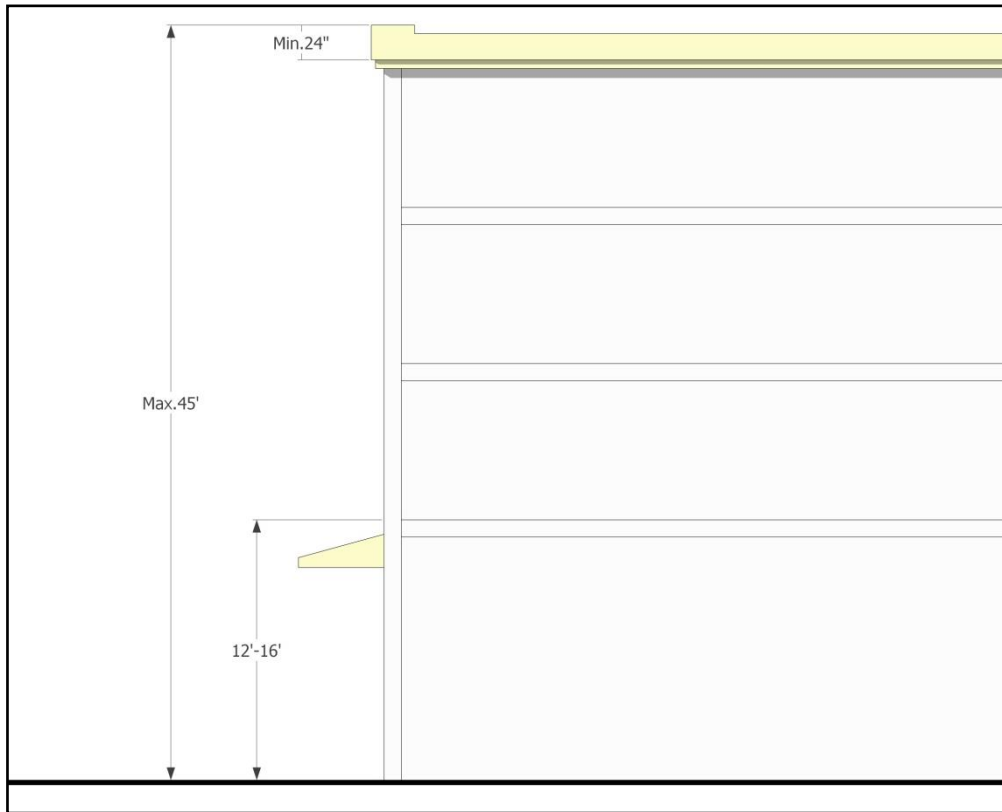


**Figure 14** Building Height Limitations





**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 non-conforming/non-screened exterior garbage collection areas, recycling collection areas and mechanical equipment may be brought into conformance.

**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 than, the base of the building. Screening structures should be compatible with the overall building design and may include the following elements or approaches:



(1) By providing parapets as tall as the tallest part of the equipment with a minimum height of 3 feet and 6 inches;

(2) By incorporating an architectural screen around all sides of the equipment;

(3) By setting the equipment back from the building edge with a setback of at least 3 feet for every 1 foot of building height.



**Figure 16**  
Screening examples

**4. Parking.** Parking areas shall meet the following standards in addition to all other applicable requirements.

**a. Location.** In the CC and TC subareas, parking and vehicle maneuvering areas shall not be located between a building and the street. This standard applies to primary street facing facades and secondary street facing facades, as defined in Sections 16.41.060.C.

**b. Side of building parking areas.** In the CC, TC, and OHC subareas, parking shall be permitted between a building and an interior lot line that is not a rear lot line, provided the following standards are met:

(1) Parking and maneuvering areas shall be set back a minimum of 15 feet from the front lot line;

(2) A minimum 5 foot wide landscaped strip shall surround and abut the perimeter of the parking and maneuvering area, except where vehicular driveways and pedestrian accessways are permitted to interrupt the landscaped strip, and except where the parking and maneuvering area is part of a larger parking area in which case a perimeter landscaping strip is not required between the side of building parking area and the remainder of the parking area;

(3) Parking and maneuvering areas, including accessways and driveways, must not exceed 40 percent of a lot frontage in the TC and CC subareas, or 60 percent of a lot frontage in the OHC subarea;

(4) On lots greater than 120,000 square feet, side parking areas shall be broken up into multiple smaller parking areas rather than

concentrated in one portion of the lot. This may be done through the use of landscaping or the location of multiple buildings on a lot.

**c. Off-street vehicle parking space reduction.** The minimum number of off-street vehicle parking spaces required for all uses located on a lot, as set forth in Chapter 16.10, may be reduced by the total number of on-street vehicle parking spaces located within the width of the frontage of the lot on which the use or uses are located. Such reduction shall be calculated on a one-for-one basis, and shall include only parking spaces located on the same side of the street as the lot frontage. Where an on-street parking space is located adjacent the frontage of two abutting lots, only the lot adjacent the larger portion of the parking space may count the entirety of the parking space towards its off-street parking requirement. (Ord. 1296, 2008)

#### **16.41.060 DCO site and design review guidelines.**

##### **A. Findings and objectives.**

**1.** The City Council finds that physical appearance and design of buildings in the city's primary commercial areas has a strong impact on the community's economic well-being, quality of life and sense of character and identity. High-quality design of these buildings, with special attention to the relationship between buildings, people and the surrounding physical space will help spur investment in the city; enhance use and value of land and improvements; improve the stability and value of property; and generally improve the experience of residents and visitors who use these commercial areas.

**2.** Administration of design standards should be efficient and effective and provide a level of certainty for property and business owners, as well as other community members. It is important to provide a set of clear and objective standards that may be administered relatively quickly and easily for most applicants. At the same time, it is important to provide an alternative path that provides flexibility for applicants that may want to take a more innovative approach which meeting the intent of the clear and objective standards.

**3.** The objectives of the design standards in this section include the following:

**a.** Create a pedestrian-oriented environment through design of ground floors. Fostering interaction between activities within buildings and activities within the public realm (the sidewalk and street) is crucial to

##### **Figure 17**

A high degree of transparency (windows) helps create a sense of interaction between activities inside and outside the building

creating a vibrant and interesting built environment. A high degree of transparency between the two realms creates visual interest for the pedestrian on the sidewalk, and promotes a more active, engaging pedestrian experience. Design of ground floor windows and building entries is important to achieving this goal. In addition, courtyards, arcades and special paving enhance the pedestrian environment by providing pleasing, semi-public transitions between the public and private realms, effectively creating a “threshold” between the sidewalk and the building (see Figure 17).

**Figure 18**

Cohesive visual elements like columns and lighting improve the pedestrian experience



**Figure 19**

Design details such as a recessed entry, columns and decorative transom windows help articulate the ground floor and distinguish it from the upper floors

b. Establish cohesive architectural elements. Well-designed, repetitive building elements tend to create a strong sense of place and leave a lasting physical memory. Cohesive and repetitive architectural “bays” along the street-facing ground floor of a building create a pleasing sense of rhythm for the pedestrian, and help to scale and order the built environment as it is experienced from the sidewalk and street (see Figure 18).

c. Ensure that buildings have a unified design. Providing clear distinctions between different portions of a building is important for the building’s appearance, consistency of design within a larger area and the ability of people to read or understand how the building functions. Building facades should have a clear and distinct base, middle, and top (Figure 19), utilizing horizontal bands and changes in color and / or material / or building massing and form to differentiate these breaks. The base of the building typically extends from the sidewalk to the bottom of the second story or the belt course / string course that separates the ground floor from the middle of the building (see Figure 19).

Given Canby’s desire to create a thriving pedestrian and business district, it is important that uses above the ground floor encourage housing and allow for commercial uses. Upper floor windows should reflect this change in use (see Figure 20). The middle of the building often contains smaller, vertically-oriented windows to reflect changes in use on upper floors. Finally, the top of the building contains a “capping” element which visually terminates the façade and creates visual interest at the top of the building.



**Figure 20**

Upper stories on these uses allow for non-retail uses which are reflected in differing window treatments and other design



**Figure 21**

The chamfered entry on this building reinforces the corner



**Figure 22**

Use of materials such as stone and stucco add to a feeling of permanence

**d.** Reinforce the appearance and function of corners within core commercial area. Incorporating strong architectural elements where streets intersect not only results in a more visually interesting built environment, but enhances the way pedestrians “read” and understand city blocks by creating recognizable and memorable design elements at the corner of each block. For this reason, buildings on corner lots should be designed to not only address, but celebrate the corner (see Figure 21).

**e.** Use materials that reflect the character and values of Canby. Materials evoke emotions among visitors and residents and help define the character of the community. On the positive side, they can evoke a sense of timelessness, permanence, quality, strength and creativity. On the negative side, they may connote feelings of transience, incongruity or inconsistency, weakness or tedium. Standards for materials are important to reflect and enhance the community’s values and quality of life (see Figure 22).

## **B. Applicability.**

### **1. General applicability.**

**a.** Subsection 16.41.060.C and section 16.41.070 define how and where different types of standards apply.

**b.** Design standards apply only to the following: (1) new developments; (2) remodels which represent 60 percent or more of the value of the existing building; (3) façade improvements that would alter the exterior structure of the building.

**c.** Design standards do not apply to the following:

**(1)** Interior remodels not combined with exterior changes and valued at less





**Figure 23**

These buildings in the commercial core illustrate desired design features in



**Figure 24**

The Canby Herald Building in the commercial core incorporates many good design elements including a recessed entry, sign frieze, engaged columns and decorative lighting

than 60 percent of the total improvement value of the property;

(2) Repair and maintenance of buildings, accessory structures, parking lots and pedestrian areas that present an immediate or potential risk of public safety;

(3) Normal or routine maintenance and repair of existing structures;

(4) Any type of construction that does not require a building permit;

(5) Temporary structures and emergency structures permitted pursuant to applicable code standards.

**2. Sub-Areas.** Site and design review standards are applied differently within the three sub-areas described below (see Figure 11).

**a. Core Commercial Sub-Area (CC).** The “downtown” portion of this area extends primarily along 1st and 2nd Avenues between Cedar and Knott Streets, and extends northward, away from Highway 99E along Grant and Holly, past Wait Park to 4th Avenue. This area is the “heart” of Canby. Here one will find the City’s more historic, traditional commercial structures. The built environment is characterized by one to two story buildings with commercial storefronts, built up to the sidewalk, and containing a more or less solid “building wall.” The result is a more active and vibrant street life than may be found elsewhere in the City. Future development in this area should continue this trend, designing commercial and mixed-use buildings that adequately address the sidewalk and create an engaging experience for pedestrians (see Figures 23 and 24).

The inner highway portion of the Core Commercial area spans the length of Highway 99E between Elm and Locust. In



**Figure 25**  
Example of “cottage commercial” design in the Transitional Commercial sub-area



**Figure 26**  
Example of commercial development in the Transitional Commercial sub-area

many ways, it serves as an extension of the Downtown Core, just across the highway. Because this area serves as a “gateway” from Highway 99E into the traditional downtown and serves many of the same purposes and types of uses, buildings here should be appropriately scaled, inviting to pedestrians, and demonstrate high-quality architectural design. As a result, architectural standards for this area and the downtown are identical, although some development standards differ as described in section 16.41.050.

**b. Transitional Commercial Sub-Area (TC).** This area is characterized by a mix of single-family homes and smaller-scaled commercial developments, which often take the form of conversions of existing single-family homes. Larger front setbacks and landscaping (including front yards) characterize the area. The future of this area will likely include commercial storefronts that address the sidewalk, albeit less intense than those in the Core, and residential developments. The overall result will be a truly mixed-use neighborhood, less intense than the Commercial Core, and with more greenscape and residential uses. Over time, commercial uses in portions of the Transitional Commercial district may transition to more intensive uses similar to the core downtown area and over time the relative boundaries between the two zones may shift somewhat. Requirements within the Transitional Commercial zone allow for this flexibility, while ensuring appropriate transitions between this area and the Core Commercial sub-area, as well as between buildings within the Transitional Commercial sub-area (see Figures 25 and 26).

**c. Outer Highway Commercial Sub-Area (OHC).** The design focus in this area is less about creating a high-quality



**Figure 27**  
Examples of development in the Outer Highway Commercial sub-area

pedestrian experience, and more about ensuring that automobile-oriented design is built to the highest standard possible. While this goal will be largely accomplished through the development standards (i.e., locating parking lots next to and behind building and the street, requiring high quality landscaping, particularly in front setbacks and around parking areas, and requiring that buildings orient to walkways), architectural design standards will also aid in this effort. The result will be automobile-oriented highway uses that demonstrate high-quality design and that evoke a sense of permanence (see Figure 27).

### C. Definitions.

**1. Arcade** – An exterior covered passageway along a building façade that is open to the street frontage (see Figure 28).



**Figure 28**  
Arcade example

**2. Awning** – An overhead cover extending above the sidewalk (usually above windows and doors) as a shelter and/or sunshade.

**3. Band** – Any horizontal flat member or molding or group of moldings projecting slightly from a wall plane and usually marking a division in the wall.

**4. Bay** – (a) Within a structure, a regularly repeated spatial element defined by beams or ribs and their supports (see Figure 29). (b) A protruded structure with a bay window.

**5. Belt Course** – A horizontal band or molding set in the face of a building as a design element (also called a string course).





**Figure 29**  
Repeating bays with a continuous awning



**Figure 30**  
Chamfered corner entry



**Figure 31**  
Cornice details near the top of building

**6. Bulkhead** – The section of a building between the sidewalk and first story window sill.

**7. Canopy** – A covered area which extends from the wall of a building, protecting an entrance or loading dock.

**8. Cap** – Usually the topmost member of any vertical architectural element, often projecting with a drip as protection from the weather. The upper member of a column, pilaster, cornice, molding, or the like.

**9. Chamfer** – To cut off the edge or corner of (see Figure 30).

**10. Clerestory** – The upper level of a room that extends beyond the single-story height; often penetrated by windows.

**11. Column** – In structures, a relatively long, slender structural compression member such as a post, pillar, or strut; usually vertical, supporting a load which acts in (or near) the direction of its longitudinal axis.

**12. Cornice** – Decorative projection or crown along the top of a wall or roof (see Figure 31).

**13. Eaves** – The lower edge of a sloping roof; that part of a roof of a building which projects beyond the wall.

**14. Entry** – The space comprising a door and any flanking or transom windows associated with a building.

**15. Frieze** – A decorative horizontal band, as along the upper part of a wall in a room; often used for signage in modern buildings, but derived from classical architectural principles.

**16. Marquee** – A permanent roof-like shelter over an entrance to a building.





**Figure 32**  
Top of building features a parapet



**Figure 33**  
Building entry features a transom window above the door

**17. Medallion** – A decorative element set into the upper portion of a building façade periodically, typically aligning with columns or pilaster.

**18. Mullion** – A vertical post or upright element dividing a window or other opening into two or more sections.

**19. Parapet** – A low, solid, protective screening or decorative wall as an extension of exterior building walls beyond the roof or deck level (see Figure 32).

**20. Primary Street Facing Façade** – The façade of the building facing the primary (east-west) adjacent street. These streets include Highway 99E, and North and South 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> Avenues.

**21. Secondary Street Facing Façade** – The façade of the building facing the secondary (north-south) adjacent street. These streets include Birch, Cedar, Douglas, Elm, Fir, Grant, Holly, Ivy, Juniper, Knott, and Locust Streets.

**22. String Course** – A horizontal band or molding set in the face of a building as a design element (also called a belt course).

**23. Transom** – A horizontal glass plane, typically encased in a wood or metal frame that separates the storefront from the upper façade (see Figure 33).

**24. Turret** – A very small and slender tower attached to a larger building.

**25. Visible Transmittance** – A measure of the amount of visible light transmitted through a material (typically glass). Information about visible transmittance typically is or can be provided by window manufacturers. (Ord 1296, 2008)

#### 16.41.070 DCO site and design review standards.

The following design standards provide a framework for how a building should look, function, and feel. The standards are organized by topic and consist of the following elements:

- Intent Statement - the big idea or the goal to be accomplished (ex. “protect pedestrians from sun, wind, and rain”). In addition to providing context for specific standards, these statements are used to evaluate applications as part of an alternative review process administered by the City’s Design Review Board (see Section 16.49.035).
- Standards which provide clear, objective guidance related to specific design elements, in many cases providing options for how to meet a specific goal, and varying by sub-area.
- Illustrative graphics, including photos and diagrams, with an emphasis on examples of good design found in Canby and other communities.

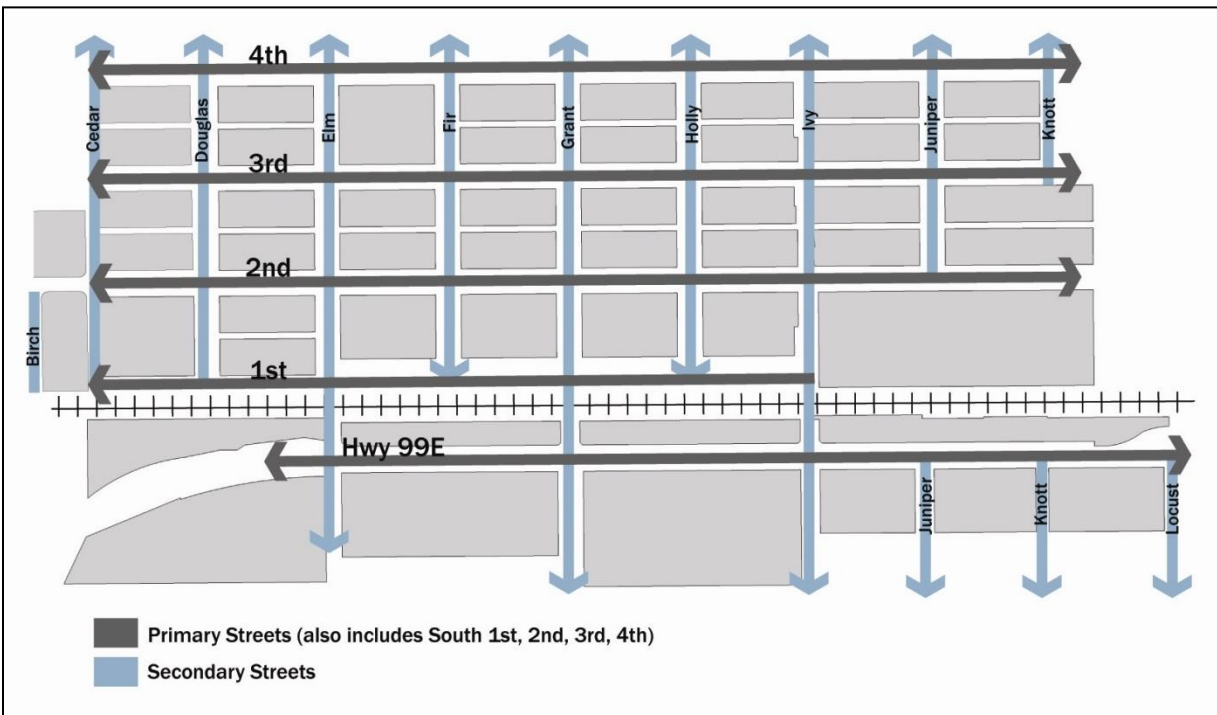
##### A. Pedestrian oriented ground floor design standards.

1. Intent. Design standards in this section are intended to help create an active, inviting street and sidewalk-facing storefronts and entryways that are friendly and easily accessible to passersby. They also will help ensure that the ground floor promotes a sense of interaction between activities in the building and activities in the public realm.

##### 2. Design standards and applicability.

Standards	Applicability
1. Ground floor windows	
a. Visible transmittance. All commercial ground floor windows must have a Visible Transmittance (VT) of 0.6 or higher, with the exception of medical and dental offices which may have tinted windows.	CC, TC, OHC
b. Primary Street facing façade – primary façade coverage. Transparent windows shall be used along a minimum of x% of the length of the ground-level primary street-facing façade, and along x% ground-level primary street-facing wall area (See Figure 34). Ground level walls include all exterior wall areas up to 10 feet above the finished grade. Primary and secondary street facing facades are defined in section 16.41.060.	CC: x=60% TC: x=50% OHC: x=50% for buildings with less than 6,000 square feet of floor area and 25% for buildings with more than 6,000 square feet of floor area or located more than 75 feet from a lot line.
c. Secondary Street facing façade – secondary façade coverage. Transparent windows shall be used along a minimum of x% of the length of the ground-level secondary street-facing façade, and along x% of the overall secondary street-facing wall	CC: x=50% TC: x=45% OHC: x=40% for buildings with less than 6,000 square feet of floor area;

area (See Figure 35). Ground level walls include all exterior wall areas up to 10 feet above the finished grade.	25% for buildings with more than 6,000 square feet of floor area or located more than 75 feet from a lot line.
d. Alley facing façade coverage. Facades facing alleys shall provide windows along x% of the length of the alley-facing façade and along y% of the overall wall area of the alley-facing façade. Wall area shall be measured to a height of 10'-0" above the finished grade.	CC, TC: x=50%; y=25% OHC: x=30%; y=20%

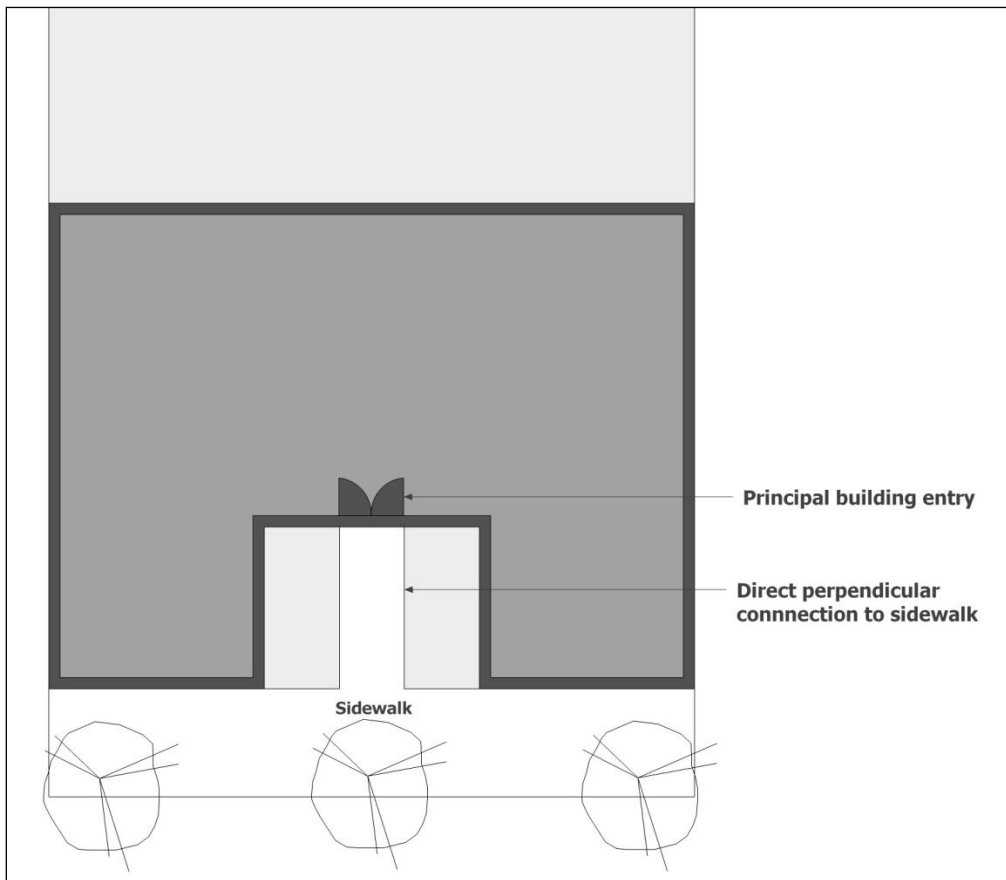


**Figure 34** Primary and secondary street façade definition



**Figure 35** Illustration of percent transparency requirement

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 customer 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



**Figure 36** Example of principal entry with direct sidewalk connection

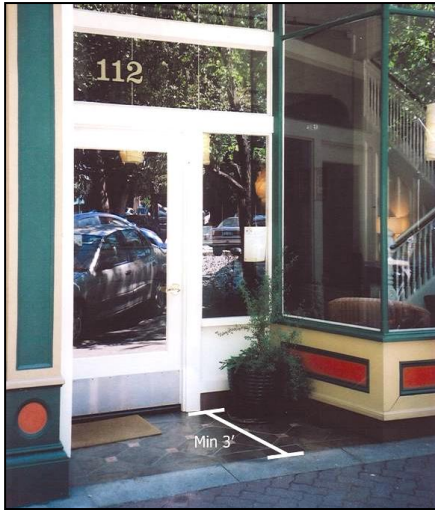


**Figure 37** Example of entry that meets transparency standards



**Figure 38** Example of entry with transom and flanking glass





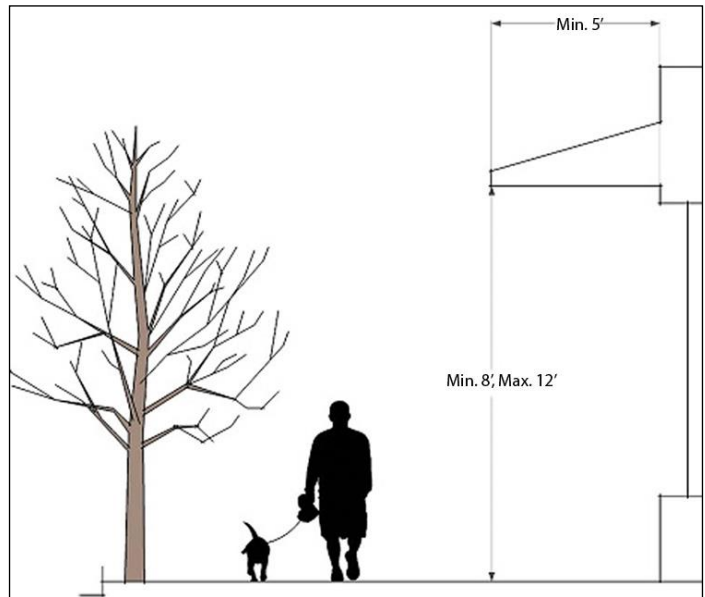
**Figure 39** Recessed entry



**Figure 41** Entry with awning and increased mass/decorative features



**Figure 43** Entry flanked by engaged columns and lighting

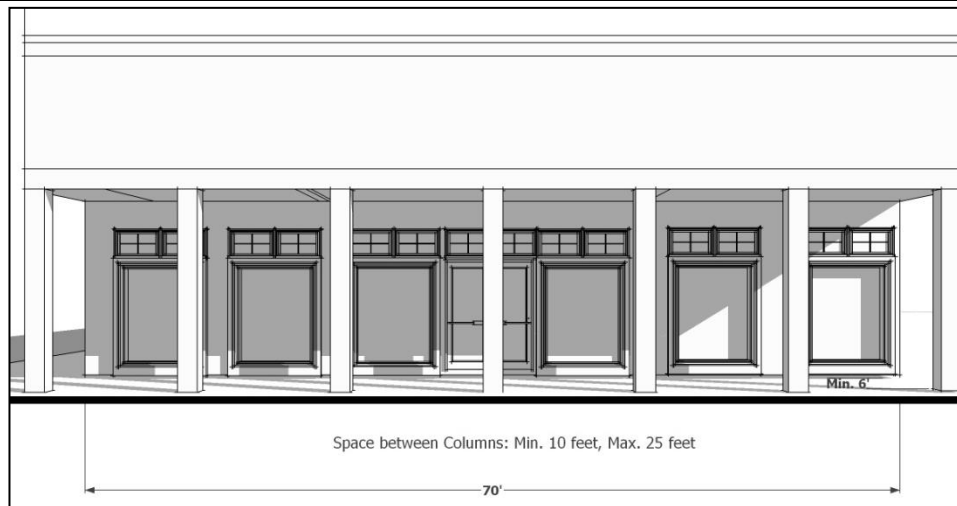


**Figure 40** Awning or canopy



**Figure 42** Recessed entry with lighting and accent material

Standards	Applicability
<p>3. Transition areas. One of the following design elements (a or b) is required for buildings that span more than 75% of a city block or 350 feet. The City encourages smaller property owners to work together to collaboratively provide similar features in other areas.</p>	<p>CC only; Encouraged but not required in the TC or OHC</p>
<p>a. Arcades as defined in section 16.41.060 and that meet all of the following standards:</p> <ul style="list-style-type: none"> <li>(1) Front entries must be set back a minimum of 6' (clear) behind an arcade that is located at the front property line or the adjusted property line.</li> <li>(2) Spacing between columns and/or posts along building be a minimum of 10' (clear) and a maximum of 25' (clear). (See Figure 44)</li> </ul>	
<p>b. Courtyards or plazas that meet all of the following standards (see Figure 45):</p> <ul style="list-style-type: none"> <li>(1) Courtyards or plazas shall be located along the sidewalk-facing façade of the building within the front setback. Internal courtyards may be provided but will not satisfy these requirements.</li> <li>(2) Courtyard-facing facades shall include windows along a minimum of 50% of the length of the ground level courtyard-facing façade, and along 25% of the overall courtyard-facing wall area.</li> <li>(3) Courtyards/ plazas shall incorporate special paving (see Figure 46) and/or landscaping.</li> <li>(4) Courtyards/plazas shall provide seating, including but not limited to benches, tables, planter boxes, and other design elements.</li> </ul>	



**Figure 44** Arcades create a semi-public transition from the sidewalk to the building





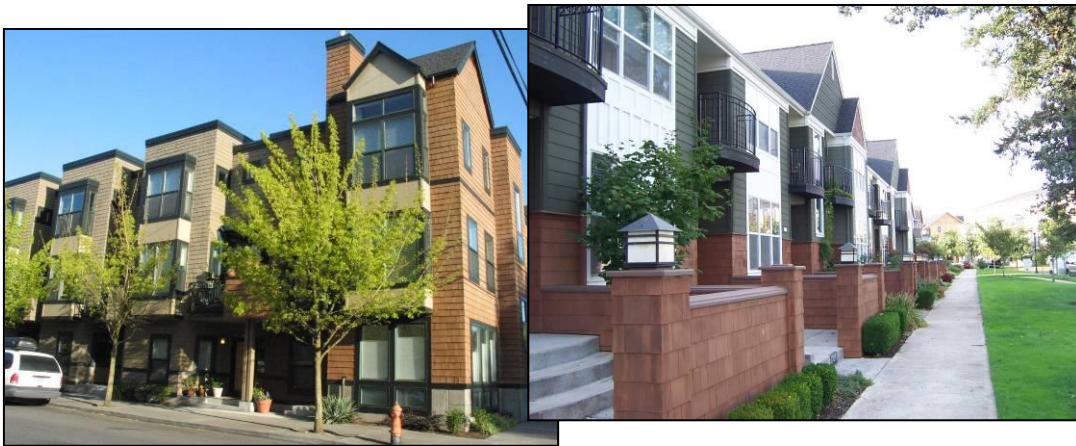
**Figure 45** Courtyards or plazas



**Figure 46** Entry with special paving

Standards	Applicability
4. Additional standards for residential-only buildings.	TC
a. Weather protected entries. Residential only buildings with ground floor units must provide covered, weather-protected front entries for individual units on the ground floor. Weather-protected entries may take the form of awnings,	

Standards	Applicability
canopies, or building overhangs such as eaves extending over front doors, covered front porches, or inset front doors (see Figure 47). Awnings or canopies must be a minimum of 5 feet deep.	
b. Entries or porches. Ground floor units in residential buildings shall include individual entry or porches for each unit which are oriented to the sidewalk.	
c. Connection to sidewalk. Ground floor residential units must include a direct, perpendicular pedestrian connection to the sidewalk.	
d. Lobby entrances. All lobbies leading to residential units must orient the principal lobby entrance to the sidewalk, and maintain a direct perpendicular connection to the sidewalk.	
e. Window coverage. Transparent windows shall be used along a minimum of 50% of the length of the ground-level primary and secondary street-facing façades, and along 50% of the overall street-facing wall area. Ground level walls include all exterior wall areas up to 10 feet above the finished grade.	



**Figure 47** Residential development that conforms to design standards

**B. Cohesive architectural elements standards.**

1. Intent. Build upon downtown Canby's traditional architectural vernacular by incorporating cohesive and repetitive architectural elements into the ground floor of street facing facades.
2. Design standards and applicability.

Standards	Applicability
1. Architectural bays	
a. Bay divisions. Ground floors of commercial and mixed-use buildings shall be divided into distinct street-facing architectural bays that are no more than x feet 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.	CC, TC: x=30; OHC: x=50
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).	OHC
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): (1) Engaged columns or piers. (2) Transom windows over doorways. (3) Storefront cornice or beltcourse (4) Canopies, awnings, or overhangs provided along a minimum of 50 percent of the overall street-facing building length. (5) Storefront frieze or sign band. (6) Bulkheads.	CC: x=3; TC: x=2; OHC: x=2
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): (1) Projecting window sills (12 to 24 feet above grade). (2) Window mullions. (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. (4) Medallions (minimum of 2). (5) Projecting or blade signs (8 to 12 foot clearance from bottom of sidewalk).	CC: x=3; TC: x=2; OHC: x=2



**Figure 48** Illustration of replicating bays



**Figure 49** Design elements for bays



**Figure 50** Decorative accents in bays

### C. Integrated building façade standards.

1. Intent. Build upon Canby's traditional downtown architecture by creating an attractive and unified building façade that celebrates ground floor activities, the top of the building (where the edifice meets the sky), and everything in between.



## 2. Design standards and applicability.

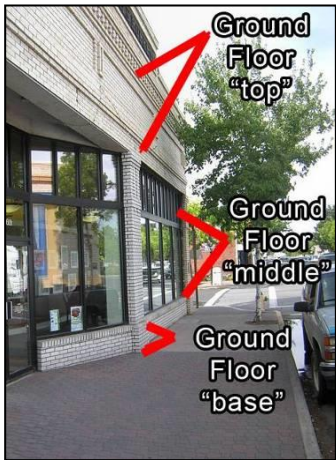
Standards	Applicability
<p>1. Distinct base, middle, and top of building</p> <p>a. All buildings (regardless of height or number of stories) shall have a clear and distinct base, middle and top to break up vertical mass. (See Figure 51). Buildings must utilize horizontal bands and/or changes in color, material, form and/or pattern to differentiate the base, middle, and top of the building subject to the following requirements. These elements are required on 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) 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>CC, TC, OHC</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</p>	<p>CC: x=2; TC: X=1; (commercial and mixed use buildings only)</p>

Standards	Applicability
<p>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>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> <ul style="list-style-type: none"> <li>(1) Integrated window mullions.</li> <li>(2) Window plant box (minimum of one pair).</li> <li>(3) Decorative building light fixtures, sconces, or medallion (minimum of one pair).</li> </ul>	<p>CC: x=2; TC: x=1; (commercial and mixed use buildings only)</p>
<p>d. Ground floor “top”. For a multi-story building, the “top” of the ground floor facade is the area between the storefront and the upper stories of the building and shall contain at least x of the following elements (See Figure 56): 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> <ul style="list-style-type: none"> <li>(1) A marquee or projecting or blade sign that extends in a minimum of 5 feet perpendicular manner from the building façade (the bottom of the marquee or sign shall be 8 to 12 feet above grade).</li> <li>(2) Sign frieze.</li> <li>(3) Storefront awning or canopy. The bottom of the awning or canopy shall be 8 to 12 feet above grade.</li> <li>(4) Storefront cornice or belt course.</li> <li>(5) Transom window(s).</li> </ul>	<p>CC: x=3; TC: x=2; (commercial and mixed use buildings only)</p>
<p>3. Middle of building design elements</p>	
<p>a. The middle of the building should be differentiated from the bottom and top by at least x of the following design elements (see Figure 57):</p> <ul style="list-style-type: none"> <li>(1) Residential windows, which are smaller than ground floor windows, and oriented vertically at a ratio of approximately 2:1. Individual vertical windows may be organized into larger window assemblies.</li> <li>(2) Balcony.</li> <li>(3) Step back.</li> </ul>	<p>CC: x=2; TC: x=1; (buildings of 2 or more stories only)</p>

Standards	Applicability
(4) Signage band.	
4. Top of building design elements.	
a. Roof forms may be flat or sloped. Requirements for chosen roof forms are as follows:	CC, TC, OHC
<p>b. Flat roofs. All flat roofs shall employ a detailed, projecting cornice or projecting parapet to visually “cap” the building and meet all of the following requirements:</p> <p>(1) Cornices shall project horizontally a maximum of 3 feet (see Figure 58).</p> <p>(2) Parapets must be a minimum of 24 inches in height. Parapets must include a cornice, molding, trim, or variations in brick coursing (see Figure 59).</p> <p>(3) Cornices and parapets shall wrap around all sides of the building visible from any adjacent street or parking area.</p>	CC; TC; OHC
<p>c. Sloped roofs must meet all of the following requirements:</p> <p>(1) All sloped roofs shall provide a minimum 1-foot overhang.</p> <p>(2) All sloped roofs must have a minimum slope of 4:12 (see Figures 14 and 60).</p>	CC; TC; OHC
d. Roof top gardens are encouraged on flat roofs, as they help to manage stormwater run-off that would otherwise go into storm sewers, and eventually rivers and streams. Roof gardens with plant materials that are visible from the sidewalk and the street are particularly encouraged. (See Figure 61).	CC; TC; OHC



**Figure 52** Example of change in height of roofline or top of building



**Figure 53** Elements of the bottom of the building



**Figure 54** Building base elements



**Figure 55** Middle and top of ground floor elements



**Figure 56** Top of building elements and treatments





**Figure 57** Middle of building elements



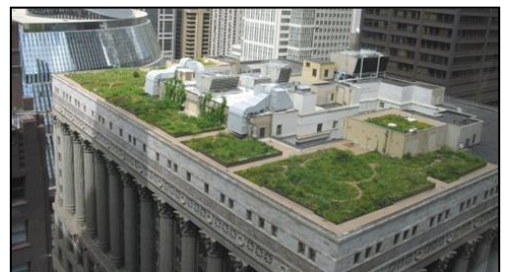
**Figure 58** Cornice used on flat roof



**Figure 59** Parapet used on flat roof



**Figure 60** Varying sloped rooflines are used on this building



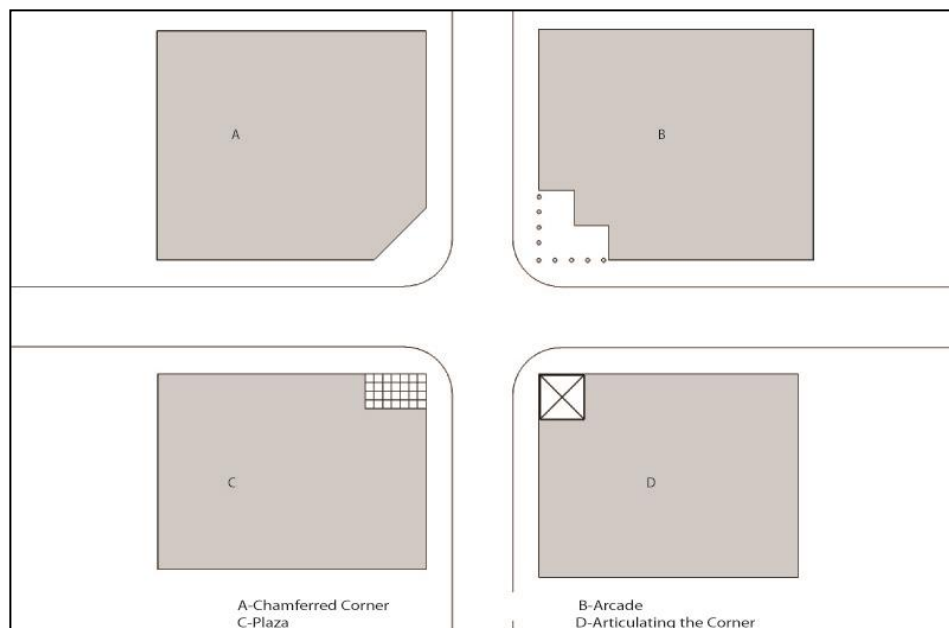
**Figure 61** Examples of rooftop gardens

**D. Corner intersection standards.**

1. Intent. Create a strong architectural statement at street corners to create a strong identity. Establish visual landmarks and enhance visual variety.
2. Design standards and applicability.

Standards	Applicability
<p>1. Corners</p> <p>a. Commercial and mixed-use buildings located on corner lots must address the corner by employing one of the following:</p> <p>(1) Chamfer the corner of the building (i.e., cut the building at a 45 degree angle for a minimum of 10 feet) (see Figure 62).</p> <p>(2) Incorporate an arcade at the corner as a way of creating a semi-public zone (see Figure 62).</p> <p>(3) Using special paving, plantings, or lighting, create a formal gathering space at the corner by notching the building so it operates as an extension of the sidewalk (see Figure 63).</p> <p>(4) Employ prominent architectural elements within 25 feet of the corner to highlight the corner of the building, such as increased building height or massing, turrets, cupolas, a pitched roof, or other prominent features (see Figure 63).</p>	CC

**Figure 62** Corner options





**Figure 63** Corner of building elements

#### E. Materials standards.

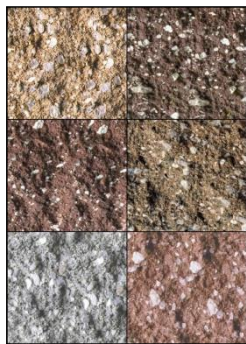
1. Intent. Use building materials that evoke a sense of permanence and are compatible with Canby's business areas and the surrounding built environment.
2. Design standards and applicability. Materials allowed in the CC, TC and OHC sub-areas are summarized in the following table in terms of primary, secondary and accent materials. Other materials may be permitted through the design review process described in Chapter 16.49.

Standards	CC	TC	OHC
Primary materials – 70% or more of building façade, excluding windows and transparent doors.	Brick Stone Stucco EIFS	Brick Stone Stucco EIFS Wood siding Hardy Plank	Brick Stone Stucco EIFS Wood siding Hardy Plank Split-face CMU Tilt-up concrete Spandrel glass curtain walls
Secondary materials – up to 25% of building façade, excluding windows and	Brick Stone Stucco EIFS CMU (split and ground face) Concrete	Brick Stone Stucco EIFS CMU (split and ground face) Concrete	Brick Stone Stucco EIFS CMU (split and ground face) Concrete

Standards	CC	TC	OHC
transparent doors.	Wood siding Hardy Plank Spandrel glass curtain walls	Wood siding Hardy Plank Spandrel glass curtain walls	Wood siding Hardy Plank Spandrel glass curtain walls
Accent materials – up to 10% of building façade, excluding windows and transparent doors.	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls Metal Ceramic tile Wood, vinyl and/or metal for trim	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls Metal Ceramic tile Wood, vinyl and/or metal for trim	Brick Stone Stucco/EIFS CMU (split and ground face) Concrete Wood siding Hardy Plank Spandrel glass curtain walls Metal Ceramic tile Wood, vinyl and/or metal for trim
Roof materials (sloped roofs only)	Metal Wood shingles Tile	Metal Wood shingles Tile Asphalt shingles	Metal Wood shingles Tile



Brick



Tinted CMU



Concrete



HardiPlank





Metal siding



Stone



Stucco



Wood siding

## F. Color palette

**1. Intent.** Use colors on buildings that are generally compatible with Canby's business areas and the surrounding built environment.

**2. Design standards and applicability.** Applicants are strongly encouraged to use colors from, or consistent with, the Sherwin-Williams Arts and Crafts color palette (i.e. with the same paint color codes). Additional information about this color palette is available from the City of Canby, Canby Business Development and/or the Sherwin-Williams Web site. (Ord. 1296, 2008)

## Chapter 16.42

### SIGNS

Remove = ~~**Strikethrough and Bold**~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

- 16.42.010 Purpose.
- 16.42.015 Definitions and interpretation.
- 16.42.020 Administration and permit requirements.
- 16.42.025 General sign standards.
- 16.42.030 Temporary community event sign plan.
- 16.42.040 Design standards for signs.
- 16.42.045 Permanent signs permitted in the right-of-way
- 16.42.050 Size, type, and location of signs permitted by zoning district and use.
- 16.42.060 Automobile service station sign standards.
- 16.42.070 Measurements.
- 16.42.140 Severability.

#### 16.42.010 Purpose.

A. The purpose of this chapter is to:

1. Protect the health, safety, property and welfare of the public;
2. Provide a neat, clean, orderly and attractive appearance in the community;
3. Encourage well-designed and wisely located signs;
4. Provide for safe construction, location, erection and maintenance of signs;
5. Prevent proliferation of signs and sign clutter, minimize adverse visual safety factors to travelers in the public right-of-way;
6. Facilitate economic development and enhance the city's ability to retain and attract businesses and customers;
7. Contribute to a simple and efficient regulatory process; and

8. Achieve these purposes consistent with state and federal constitutional limits on the regulation of speech.

**B.** To achieve this purpose, it is necessary to regulate the design, quality of materials, construction, location, electrification, illumination, and maintenance of signs that are visible to the public.

**C.** Nothing in these regulations is intended to control the construction or location of directional or informational signs installed by the city, county or state for the purpose of controlling traffic, indicating street names, providing legal or public notice, or other public purposes.

(Ord 1299, 2008; Ord. 955 sections 13-16, 1996; Ord. 913 section 1, 1994; Ord. 830 section 13, 1989; Ord. 740 section 10.3.10(A), 1984)

#### **16.42.015 Definitions and interpretation.**

Words and phrases used in this chapter shall have the meanings set forth in this section. Words and phrases not defined in this section, but defined elsewhere in the Land Development and Planning Ordinance of the city, shall be given the meanings set forth in such ordinance. Principles for computing sign area and sign height are contained in section 16.42.070. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this ordinance.

**A.** A-Frame Sign. A double-faced temporary sign composed of two sign boards attached at the top and separate at the bottom, not permanently attached to the ground.

**B.** Abandoned Sign. An abandoned sign has one or more of the following characteristics:

- a. A sign or sign structure that has been damaged, and in which repairs and restoration are not started within 90 days of the date the sign was damaged, or are not diligently pursued once started.
- b. A sign which no longer correctly directs or exhorts any person, advertises a business, lessor, property/space for sale/lease, owner, products, or activity conducted on the premises where such sign is displayed.

**C.** Alter. To make a change to a sign or sign structure, including but not limited to, changes in area, height, projection, illumination, shape, materials, placement and location on a site. Altering a sign does not include ordinary maintenance or repair, repainting an existing sign surface, including changes of message or image, or exchanging the display panels of a sign.

**D.** Automobile Service Station. A retail place of business engaged primarily in the sale of motor fuels.

**E. Awning Sign.** A sign attached to or incorporated into an overhead cover extending above the sidewalk or ground (usually above windows and doors).

**F. Balloon Sign.** A sign consisting of a membrane that relies on internal gaseous pressure or a semi-rigid framework for maintaining its form.

**G. Banner Sign.** A sign made of fabric or other non-rigid material with no enclosing framework. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

**H. Beacon.** Any light, excluding street lights and traffic signals, with one or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one or more beams that rotate or move.

**I. Bench Sign.** A sign on an outdoor bench.

**J. Blade/Overhang Sign.** A sign, other than a wall sign, that projects from, and is supported by or attached to a roof or wall of a building or structure.

**K. Building Elevation Area.** The area of a single side of a building, measured in square feet and calculated by multiplying the length of the side of the building by the height of the building to the roof line. If the roof line height varies along the side of the building, the average of the lowest and highest roof line height on that side shall be used in the calculation.

**L. Building Frontage, Primary.** The ground floor lineal length of a building wall that faces a street, driveway, parking lot, courtyard or plaza and has an entrance or exit open to the general public.

**M. Building Frontage, Secondary.** The ground floor lineal length of a building wall that faces a street, driveway, parking lot, courtyard or plaza and does not have an entrance or exit open to the general public.

**N. Bulletin Board.** A board that provides information in a horizontal linear format, that can be changed either manually through placement of letters or symbols on tracks mounted on a panel, or electronically through use of an array of lights in a dot matrix configuration. A bulletin board is not a sign in itself, but rather is an element that is allowed as part of a monument sign, pole sign, marquee sign, blade/overhang sign, or wall sign.

**O. Business Complex.** A site consisting of one or more lots sharing appurtenant facilities, such as driveways, parking and pedestrian walkways.

**1. Minor Business Complex.** A site proposed for or consisting of multiple uses and/or



multiple tenants, where the building(s) contain a maximum of 14,999 square feet in gross floor area.

**2. Major Business Complex.** A site proposed for or consisting of multiple uses and/or multiple tenants, where the building(s) contain 15,000 to 99,999 square feet in gross floor area.

**3. Industrial/Research Business Complex.** A site proposed for or consisting of multiple uses and/or multiple tenants, where the building(s) contain a minimum of 100,000 square feet in gross floor area.

**P. Canopy Sign.** A sign that is a part of or attached to a permanent roofed structure which may be freestanding or attached to a building and is not a completely enclosed structure.

**Q. Community Event Sign Plan.** A sign plan approved by City Council which permits temporary banners or seasonal holiday decorations to extend over a street, over a private road providing vehicle access into a property, or to be attached to utility or streetlight poles.

**R. Directory Signs.** Directory signs include signs that are attached to the building and are a directory of the occupants of the building, signs that provide vehicular clearance information, signs that identify parking lot sections or direct vehicles in a parking lot, and similar signs as determined by the City Planner. The sign face of each directory sign shall not exceed two (2) square feet, or in the case of an occupant directory, shall not exceed one (1) square foot per occupant listed on the directory sign.

**S. Electronic Message Board.** A board that, through the use of moving structural elements, flashing or sequential lights, or lights in a dot matrix or LED configuration which may be changed intermittently or by other automated method, results in a message or image display that changes, moves or appears to move. An electronic message board is not a sign in itself, but rather is an element that is allowed as part of a monument sign, pole sign, marquee sign, blade/overhang sign, or wall sign.

**T. Flag.** A rectangular piece of fabric of distinctive design that is displayed hanging free from a staff, halyard or building to which it is attached. A flag is often used to display the symbol of the United States, a nation, state, or other governmental entity.

**U. Flashing Sign.** A sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source.

**V. Grade.** For freestanding signs, "grade" is the average level of the ground measured five feet from either end of the base of the sign, parallel to the sign face. For signs mounted on buildings, the grade is the average level of the sidewalk, alley or ground

below the mounted sign measured five feet from either end of the sign face.

**W. Illuminated Sign.** A sign illuminated by an internal light source or an external light source primarily designed to illuminate the sign. The illumination is “external” when the light source is separate from the sign surface and is directed to shine upon the sign and “internal” when the light source is contained within the sign, but does not include signs where the text or image is composed of dot matrix or LEDs. External illumination is “direct” when the lamp fixture is directly seen by the public, such as a floodlight, and “indirect” when the source of light is not directly seen by the public, such as cove lighting.

**X. Lawn Sign.** A temporary freestanding sign that is supported by a frame, pole, or other structure placed directly in or upon the ground without other support or anchor.

**Y. Maintenance.** Normal care or servicing needed to keep a sign functional or perpetuate its use, such as cleaning, changing light bulbs, and replacing or repairing a part made unusable by ordinary wear.

**Z. Marquee Sign.** A sign that is a permanent roof-like structure attached to and projecting from a building, that is used in part to display changeable sign copy.

**AA. Menu Board Sign.** A sign not designed to be viewed from any public right-of-way, and is placed near the public entrance to, or near the drive-up service lane of, a food service establishment. A menu board sign shall not exceed 12 feet in height.

**BB. Monument Sign.** A freestanding sign that is placed on a solid-appearing base that extends a minimum of 12 inches above the ground and extends at least 75 percent of the length and width of the sign. The above ground portion of the base is considered part of the total allowable height of a monument sign.

**CC. Name Plate.** A wall sign less than 2 square feet in size, permanently affixed to the front façade of a residential structure.

**DD. Neon Sign.** A sign internally illuminated by a light source consisting of neon or other gas contained in a tube, except for fluorescent lights.

**EE. Owner.** The person owning title to real property on which a sign is located, or the contract purchaser of the real property. “Owner” also includes the owner of a sign who has a continuing lease of the real property on which the sign is located.

**FF. Pennant.** A sign device made from a strip of flexible material intended to wave in the wind.

**GG. Pole Sign.** A sign that is a freestanding sign connected to the ground by one or more supports with the lower edge of the sign physically separated from the ground (in contrast to a monument sign).

**HH. Portable Sign.** A sign which is not affixed to a building, other permanent structure, or to the ground in a permanent manner, and which is designed to be moved from place to place.

**II. Principal Use.** The purpose for which land or a structure is designed, arranged, or for which it is occupied or maintained. Multiple principal uses may be located on a lot, a site, or in a business complex.

**JJ. Public Sign.** A sign erected, constructed, or placed within the public right-of-way or on public property by or with the approval of the governmental agency having authority over, control of, or ownership of the right-of-way or public property.

**KK. Repair.** Mending or replacing broken or worn parts with comparable materials.

**LL. Roof Line.** The top edge of a roof or a building parapet, whichever is higher, excluding any cupolas, chimneys or other minor projections.

**MM. Seasonal Holiday Decorations.** Every type of decoration displayed during and around a federally recognized holiday or on a seasonal basis, whether illuminated or not, and whether attached to utility poles, buildings or any other structure.

**NN. Sign.** Any writing, video projection, illumination, pictorial representation, illustration, decoration, emblem, symbol, design, trademark, banner, flag, pennant, captive balloon, streamer, spinner, ribbon, sculpture, statue, or any other figure or character that:

1. Is a structure or any part thereof (including the roof or wall of a building); or
2. Is written, printed, projected, painted, constructed, or otherwise placed or displayed upon or designed into a structure or an outdoor screen or monitor, or a board, plate canopy, awning, marquee, or a vehicle, or upon any material object, device, or surface whatsoever; and
3. Communicates, or is designed to communicate on any subject whatsoever. points of a sign, but excluding essential sign structure, foundations, or supports.

**OO. Sign Copy.** The message or image conveyed by a sign:



**PP. Sign Face.** The sum of the surfaces of a sign face as seen from one plane or elevation included within the outer dimensions of the sign board, frame or cabinet.

**QQ. Site.** The area, parcel, or lot of land owned by or under the lawful control of an owner. Abutting lots shall be considered one site when they share appurtenant facilities, such as driveways, parking and pedestrian walkways.

**RR. Street Frontage.** The length or width of a site, measured along the lot line separating the site from a street.

**SS. Supporting Structure.** A structure specifically intended for supporting or containing a sign.

**TT. Temporary Sign.** A sign that is temporarily attached or tethered to a building, structure, or the ground. Temporary signs include, but are not limited to, A-frames, banners, flags, pennants, balloons, blimps, streamers, lawn signs and portable signs.

**UU. Utility Sign.** A sign constructed or placed by a public utility on or adjacent to a pole, pipe, or other type of utility facility within a public right-of-way or utility easement.

**VV. Vehicle Sign.** A sign placed in or attached to a motor vehicle, trailer, or rail car that is parked on public or private property in a publicly visible location for more than 72 consecutive hours, the principal purpose of which is to display signage rather than to use the vehicle for transportation purposes. This is not meant to include signs and logos attached to any vehicle that is regularly used in the normal course of business for transportation purposes.

**WW. Video Sign.** A sign providing information in both a horizontal and vertical format (as opposed to linear), through use of pixel and sub-pixel technology having the capacity to create continuously changing sign copy in a full spectrum of colors and light intensities.

**XX. Wall Sign.** A sign that is painted on the wall of a building, or a sign attached to the wall of a building and extending no more than twelve inches from a wall, or attached to or erected against a roof with a slope not more than 20 degrees from vertical, with the exposed face of the sign in a plane that is vertical or parallel to the plane of that roof, and which does not project more than 18 inches from the wall or roof.

**YY. Window Sign.** A sign attached to, or painted on a window, or displayed inside the building in a manner so that it is clearly viewable from outside the building. (Ord. 913 section 1[part], 1994; Ord. 955 sections 13-16, 1996; Ord. 1299, 2008)

**16.42.020 Administration and permit requirements.**

**A. Permit Required.** All signs erected after the effective date of this chapter, other than signs exempt from permit requirements per 16.42.025, shall require a sign permit. Application shall be made on forms provided by the Planning Director. Sign permits issued for signs which encroach into the public right-of-way are subject to the standards of 16.42.045.

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

**C. Construction and Maintenance.** Each sign shall be constructed to meet the requirements of applicable building, electrical, and mechanical codes.

1. All signs and component parts shall be kept in good repair and maintained in a safe, neat, clean and attractive condition.

2. No sign shall be erected or maintained in such a manner that any portion of its surface or its supports will interfere in any way with the free use of, or any access to, any fire escape, exit or standpipe. No signs shall be erected or maintained so as to obstruct any window so that light or ventilation is reduced below standards required by any applicable law or building code.

3. It is unlawful to erect or maintain a sign which, by reason of its size, location or placement, creates an immediate danger to the health, safety and welfare of the citizens of the city by blocking vision for either pedestrians or motorists, at public and/or private roadways, intersections, driveways, or railroad crossings.

**D. Appeal.** Appeals are governed by the procedures set forth in Chapter 16.89.

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

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

**G. Variance.** The procedures which allow variations from the strict application of the

regulations of this Title, by reason of exceptional circumstances and other specified conditions, are set forth in Chapter 16.53.

**H. Conditional Use Signs or Signs under Site and Design Review.** Signs proposed at the time of a conditional use application or site and design review application shall be reviewed by the Planning Commission regarding size, height, and location at the time of conditional use review or site and design review. If sign review was not part of the original conditional use review or original site and design review, the applicant may apply for a sign permit under the normal sign review procedures and policies, provided the application is made at least six (6) months after the original review. In conditional use signs or signs reviewed under design review, provisions of this chapter shall apply.

**I. Nonconforming Signs.** Provisions for nonconforming signs are set forth in Chapter 16.52.

**J. Oregon Motorist Information Act Requirements.** The Oregon Motorist Information Act (OMIA) provides the Oregon Department of Transportation purview over the approval of any signage which is “visible” to a State highway running through a community. In addition to being subject to provisions of this chapter, all such signs are subject to requirements identified in Oregon Revised Statutes (ORS) ORS 377.700 – 377.840 and ORS 377.992.

(Ord. 1237, 2007; Ord. 955 section 19, 1996; Ord. 913 section 1[part], 1994; Ord. 830 section 13[part], 1989; Ord. 740 section 10.3.40 (B), 1984; Ord 1299, 2008; Ord. 1339, 2010)

#### **16.42.025 General sign standards.**

**A. Prohibited Signs.** Except for legal nonconforming signs, the following signs are unlawful and are nuisances:

1. Abandoned signs. A sign that has been abandoned for 30 days or more shall have the *sign copy area* removed by the property owner on or prior to 30 days after abandonment.
2. Vehicle sign.
3. Video sign.
4. Sign that may be confused as a traffic control device.
5. Signs that impede movement or create a physical hazard.
6. Signs with rotating or other moving parts, except barber shop poles and clocks.

7. Signs illuminated by flashing lights.

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

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

**B. Exempt Signs.** The following signs are exempt from the provisions of this Chapter, except as specified below, and shall not be counted towards the amount or type of signage otherwise allowed by this Chapter. Such signs shall conform to all other applicable provisions of this title.

1. All signs which are placed inside a structure or building, and which are either not visible through windows or building openings, or are not intended to be visible from outside the structure or building, as determined by the City Planner.

2. Bench signs as defined in 16.42.015, provided that the bench sign copy does not exceed 15 square feet and the bench sign is approved by the bench owner.

3. Signs attached to mass transit shelters which are approved by the mass transit agency and the transit shelter owner.

4. Directory signs as defined in 16.42.015.

5. Menu board signs as defined in 16.42.015.

6. Nameplate signs as defined in 16.42.015.

7. Utility signs as defined in 16.42.015.

8. Flags as defined in 16.42.015.

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

**C. Temporary Signs.** The following temporary signs do not require a sign permit, shall not be counted towards the amount or type of signage otherwise allowed by this Chapter, and may be displayed only in compliance with the following standards. Such signs shall conform to all other applicable provisions of this title. Except as may be approved in accordance with 16.53.015, Minor Sign Variance, temporary signs in excess of the standards of this section are not permitted.

1. Except as approved in a Community Event Sign Plan, as set forth in 16.42.030, no temporary sign shall be internally illuminated or be illuminated by an external light

source primarily intended for the illumination of the temporary sign.

2. A temporary sign shall be attached to a site or constructed in a manner that both prevents the sign from being easily removed by unauthorized persons or being blown from its location, and allows for the easy removal of the sign by authorized persons. Except as approved in a Community Event Sign Plan, as set forth in 16.42.030, temporary signs shall not be attached to trees, shrubbery, utility poles or traffic control signs or devices.

3. No temporary sign shall be erected or maintained that, by reason of its size, location or construction, constitutes a hazard to the public.

4. Temporary Signs Allowed in Residential Zones **and Agricultural Zone** (R-1, R-1.5, R-2, **A**).

a. One or more temporary signs no taller than 4 feet in height, and not exceeding 6 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 4 feet in height, and not exceeding 6 square feet in area, may be displayed on a lot for a maximum of 8 days in any calendar month, provided it is removed by sunset on any day it is erected.

c. One temporary sign no taller than 5 feet in height, and not exceeding 6 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.

d. One temporary sign not exceeding 6 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. On lots of more than 2 acres, the sign area may be increased to no more than 32 square feet. In no case shall such sign 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-G~~, C-M, M-1, M-2).**

**a.** One or more temporary signs no taller than 5 feet in height, and not exceeding 32 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 prior to the event, and must be removed within 2 days following the event.

**e.** Banner or Balloon Signs Allowed Four Times Per Year for no Longer Than 30 Days Each Occurrence. One banner sign or balloon sign may be displayed on a lot by each business license holder who operates their business at that location per City business license records. A banner sign may not exceed 50 square feet in size. A balloon sign may not exceed 80 cubic feet in size. A balloon sign may not be taller than the maximum allowed height of a pole sign permitted in the same

zone as prescribed in Section 16.42.050, Tables 1 through 7 of this code. Each business license holder may display such signage up to 30 consecutive days only four times during a calendar year. 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.

**f. Miscellaneous Small Signs.** Miscellaneous small signs, such as those indicating hours of operation, with an aggregate area not to exceed 3 square feet and located either within a window or within 5 feet of an entrance to a building.

**6. Temporary Signs Allowed in Right-of-Way in All Zones.**

**a.** No temporary sign in the right-of-way shall interrupt the normal flow of vehicle, pedestrian or bicycle traffic, and shall provide for a minimum of 5 feet of clear passage for pedestrians on a sidewalk where a sidewalk exists. No temporary sign shall encroach into a vision clearance area.

**b.** As referenced in 16.42.010.C, signs installed by the city, county, or state for public purposes are allowed in the public right-of-way.

**c.** Temporary safety and directional signs installed by non-governmental persons, such as those displayed at or in close proximity to a road crew or construction project, shall get specific written approval from the Public Works Director prior to erecting the signs. Such signs shall be removed after the construction activity is complete.

**d.** A-frame signs and lawn signs no taller than 3 feet in height, and not exceeding 6 square feet in area, may be displayed by real estate brokers only on weekends and holidays in the right-of-way in relative close proximity to a property where an open house is being held for the sale or lease of the property.

**e. Miscellaneous Small Signs.** Miscellaneous small signs, such as those indicating hours of operation, with an aggregate area not to exceed 3 square feet and located either within a window or within 5 feet of an entrance to a building.

**7. Temporary Signs Allowed in Right-of-Way Only in Commercial and Industrial Zones (C-R, C-1, C-2, C-C, C-M, M-1, M-2).** A-frame signs may be displayed on public sidewalks provided they comply with the following standards:

**a.** A-frame sign dimensions shall not exceed a maximum width of 3 feet, nor a

maximum above-ground height of 4 feet. Each sign face shall not exceed 12 square feet.

**b.** One A-frame sign per business license holder may be displayed on a public sidewalk in the right-of-way abutting the physical address that is on file with the City as the location where that business license holder operates the business. A weatherproof label which displays the sign-owner's Canby business license number shall be affixed to the backside of the A-frame sign. The business license must be current, and City personnel must be able to read the business license number upon inspection at all times.

**c.** A-frame signs shall be displayed only during the business hours of the responsible enterprise.

**d.** A-frame signs shall be placed so as to allow at least 5 feet of unimpeded pedestrian sidewalk maneuvering space. A-frame signs shall not encroach into any required vision clearance area. A-frame signs shall be set back from the curb so as not to interfere with on-street parking, or shall be set back a minimum of 10 feet from the edge of the street travel lane where no curb exists.

**e.** The owner of the property abutting the right-of-way on which an A-frame sign is placed assumes all liability for incidents involving the sign.

(Ord. 1237, 2007; Ord. 1111 section 7, 2003; Ord. 1076, 2001; Ord. 955 section 17, 1996; Ord. 913 section 1[part], 1994; Ord. 830 section 13[part], 1989, Ord. 802 4, 1987; Ord. 740 section 10.3.40(C), 1984; Ord. 1299, 2008; Ord. 1339, 2010; Ord. 1341, 2011)

#### **16.42.030 Temporary community event sign plan.**

Temporary banners or seasonal holiday decorations which extend over a street, over a private road providing vehicle access into a property, or are attached to utility or streetlight poles, shall be permitted only after the City Council has approved a Community Event Sign Plan.

**A.** Application for approval of a Community Event Sign Plan shall be made on forms provided by the Planning Director, and shall be accompanied by all required information and fees.

**B.** Applicant shall obtain all encroachment permits and other agency approvals required, prior to submitting an application for a Community Event Sign Plan. If signage is proposed within a right-of-way controlled by another agency, the applicant shall provide written consent from the appropriate agency regarding the signage prior to submitting an application for a Community Event Sign Plan. The consent shall identify any restrictions desired by the owner of the right-of-way.

**C.** The applicant shall assume all liability for incidents involving the sign by signing a document exempting the City from liability and providing liability insurance in the form required by the City Attorney and in an amount not less than the current tort liability

limitations.

**D.** Applications for permanent geographic identification banners or signage which extend over a street, over a private road providing vehicle access into a property, or are attached to utility or streetlight poles, shall be submitted following the same application procedures as described for temporary signage, and shall be submitted by a neighborhood association that is officially recognized by the City, or shall be accompanied by a petition indicating the consent of at least 51 percent of the property owners in the geographic area delineated on the Sign Plan application.

**E.** Except for permanent banners or signage identifying a geographic area or district of the City, all banners and signage approved in a Community Event Sign Plan shall be removed within 2 days after the associated event or activity has ended, or no later than directed by City Council in the Sign Plan approval, whichever date is later.

**16.42.040 Design standards for signs.**

The following standards apply to signs in all zone districts.

**A. Setbacks.** Signs are required to meet the setback requirements of the applicable zone district, except however the street yard setback for signs may be reduced to fifty (50) percent of that required for other structures in the zone. Signs shall not obstruct a vision clearance area required in the applicable zone district.

**B. Illumination.**

1. External illumination is allowed. The external illumination may be either “direct” or “indirect”, provided that the source of light (e.g., bulb) is shielded such that it is not directly seen by the public. External light sources shall be carefully located, directed, and shielded in order to avoid direct illumination of any off-site object or property.

2. Internal illumination is allowed.

3. External or internal sign illumination shall not result in glare onto neighboring properties or onto public right-of-way, such that due to level of brightness, lack of shielding, or high contrast with surrounding light levels, the sign illumination results in discomfort or visual disability for persons.

4. Sign illumination shall not appear to flash, undulate, pulse, or portray explosions, fireworks, flashes of light, or blinking or chasing lights.

**C. Monument signs.**

1. Monument signs shall have a distinct base, middle, and top. These elements of the sign shall vary from one another in terms of their thickness, materials, or color.

2. Monument signs shall incorporate the following materials, unless otherwise

approved pursuant to subsection 4 of this section.

- a.** The base and top shall be constructed of stone, brick, or wood.
- b.** The middle shall be constructed of stone, brick, wood, metal with a matte/non-reflective finish, vinyl, or other materials as noted in subsection c.
- c.** Other materials may be used for bulletin board or electronic message board components in the middle portion of a monument sign, as needed to allow the bulletin board or electronic message board to function.

**3.** Monument signs shall provide street addresses when street addresses are not visible from the street.

**4.** A monument sign which does not meet one or more of the standards detailed above in subsections 1 through 3, may be approved by the Planning Director pursuant to the Type II land use application procedures set forth in Chapter 16.89. A discretionary monument sign application may be approved if the applicant demonstrates compliance with all of the following criteria:

- a.** The overall design of the sign exhibits a sense of structure; and
- b.** Timeless materials, similar to stone, brick, or wood are used; and
- c.** The proposed sign is in conformance with all other applicable city ordinances concerning its location, construction, and design.

**D. A-Frame signs.**

**1.** A-frame signs shall be constructed of wood, plastic, or metal with a matte/non-reflective finish.

**2.** A-frame signs shall not include any parts or attachments that extend beyond the edge of the sign dimensions established in Section 16.42.025.C.

**3.** A-frame signs shall not incorporate reflective materials.

**4.** A-frame sign structure shall not incorporate any neon colors.

**5.** An A-frame sign which does not meet one or more of the standards detailed above in subsections 1 through 4, may be approved by the Planning Director pursuant to the Type II land use application procedures set forth in Chapter 16.89. A discretionary A-frame sign application may be approved if the applicant demonstrates compliance with all of the following criteria:

- a. The proposed materials, colors, and dimensions of the A-frame sign do not pose a hazard or nuisance to persons; and
- b. The proposed sign is in conformance with all other applicable city ordinances concerning its location, construction, and design.

**E. Blade/Overhang signs.**

- 1. Blade/overhang sign shall not extend more than 8 feet from the building face.
- 2. The outer edge of a blade/overhang sign shall be set back a minimum of 2 feet from a curb.
- 3. A minimum 8 foot clearance shall be provided between grade and the bottom of a blade/overhang sign. Blade/overhang signs which extend over the public right-of-way are subject to the standards of 16.42.045.

**F. Wall signs.** A wall sign shall not project more than 18 inches from the wall to which it is attached (or 12 inches from a wall directly abutting an alley). Wall signs which extend over the public right-of-way are subject to the standards of 16.42.045..

**G. Bulletin boards and electronic message boards are only allowed as part of a blade/overhang sign, marquee sign, monument sign, pole sign, or wall sign.**

- 1. The rate of change for sign copy on a bulletin or electronic message board from one message to another message shall be no more frequent than every 8 seconds. Once changed, copy shall remain static until the next change.
- 2. Displays may travel horizontally or scroll vertically onto electronic message boards, but must hold in a static position after completing the travel or scroll.
- 3. Sign copy shall not appear to flash, undulate, pulse, or portray explosions, fireworks, flashes of light, or blinking or chasing lights. Copy shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or otherwise portray graphics or animation as it moves onto, is displayed on, or leaves the electronic message board.
- 4. No electronic message board may be illuminated to a degree of brightness that is greater than necessary for adequate visibility.

(Ord. 1111 section 7, 2003; Ord. 913 section 1[part], 1994; Ord. 830 section 13[part] 1989; Ord. 802 4, 1987; Ord. 740 section 10.3.40(C), 1984; Ord 1299, 2008; Ord. 1339, 2010)

**16.42.045 Permanent Signs Allowed in Right-of-Way.**

- A.** Except as allowed by this section, no permanent signs requiring sign permits shall be

located within the public right-of-way.

**B.** Awning, canopy, marquee, blade/overhang and wall signs proposed in compliance with this chapter may be permitted to extend over an existing or future public sidewalk provided they comply with the criteria below:

1. The sign shall be placed so as to not to interfere with use of the public property for walkway, roadway, existing or proposed utilities, and other authorized uses.

2. The sign complies with all applicable city codes with regard to structural safety, traffic, and fire safety requirements.

3. The sign will not cause an adverse impact on adjoining properties.

4. The sign will be maintained in good order.

5. No encroachment permit shall be required; however, in requesting a sign permit for a sign which extends over an existing or future public sidewalk, the applicant acknowledges that:

a. Permission to allow the sign to extend over the public sidewalk shall be revocable by the city at any time the revocation would be in the public interest and that no grant of any permit, expenditure of money in reliance thereon or lapse of time shall give the permittee any right to the continued existence of an encroachment or to any damages or claims against the city arising from a revocation.

b. Upon revocation, the permittee or any successor permittee shall, at the permittee's own cost, remove the permitted sign within 30 days after written notice has been provided by the city, unless a shorter period is specified in the notice of revocation due to an emergency situation.

c. If the permittee does not remove the encroachment and return the right-of-way easement or public property area to a condition satisfactory to the Director, the city may do so and the costs of returning the right-of-way, easement or public property to a satisfactory condition, shall be imposed as a lien upon the property on the city lien docket.

d. The permittee, and owner of the benefited property if different than the permittee, shall be liable to indemnify and defend any claim or legal action brought against the city by reason of the existence of any approved right-of-way, easement or public property encroachment. (Ord. 1339, 2010)

**16.42.050 Size, type, and location of signs permitted by zoning district and use.**

In addition to the design standards for signs in Section 16.42.040, Table 16.42.050 sets forth standards for type, size, and location of permanent signs that are allowed in specific zoning districts. The table is arranged by section as follows:

<b>Table 1</b>	Residential Zones <del>and Agricultural Zone</del> (R-1, R-1.5, R-2, <del>A</del> , C-R)
<b>Table 2</b>	Industrial Zones and Heavy Commercial Manufacturing Zone (M-1, M-2, C-M)
<b>Table 3</b>	Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc)
<b>Table 4</b>	Downtown Commercial Zone (C-1) and Core Commercial Area in the Downtown Canby Overlay Zone (DCO-cc)
<b>Table 5</b>	Core Highway Frontage Sign Overlay Zone (CHFS)
<b>Table 6</b>	Residential/Commercial Zone and Convenience Commercial Zone (C-R, <del>C-G</del> ), and Transitional Commercial Area in the Downtown Canby Overlay Zone (DCO-TC)
<b>Table 7</b>	Canby Industrial Area Overlay Zone (I-O)


**A.** Where the standards in a base zoning district conflict with the standards in an overlay district, the standards in the overlay district prevail.

**B.** Where the standards in the Canby Industrial Area Overlay (I-O) district conflict with the standards in another overlay district, the standards in the Canby Industrial Area Overlay (I-O) district prevail.



**C.** Where the standards in the Core Highway Frontage Sign Overlay (CHFS) district conflict with the standards in another overlay district, the standards in the Core Highway Frontage Sign Overlay (CHFS) district prevail.



**D.** Where an automobile service station is located on a lot, regardless of zoning district, the sign standards set forth in 16.42.060 apply.

**TABLE 16.42.050**

<b>Table 1. Residential Zones and <del>Agricultural Zone</del> (R-1, R-1.5, R-2, <del>A</del>, C-R)</b>		
<b><u>Monument Sign</u></b>		
<b>A.</b> Use on site: Property has been subdivided into more than 20 lots.		
Size: maximum 16 square feet per sign face.	Maximum Height: 7 feet.	Location/Number: Maximum two signs; One sign may be located on either side of a public street or private street entrance to the subdivided property.
<b>B.</b> Use on site: Multi-family development.		



<b>Table 1. Residential Zones and Agricultural Zone (R-1, R-1.5, R-2, A, C-R)</b>		
Size: maximum 16 square feet per sign face.	Maximum Height: 7 feet.	Location/Number: One sign may be located adjacent to the primary street frontage, on either side of a vehicle accessway; AND one sign may be located adjacent to a collector or arterial street frontage if it is not the primary street frontage, on either side of a vehicle accessway.
<b>C. Use on site: church, school, public/semi-public facility, or privately-owned community center.</b>		
Size: maximum 40 square feet per sign face.	Maximum Height: 7 feet.	Location/Number: Maximum one sign; No specific location requirement.
<b>D. Use on site: all other uses.</b>		
Size: not allowed.	Maximum Height: n/a.	Location/Number: n/a.
<b><u>Pole Sign</u></b>		
<b>A. Use on site: church, school, public/semi-public facility, or privately-owned community center.</b>		
Size: maximum 40 square feet per sign face.	Maximum Height: 8 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site: all other uses.</b>		
Size: not allowed.	Maximum Height: n/a.	Location/Number: n/a.
<b><u>Wall Sign</u></b>		
<b>A. Use on site: church, school, or public/semi-public facility.</b>		
Size: maximum 8 percent of building elevation area, with a maximum sign face of 60 square feet on a primary frontage or 30 square feet on a secondary frontage.	Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.	Location/Number: One sign per building frontage.

<b>Table 1. Residential Zones and Agricultural Zone (R-1, R-1.5, R-2, A, C-R)</b>		
<b>B. Use on site: home occupation or permitted commercial use other than those listed above in subsection A.</b>		
Size: maximum sign face of 2 square feet.	Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.	Location/Number: Maximum one sign; No specific location requirement.
<b>C. Use on site: all other uses.</b>		
Size: not allowed.	Maximum Height: n/a.	Location/Number: n/a.
<b><u>Blade/Overhang Sign</u></b>		
<b>A. Use on site: home occupation or permitted commercial use.</b>		
Size: maximum 2 square feet per sign face.	Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.	Location/Number: One sign per building frontage.
<b>B. Use on site: all other uses.</b>		
Size: not allowed.	Maximum Height: n/a.	Location/Number: n/a.
<b><u>Bulletin Board</u></b>		
<b>A. Use on site: church, school, or public/semi-public facility.</b>		
Size: bulletin board may encompass up to 75 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.




<b>Table 1. Residential Zones and Agricultural Zone (R-1, R-1.5, R-2, A, C-R)</b>		
<b>B. Use on site: all other uses.</b>		
Size: bulletin board may encompass up to 50 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Electronic Message Board</u></b>		
<b>A. Use on site: all uses.</b>		
Size: electronic message board may encompass up to 25 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Awning Sign or Canopy Sign</u></b>		
<b>A. Use on site: not permitted for any use.</b>		
<b><u>Marquee Sign</u></b>		
<b>A. Use on site: not permitted for any use.</b>		




Table 1. Residential Zones and Agricultural Zone (R-1, R-1.5, R-2, A, C-R)		
<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.

Table 2. Industrial Zones and Heavy Commercial Manufacturing Zone (M-1, M-2, C-M)		
<b><u>Monument Sign</u></b>		
	<b>A. Use on site: Church, school, or public facility.</b>	
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site: Minor business complex.</b>		
Size: maximum 100 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage; except on a site larger than 10 acres a total of two signs are allowed.
<b>C. Use on site: Major business complex.</b>		
Size: maximum 150 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial

<b>Table 2. Industrial Zones and Heavy Commercial Manufacturing Zone (M-1, M-2, C-M)</b>		
		street frontage; except on a site larger than 10 acres a total of two signs are allowed.
<b>D. Use on site:</b> all other uses on a site that is less than or equal to 5 acres in size.		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b>E. Use on site:</b> all uses on a site greater than 5 acres.		
Size: maximum 150 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage; except on a site larger than 10 acres a total of two signs are allowed.
<b><u>Pole Sign</u></b>		
<b>A. Use on site:</b> church, school, or public facility.		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site:</b> Minor business complex.		
Size: maximum 100 square feet per sign face (up to two faces).	Maximum Height: 20 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
<b>C. Use on site:</b> Major business complex.		
Size: maximum 130 square feet per sign face (up to two faces).	Maximum Height: 26 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
<b>D. Use on site:</b> All other uses on a site that is less than or equal to 5 acres in size.		









<b>Table 2. Industrial Zones and Heavy Commercial Manufacturing Zone (M-1, M-2, C-M)</b>		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign; except one sign may be located adjacent each collector or arterial street frontage.
<b>E. Use on site: All uses on a site greater than 5 acres.</b>		
Size: maximum 130 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign; except one sign may be located adjacent each collector or arterial street frontage; except if the use is a church, school, or public facility one sign may be located adjacent each street frontage.
<b><u>Wall Sign</u></b>		
<b>A. Use on site: All uses.</b>		
<p>Size: The maximum sign face area of all wall signage allowed on a primary building frontage is 8 percent of the building elevation area of the primary building frontage. Except as allowed below, each sign is limited to a maximum of 120 square feet.</p> <p>The maximum sign face area of all wall signage allowed on a secondary building frontage is 6 percent of the building elevation area of the secondary building frontage. Except as allowed below, each sign is limited to a maximum of 60 square feet.</p> <p>If the building elevation area of a primary or secondary building frontage exceeds 5,000 square feet, the maximum sign face area of each sign allowed on that frontage is 190 square</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per building frontage for each business license on file with the City at that location.</p>

Table 2. Industrial Zones and Heavy Commercial Manufacturing Zone (M-1, M-2, C-M)		
feet.		
<b><u>Blade/Overhang Sign</u></b>		
<b>A. Use on site: All uses.</b>		
Size: Each sign shall have a maximum sign face area of 48 square feet.	Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.	Location/Number: One sign per building frontage for each business license on file with the City at that location.
<b><u>Bulletin Board</u></b>		
<b>A. Use on site: church, school, or public/semi-public facility.</b>		
Size: bulletin board may encompass up to 75 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b>B. Use on site: all other uses.</b>		
Size: bulletin board may encompass up to 50 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Electronic Message Board</u></b>		
<b>A. Use on site: all uses.</b>		



<b>Table 2. Industrial Zones and Heavy Commercial Manufacturing Zone (M-1, M-2, C-M)</b>		
Size: electronic message board may encompass up to 25 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Awning Sign or Canopy Sign</u></b>		
<b>A. Use on site: all uses.</b>		
Size: Signs on awnings shall not cover more than 25 percent of the main area of the awning or exceed 25 square feet in size, whichever is smaller.	Maximum Height: shall not project above the roof line.	Location/Number: One sign per awning or canopy. Sign shall not project above the roof line. Sign shall not extend more than 8 feet from the building face. Outer edge of sign shall be set back a minimum of 2 feet from a curb. A minimum 8 foot clearance shall be provided between grade and bottom of sign.
<b><u>Marquee Sign</u></b>		
<b>A. Use on site: not permitted for any use.</b>		
<b><u>Window Sign</u></b>		
<b>A. Use on site: all uses.</b>		



<b>Table 2. Industrial Zones and Heavy Commercial Manufacturing Zone (M-1, M-2, C-M)</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.

<b>Table 3. Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc OHC)</b>		
<b><u>Monument Sign</u></b>		
<b>A. Use on site: Church, school, or public facility.</b>		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site: Minor business complex.</b>		
Size: maximum 100 square feet per sign face (up to two faces).	Maximum Height: 12 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b>C. Use on site: Major business complex.</b>		
Size: maximum 150 square feet per sign face (up to two faces).	Maximum Height: 12 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b>D. Use on site: all other uses.</b>		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.

**Table 3. Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc OHC)**

<b><u>Pole Sign</u></b>		
<b>A. Use on site:</b> church, school, or public facility.		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site:</b> Minor business complex.		
Size: maximum 100 square feet per sign face (up to two faces).	Maximum Height: 20 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
<b>C. Use on site:</b> Major business complex.		
Size: maximum 130 square feet per sign face (up to two faces).	Maximum Height: 26 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
<b>D. Use on site:</b> All other uses.		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign; except one sign may be located adjacent each collector or arterial street frontage.
<b><u>Wall Sign</u></b>		

**Table 3. Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc OHC)**







<b>A. Use on site: All uses.</b>		
<p>Size: The maximum sign face area of all wall signage allowed on a primary building frontage is 8 percent of the building elevation area of the primary building frontage. Except as allowed below, each sign is limited to a maximum of 120 square feet.</p> <p>The maximum sign face area of all wall signage allowed on a secondary building frontage is 6 percent of the building elevation area of the secondary building frontage. Except as allowed below, each sign is limited to a maximum of 60 square feet.</p> <p>If the building elevation area of a primary or secondary building frontage exceeds 5,000 square feet, the maximum sign face area of each sign allowed on that frontage is 190 square feet.</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per building frontage for each business license on file with the City at that location except that one major tenant per location may up to two signs. For the purposes of the standard, a “major tenant” shall have more than 20,000 square feet of gross floor area.</p>
<b><u>Blade/Overhang Sign</u></b>		
<b>A. Use on site: All uses.</b>		
<p>Size: Each sign shall have a maximum sign face area of 48 square feet.</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per building frontage for each business license on file with the City at that location.</p>
<b><u>Bulletin Board</u></b>		



Table 3. Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-ohc OHC)		
<b>A. Use on site: church, school, or public/semi-public facility.</b>		
Size: bulletin board may encompass up to 75 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b>B. Use on site: all other uses.</b>		
Size: bulletin board may encompass up to 50 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Electronic Message Board</u></b>		
<b>A. Use on site: all uses.</b>		
Size: electronic message board may encompass up to 25 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Awning Sign or Canopy Sign</u></b>		
<b>A. Use on site: all uses.</b>		
Size: Signs on awnings shall not cover more than 25 percent	Maximum Height: shall not project	Location/Number: One sign per awning or canopy. Sign shall not project above the roof


**Table 3. Highway Commercial Zone (C-2) and Outer Highway Commercial Area in the Downtown Canby Overlay Zone (DCO-~~ohc~~ OHC)**

of the main area of the awning, or exceed 25 square feet in size, whichever is smaller.	above the roof line.	line. Sign shall not extend more than 8 feet from the building face. Outer edge of sign shall be set back a minimum of 2 feet from a curb. A minimum 8 foot clearance shall be provided between grade and bottom of sign.
<b><u>Marquee Sign</u></b>		
<b>A. Use on site: all uses.</b>		
Size: The maximum sign face area for marquee signs is 120 square feet.	Maximum Height: shall not project above the roof line or parapet wall, whichever is higher; however, the blade/overhanging portion of the sign may extend above the roof line or parapet wall.	Location/Number: One sign per primary building frontage. Outer edge of sign shall be set back a minimum of 2 feet from a curb. A minimum 8 foot clearance shall be provided between grade and bottom of sign.
<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.

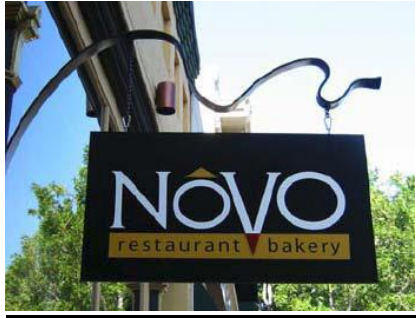

**Table 4. Downtown Commercial Zone (C-1) and Core Commercial Area in the Downtown Canby Overlay Zone (DCO-~~cc~~ CC)**

**Table 4. Downtown Commercial Zone (C-1) and Core Commercial Area in the Downtown Canby Overlay Zone (DCO-~~CC~~-CC)**

<b><u>Monument Sign</u></b>		
<b>A. Use on site:</b> Church, school, or public facility.		
Size: maximum 40 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site:</b> Minor business complex.		
Size: maximum 50 square feet per sign face (up to two faces).	Maximum Height: 12 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b>C. Use on site:</b> Major business complex.		
Size: maximum 65 square feet per sign face (up to two faces).	Maximum Height: 12 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b>D. Use on site:</b> all other uses.		
Size: maximum 40 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b><u>Pole Sign</u></b>		
<b>A. Use on site:</b> church, school, or public facility.		
Size: maximum 40 square feet	Maximum Height:	Location/Number: One sign may be located

<b>Table 4. Downtown Commercial Zone (C-1) and Core Commercial Area in the Downtown Canby Overlay Zone (DCO-<del>CC</del>-CC)</b>		
per sign face (up to two faces).	12 feet.	adjacent each street frontage.
<b>B. Use on site: Minor business complex.</b>		
Size: maximum 50 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
<b>C. Use on site: Major business complex.</b>		
Size: maximum 65 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
<b>D. Use on site: All other uses.</b>		
Size: maximum 40 square feet per sign face (up to two faces).	Maximum Height: 12 feet.	Location/Number: One sign; except one sign may be located adjacent each collector or arterial street frontage.
<b><u>Wall Sign</u></b>		
<b>A. Use on site: All uses.</b>		
Size: The maximum sign face area of all wall signage allowed on a primary building frontage is 8 percent of the building elevation area of the primary building frontage. Each sign is limited to a maximum of 60 square feet.  The maximum sign face area of all wall signage allowed on a	Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.	Location/Number: One sign per building frontage for each business license on file with the City at that location except that one major tenant per location may have up to two signs. For the purposes of this standard, a “major tenant” shall have more than 20,000 square feet of gross floor area.



<b>Table 4. Downtown Commercial Zone (C-1) and Core Commercial Area in the Downtown Canby Overlay Zone (DCO-<del>CC</del>-CC)</b>		
secondary building frontage is 6 percent of the building elevation area of the secondary building frontage. Each sign is limited to a maximum of 30 square feet.		
<b><u>Blade/Overhang Sign</u></b>		
<b>A. Use on site: All uses.</b>		
Size: Each sign shall have a maximum sign face area of 20 square feet.	Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.	Location/Number: One sign per building frontage for each business license on file with the City at that location.
<b><u>Bulletin Board</u></b>		
<b>A. Use on site: church, school, or public/semi-public facility.</b>		
Size: bulletin board may encompass up to 75 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b>B. Use on site: all other uses.</b>		
Size: bulletin board may encompass up to 50 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.



**Table 4. Downtown Commercial Zone (C-1) and Core Commercial Area in the Downtown Canby Overlay Zone (DCO-~~CC~~-CC)**




<b><u>Electronic Message Board</u></b>			
A. Use on site: all uses.			
Size: electronic message board may encompass up to 25 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.	
<b><u>Awning Sign or Canopy Sign</u></b>			
A. Use on site: all uses.			
Size: Signs on awnings shall not cover more than 25 percent of the main area of the awning, or exceed 25 square feet in size, whichever is smaller.	Maximum Height: shall not project above the roof line or parapet wall, whichever is higher.	Location/Number: One sign per awning or canopy. Sign shall not project above the roof line. Sign shall not extend more than 8 feet from the building face. Outer edge of sign shall be set back a minimum of 2 feet from a curb. A minimum 8 ½ foot clearance shall be provided between grade and bottom of sign.	
<b><u>Marquee Sign</u></b>			
A. Use on site: all uses.			
Size: The maximum sign face area for marquee signs is 120 square feet.	Maximum Height: shall not project more than 8 feet above the roof line or parapet wall, whichever is higher. The blade/overhang	Location/Number: One sign per primary building frontage. Outer edge of sign shall be set back a minimum of 2 feet from a curb.	


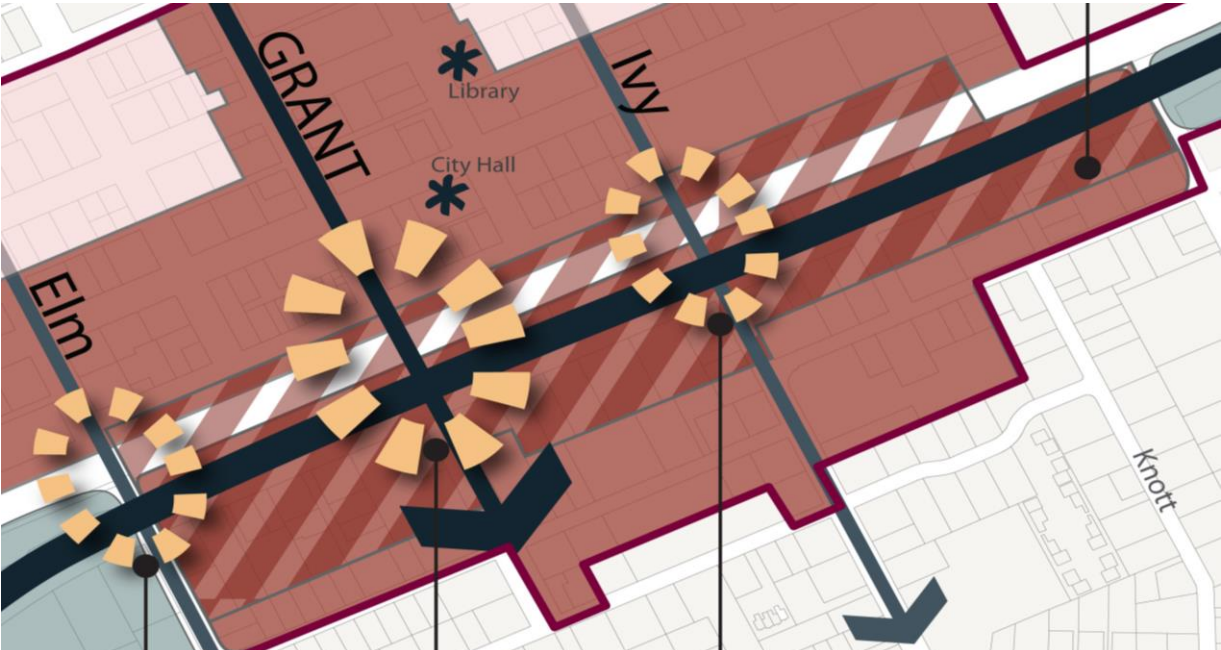



Table 4. Downtown Commercial Zone (C-1) and Core Commercial Area in the Downtown Canby Overlay Zone (DCO- <del>CC</del> CC)		
	portion of the sign may extend above the roof line or parapet wall.	
<u>Window Sign</u>		
A. Use on site: all uses.		
Size: maximum 15 percent of total window area.	Maximum Height: determined by height of window.	Location/Number: Only allowed in ground floor or 2nd floor windows.



Table 5. Core Highway Frontage Sign Overlay Zone (CHFS)
<p><b>A.</b> The purpose of the Core Highway Frontage Sign Overlay is to have sign standards that are particularly applicable to properties in the Core Commercial sub-area of the Downtown Canby Overlay Zone that are located in close proximity to Hwy 99 E.</p> <p><b>B.</b> A Core Highway Frontage Sign Overlay Zone is established as illustrated by the striped pattern on the following map, and encompasses the following area:</p>


**Table 5. Core Highway Frontage Sign Overlay Zone (CHFS)**

<b><u>Monument Sign</u></b>		
<b>A. Use on site: Church, school, or public facility.</b>		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site: Minor business complex.</b>		
Size: maximum 100 square feet per sign face (up to two faces).	Maximum Height: 12 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b>C. Use on site: Major business complex.</b>		
Size: maximum 130 square feet per sign face (up to two faces).	Maximum Height: 12 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b>D. Use on site: all other uses.</b>		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 9 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.

**Table 5. Core Highway Frontage Sign Overlay Zone (CHFS)**

<b><u>Pole Sign</u></b>		
<b>A. Use on site:</b> church, school, or public facility.		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site:</b> Minor business complex.		
Size: maximum 100 square feet per sign face (up to two faces).	Maximum Height: 20 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
<b>C. Use on site:</b> Major business complex.		
Size: maximum 130 square feet per sign face (up to two faces).	Maximum Height: 26 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage that is at least 500 feet in length. Where more than one sign is permitted on a site, the signs must be separated by at least 300 feet.
<b>D. Use on site:</b> All other uses.		
Size: maximum 48 square feet per sign face (up to two faces).	Maximum Height: 18 feet.	Location/Number: One sign; except one sign may be located adjacent each collector or arterial street frontage.
<b><u>Wall Sign</u></b>		
<b>A. Use on site:</b> All uses.		

<b>Table 5. Core Highway Frontage Sign Overlay Zone (CHFS)</b>		
<p>Size: The maximum sign face area of all wall signage allowed on a primary building frontage is 8 percent of the building elevation area of the primary building frontage. Each sign is limited to a maximum of 60 square feet.</p> <p>The maximum sign face area of all wall signage allowed on a secondary building frontage is 6 percent of the building elevation area of the secondary building frontage. Each sign is limited to a maximum of 30 square feet.</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per building frontage for each business license on file with the City at that location except that one major tenant per location may have up to two signs. For the purposes of this standard, a “major tenant” shall have more than 20,000 square feet of gross floor area.</p>
<p><b><u>Blade/Overhang Sign</u></b></p>		
<p><b>A. Use on site: All uses.</b></p>		
<p>Size: Each sign shall have a maximum sign face area of 20 square feet.</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per building frontage for each business license on file with the City at that location.</p>
<p><b><u>Bulletin Board</u></b></p>		




<b>Table 5. Core Highway Frontage Sign Overlay Zone (CHFS)</b>		
<b>A. Use on site: church, school, or public/semi-public facility.</b>		
Size: bulletin board may encompass up to 75 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b>B. Use on site: all other uses.</b>		
Size: bulletin board may encompass up to 50 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Electronic Message Board</u></b>		
<b>A. Use on site: all uses.</b>		
Size: electronic message board may encompass up to 25 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Awning Sign or Canopy Sign</u></b>		
<b>A. Use on site: all uses.</b>		
Size: Signs on awnings shall not cover more than 25 percent of the main area of the awning, or exceed 25 square feet in size, whichever is smaller.	Maximum Height: shall not project above the roof line or parapet wall, whichever is higher.	Location/Number: One sign per awning or canopy. Sign shall not project above the roof line. Sign shall not extend more than 8 feet from the building face. Outer edge of sign shall be set back a minimum of 2 feet from a curb. A minimum 8 foot clearance shall be provided between grade and bottom of sign.
<b><u>Marquee Sign</u></b>		







Table 5. Core Highway Frontage Sign Overlay Zone (CHFS)		
A. Use on site: all uses.		
Size: The maximum sign face area for marquee signs is 120 square feet.	Maximum Height: shall not project above the roof line or parapet wall, whichever is higher. The blade/overhang portion of the sign may extend above the roof line or parapet wall.	Location/Number: One sign per primary building frontage. Outer edge of sign shall be set back a minimum of 2 feet from a curb. A minimum 8 foot clearance shall be provided between grade and bottom of sign.
<b><u>Window Sign</u></b>		
A. Use on site: all uses.		
Size: maximum 25 percent of total window area.	Maximum Height: determined by height of window.	Location/Number: Only allowed in ground floor or 2nd floor windows.

Table 6. Residential/Commercial Zone and Convenience Commercial Zone (C-R, C-G), and Transitional Commercial Area in the Downtown Canby Overlay Zone (DCO-tc <u>TC</u> )	
<b><u>Monument Sign</u></b>	 or

**Table 6. Residential/Commercial Zone and Convenience Commercial Zone (C-R, C-G), and Transitional Commercial Area in the Downtown Canby Overlay Zone (DCO-tc TC)**

		
<b>A. Use on site:</b> Church, school, or public facility.		
Size: maximum 32 square feet per sign face (up to two faces).	Maximum Height: 7 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site:</b> all other uses.		
Size: maximum 32 square feet per sign face (up to two faces).	Maximum Height: 7 feet.	Location/Number: One sign; except on a site abutting a collector or arterial street one sign may be located adjacent each collector/arterial street frontage.
<b><u>Pole Sign</u></b> 		
<b>A. Use on site:</b> church, school, or public/semi-public facility.		
Size: maximum 32 square feet per sign face (up to two faces).	Maximum Height: 8 feet.	Location/Number: One sign may be located adjacent each street frontage.
<b>B. Use on site:</b> all other uses.		
Size: maximum 32 square feet per sign face (up to two faces).	Maximum Height: 8 feet.	Location/Number: One sign; except on a site with more than one street frontage one sign may be located adjacent each collector or arterial street frontage.



**Table 6. Residential/Commercial Zone and Convenience Commercial Zone (C-R, C-G), and Transitional Commercial Area in the Downtown Canby Overlay Zone (DCO-tc TC)**




<u><b>Wall Sign</b></u>		
<b>A. Use on site:</b> church, school, or public/semi-public facility.		
<p>Size: The maximum sign face area for each wall sign is 60 square feet on a primary building frontage.</p> <p>The maximum sign face area for each wall sign is 30 square feet on a primary building frontage.</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per building frontage.</p>
<b>B. Use on site:</b> All other uses.		
<p>Size: The maximum sign face area of all wall signage allowed on a primary building frontage is 6 percent of the building elevation area of the primary building frontage. Each sign is limited to a maximum of 16 square feet.</p> <p>The maximum sign face area of all wall signage allowed on a secondary building frontage is 4 percent of the building elevation</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per building frontage for each business license on file with the City at that location. A wall sign shall not project more than 18 inches from the wall to which it is attached (or 12 inches from the wall on a building frontage abutting an alley).</p>

Table 6. Residential/Commercial Zone and Convenience Commercial Zone (C-R, C-G), and Transitional Commercial Area in the Downtown Canby Overlay Zone (DCO-tc <u>TC</u> )		
area of the secondary building frontage. Each sign is limited to a maximum of 8 square feet.		
<b><u>Blade/Overhang Sign</u></b>		
<b>A. Use on site: All uses.</b>		
Size: Each sign shall have a maximum sign face area of 6 square feet.	Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.	Location/Number: One sign per building frontage for each business license on file with the City at that location.
<b><u>Bulletin Board</u></b>		
<b>A. Use on site: church, school, or public/semi-public facility.</b>		
Size: bulletin board may encompass up to 75 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b>B. Use on site: all other uses.</b>		
Size: bulletin board may encompass up to 50 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.

**Table 6. Residential/Commercial Zone and Convenience Commercial Zone (C-R, C-G), and Transitional Commercial Area in the Downtown Canby Overlay Zone (DCO-tc TC)**





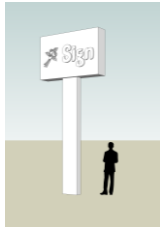

<b><u>Electronic Message Board</u></b>		
<b>A. Use on site: all uses.</b>		
Size: electronic message board may encompass up to 25 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Awning Sign or Canopy Sign</u></b>		
<b>A. Use on site: commercial use, church, school, or public/semi-public facility.</b>		
Size: Signs on awnings shall not cover more than 25 percent of the main area of the awning, or exceed 25 square feet in size, whichever is smaller.	Maximum Height: shall not project above the roof line or parapet wall, whichever is higher.	Location/Number: One sign per awning or canopy. Sign shall not extend more than 8 feet from the building face. Outer edge of sign shall be set back a minimum of 2 feet from a curb. A minimum 8 foot clearance shall be provided between grade and bottom of sign.
<b>B. Use on site: all other uses.</b>		
Size: not allowed.	Maximum Height: n/a.	Location/Number: n/a.
<b><u>Marquee Sign</u></b>		




Table 6. Residential/Commercial Zone and Convenience Commercial Zone (C-R, C-G), and Transitional Commercial Area in the Downtown Canby Overlay Zone (DCO-tc <u>TC</u> )		
A. Use on site: all uses.		
<u>Size: not allowed.</u>	<u>Maximum Height: n/a.</u>	<u>Location/Number: n/a.</u>
<u>Window Sign</u>		
A. Use on site: all uses.		
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.

Table 7. Canby Industrial Area Overlay Zone (I-O)		
<u><b>Monument Sign</b></u>		
<b>A.</b> Use on site: all uses in the M-1 zone or M-2 zone.		
Size: may not exceed 32 square feet per sign face, or 64 square feet total.	Maximum Height: 6 feet.	Location/Number: One sign.
<b>B.</b> Use on site: all uses in the C-M zone.		
Size: may not exceed 150 square feet per sign face, or 300 square feet total.	Maximum Height: 30 feet.	Location/Number: One monument sign is allowed for a site up to 10 acres in size. Sites over 10 acres in size may be permitted a maximum of 2 signs, provided that only one sign per street frontage is allowed.




**Table 7. Canby Industrial Area Overlay Zone (I-O)**

<b><u>Pole Sign</u></b>			
<b>A. Use on site: all uses.</b>			
Size: not allowed.	Maximum Height: n/a.	Location/Number: n/a.	
<b><u>Wall Sign</u></b>			
<b>A. Use on site: all uses.</b>			
<p>Size: The maximum sign face area of all wall signage allowed on a primary building frontage is 8 percent of the building elevation area of the primary building frontage. Each sign is limited to a maximum of 300 square feet.</p> <p>The maximum sign face area of all wall signage allowed on a secondary building frontage is 6 percent of the building elevation area of the secondary building frontage. Each sign is limited to a maximum of 190 square feet.</p>	<p>Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.</p>	<p>Location/Number: Painted wall signs are prohibited. Internally illuminated box-style signs, also called can signs, are prohibited.</p> <p>For other types of wall signs, one sign is permitted per building frontage for each business license on file with the City at that location.</p>	

**Table 7. Canby Industrial Area Overlay Zone (I-O)**

<b><u>Blade/Overhang Sign</u></b>		
<b>A. Use on site: All uses.</b>		
Size: Each sign shall have a maximum sign face area of 48 square feet.	Maximum Height: shall not project above the roof line or top of the parapet wall, whichever is higher.	Location/Number: One sign per building frontage for each business license on file with the City at that location.
<b><u>Bulletin Board</u></b>		
<b>A. Use on site: All uses.</b>		
Size: bulletin board may encompass up to 50 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.
<b><u>Electronic Message Board</u></b>		
<b>A. Use on site: all uses.</b>		
Size: electronic message board may encompass up to 25 percent of sign face area.	Maximum Height: determined by height of sign.	Location/Number: Only allowed as part of a permitted sign, as set forth in 16.42.040.C.2.

**Table 7. Canby Industrial Area Overlay Zone (I-O)**

<b><u>Awning Sign or Canopy Sign</u></b>		
<b>A. Use on site: all uses.</b>		
<p>Size: Signs on awnings shall not cover more than 25 percent of the main area of the awning, or exceed 25 square feet in size, whichever is smaller.</p> <p>The maximum sign face area of all signage allowed on a secondary building frontage is 8 percent of the building elevation area of the secondary frontage, up to a maximum of 60 square feet.</p>	<p>Maximum Height: shall not project above the roof line or parapet wall, whichever is higher.</p>	<p>Location/Number: One sign per awning or canopy. Sign shall not extend more than 8 feet from the building face. Outer edge of sign shall be set back a minimum of 2 feet from a curb. A minimum 8 foot clearance shall be provided between grade and bottom of sign.</p>
<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 combinations:

- a.** One pole sign or one monument sign, plus one wall sign, plus window signs and temporary signs; or
- b.** Two wall signs, plus window signs and temporary signs.

**2.** Pole sign standards:

- a.** Maximum area: 48 square feet total for a single-faced sign; 96 square feet total for a double-faced sign.
- b.** Maximum height: 18 feet.
- c.** A bulletin board or electronic message board may encompass up to 75 percent of the sign face area of a pole sign.

**3.** Wall sign standards:

- a.** Maximum area: 120 square feet per sign.
- b.** Maximum height: Sign shall not project above the roof line or parapet wall, whichever is higher.
- c.** A bulletin board or electronic message board may encompass up to 25 percent of the sign face area of a wall sign.

**d. The fascia of the gas station canopy is considered building frontage and can be utilized to calculate size standards for wall signage.**

**4.** Window sign standards: Maximum of 25 percent of total window area.

**5.** Temporary sign standards: Except during a service station grand opening, which may occur only once during a single ownership, and for a period of time not to exceed



30 consecutive days, pennants, streamers, or lawn signs shall not be permitted. Other types of temporary signs are permitted as set forth in Section 16.42.025.C. (Ord. 1299, 2008)

**16.42.070 Measurements.**

The requirements described in the following subsections are illustrated further in Figures 1 through 8.

**A. Area.**

1. Sign area shall be measured within lines drawn between the outermost dimensions of the frame or cabinet surrounding the display area containing the sign copy.
2. When signs are not framed or on a base material, and are inscribed, painted, printed, or otherwise placed upon, or attached to a structure, the sign area is the smallest possible space enclosing the sign copy that can be constructed with straight lines.
3. Where a sign is of a three-dimensional, round, or irregular solid shape, the largest cross-section shall be used in a flat projection for the purpose of determining sign area.
4. Where signs are constructed in multiple separate pieces containing sign copy, sign face area for each piece is determined by a perimeter drawn in straight lines, as small as possible, around all pieces. The sum of the area of the separate pieces shall constitute the sign area.

**B. Height.** The height of a sign above grade is measured from the average level of the grade below the sign to the topmost point of the sign, including support structure.

**C. Clearance.** Clearance is measured from the average grade below the sign to the lowermost point of the sign.

**D. Spacing.** For the purposed of applying spacing requirements, distances shall be measured parallel to the centerline of the adjacent street or highway. (Ord 1299, 2008)

Figure 1

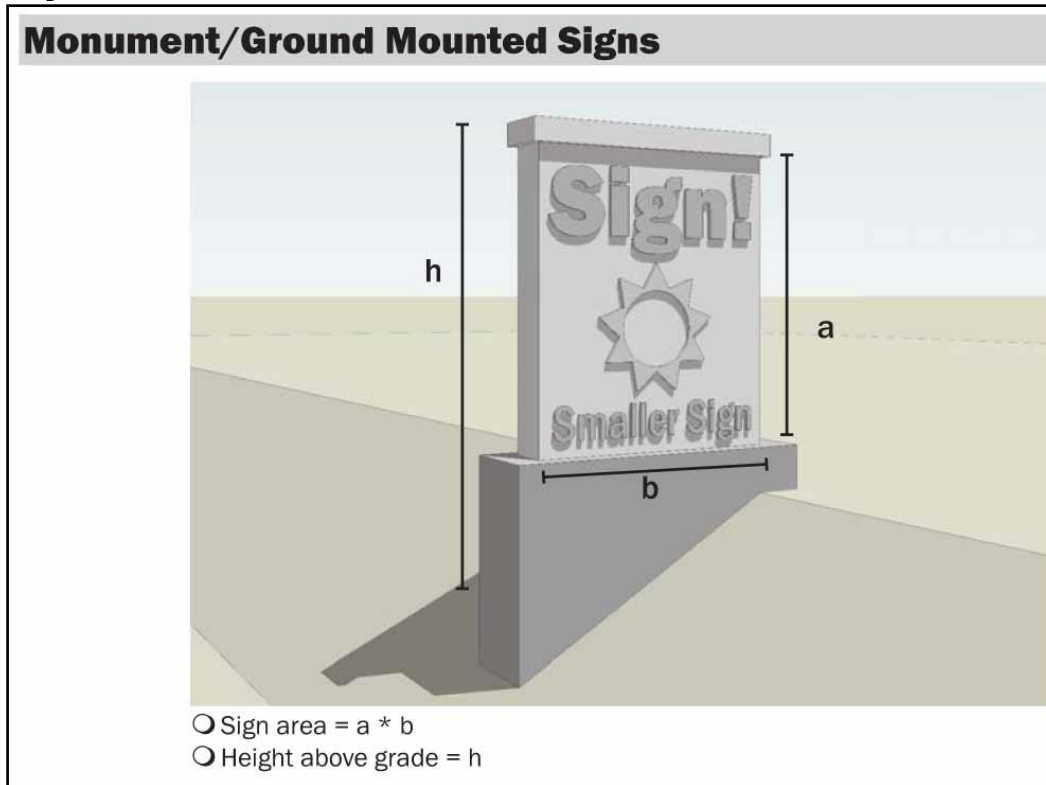


Figure 2

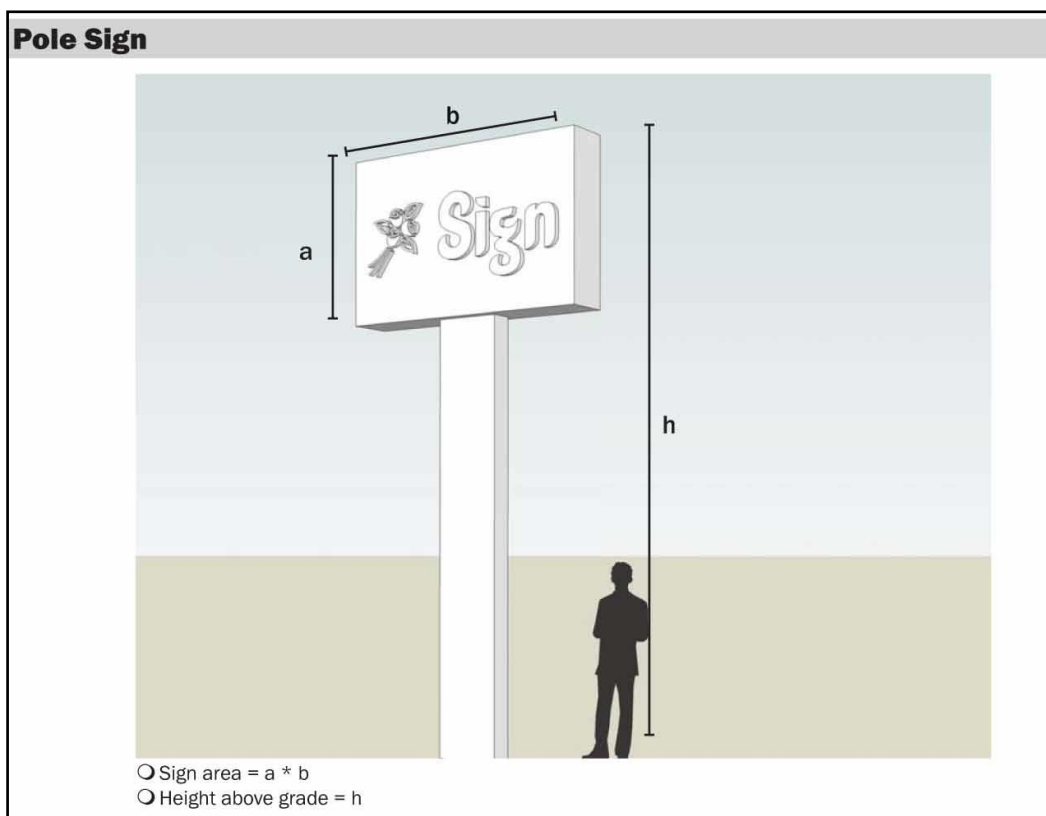


Figure 3

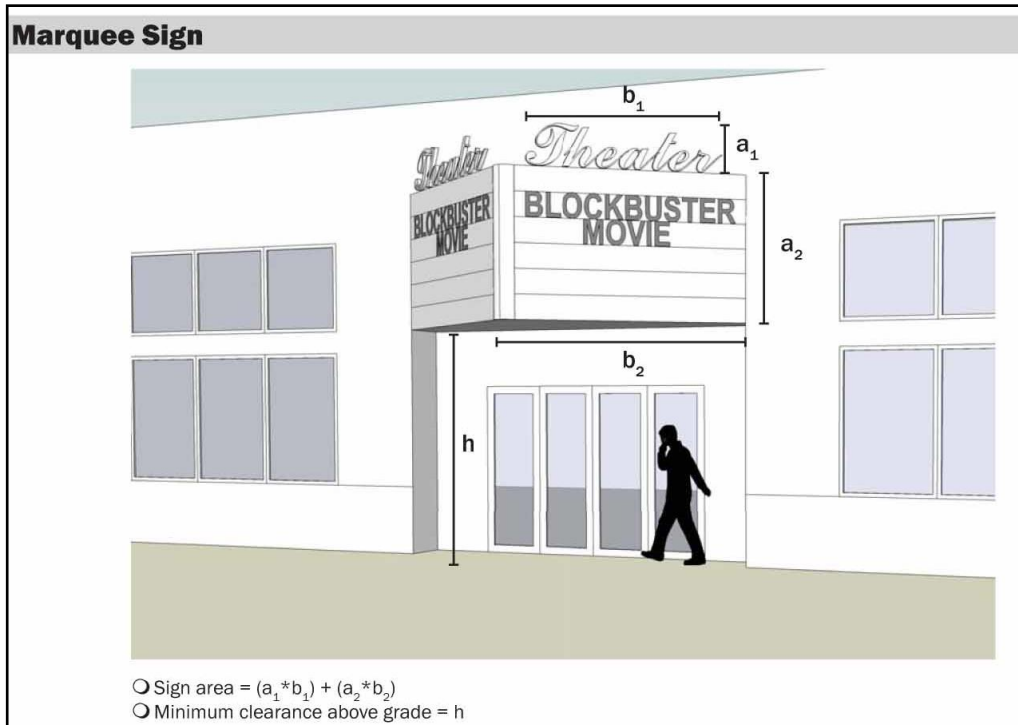


Figure 4

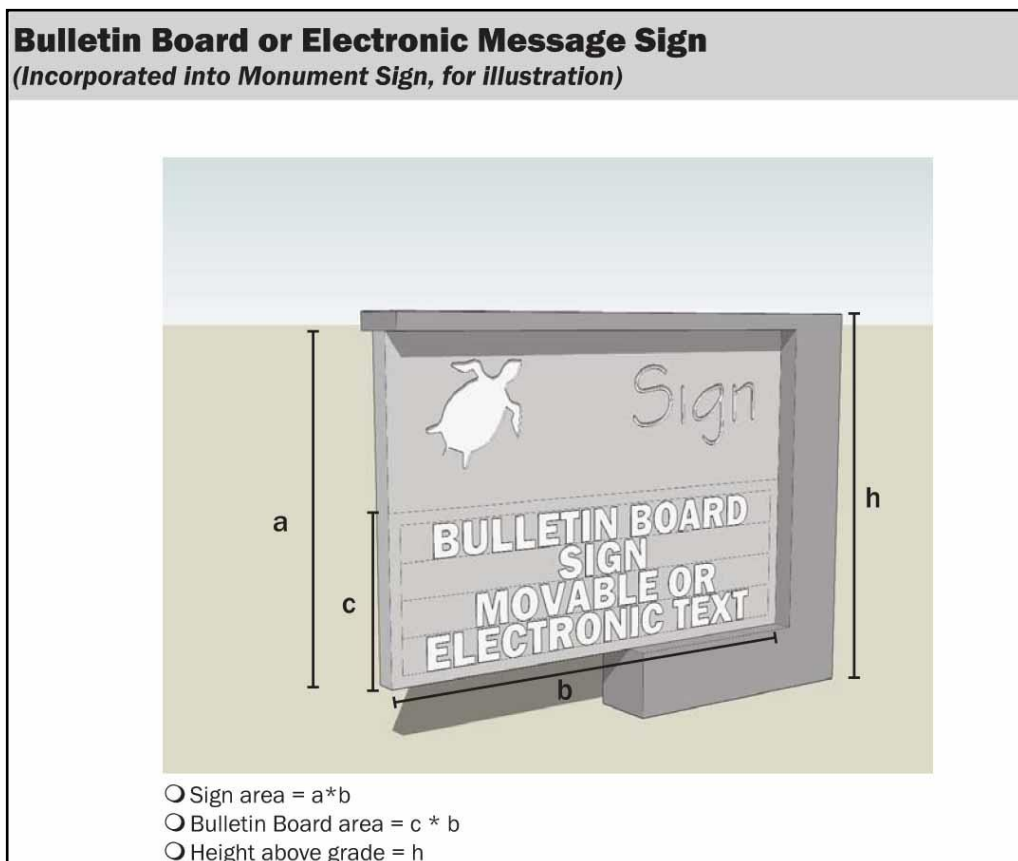


Figure 5

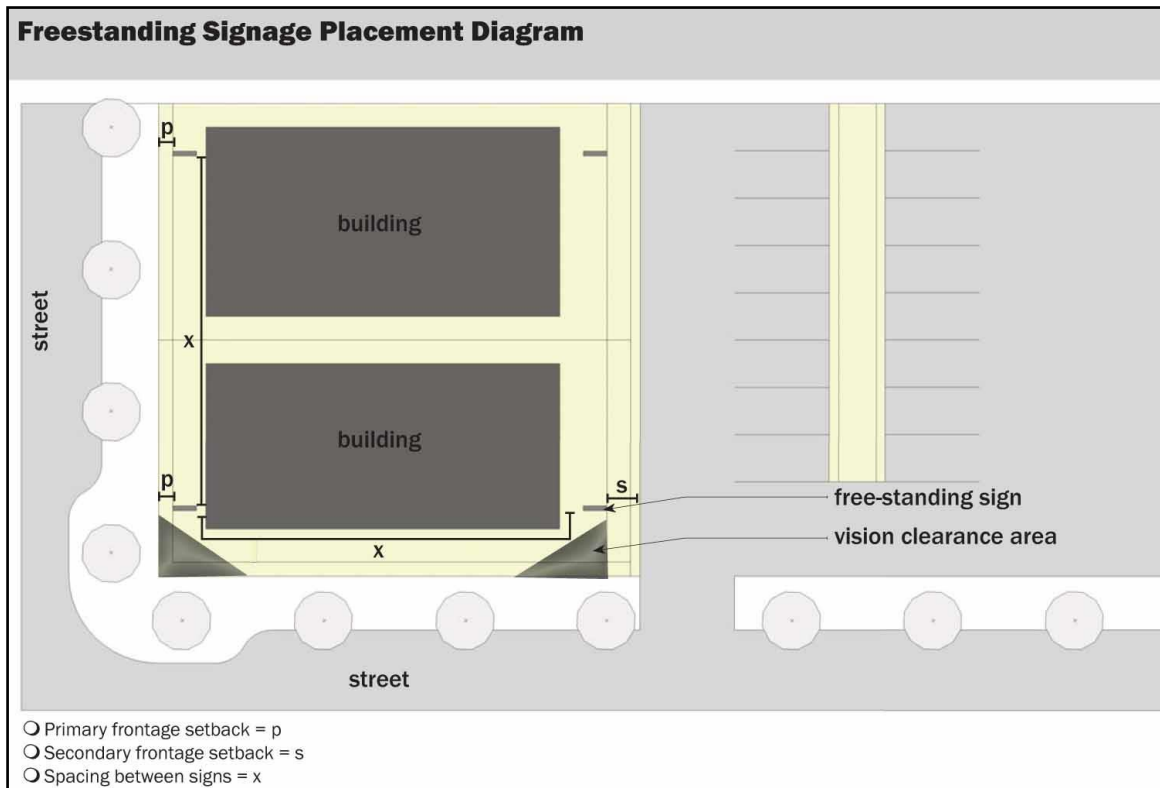


Figure 6

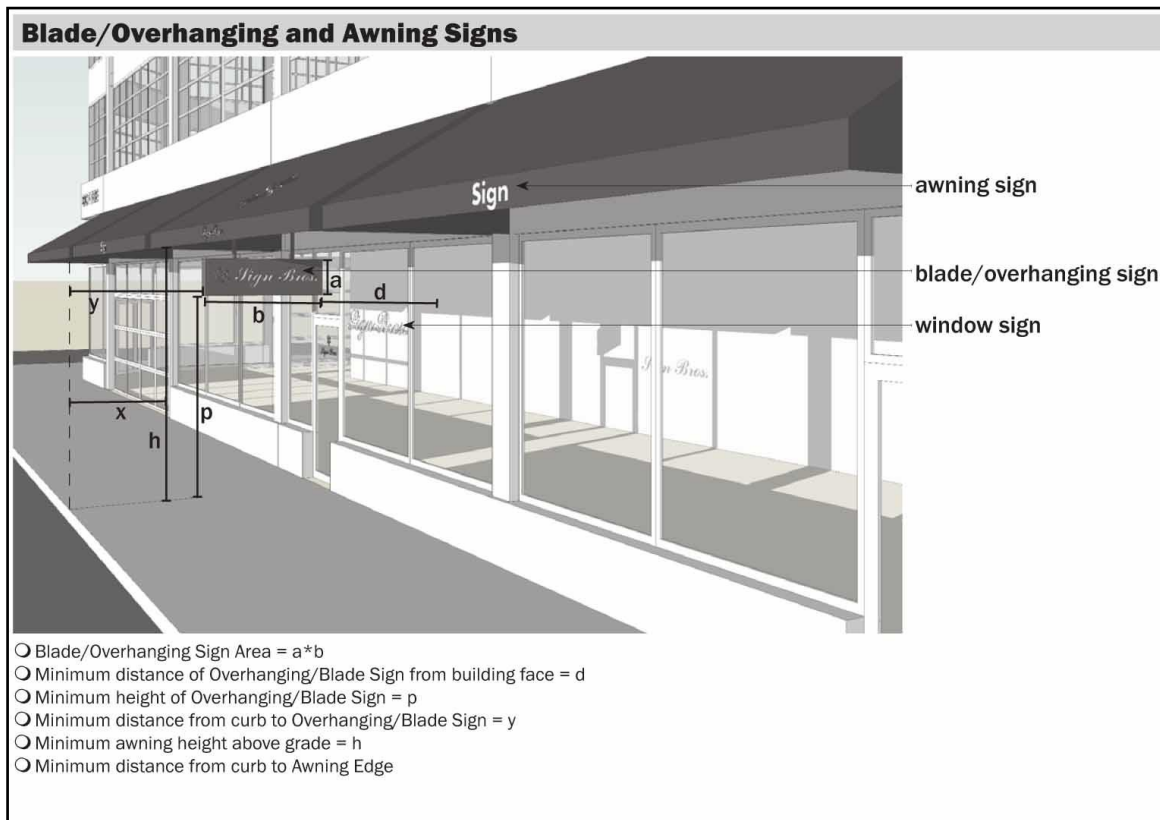
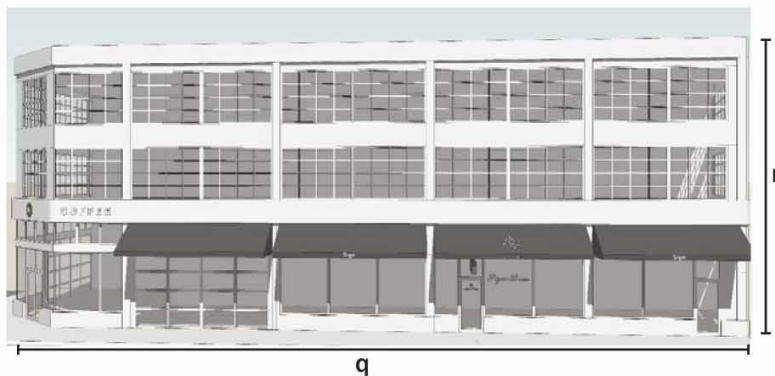


Figure 7

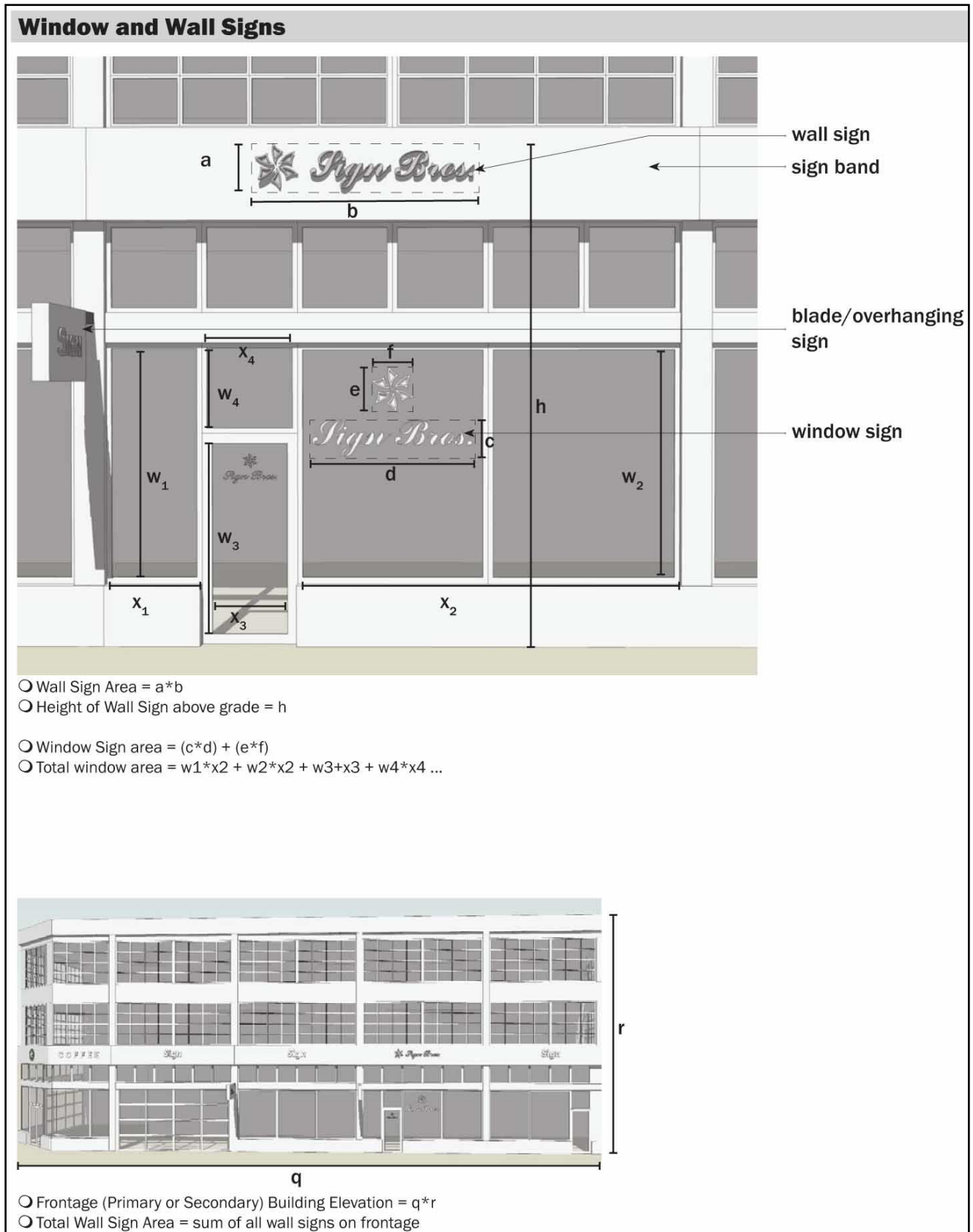


- Awning Sign Area =  $(c*d) + (e*f)$
- Minimum awning height above grade =  $h$
- Minimum height of Overhanging/Blade Sign =  $p$



- Frontage (Primary or Secondary) Building Elevation =  $q*r$
- Total Awning Sign Area = sum of all awning signs on frontage

Figure 8



(Ord. 913 section 1[part], 1994; Ord. 830 section 13[part], 1989; Ord. 802 section 5, 1987; Ord. 840 section 10.3.40(J), 1984; Ord. 1299, 2008)

**16.42.140 Severability**

Invalidity of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections. (Ord. 913 section 1[part], 1994; Ord 1237, 2007; Ord. 1299, 2008)

## Chapter 16.44

### **~~MANUFACTURED AND (MOBILE) HOMES AND TRAILER PARKS~~**

(Ord. 890 section 42, 1993)

### **MANUFACTURED (MOBILE) HOME PARKS AND RV AND MANUFACTURED HOMES USES OUTSIDE OF PARKS**

*Criteria listed after 16.44.060 has nothing to do with manufactured home parks. Subsequently, staff added to the above title to clarify that information is contained in this chapter that addresses RV's and manufactured homes outside of parks.*

Remove = **~~Strikethrough and Bold~~**

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

- 16.44.010 Regulations generally.
- 16.44.020 Plot plans.
- 16.44.030 Standards and criteria.
- 16.44.040 Parking space for mobile home or travel trailer.
- 16.44.050 Special conditions imposed by Commission.
- 16.44.060 RV and Manufactured (Mobile) Home Uses Outside of Parks**
- ~~16.44.060~~ **065** Compliance.
- 16.44.070 Time limits.
- 16.44.080 Parking in right-of-way.
- 16.44.090 Approval of permit.
- 16.44.100 Temporary permits hardship situations.
- 16.44.110 Temporary permits caretakers or watchmen.
- 16.44.120 Application for Special Permits (16.44.090-16.44.110)

#### **16.44.010 Regulations generally.**

The following regulations shall be applied to manufactured and mobile home parks or trailer parks, temporary permits for the location of trailers, mobile homes or motor homes, and other regulations applying to such units. These regulations shall guide the staff in the process of conducting site plan reviews, and shall guide the Planning Commission in the process of considering conditional use permits. (Ord. 890 section 39, 1993; Ord. 802 section 2, 1987; Ord. 740 section 10.3.45[part], 1984)

#### **16.44.020 Plot plans.**



Applicants shall submit plot plans in the appropriate number and general form as is required for either a site plan review or conditional use permit, as applicable, which shall include the following:

- A.** Locations, number and general design of pads, or stalls where units are to be located;
- B.** Locations and designs of streets, private drives and parking areas;
- C.** Locations and basic designs of any structures which are to be permanently situated on the property and an indication of the use of such buildings;
- D.** Locations and design of exterior storage areas, with an indication of whether vehicles are to be stored;
- E.** Locations, with calculations of area, of each of the recreation open spaces or landscaped areas. (Ord. 740 section 10.3.45(A), 1984)

**16.44.030 Standards and criteria.**

In reviewing applications for manufactured and mobile home parks or trailer parks, the following standards and criteria shall apply:

- A.** Maximum density shall be as follows:
  - 1. R-1 zone: a maximum of seven units/acre is permitted;
  - 2. R-1.5 zone: a maximum of ten units/acre is permitted;
  - 3. R-2 zone and other zones listing mobile home or trailer parks as conditional or permitted uses: a minimum density of twelve units/acre is required.
- B.** Density figures may be increased by not more than two units per acre for trailer parks providing spaces for overnight camping facilities.
- C.** The setback requirements of the zone shall be applied to the locations of mobile homes or trailers, except that in no case shall such units be placed less than fifteen feet from any interior lot line nor less than twenty-five feet from any public street.
- D.** The access requirements of Chapter 16.46 shall be utilized to determine the permitted number of units.
- E.** Paved pedestrian paths or walkways shall be provided along at least one side of each private road and between each unit and any outbuilding provided to serve that unit. Such paths are to be a minimum of three feet in width and designed to prevent drainage water from passing over such walkways.
- F.** A minimum of fourteen feet of separation shall be maintained between individual units, as well as between units and permanent buildings.

**G.** A concrete patio area or wood deck of at least one hundred fifty square feet, and no more than five hundred square feet, shall be provided for each unit.

**H.** Recreation and open space areas shall be provided and specified on the plan, and suitable equipment for such purposes shall be specified. Such areas shall be protected from streets, drives, and parking areas. A minimum of one hundred and fifty (150) square feet of recreation and open space areas for each mobile home space shall be provided in one or more locations within the mobile home park. The minimum size of each such recreation and open space shall be three thousand seven hundred and fifty (3,750) square feet, except, however, that those requirements may be reduced by as much as fifty (50) percent if the Planning Commission finds that such reduction is justified because of indoor recreation facilities which are provided.

**I.** A minimum of fifteen percent of the total development shall be landscaped, including a strip at least fifteen feet wide along all interior lot lines.

**J.** A sight-blocking fence which is not less than four, nor more than six, feet in height shall be provided along the perimeter of the development, except where reduced fence height is required for vision clearance along street frontage. The requirement for a fence may be modified by the Planning Commission based on clear findings that the modification will be sufficient to carry out the objectives of this section. (Ord. 890 section 40, 1993; Ord. 740 section 10.3.45(B), 1984; Ord. 1080, 2001)

**16.44.040     Parking space for mobile home or travel trailer.**

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

**16.44.050     Special conditions imposed by Commission.**

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

Criteria listed after 16.44.060 has nothing to do with manufactured home parks. Subsequently, staff added the above title and the section below to clarify that information is contained in this chapter that addresses RV's and manufactured homes outside of parks.

**16.44.060     RV and Manufactured (Mobile) Home Uses Outside of Parks.**

**16.44.065     Compliance.**

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

16.44.070 Time limits.

No camper, trailer, motor home, or **manufactured** (mobile) home may be used or inhabited on a lot, or an adjacent lot, for more than seven consecutive days or a total of fourteen days, within a sixty day period unless such placement, use or habitation conforms with the requirements of this title. **If the recreational vehicle or manufactured structure is occupied in violation of these provisions, the violation shall be resolved in accordance with this title and in compliance with any other applicable ORS. The property owner shall make a reasonable effort to resolve the violation in conjunction with the City's enforcement action.** (Ord. 890 section 41, 1993; Ord. 740 section 10.3.50 (A), 1984)

16.44.080 Parking in right-of-way.

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

16.44.090 Approval of permit.

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

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

C. Any permit issued pursuant to the terms of this chapter may be revoked by the City Council on twenty-four hours' notice upon finding that the use is a menace to public health or is resulting in a public nuisance. (Ord. 740 section 10.3.50(C), 1984; Ord. 1237, 2007)

16.44.100 Temporary permits – **medical** hardship situations.

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

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

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

C. Prior to final issuance of the permit, the applicant shall sign an affidavit agreeing to

remove or cease using the travel trailer or motor home upon the death or relocation of the infirm person.

D. Applications for temporary **medical** hardship permits under this section shall be processed using the Type II procedure **with an Administrative Review Application**. Application procedures shall be as described in Chapter 16.89.

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

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

F. The City may establish requirements as a condition of approving such an application which are necessary to assure compliance with the intent of this chapter and to minimize adverse impacts on the surrounding neighborhood. (Ord. 740 section 10.3.50(D), 1984; Ord. 1237, 2007)

16.44.110 Temporary permits - Caretakers or watchmen.

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

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

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

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

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

1. No significant adverse impacts on the value or appropriate development of nearby properties will result;
2. The subject property contains sufficient vacant area to allow for the placement of the temporary unit without overcrowding the lot or the vicinity overall and will result in a reasonable amount of open space in the area;
3. The temporary unit will be connected to all required utilities in a manner which meets code requirements;
4. The placement of the unit will meet the setback requirements of the zone.

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

16.44.120 Application for Special Permits (16.44.090-16.44.110)

An application for a special permit under sections 16.44.090 - 16.44.110 shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees. A preapplication meeting and/or neighborhood meeting may be required by the Planning Director. (Ord. 1237, 2007)

## Chapter 16.46

### ACCESS LIMITATIONS ON PROJECT DENSITY

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

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

#### 16.46.010 Number of units in residential development.

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

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

1. Roads shall be a minimum of 28 feet in width with parking restricted to one side only, or a minimum of ~~36~~ 34 feet in width with no parking restriction.
2. The number of units permitted are as follows:
  - One access: 30 units
  - Two accesses: 132 units
  - Three accesses: 207 units

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

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

**1.** Two lane access roads/drives shall be a minimum width of 20 feet with no parking permitted, or 28 feet with parking restricted to one side only, or ~~36~~ **34** feet with no parking restrictions. Three lane access roads/drives shall be a minimum width of 32 feet with no parking permitted, or 40 feet with parking restricted to one side.

Changes reflect current standards

**2.** The number of units permitted are as follows:

<u>Two lane access road/drive</u>		<u>Three lane access road/drive</u>	
One access:	30 units	One access:	30 units
Two accesses:	165 units	Two accesses:	220 units
Three accesses:	258 units	Three accesses:	345 units

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

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

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

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

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

**D.** All turnaround systems shall meet or exceed the requirements of the parking provisions of Chapter 16.10.

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

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

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

to access a development meets both of the following conditions:

1. An essential nexus is proven, whereby the required improvement is directly related to the proposed development; and
2. Rough proportionality is proven, whereby the cost of the required improvement is roughly proportional to the impact that the development will have on the infrastructure. Specific findings are required for each of the conditions listed above. If either of the two conditions are not met, the infrastructure is considered to be inadequate, and conditioning approval of a development on the widening of the access to the development is considered to be inappropriate. (Ord. 955 section 22, 1996; Ord. 1019 section 21, 1999; Ord. 1237, 2007)

#### **16.46.020 Ingress and egress.**

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

##### **A. Vision Clearance:**

**Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway and thirty feet from a street to any other street.**

*This section is copied from the residential chapters. Access Limitations is a more logical location for this criteria and should be the first place to look.*

##### **B. Where an existing alley is 20 feet or less in width, the setback abutting the alley shall increase to provide a minimum of 24 feet for maneuvering and backing movements from, garages, carports, or parking areas.**

*This addition is to solve a consistent problem of vehicular maneuvering space in narrow alleys located within the city.*

#### **16.46.030 Access connection.**

**A. Spacing of accesses on City streets.** The number and spacing of accesses on City streets shall be as specified in Table 16.46.030. Proposed developments or land use actions that do not comply with these standards will be required to obtain an access spacing exception and address the joint and cross access requirements of this Chapter. (Ord. 1043 section 3, 2000; Ord. 1076, 2001; Ord. 1237, 2007)

**TABLE 16.46.30**

**Access Management Guidelines for City Streets\***

Street Facility	Maximum spacing** of roadways	Minimum spacing** of roadways	Minimum spacing** of roadway to driveway***	Minimum Spacing** driveway to driveway***
Arterial	1,000 feet	660 feet	330 feet	330 feet or combine
Collector	600 feet	250 feet	100 feet	100 feet or combine
Neighborhood/Local	600 feet	150 feet	50 feet****	10 feet



- \* Exceptions may be made in the downtown commercial district, if approved by the City Engineering or Public Works Department, where alleys and historic street grids do not conform to access spacing standards.
- \*\* Measured centerline on both sides of the street
- \*\*\* Private access to arterial roadways shall only be granted through a requested variance of access spacing policies when access to a lower classification facility is not feasible (which shall include an access management plan evaluation).
- \*\*\*\* Not applicable for single-family residential driveways; refer to section 16.10.070(B)(10) for single-family residential access standards

Note: Spacing shall be measured between access points on both sides of the street. (Ord. 1340, 2011)

#### **16.46.035 Restricted access.**

The City may allow an access to a City street that does not meet the spacing requirements of Table 16.46.030 if the proposed access is restricted (prevents certain turning movements). The City may require an applicant to provide an engineered traffic study, access management plan, or other information as needed to demonstrate that the roadway will operate within the acceptable standards with the restricted access in place. (Ord. 1237, 2007). Access to OR 99E shall be regulated by ODOT through OAR 734.51. (Ord. 1340, 2011)

#### **16.46.040 Joint and cross access.**

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

- A.** Adjacent commercial or office properties classified as major traffic generators (e.g. shopping plazas, office parks), shall provide a cross access drive and pedestrian access to allow circulation between sites.
- B.** A system of joint use driveways and cross access easements shall be established wherever feasible and shall incorporate the following:
  - 1.** A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards;
  - 2.** A design speed of 10 mph and a minimum width of 20 feet to accommodate two-way travel aisles designated to accommodate automobiles, service vehicles, and loading vehicles;
  - 3.** Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive;
  - 4.** A unified access and circulation system plan for coordinated or shared parking areas is encouraged.

**C.** Shared parking areas may be permitted a reduction in required parking spaces if peak demands do not occur at the same time periods.

**D.** Pursuant to this section, property owners shall:

1. Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive;

2. Record an easement with the deed that remaining access rights along the roadway will be dedicated to the city and pre-existing driveways will be closed and eliminated after construction of the joint-use driveway;

3. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

**E.** The City may reduce required separation distance of access points where they prove impractical, provided all of the following requirements are met:

1. Joint access driveways and cross access easements are provided in accordance with this section.

2. The site plan incorporates a unified access and circulation system in accordance with this section.

3. The property owner enters into a written agreement with the city, recorded with the deed, that pre-existing connections on the site will be closed and eliminated after construction of each side of the joint use driveway.

**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 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 with 500 feet of frontage on an arterial (required 660 foot access spacing standard) shall have a minimum study area which is 1,820 feet in length.
2. The potential safety and operational problems associated with the proposed access point. The access management plan shall review both existing and future access for all properties within the study area as defined above.
3. A comparison of all alternatives examined. At a minimum, the access management plan shall evaluate the proposed modification to the access spacing standard and the impacts of a plan utilizing the City standard for access spacing. Specifically, the access management plan shall identify any impacts on the operations and/or safety of the various alternatives.
4. A list of improvements and recommendations necessary to implement the proposed access modification, specifically addressing all safety and operational concerns identified.
5. References to standards or publications used to prepare the access management plan.

**C.** The granting of the exception shall be in harmony with the purpose and intent of these regulations and shall not be considered until every feasible option for meeting access standards is explored.

**D.** No exception shall be granted where such hardship is self-created.

**E.** Reasons for denying access spacing exception applications include, but are not limited to, traffic safety concerns, expected or planned traffic increases due to development or road construction, and emergency service provision issues. (Ord. 1043 section 3, 2000; Ord 1237, 2007; Ord. 1340, 2011)

**16.46.080 State highway standards.**

**A.** Refer to the Motor Vehicle Chapter of the Transportation System Plan. ODOT regulates access to OR 99E. ODOT shall review and process applications for approaches to OR 99E consistent with *Oregon Highway Plan* standards and OAR 734.51 procedures. An ODOT permit to operate and maintain a State Highway Approach must be approved prior to site occupancy.

**16.46.090 Shared access onto state highway.**

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

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

## Chapter 16.48

### SITE PLAN REVIEW

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

- 16.48.010 Required prior to plan check.
- 16.48.020 Information required.
- 16.48.030 Plot plans - review by planner.
- 16.48.040 Plot plans - notation of corrections.
- 16.48.050 Standards and criteria for site plan review.
- 16.48.060 Standards and criteria on appeal.
- 16.48.070 Procedure for additions to existing buildings.

#### 16.48.010 Required prior to plan check.

Prior to undergoing a plan check for construction, all proposed commercial, industrial and ~~multiple-family~~ residential development projects ~~(having greater than two dwelling units)~~ shall undergo a site plan review to be conducted by the staff. This review is intended to focus on Code compliance and the mitigation of potential health and safety hazards rather than on architectural or aesthetic design features. Additional to the requirements imposed as a result of a site plan review the staff may also make certain recommendations which are not binding upon the applicant but which are intended to improve the overall quality or appearance of the development. A site plan review shall also be conducted by staff for any residential structure including, but not limited to, manufactured homes, whether new or previously occupied, which are proposed to be moved onto a site. This review is intended to focus on Code compliance and mitigation of safety hazards as well as to insure near like-new or historically restored condition of building exterior. (Ord 858 section 1, 1991; Ord. 740 section 10.3.70[part], 1984)

#### Comment:

The provision did not allow for site plan review for single-family dwellings or two-family (duplex) residential use that require setback and design review as listed in Chapter 16.21 (Residential Design Standards). Site Plan Review Applications are a means to implement the standards listed in the chapter as well as other applicable chapters in the code.

#### 16.48.020 Information required.

Application procedures for site plan review shall be as described in Chapter 16.89. (Ord. 740 section 10.3.70(A), 1984; Ord. 981 section 3, 1997; Ord. 1043 section 3, 2000; Ord. 1080, 2001)

**16.48.030 Plot plans - review by planner.**

The City Planner and other appropriate staff persons shall review the plans and may make field inspections of the site to determine whether the proposed development conforms with applicable city ordinances. (Ord. 740 section 10.3.70(B), 1984)

**16.48.040 Plot plans - notation of corrections.**

**A.** Necessary corrections, additions or deletions to the plans shall be noted on them, with one copy of the corrected plan on file and another returned to the applicant.

**B.** If the corrections, additions or deletions are relatively minor, the building permit may be issued upon completion of the normal building permit process.

**C.** In the case of major modifications to the design, however, the City Planner or Building Official may require that the plot plan be redrawn and resubmitted for review prior to issuance of the building permit. (Ord. 740 section 10.3.70(C), 1984)

**16.48.050 Standards and criteria for site plan review.**

The staff shall utilize the following standards and criteria in conducting a site plan review:

**A.** Compliance of the proposal with all applicable city ordinance requirements;

**B.** A determination that the proposal will result in no unusually hazardous conditions for motorists, bicyclists, pedestrians or other users of the site;

**C.** A determination that exterior lighting will not result in a glare on neighboring properties or a hazard to motorists;

**D.** A finding that any previously established conditions of approval (for a variance, conditional use permit, etc.) have been met.

**E.** For residential structures moved onto the site including, but not limited to, manufactured homes, a determination shall be made by staff that a near like-new or historically restored condition of building exterior shall exist prior to occupancy. This determination shall include an evaluation of color, materials and appearance of siding, roofing and appurtenances, as determined by evidence of recent painting, new construction, or replacement or repair of weathered, damaged or deteriorated materials or surfaces. (Ord. 858 section 2, 1991; Ord. 740 section 10.3.70(D), 1984)

**16.48.060 Standards and criteria on appeal.**

On appeal of a staff decision regarding a site plan review, the commission shall utilize the same standards and criteria as are required of the staff. (Ord. 740 section 10.3.70(E), 1984)

**16.48.070 Procedure for additions to existing buildings.**

On additions to existing buildings the site plan review shall be conducted only on those portions of the project affected by the additions, except where potential hazards may result from the design, in which case the review may be expanded to include any portions of the total development where such hazardous conditions may exist. (Ord. 740 section 10.3.70(F), 1984)

## Chapter 16.49

### SITE AND DESIGN REVIEW

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

- 16.49.010 Findings and objectives.
- 16.49.020 Establishment of the Site and Design Review Board.
- 16.49.025 Establishment of a site and design review committee.
- 16.49.030 Site and design review plan approval requirements.
- 16.49.035 Application for Site and Design Review.
- 16.49.040 Criteria and standards.
- 16.49.050 Conditions placed on site and design review approvals.
- 16.49.060 Time limit on approvals.
- 16.49.065 Bicycle and pedestrian facilities.
- 16.49.070 Authority and intent.
- 16.49.080 General provisions for landscaping.
- 16.49.090 Specifications for tree and plant materials.
- 16.49.100 Landscaping installation and maintenance.
- 16.49.110 Landscape area credit for preservation of existing trees and tree groves.
- 16.49.120 Parking lot landscaping standards.
- 16.49.130 Revegetation in unlandscaped areas.
- 16.49.140 Minor revisions to approved landscaped plans.
- 16.49.150 Parking lots or paving projects.

#### 16.49.010 Findings and objectives.

A. The City Council finds that excessive uniformity, dissimilarity, inappropriateness, or poor quality of design in the exterior appearance of structures and signs, and the lack of proper attention to site development and landscaping, in the business, commercial, industrial and certain residential areas of the city hinders the harmonious development of the city; impairs the desirability of residence, investment or occupation in the city; limits the opportunity to attain the optimum use and value of land and improvements; adversely affects the stability and value of property; produces degeneration of property in such areas with attendant deterioration of conditions affecting the peace, health and welfare of the city; and destroys a proper relationship between the taxable value of property and the cost of municipal services thereof.

B. The City Council declares that the purpose and objectives of site development requirements and the design review procedures are to:



1. Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of said development.
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 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 Ord.er, 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.

**7. Voting.** A quorum for the transaction of business shall be a simple majority of Design Review Board members. The chairperson shall be counted to determine a quorum and shall have the same voting powers as other members of the Board. Each member shall have one vote. A majority vote of the members shall be required for all Board actions.

**8. Meetings and records.** The Board shall hold regular meetings as required. Site and design review applications will be reviewed as a regular agenda item.

**9. Rules.** The Board may adopt and amend rules to govern the conduct of its business, consistent with the provisions of this Code. (Ord. 1296, 2008)

**16.49.025 Establishment of a site and design review committee.**

**A.** The City Council may appoint a design review committee to provide additional guidance related to design review applications.

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

**2. Nature of committee's review.** The committee's review and recommendations are strictly advisory to Planning Department staff and the City's Design Review Board.

**3. Qualifications of members.** The Committee shall consist of at least five and up to seven members, including individuals who represent interests or expertise

related to development, architectural design, business or other viewpoints related to the design and development process.

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 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 a Type III site and design review. However, parking lot and paving projects in excess of 2,500 square feet of impervious surface require Type I site plan review. 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 (DCO), 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(Downtown Canby Overlay Zone) and 16.49; the applicant shall submit a Type II application for approval pursuant to the approval criteria set forth in 16.49.040.A; 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 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.B. 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. (Ord.1296, 2008)

**16.49.040 Criteria and standards.**

**A.** 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.

**B.** In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the following:

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, 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 if the following conditions are met:

**a.** The development accumulates a minimum of 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 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).

**6. Street lights installation may be required on any public street or roadway as part of the Design Review Application.**

*This provision should be included in the chapter to notify the applicant of possible streetlight requirements.*

D. In review of a Type III Site and Design Review Application, the Board shall, in exercising or performing its powers, duties or functions, determine whether there is compliance with the INTENT of the design review standards set forth in this ordinance.

E. 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. 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.

F. 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.

G. 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 60% of total possible points shall be earned,  
10% of the total possible points must be from LID elements

Design Criteria	Possible Points				
<b>Parking</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</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%	-	-
<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.	-	-



Pedestrian walkways from parking lot to building entrance.	No walkways	Walkway next to building only	Walkways connecting all parking areas to building entrances		.
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Design Criteria	Possible Points				
Tree Retention	0	1	2	3	4
Percentage of trees retained	<10%	10-50%	51-75%	>75%	-
Replacement of trees removed	<50%	≥50%	-	-	-
Signs	0	1	2	3	4
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	-	-	-
Building Appearance	0	1	2	3	4
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
Landscaping	0	1	2	3	4
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%	-	-
Low Impact Development (LID)	0	1	2	3	4
Use of pervious paving materials (% of total paved area)	<10%	-	10-50%	51-75%	>75%

Provision of park or open space area	None	-	Open space (Generally not for public use)	-	Park (public or privately owned for public use)
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Design Criteria	Possible Points				
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	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 = 71, 60%=42.6 points, 10%=7.1 points</b>				

(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 contemplated, 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

#### **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.

**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 the provisions of the most recent edition of the Sunset Western Garden Book or similar publication.

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

- 1.** Select and site permanent landscape materials in such a manner as to produce a hardy and drought-resistant landscaped area.
- 2.** Consider soil type and depth, spacing, exposure to sun and wind, slope and contours of the site, building walls and overhangs, and compatibility with existing native vegetation preserved on the site or in the vicinity.

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

- 1.** It will not interfere with designated pedestrian or vehicular access; and
- 2.** It will not constitute a traffic hazard because of reduced visibility.

3. It will not hinder solar access considerations.

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

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

P. Neither soil, water, plant materials nor mulching materials shall be allowed to wash across roadways or walkways. (Ord.. 890 section 49, 1993; Ord.. 854 section 1, 1991; Ord.. 848, Part IV, section 2, 1990; Ord.. 955 section 26, 1996; Ord. 1237, 2007; Ord.. 1338, 2010)

**16.49.090 Specifications for tree and plant materials.**

A. Deciduous Trees. Deciduous shade and ornamental trees shall be a minimum of two inch (2") caliper, measured six inches (6") above ground, balled and burlapped. Bareroot trees will be acceptable to plant during their dormant season. Trees shall be well branched and characteristically shaped specimen.

B. Coniferous Trees. Coniferous trees shall be a minimum five feet (5') in height above ground, balled and burlapped. Trees shall be well branched and characteristically shaped specimen.

C. Evergreen and Deciduous Shrubs. Evergreen and deciduous shrubs shall be at least one (1) to five (5) gallon size. Shrubs shall be characteristically branched. Side of shrub with best foliage shall be oriented to public view.

D. Ground covers. Ground covers shall be fully rooted and shall be well branched or leafed.

E. Lawns. Lawns shall consist of grasses, including sod, or seeds of acceptable mix within the local landscape industry. Lawns shall be 100 percent coverage and weed free. (Ord.. 890 section 46, 1993; Ord.. 848, Part IV, section 3, 1990)

**16.49.100 Landscaping installation and maintenance.**

A. Except as allowed by subsection (2), all landscaping and exterior improvements required as part of the site and design review approval shall be completed prior to the issuance of any certificate of occupancy.

B. A temporary certificate of occupancy may be issued prior to the complete installation of all required landscaping and exterior improvements if security equal to 110 percent of the cost of the landscaping and exterior improvements, as determined by the Site and Design Review Board or City Planner, is filed with the city, assuring such installation within a time specified by the Board, but not to exceed six (6) months after occupancy. The applicant shall provide the cost estimates of landscaping materials and installation to the satisfaction of the Site and Design Review Board, City Planner, or city forester, prior to approval of the security. Security may consist of a



faithful performance bond payable to the City of Canby, cash, certified check, time certificate of deposit, or assignment of a savings account; and the form shall meet with the approval of the City Attorney. If the installation of the landscaping or other exterior improvements is not completed within the period specified by the Board or City Planner, the security may be used by the city to complete the installation. Upon completion of the installation, any portion of the remaining security deposited with the city shall be returned. The final landscape and exterior improvement inspection shall be made prior to any security being returned. Any portion of the plan not installed, not installed properly, or not properly maintained shall cause the inspection to be postponed until the project is completed, or shall cause the security to be used by the city.

**C.** All landscaping approved through the site and design review process shall be continually maintained, including necessary watering, weeding, pruning and replacement, in a manner substantially similar to that originally approved by the Site and Design Review Board, unless later altered with Board approval. (Ord.. 890 section 47, 1993; Ord.. 848, Part IV, section 4, 1990)

**16.49.110 Landscape area credit for preservation of existing trees and tree groves.**

**A. Policy.** It being the policy of the City of Canby to preserve healthy, mature trees wherever possible within its city limits, a system of landscape area credits is hereby established as an incentive for property owners and developers to preserve existing healthy, mature trees and to include them in the landscape plan for a proposed development.

**B. Purpose.** The primary goal of the landscape credit is to prevent haphazard removal and destruction of trees and tree groves, in order to preserve the ecological health, aesthetic character, and quality of life in Canby. Tree retention provides substantial benefits, including but not limited to erosion prevention, reduction in storm-water runoff, improved water and air quality, energy conservation, carbon sequestration, reductions in the development impacts on the stormwater drainage system, and better transition between adjacent land uses.

**C. Landscape Credit.**

**1. Program for Landscape Credit.** One hundred percent (100%) of the area preserved under any mature, healthy tree or grove of trees retained in the landscape (as approved by the Site and Design Review Board) may be counted directly toward the percentage of landscaping required for a development.

**2. Limit to Landscape Area Credit.**

**a.** Landscape credit for preserved trees or tree groves shall not eliminate or reduce the landscaping requirements pertaining to parking lots, buffering, and screening.

**b.** Landscape credits for individual trees shall not comprise more than 40 percent of the total landscape requirement. For example, in districts requiring 15 percent landscaping, preserved tree area shall not count toward more than 9 percent of the requirement).

**c.** Landscape credits for preserved tree groves shall not comprise more than 60 percent of the total landscape requirement. A grove is defined as a stand of three or more healthy, mature trees located close together to provide some overlap in canopy coverage.

**3. Trees Near a Property Line:**

**a.** When the drip line of a tree extends beyond the owner's property line, credit can be granted for that portion of the drip line within the property line if that area exceeds 75 percent of the total drip line area. Trees so close to the property line that their drip line area is less than 75 percent of the total, can only be given credit if a qualified arborist, nurseryman or landscape architect can assure the survival of the tree and its long term health if root damage is sustained by future development on the adjacent property.

**b.** Where trees have been preserved near a property line, such that the drip line of the tree spreads onto adjacent property, credit can be obtained by the adjacent property owner for protection of the drip line area that extends onto that adjacent property.

**D.** Trees and tree groves to be preserved and counted toward the landscape credit shall be identified on the landscape plan. (Ord. 890 section 48, 1993; Ord. 848, Part IV, section 5, 1990; Ord. 1338, 2010)

**16.49.120 Parking lot landscaping standards.**

**A. General Provisions.** In addition to the objectives stated in section 2 of this Ordinance, goals of parking lot standards are to create shaded areas in parking lots to reduce glare, enhance the visual environment, and encourage the use of LID practices. The design of the parking area shall be the responsibility of the developer and should consider visibility of signage, traffic circulation, comfortable pedestrian 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 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
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 section (F) 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 two-inch (2") 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 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.**

The purpose of this section is to ensure erosion protection for those areas which are not included within the landscape percentage requirements so that eventually native plants will re-establish themselves, and so that trees will not be lost due to uncontrolled erosion.

**A. Replanting.** Where natural vegetation has been removed or damaged through grading in areas not affected by the landscaping requirement and that are not to be occupied by structures or other improvements, such areas shall be replanted with materials approved by the Site and Design Review Board.

**B.** Plant materials shall be watered at intervals sufficient to assure survival and growth for a minimum of two (2) growing seasons. (Ord. 848, Part IV, section 7, 1990)

**16.49.140 Minor revisions to approved landscaped plans.**

Minor revisions (less than 10 percent of the landscaped area) to the approved landscaped plans shall be reviewed and approved by the City Planner. The City Planner shall report any

minor revisions to the Site and Design Review Board at the next available Board meeting. (Ord.. 890 section 50, 1993)

**16.49.150    Parking lots or paving projects.**

All new paving or parking lot projects which create over 2,500 square feet of impervious surface and any new paving added to existing paving areas which creates a total of more than 2,500 square feet of impervious surface must meet City storm drainage requirements, parking lot landscaping standards and the drainage and access standards of the Oregon Department of Transportation (if applicable). Applicants for such paving projects must submit an application to the Planning Department. Application procedures shall be as described in Chapter 16.89. (Ord.. 1019 section 3, 1999; Ord.. 1080, 2001)

## Chapter 16.52

### NONCONFORMING USES AND STRUCTURES

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underlined*

#### Sections:

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

#### **16.52.010 Continuation of nonconforming use or structure.**

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

#### **16.52.020 Nonconforming structure.**

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

- A.** If the new or reconstructed area meets all development standards and code requirements, a nonconforming structure application is not required.
- B.** The Planning Commission may allow existing nonconforming structures to be reconstructed over existing legally approved building footprints. Approval of a nonconforming structure application under this Chapter is required.

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

**D.** The Planning Commission may allow additions to structures that are nonconforming as to coverage requirements. Approval of a nonconforming structure application under this Chapter is required. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(B), 1984; Ord 1237, 2007)

**16.52.025 Nonconforming sign.**

**A.** A nonconforming sign lawfully existed prior to the adoption of applicable zoning requirements with which it does not comply. Except, however, signs shall not be considered to be nonconforming where the sign, by reason of its size, location, construction, or lack of maintenance creates a public hazard or nuisance. In the case of such public hazard or nuisance, the city may begin immediate abatement procedures, as provided in this chapter and other city ordinances.

**B.** Relocation, replacement, structural alteration or expansion of a nonconforming sign is subject to the same limitations, application procedures, and requirements set forth in this Chapter for other nonconforming structures. Except approval of a nonconforming structure application is not required for the following:

1. Normal repair and maintenance, where the cost to repair the sign does not exceed 60 percent of the replacement cost of the sign using new materials, as determined by the Building Official.
2. Change of sign copy.
3. Structural alteration when the alteration is necessary for structural safety, as determined by the Building Official.
4. A nonconforming sign may be reconstructed if it is required to be temporarily removed to accommodate construction or repair of public utilities or public works, and the sign reconstruction is completed within 90 days after the completion of the public utilities or public works construction activity. (Ord. 913 section 1[part], 1994; Ord. 830 section 13[part], 1989; Ord. 1299, 2008)

**16.52.030 Discontinuance of a nonconforming use.**

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

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

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

The alteration or expansion of dwelling units in the C-1 zone shall be permitted, subject to the specific development standards requirements of that zone. A nonconforming use application is not required. (Ord. 805 section 3 [part], 1987; Ord 1237, 2007)

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

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

**16.52.050 Authorization to grant or deny expansion of nonconforming structure or change of nonconforming use. Authorization does not include expansion of existing nonconforming uses.**

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

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

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

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

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

**E.** In considering whether to approve a change in use, the city shall compare the following characteristics of the historical use of the property with that proposed by the applicant in order to assure that the change will not constitute an expansion or intensification of the nonconforming use:

1. Traffic, including both volume and type (car, truck, foot, etc.);

2. Noise;



3. Days and hours of operation;
4. Physical appearance;
5. Other environmental considerations (dust, vibration, glare, etc.);
6. Type and size of equipment used.

(Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80 (E), 1984; Ord. 1080, 2001; Ord. 1237, 2007)

**16.52.060 Destruction of a nonconforming use or structure.**

If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding eighty percent of the cost of replacement of the structure using new materials, as determined by the Building Official, the property owner may apply to the Planning Commission to restore the nonconforming use or structure. In judging whether or not the restoration of a nonconforming use shall be approved or denied, the Planning Commission shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against adverse conditions that would result from authorizing the particular restoration at the location proposed. In order to approve such restorations, the Planning Commission shall find that the criteria as set forth in section 16.52.050 are met, can be met by observance of conditions, or are not applicable. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(F), 1984)

**16.52.070 Completion of building.**

Nothing contained in this title shall require any change in the plans, alteration, construction or designated use of a building upon which construction work has lawfully commenced prior to the adoption of the ordinance codified in this chapter, except that if the designated use will be nonconforming it shall, for the purpose of section 16.52.030, be a discontinued use if not in operation within one year of the date of issuance of the building permit. (Ord. 805 section 3 [part], 1987; Ord. 740 section 10.3.80(G), 1984)

## Chapter 16.54

### AMENDMENTS TO ZONING MAP

Remove = ~~**Strikethrough and Bold**~~

Additions = **Bold and Underline**

Comments = *italics, and underlined*

#### Sections:

- 16.54.010 Authorization to initiate amendments.**
- 16.54.020 Application and fee.**
- 16.54.030 Public hearing on amendment.**
- 16.54.040 Standards and criteria.**
- 16.54.060 Improvement conditions.**
- 16.54.070 Record of amendments.**

#### **16.54.010 Authorization to initiate amendments.**

An amendment to the zoning map may be initiated by the City Council, by the Planning Commission, or by application of the 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. (Ord. 740 section 10.3.45 (A), 1984)

#### **16.54.020 Application and fee.**

Application procedures shall be as described in Chapter 16.89. (Ord. 740 section 10.3.85(B), 1984; Ord. 981 section 7, 1997; Ord. 1019 section 13, 1999; Ord. 1080, 2001)

#### **16.54.030 Public hearing on amendment.**

Before taking final action on a proposed amendment, the Planning Commission shall hold a public hearing on the amendment following the requirements for advertising and conduct of hearing prescribed in Division VIII. (Ord. 740 section 10.3.85(C), 1984)

#### **16.54.040 Standards and criteria.**

In judging whether or not the zoning map should be amended or changed, the Planning Commission and City Council shall consider **the following criteria**:

- A.** The Comprehensive Plan of the city, giving special attention to Policy 6 of the land use element and implementation measures therefore, 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;

**B.** Whether all required public facilities and services exist or will be provided concurrent with development to adequately meet the needs of any use or development which would be permitted by the new zoning designation. (Ord. 749 section 1(B), 1984; Ord.740 section 10.3.85(D), 1984)

**16.54.050** (Ord. 740 section 10.3.85(E), 1984

**16.54.060 Improvement conditions.**

**A.** In acting on an application for a zone change, the Planning Commission may recommend and the City Council may impose conditions to be met by the proponents of the change before the proposed change takes effect. Such conditions shall be limited to improvements or physical changes to the property which are directly related to the health, safety or general welfare of those in the area. Further, such conditions shall be limited to improvements which clearly relate to and benefit the area of the proposed zone change. Allowable conditions of approval may include, but are not necessarily limited to:

1. Street and sidewalk construction or improvements;
2. Extension of water, sewer, or other forms of utility lines;
3. Installation of fire hydrants.

**B.** The city will not use the imposition of improvement conditions as a means of preventing planned development, and will consider the potential impact of the costs or required improvements on needed housing. The Planning Commission and City Council will assure that the required improvements will not reduce housing densities below those anticipated in the Comprehensive Plan. (Ord. 749 section 1(C), 1984: Ord. 740 section 10.3.85 (F). 1984)

**16.54.070 Record of amendments.**

The City Planner shall maintain a record of amendments to the zoning map in a form convenient for use of the public. (Ord. 749 section 10.85 (G), 1984)

## Chapter 16.60

### MAJOR OR MINOR PARTITIONS

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *italics and underline*

#### Sections:

<b>16.60.010</b>	<b>Filing procedures</b>
<b>16.60.020</b>	<b>Standards and criteria</b>
<b>16.60.030</b>	<b>Minor partitions</b>
<b>16.60.040</b>	<b>Major partitions</b>
<b>16.60.050</b>	<b>Flag lots</b>
<b>16.60.050 <del>060</del></b>	<b>Planning <del>Commission</del> Director action</b>
<b>16.60.060 <del>070</del></b>	<b>Final procedures and recordation</b>
<b>16.60.070 <del>080</del></b>	<b>Public hearing required for appeal process</b>

*The changes in this chapter are intended to “streamline” the land use process for citizens proposing partition requests on their property. A partition is generally a straight-forward division of land that is processed through a pre-app conference that includes public works and utility providers. By the time a decision is ready to move forward, the Planning Director, planning staff, and agency personnel have addressed issues, solved problems, and worked with the applicant to make the request successful. The hearings process is time consuming and burdensome to the public when a partition could be addressed and decided by the Planning Director administratively in a timely manner. Most partition requests are not of enough significance to warrant a public hearing before the Planning Commission. However, the Planning Director still has the option of sending the case to the Commission when the request poses an unusual amount of impact. Of course, the decision could still be brought to a public hearing through the appeal process. These changes essentially move a Partition Application from a Type III to a Type II procedure that still requires notification of the surrounding property owners. This procedure is common in most other jurisdictions.*

#### **16.60.010 Filing procedures.**

Application procedures shall be as described in Chapter 16.89. (Ord. 740 section 10.4.30(A), 1984; Ord. 981 section 9, 1997; Ord. 1019 section 17, 1999; Ord. 1080, 2001)

#### **16.60.020 Standards and criteria.**

The same improvements shall be installed to serve each building site of a partition as is required of a subdivision, and the same basic design standards shall apply. If the improvements are not constructed or installed prior to the filing of the signed partition plat with the county, they shall be guaranteed in a manner approved by the City Attorney. However, if the ~~commission~~ **Planning Director** finds that the nature of development in the vicinity of the partition makes installation of some improvements unreasonable, the ~~commission~~ **Planning Director** shall except those improvements. In lieu of excepting an improvement, the ~~commission~~ **Planning Director** may recommend to the council Commission that the improvement be installed in the area under special assessment financing or other facility extension policies of the city. **The Planning Director shall send the partition request directly to the Planning Commission for their decision if there are issues presented by the applicant or surrounding property owners that cannot be resolved prior to the issuance of decision.** (Ord. 890 section 51, 1993; Ord. 740 section 10.4.30(B) [part], 1984)

Comment:

Because the planning director "shall" send the partition request to the planning commission, if there are unresolvable issues, then there is no appeal and no need for a reduced appeal fee. Staff believes that a major partition should be included with a minor partition in the review and decision process. The criteria is basically the same for the two types of partitions with the exception of 16.60.040(F) below requiring street dedication. Additionally, separating the two partitions into separate types of decisions adds confusion to the planning process.

**16.60.040 030**      **Minor partitions.**

**A minor partition means a partition which does not include the creation of a road or street.** Application for a minor partition shall be evaluated based upon the following standards and criteria:

- A.** Conformance with the text and applicable maps of the Comprehensive Plan;
- B.** Conformance with all other applicable requirements of the Land Development and Planning Ordinance;
- C.** The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements, and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties;
- D.** No minor partitioning shall be allowed where the sole means of access is by private road, unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels;
- E.** It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division. (Ord. 740 section 10.4.30 (B)(1), 1984)

#### **16.60.040 Major partitions.**

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

Application for a major partition shall be evaluated based upon the following standards and criteria:

- A.** Conformance with the text and applicable maps of the Comprehensive Plan.
- B.** Conformance with other applicable requirements of the Land Development and Planning Ordinance.
- C.** The overall design and arrangement of parcels shall be functional and shall adequately provide building sites, utility easements and access facilities deemed necessary for the development of the subject property without unduly hindering the use or development of adjacent properties.
- D.** It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed land division.
- E.** In no case shall the use of a private road be approved for partitioning unless it is found that adequate assurance has been provided for year-round maintenance sufficient to allow for unhindered use by emergency vehicles, and unless it is found that the construction of a street to city standards is not necessary to insure safe and efficient access to the parcels.
- F.** The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions except, however, the **commission Planning Director** shall approve the creation of a public street to be established by deed without full compliance with the regulations applicable to subdivisions provided any of the following conditions exist:
  - 1.** The establishment of the public street is initiated by the council and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street.
  - 2.** The tract in which the street is to be dedicated is a major partition within an isolated ownership of not over one acre or is of such size and characteristic as to make it impossible to develop building sites for more than three dwelling units. (Ord. 890 section 52, 1993; Ord. 740 section 10.4.30(B)(2), 1984)

#### **16.60.050 Flag Lots**

**Flag Lots or Panhandle-shaped Lots. The commission may allow the creation of flag lots provided that the following standards are met:**

- A. Not more than one flag lot shall be created to the rear of any conventional lot and having frontage on the same street unless it is found that access will be adequate and that multiple flag lots are the only reasonable method to**

allow for development of the site. Every flag lot shall have access to a public street.

B. The access strip is to be a minimum of twenty feet in width and shall be paved for its full width from its connection with the public street to the main body of the lot. Except, however, that the width requirement may be reduced to twelve feet, for accessing a single flag lot, where the total length of the access strip does not exceed one hundred feet. Access strips not less than ten feet in width may be permitted where two such drives abut and are provided with reciprocal easements for use. For drives accessing more than two flag lots, the access strip shall be a minimum of twenty feet with reciprocal access and maintenance agreements for all lots.

C. For residential flag lots, a minimum building setback of five feet from the access strip shall be maintained where such buildings exist prior to the creation of the flag lot.

D. Design and locations of buildings on flag lots shall be such that normal traffic will have sufficient area to turn around, rather than necessitating backing motions down the access strip. The commission may establish special setback requirements at the time of approving the creation of flag lots.

E. Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials.

F. The area of a panhandle shaped or flag lot shall be considered to be the rear or buildable portion of the lot and shall not include the driveway or access strip.

G. For the purposes of defining setbacks, flag lots shall have three side yards and one rear yard of 20 feet on the garage side of the dwelling. The rear yard may be placed on any side of the main dwelling.

*The description of the yard as "rear" is confusing for the builder because with a flag lot, the front and rear of the lot is not easy to determine. The dwelling does not always face a street frontage, and the garage could enter on any side of the residence. The setback is to provide turning space for vehicles to maneuver and proceed forward on the access to the street.*

*This criteria above was copied from Chapter 16.64, Subdivision. It also belongs in the chapter because flag lots are common in the partition process.*

**16.60.050 060      ~~Planning Commission~~ Planning Director action**

A. Tentative maps shall be submitted to the ~~commission~~ Planning Director for

review and determination that the proposal will be compatible with the Comprehensive Plan and the requirements of the Land Development and Planning Ordinance. The ~~commission~~ **Planning Director** may require such dedication of land easements and may specify such conditions or modifications to the tentative map as are deemed necessary to carry out the Comprehensive Plan. In no event, however, shall the ~~commission~~ **Planning Director** require greater dedications or conditions than would be required if the parcel were subdivided. For residentially zoned land, the Planning ~~Commission~~ **Director** shall require, for newly created lots adjacent to existing residential development, that homes built on such lots be designated on the plat or included in the deed restrictions as "Infill Homes" as defined by 16.04.255 and therefore subject to any or all of the requirements of 16.21.050 Infill Homes. The Planning ~~Commission~~ **Director** may modify the minimum lot coverage and/or maximum height standard if the applicant can demonstrate that 50% or more of adjacent lots exceed these standards.

**B.** Upon action by the ~~commission~~ **Planning Director** the applicant shall be notified in writing of the decision reached and the steps which must be taken before the parcels can be transferred or utilized for separate development.

**C.** One copy of the tentative map, clearly marked approved, denied or modified shall be retained in an appropriate file and one copy of same returned to the applicant. (Ord. 740 section 10.4.30(C), 1984; Ord. 1107, 2002)

#### **16.60.060 070 Final procedures and recordation**

**A.** Following the action of the city in approving or conditionally approving a tentative map for a partition, the applicant shall be responsible for the completion of all required improvements, or the posting of adequate assurances in lieu thereof, to the satisfaction of the city engineer prior to the transfer of title of any of the parcels involved.

**B.** Recordation of an accurate survey map, prepared by a registered engineer or licensed surveyor, must be completed within ~~one-year~~ **two years** of the approval of the tentative map. One copy of the recorded survey map shall be filed with the City Planner for appropriate record keeping.

**C.** The applicant shall bear full responsibility for compliance with applicable state and city regulations regarding the recordation of documents and subsequent transfer of ownership.

**D.** The Planning Director may approve a single one-year extension to the original ~~one~~ **two**-year period. Applicants must file a request for such extension in writing, stating the reasons the request is needed. The Planning Director shall review such requests and may issue the extension after reviewing any changes that may have been made to the text of this title and any other pertinent factors, including public comment on the original application. (Ord. 740 section 10.4.30(D), 1984; Ord. 1080, 2001)

#### **16.60.080 Public hearing required for appeal process**



Each properly that filed application for an appeal of a Planning Director's partition application decision shall be considered by the Planning Commission following a public hearing advertised and conducted in the manner prescribed in Division VIII. (Ord. 740 section 10.3.75 (C), 1984)

*This section was added to establish an appeal process of the Planning Director's decision.*

## Chapter 16.64

### SUBDIVISIONS – DESIGN STANDARDS

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *Italics and Underline*

#### Sections:

- 16.64.010 **Streets.**
- 16.64.015 **Access.**
- 16.64.020 **Blocks.**
- 16.64.030 **Easements.**
- 16.64.040 **Lots.**
- 16.64.050 **Public open spaces.**
- 16.64.060 **Grading of building sites.**
- 16.64.070 **Improvements.**
- 16.64.080 **Low Impact Development Incentives**

#### 16.64.010 **Streets.**

A. Generally. The location, width and grade of streets shall be considered in relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation pattern with intersection angles, grades, tangents, and curves appropriate for the traffic to be carried. Where location is not shown in a development plan, the arrangement of streets shall either:

1. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
2. Conform to a plan for the neighborhood approved or adopted by the commission to meet a particular situation where topographical or other conditions make continuance of conformance to existing street patterns impractical;
3. Minimum right-of-way and roadway width shall follow the requirements of the Canby Public Works Design Standards;
4. Consider opportunities to incrementally extend and connect local streets to provide for safe and convenient bike and pedestrian circulation.

**B. Permeable Surfaces.** Permeable surfacing alternatives and on-site stormwater management facilities, are encouraged for street improvements. Permeable surfacing and LID stormwater management facilities shall be constructed in accordance with the Canby Public Works Design Standards and the manufacturer's recommendations. Permeable surfacing includes, but is not limited to: paving blocks, turf block, pervious concrete, porous asphalt, and other similar approved materials. Alternative surfacing methods may be approved for public and private roads, road shoulders, pedestrian ways, driveways, and easement service roads unless site constraints make use of such materials detrimental to water quality. Use of permeable surfacing methods shall meet the imposed load requirements for fire apparatus, and shall be subject to review and approval by the Canby Public Works Department.

**C. Reserve Strips.** Reserve strips or street plugs controlling the access to streets will not be approved unless such strips are necessary for the protection of the public welfare or of substantial property rights, or both, and in no case unless the control and disposal of the land composing such strips is placed within the jurisdiction of the city, under conditions approved by the commission.

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

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

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

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

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

**I. Cul-de-sacs.** A cul-de-sac shall only be allowed when environmental or topographical constraints, existing development patterns, or compliance with other standards in this code preclude street extension and through circulation. When cul-de-sacs are provided, all of the following shall be met:

1. The cul-de-sac shall not exceed a length of 400 feet. Length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac;
2. The cul-de-sac shall be designed in accordance with the Canby Public Works Design Standards.
3. The cul-de-sac may have a vegetated center island that will serve to treat stormwater runoff generated by the cul-de-sac. Specifications for cul-de-sac design are located in the Public Works Design Standards.
4. The cul-de-sac shall provide a pedestrian connection between it and adjacent streets, access ways, parks, or other right-of-way. Such pedestrian ways shall conform to Section 16.64.030(C).

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

**K. Alleys.**

1. Alleys shall be provided to commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are made as approved by the commission.
2. Alleys shall be provided within residential subdivisions when streets are designed to meet the narrow "green" street standards in the Canby Public Works Design Standards. Visitor parking areas may be required by the city to mitigate the lack of on-street parking.

3. When alleys are provided as part of a new residential subdivision, streets shall be designed in accordance with the narrow “green” street standards in the Canby Public Works Design Standards. Visitor parking areas may be required by the city to mitigate the lack of on-street parking.

4. Alley intersection corners shall have a minimum radius of ten feet.

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

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

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

**O. Streets Adjacent to Highway 99-E or Railroad Right-of-Way.** Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way or Highway 99-E, provisions may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad or Highway 99-E. The distances shall be determined with due consideration of cross streets at a minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way. (Ord. 740 section 10.4.40(C)(1), 1984; Ord. 1043 section 3, 2000; Ord 1237, 2007; Ord. 1338, 2010)

**P. Private streets created within a new subdivision or partition shall be designated as a separate “tract” on the submitted plat map.**

#### **16.64.015 Access**

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

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

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

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

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

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

**16.64.020 Blocks.**

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

**B. Sizes.** Block length shall be limited to 300 feet in the C-1 zone, 400 feet in residential zones, 600 feet in all other zones, except for 1,000 feet on arterials. Exceptions to this prescribed block standard shall be permitted where topography, barriers such as railroads or arterial roads, or environmental constraints prevent street extension. The block depth shall be sufficient to provide two lot depths appropriate to the sizes required by Division III. (Ord. 740 section 10.4.40(C)(2), 1984; Ord. 1043 section 3, 2000; Ord. 1076, 2001; Ord. 1338, 2010)

**16.64.030 Easements.**

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

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

**C. Pedestrian Ways.** In any block over six hundred feet in length, a pedestrian way or combination pedestrian way and utility easement shall be provided through the middle of the block. If unusual conditions require blocks longer than one thousand two hundred feet, two pedestrian ways may be required. When essential for public convenience, such ways may be required to connect to cul-de-sacs, or between streets and other public or semipublic lands or through green way systems. Sidewalks to city standards may be required in easements where insufficient right-of-way exists for the full street surface and the sidewalk. All pedestrian ways shall address the following standards to provide for the safety of users:

1. Length should be kept to a minimum and normally not in excess of two hundred feet;
2. Width should be maximized and shall not be below ten feet. For pathways over one hundred feet long, pathway width shall increase above the minimum by one foot for every twenty feet of length;
3. A minimum of three foot-candles illumination shall be provided. Lighting shall minimize glare on adjacent uses consistent with the outdoor lighting provisions in section 16.43 of this code;
4. Landscaping, grade differences, and other obstructions should not hinder visibility into the pedestrian way from adjacent streets and properties. Fencing along public pedestrian ways shall conform with the standards in Section 16.08.110;
5. Surrounding land uses should be designed to provide surveillance opportunities from those uses into the pedestrian way, such as with the placement of windows;
6. Exits shall be designed to maximize safety of users and traffic on adjacent streets; and
7. Use of permeable surfacing materials for pedestrian ways and sidewalks is encouraged whenever site and soil conditions make permeable surfacing feasible. Permeable surfacing includes, but is not limited to: paving blocks, turf block, pervious concrete, and porous asphalt. All permeable surfacing shall be designed, constructed, and maintained in accordance with the Canby Public Works Design Standards and the manufacturer's recommendations. Maintenance of permeable surfacing materials located on private property are the responsibility of the property owner.

**D.** 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.

**E. Solar Easements.** Subdividers shall be encouraged to establish solar easements and utilize appropriate solar design in their development proposals. Solar easements shall be shown on the final plat and in the deed restrictions of the subdivision. The Planning Commission may require the recordation of special easements or other documents intended to protect solar access. (Ord. 740 section 10.4.40(C)(3), 1984; Ord. 1043 section 3, 2000; Ord 1237, 2007; Ord. 1338, 2010; Ord. 1340, 2011)

#### **16.64.040 Lots.**

**A. Size and Shape.** The lot size, width, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

To provide for proper site design and prevent the creation of irregularly shaped parcels, the depth of any lot or parcel shall not exceed three times its width (or four times its width in rural areas) unless there is a topographical or environmental constraint or an existing man-made feature such as a railroad line.

**B. Minimum Lot Sizes:**

1. Lot sizes shall conform with requirements of Division III unless the applicant chooses to use an alternative lot layout per subsection (3) below to accommodate interconnected and continuous open space and or other natural resources. In this case, the average minimum lot size may be reduced by 5,000 square feet after subtracting access tracts. Overall development densities shall comply with the underlying maximum density allowed by the zone.

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

3. Alternative lot layout. Applicants may deviate from standard lot setbacks and dimensions to accommodate dedicated interconnected open space or other natural areas. Clustered housing, lot-size averaging, and a mixture of approaches where building lots can be grouped into a smaller portion of the total development, reserving the remainder for open space or other natural areas. Alternative development layouts shall not exceed the underlying maximum density allowed by the zone.

4. When using the alternative lot layout option, the following must be met:

a. The arrangement of the alternative lot layout shall be designed to avoid development forms commonly known as linear, straight-line or highway strip patterns.

b. To the maximum extent possible, open space and natural areas, where used, shall be continuous, interconnected, and concentrated in large usable areas.

c. Where possible, open space shall be connected to adjacent off-site open space areas.

d. Open space and natural areas shall be maintained permanently by the property owner or the property owner's association.

**C. Lot Frontage.** All lots shall meet the requirements specified in Division III for frontage on a public street, except that the Planning Commission may allow the creation of flag lots, cul-de-sac lots and other such unique designs upon findings that



access and building areas are adequate. Lots that front on more than one major street shall be required to locate motor vehicle accesses on the street with the lower functional classification.

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

**E. Lot Side Lines.** The side lines of lots shall run at right angles to the street upon which the lots face, or on curved streets they shall be radial to the curve, unless there is some recognizable advantage to a different design.

**F. Resubdivision.** In subdividing tracts into large lots which at some future time are likely to be resubdivided, the location of lot lines and other details of the layout shall be such that resubdivision may readily take place without violating the requirements of these regulations and without interfering with the orderly development of streets. Restriction of building locations in relationship to future street rights-of-way shall be made a matter of record if the commission considers it necessary.

**G. Building Lines.** If special building setback lines are to be established in the subdivision plat, they shall be shown on the subdivision plat or included in the deed restrictions. This includes lots where common wall construction is to be permitted between two single-family dwellings.

**H. Potentially Hazardous Lots or Parcels.** The commission shall utilize its prerogative to modify or deny a tentative plat or partition map where it is found that a proposed lot or parcel is potentially hazardous due to flooding or soil instability.

**I. Flag Lots or Panhandle-shaped Lots.** The commission may allow the creation of flag lots provided that the following standards are met:

1. Not more than one flag lot shall be created to the rear of any conventional lot and having frontage on the same street unless it is found that access will be adequate and that multiple flag lots are the only reasonable method to allow for development of the site. Every flag lot shall have access to a public street.
2. The access strip is to be a minimum of twenty feet in width and shall be paved for its full width from its connection with the public street to the main body of the lot. Except, however, that the width requirement may be reduced to twelve feet, for accessing a single flag lot, where the total length of the access strip does not exceed one hundred feet. Access strips not less than ten feet in width may be permitted where two such drives abut and are provided with reciprocal easements for use. For drives accessing more than two flag lots, the access strip shall be a minimum of twenty feet with reciprocal access and maintenance agreements for all lots.

3. For residential flag lots, a minimum building setback of five feet from the access strip shall be maintained where such buildings exist prior to the creation of the flag lot.
4. Design and locations of buildings on flag lots shall be such that normal traffic will have sufficient area to turn around, rather than necessitating backing motions down the access strip. The commission may establish special setback requirements at the time of approving the creation of flag lots.
5. Flag lots shall not be permitted when the result would be to increase the number of properties requiring direct and individual access connections to the State Highway System or other arterials.
6. The area of a panhandle shaped or flag lot shall be considered to be the rear or buildable portion of the lot and shall not include the driveway or access strip.
7. For the purposes of defining setbacks, flag lots shall have three side yards and one rear yard **of 20 feet on the garage side of the dwelling.** ~~The rear yard may be placed on any side of the main dwelling.~~

*The description of the yard as "rear" is confusing for the builder because with a flag lot, the front and rear of the lot is not easy to determine. The dwelling does not always face a street frontage, and the garage could enter on any side of the residence. The setback is to provide turning space for vehicles to maneuver and proceed forward on the access to the street.*

*This section was copied to Partition Chapter 16.60*

**J. Designation of Lots as 'Infill Home' Sites.** The Planning Commission may require that homes built on one or more lots adjacent to existing development be subject to any or all of the requirements of 16.21.050 - Infill Homes. Furthermore, for subdivisions where the parent parcel(s) is less than two acres in size, the Planning Commission may require that all homes built on lots in the subdivision be subject to any or all of the requirements of 16.21.050. These requirements are to be shown on the subdivision plat or included in the deed restrictions. (Ord. 740 section 10.3.05(F) and 10.4.40(C)(4), 1984; Ord. 890 section 54, 1993; Ord. 1043 section 3, 2000; Ord. 1107, 2002; Ord. 1111 section 6, 2003; Ord. 1338, 2010)

#### **16.64.050 Parks and recreation.**

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

#### **16.64.060 Grading of building sites.**

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

#### **16.64.070 Improvements.**

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

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

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

**5. "As Built" construction plan revisions shall be filed with with the city engineer within sixty days of the completion of any improvements.**

*The "as built" changes are shown on construction plans*

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

1. Streets, including drainage and street trees;
2. Complete sanitary sewer system;
3. Water distribution lines and fire hydrants;
4. Sidewalks and any special pedestrian ways;
5. Street name and traffic-control signs;

6. Streetlights;
7. Lot, street and perimeter monumentation;
8. Underground power lines and related facilities;
9. Underground telephone lines, CATV lines, natural gas lines, and related facilities;
10. Where dedicated or undedicated open space is proposed or provided, it shall be the subdivider's responsibility to provide standard public improvements to and through that open space.
11. If fencing is being proposed as part of subdivision development, the subdivider shall be responsible for installing fencing along public streets and pedestrian ways. Fencing shall be constructed in accordance with the standards in Section 16.08.10

**C. Streets.**

1. All streets, including alleys, within the subdivision and streets adjoining, but only partially within the subdivision shall be improved.
2. All public and private streets shall be constructed to city standards for permanent street and alley construction. LID alternatives, such as permeable surfacing and integrated stormwater management facilities, are required where site and soil conditions make it a feasible alternative. Upon completion of the street improvement, monuments shall be reestablished and protected in monument boxes at every street intersection and all points of curvature and points of tangency of street centerlines as required by Oregon Revised Statutes Chapter 92.
3. Street Trees. Street trees shall be provided consistent with the provisions of Chapter 12.32.
4. Prior to city approval of the final subdivision plat, all perimeter and back lot line monumentation shall be installed and the installation of the front lot monumentation (along and within street rights-of-way) shall be guaranteed. Any monuments destroyed during improvement installation shall be replaced at the developer's expense.
5. If any lot abuts a street right-of-way that does not conform to the design specifications of this ordinance, the owner may be required to dedicate up to one-half of the total right-of-way width required by this ordinance.
6. The proposed use shall not impose an undue burden on the transportation system. The City may require the applicant to provide adequate information, such as a traffic impact study, to demonstrate the level of impact to the surrounding

street system. The developer shall be required to mitigate impacts attributable to the project.

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

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

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

**D. Surface Drainage and Storm Sewer System.**

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

**2.** Stormwater Management through Low Impact Development (LID). Low impact development is a stormwater management approach aimed at emulating predevelopment hydrologic conditions using a combination of site design and stormwater integrated management practices. This approach focuses on minimizing impervious surfaces, promoting rainfall evaporation and uptake by plants, and maximizing stormwater infiltration. Specific LID strategies and integrated management practices include:

- a.** Protection and restoration of native vegetation and soils,
- b.** Minimizing impervious surface area through use of pervious materials (e.g. pavers and pervious concrete).
- c.** Vegetated roofs,
- d.** Rainfall reuse,
- e.** Stormwater dispersion and bioretention (recharge).

**3.** All new subdivisions in Canby are required to treat stormwater on site. Stormwater management using LID practices is required where feasible, pursuant to requirements of this chapter and other applicable sections of this code. LID facilities shall be constructed in accordance with Canby Public Works Design Standards.

**4.** A conceptual stormwater management report must be submitted with the subdivision application. The report must demonstrate how and where stormwater will be managed on site at the subdivision. Where LID practices are not used, the applicant must demonstrate why LID is not feasible. The report will be reviewed by the Canby Public Works Department and shall be consistent with the Public Works Design Standards. Generally, the stormwater management plan must include the following:

- a.** A description of existing conditions including a map;
- b.** A description of the proposed stormwater system including a map;
- c.** An estimate of existing storm water run off;
- d.** An estimate of proposed storm water run off;
- e.** The detention/retention requirements; and
- f.** The discharge location, treatment method and sizing, and if discharging to the ground, the expected infiltration rates based upon soils mapping data.

**5.** Responsibility for maintenance of LID facilities shall be as follows:

- a.** The Canby Public Works Department shall be responsible for maintaining all LID facilities located within the public right-of-way, and for providing for the safety of the public as related to LID facilities,
- b.** Private property owners shall be responsible for maintaining all LID facilities on their property. The city reserves the right to inspect such facilities at any time. Upon written notice by the city to the owner that the facility has been compromised to the point where the design capacity is no longer available or the facility is not functioning as designed and approved, the owner shall correct the problem. If the owner fails to respond to the written notice within 15 days, the city may undertake the work and bill all time and material to the owner.
- c.** For LID facilities that are not located in the public right-of-way and serve multiple private residential properties, a public easement for the LID facility shall be established and the Canby Public Works Department shall be responsible for maintenance of the facility. All property owners served by the facility shall pay a stormwater maintenance fee to the city to cover the cost of maintenance of the facility.

**E. Sanitary Sewers.** Sanitary sewers shall be installed to serve the subdivision and to connect the subdivision to existing mains. In the event it is impractical to connect the subdivision to the city sewer system, the commission may authorize the use of septic tanks if lot areas are adequate, considering the physical characteristics of the area.

The commission may require the subdivider to install and seal sewer lines to allow for future connection to the city system.

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

**G. Sidewalks.** Sidewalks shall be required on both sides of a public street and in any special pedestrian way within the subdivision, except that in the case of identified arterials, or industrial districts, the commission may approve a subdivision without sidewalks if alternative pedestrian routes are available. Sidewalk construction may be postponed until the actual construction of buildings on the lots, provided that adequate assurance is given that such sidewalks will be installed. Where LID practices are implemented in subdivision street design, alternative sidewalk design may be permitted with the approval from the city. Alternative sidewalk design resulting from LID best management practices may include, but not limited to: flat curbs, LID bioretention areas incorporated in conjunction with required landscaping, and alternative sidewalk widths. LID best management practices shall be designed in accordance with the Canby Public Works Design Standards.

**H. Bicycle Routes.** If appropriate to the extension of a system of bicycle routes, existing or planned, the commission may require the installation of bicycle lanes within streets or the construction of separate bicycle paths.

**I. Street Name Signs.** Street name signs shall be installed at all intersections according to city standards or deposit made with the city of an amount equal to the cost of installation.

**J. Street Lighting System.** Streetlights shall be required to the satisfaction of the manager of the Canby Utility Board.

**K. Other Improvements.**

1. Curb cuts and driveway installation are not required of the subdivider but, if installed, shall be according to city standards.
2. Street tree planting is required of the subdivider and shall be according to city requirements. (Ord. 899 section 4, 1993)
3. The developer shall make necessary arrangements with utility companies or other persons or corporations affected, for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting and cable television, shall be placed underground, unless overhead installation has been specifically approved by the commission because of unique circumstances at the site.

4. Developments along existing rail lines may be required to provide barrier fences or walls if necessary ensure safety for development occupants. City may also require noise mitigation such as sound walls, or triple-pane windows in order to reduce the health impacts of train noises. Noise mitigation requirements shall be based on measured db levels when trains are in the vicinity and specific building construction features.

**L. Improvements in Areas of Flood or Slope Hazard.**

1. Any public utility or facility associated with a subdivision or partition within an area subject to flooding shall be designed, located, and constructed so as to minimize or mitigate flood damage and shall not result in raising the water elevation in a designated floodway beyond the limits prescribed by the Federal Flood Insurance Program.

2. A new or replacement water supply system shall be designed, located and constructed to minimize or eliminate infiltration of flood waters into the system.

3. A new or replacement sanitary sewage system shall be designed, located and constructed to minimize or eliminate infiltration of flood waters into the system.

4. An on-site septic tank system or other individual waste disposal shall be located to avoid impairment or contamination during flooding.

5. Any public utility or facility, including streets, associated with a subdivision or partition within an area which is subject to flooding or slope instability shall be designed, located and constructed so as to amply protect such public utility or facility from damage due to such natural hazards. Adverse impacts upon fish, wildlife, and open space resources shall also be considered in the design and construction of such facilities. The commission and council shall consider the potential repair or maintenance costs to be borne by the public when reviewing the proposed design, location, and construction of such public utilities or facilities.

**M. Survey Accuracy and Requirements.** In addition to meeting the requirements as set forth in Oregon Revised Statutes relative to required lot, street and perimeter monumentation, the following shall be required:

1. An accuracy ratio of subdivision plat boundary line closure of one in ten thousand (.0001) feet as found in the field.

2. Two primary perimeter monuments (one of which can be the initial point) having the same physical characteristics as the initial point. The monuments are to be on a common line visible, if possible, one to the other at time of approval and preferably at angle points in the perimeter. They shall be points as far apart as practicable. A survey monument witness sign of a design acceptable to the city engineer shall be placed within eighteen inches of both monuments. The position for the initial point and other primary perimeter monuments shall be selected with



due consideration to possible damage during construction and desirability of witness sign location.

**3.** Street centerline monumentation shall consist of a two-inch diameter brass cap set in a concrete base within and separate from a standard monument box with cover (standard city details applicable) at locations specified by the city engineer (generally at intersections with centerline of arterial or collector streets and within streets proposed to be greatly extended into adjacent future subdivisions). All other street centerline points (intersections, points of tangent intersections, cul-de-sac center lines, cul-de-sac off-set points) shall be monumented with a five-eighths-inch diameter steel rod thirty inches long with an approved metal cap driven over the rod and set visible just below the finish surface of the street. If any points of tangent intersection fall outside of a paved section street, the above monumentation will be required at point of curvature and point of tangency of the curve. All centerline monuments are to be accurately placed after street construction is complete.

**N. Agreement for Improvements.** Before commission approval of a subdivision plat or partition map, the land divider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the property, or execute and file with the city engineer, an agreement specifying the period within which required improvements and repairs shall be completed and provided that, if the work is not completed within the period specified, the city may complete the work and recover the full cost and expense, together with court costs and reasonable attorney fees necessary to collect the amounts from the land divider. The agreement shall also provide for reimbursement to the city for the cost of inspection by the city which shall not exceed ten percent of the improvements to be installed.

**O. Performance Bond.**

**1.** The land divider shall file with the agreement, to assure his full and faithful performance thereof, one of the following:

**a.** A surety bond executed by a surety company authorized to transact business in the state in a form approved by the City Attorney;

**b.** A personal bond cosigned by at least one additional person, together with evidence of financial responsibility and resources of those signing the bond, sufficient to provide reasonable assurance of ability to proceed in accordance with the agreement;

**c.** Cash.

**2.** Such assurance of full and faithful performance shall be for a sum approved by the city engineer as sufficient to cover the cost of the improvements and repairs, including related engineering and incidental expenses, and to cover the cost of the city inspection.

3. If the land divider fails to carry out provisions of the agreement and the city has unreimbursed costs or expenses resulting from such failure, the city shall call on the bond or cash deposit for reimbursement. If the cost of expense incurred by the city exceeds the amount of the bond or cash deposit, the land divider shall be liable to the city for the difference.

**P. Guarantee.** All improvements installed by the subdivider shall be guaranteed as to workmanship and materials for a period of one year following written notice of acceptance by the city to the developer. **This guarantee can be warranted under the same options listed in Section O above.**

*The changes are made for clarity.*

**Q. Large Scale or Solar Efficient Development.** The standards and requirements of this division may be modified by the commission in the case of a plan and program for a complete community, a neighborhood unit, a solar efficient design, a large scale shopping center, or large industrial development, which in the judgment of the commission provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the developed tract and its relation to adjacent areas, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the intents and purposes of the Comprehensive Plan. (See Division V for information regarding a planned unit development.)

**R.** No fence/wall shall be constructed throughout a subdivision 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. 740 section 10.4.40(C)(7), 1984; Ord. 955 sections 28 & 29, 1996; Ord. 1043 section 3, 2000; Ord 1237, 2007; Ord. 1338, 2010; Ord. 1340, 2011)

#### **16.64.80 Low Impact Development Incentives**

The purpose of this section is to encourage the use of certain low impact development (LID) practices in subdivision development beyond the minimum requirements of this code. The provisions in this section are voluntary and are not required of new subdivisions. These provisions are applicable only when an applicant elects to utilize the incentives provided in this section. Only one incentive is permitted at a time. For example, an applicant cannot utilize a height bonus and density bonus in the same subdivision application.

**A.** Building height bonus. A building height bonus will be allowed for subdivision proposals that include one of the following:

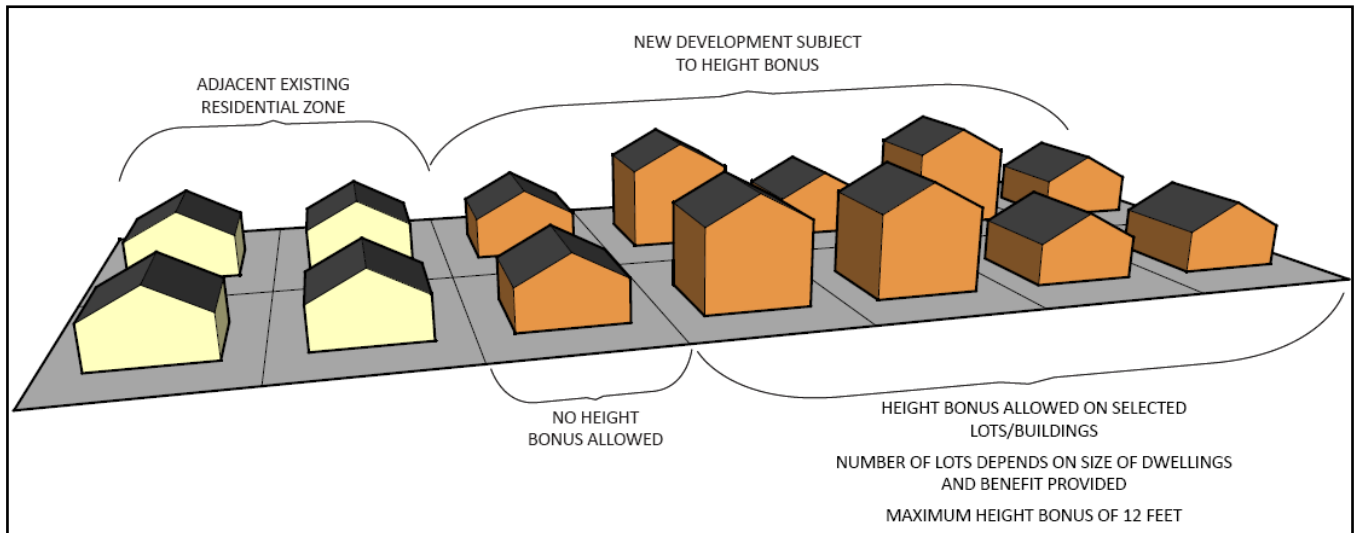
1. Additional park land beyond what is required in Chapter 16.120.
2. The use of pervious surfacing materials such as pavers or pervious concrete.

3. Provision of a rain garden that provides on-site stormwater management for all or part of the subdivision.
4. Mitigation of tree removal by replanting.

**B.** Standards for building height bonus (see Figure 16.64.1 for illustration). Proposals that utilize the building height bonus shall comply with the following:

1. A proposal that includes one of the LID practices listed in A(1-4) above may request an increase in building height up to 12 feet within the building footprint.
2. The square footage of the building footprint allowed to receive the height increase shall be calculated using the following ratios:
  - a. For park land, the ratio is 1:1 square feet of additional park land to square feet of building footprint. For example, if 1,000 square feet of additional park land are provided, the height increase may be applied to 1,000 square feet of the building footprint.
  - b. For pervious surfacing, the ratio is 1:0.5. For example, if 1,000 square feet of pervious surfacing are provided, the height increase may be applied to 500 square feet of the building footprint.
  - c. For rain gardens, the ratio is 1:0.75.
  - d. For mitigation of tree removal, the ratio is 10 caliper-inches to 1,000 square feet of building footprint. For example, if five 4-inch caliper mitigation trees are planted, the height increase may be applied to 2,000 square feet of building footprint. Caliper inches are measured by diameter at breast height (DBH). Tree mitigation must comply with Subsection (C) below.
3. The building height increase shall not result in buildings that exceed 12 feet of height above the maximum building height standard of the underlying zone.
4. The building(s) receiving the height increase shall be located within the same subdivision where the LID benefit is being provided.
5. The height bonus may not be used on buildings that are directly adjacent to an existing lot in a residential zone (R-1, R-1.5 or R-2).
6. Additional park land provided to utilize the height bonus shall be consistent with all applicable standards and regulations of Chapter 16.120.

**Figure 16.64.1: Height Bonus Diagram**



**C. Standards for mitigation of tree removal.** Proposals that mitigate tree removal in order to utilize the height bonus shall comply with the following:

1. Only mitigation for removal of existing, healthy trees over six-inch caliper DBH shall be counted toward the height or density bonus.
2. Trees planted as mitigation for tree removal shall be at least two-inch caliper DBH and must be approved by the city arborist.
3. The subdivision application must show the location, size and species of exiting trees that will be removed and the location, size and species of trees to be planted as mitigation.
4. Trees planted to comply with the street tree requirements in Chapter 12.32 may not be counted toward the height or density bonus.

**D. Density bonus.** A density bonus will be allowed for subdivision proposals that provide additional park land beyond what is required in Chapter 16.120. Proposals that utilize the density bonus shall comply with the following:

1. To qualify for the density bonus, a proposal must provide at least 110% of the park land required in Chapter 16.120. For example, if Chapter 16.120 requires 1,000 square feet of park land, the proposal must provide at least 1,100 square feet of park land to qualify.
2. The percent density bonus allowed will be as follows:
  - a. For provision of park land between 110 – 120% of the minimum requirement, a 5% density bonus will be allowed.

**Chapter 16.66 Repealed**

**SUBDIVISIONS – PLANNING COMMISSION ACTION**

Remove = ~~**Strikethrough and Bold**~~

Additions = **Bold and Underline**

Comments = *Italics and Underline*

**Sections:**

**16.66.010 Submittal of tentative plat.**

**16.66.020 Public hearing.**

**16.66.030 Notification of decision.**

**16.66.040 Distribution of copies.**

**16.66.050 Effect of approval.**

**16.66.010 Submittal of tentative plat.**

**(Ord. 740 Section 10.4.40(c)(8)(a), 1984; Ord 1237, 2007)**

**16.66.020 Public hearing.**

**(Ord. 740 section 10.4.40(C)(8)(b), 1984; Ord 1237, 2007)**

**16.66.030 Notification of decision.**

**(Ord. 740 section 10.4.40 (C)(8)(c), 1984; Ord 1237, 2007)**

**16.66.040 Distribution of copies.**

**(Ord. 740 section 10.4.40 (C)(8)(d), 1984; Ord 1237, 2007)**

**16.66.050 Effect of approval.**

**(Ord. 740 section 10.4.40(C)(8)(e), 1984; Ord 1237, 2007)**

*This chapter was deleted under Ordinance 1237 (Ord 1237, 2007) with TA 07-01 because it duplicated provisions of Chapter 16.89 and should be repealed with these current changes.*

- b.** For provision of park land between 121 – 130% of the minimum requirement, a 10% density bonus will be allowed.
  - c.** For provision of park land between 131 – 140% of the minimum requirement, a 15% density bonus will be allowed.
  - d.** For provision of park land over 140% of the minimum requirement, a 20% density bonus will be allowed.
- 3.** No subdivision will be allowed to exceed 120% of the density standard for the underlying zone.
- 4.** Additional park land provided to utilize the density bonus shall be consistent with all applicable standards and regulations of Chapter 16.120. (Ord. 1338, 2010)

## Chapter 16.68

### SUBDIVISIONS FINAL PROCEDURES AND RECORDATION

#### Sections:

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

#### **16.68.010 Responsibilities of applicant.**

Following the action of the city in approving or conditionally approving a tentative plat for a subdivision, the applicant shall be responsible for the completion of all required improvements, or the posting of adequate assurances in lieu thereof, to the satisfaction of the city, prior to transfer of title of any of the lots involved. (Ord. 740 section 10.4.40(C)(9)(a), 1984; Ord 1237, 2007)

#### **16.68.020 Submittal of subdivision plat.**

Within ~~one~~ two years after approval of the tentative plat, the subdivider shall cause the subdivision or any part thereof to be surveyed and a plat prepared in conformance with the tentative plat, as approved. The subdivider shall submit the original hardboard drawing, a Mylar copy, and any supplementary information to the city. If the subdivider wishes to proceed with the subdivision after the expiration of the ~~one~~ two-year period following the approval of the tentative plat, he must formally request an extension of time, in writing, stating the reasons therefore. The City shall review such requests and may, upon finding of good cause, allow a time extension of not more than six additional months, provided that the request for the time extension is properly filed before the end of the ~~one~~ two-year approval period. (Ord. 740 section 10.4.40(C)(9)(b), 1984; Ord 1237, 2007)

#### **16.68.030 Information required on plat.**

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

- A.** Date, north point and scale of drawing;
- B.** Legal description of the tract boundaries;
- C.** Name and address of the owner or owners, subdivider, engineer or surveyor, and land planner or landscape architect;

**D.** Tract boundary lines, right-of-way lines of streets and lot lines with dimensions, bearings or deflection angles and radii, arcs, points or curvature and tangent bearings. All bearings and angles shall be shown to the nearest one second and all dimensions to the nearest 0.01 foot. If circular curves are proposed in the plat, the following data must be shown in tabulation form: curve radius, central angles, arc length, length and bearing of long chord. All information shown on the face of the plat shall be mathematically accurate;

**E.** Easements denoted by fine dotted lines, clearly identified and, if already of record, their recorded reference. If an easement of record is not definitely located, a statement of the easement shall be given. The width of the easement, its length and bearing, and sufficient ties to locate the easement with respect to the subdivision shall be shown. If the easement is being dedicated by the map, it shall be properly referenced in the owner's certificates of dedication;

**F.** Name and right-of-way width of each street or other designated rights-of-way;

**G.** Any building setback lines, if more restrictive than otherwise required in Division III;

**H.** Numbering of blocks consecutively within the subdivision and numbering of lots within each block;

**I.** Location and purpose for which sites, other than residential lots, are dedicated or reserved;

**J.** Easements and any other areas for public use dedicated without any reservation or restriction whatever;

**K.** A copy of any deed restrictions written on the face of the plat or prepared to record with the plat with reference on the face of the plat;

**L.** The following certificates which may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land, consenting to the preparation and recording of the plat,
2. A certificate signed and acknowledged as above, dedicating all land intended for public use except land which is intended for the exclusive use of the lot owners in the subdivision, their licensees, visitors, tenants and servants.
3. A certificate with the seal of, and signed by, the engineer or the surveyor responsible for the survey and final plat,
4. Other certifications now or hereafter required by law;



**M.** Where any portion of the platted area is subject to inundation in the event of a one-hundred-year flood, that area shall be clearly indicated on the final plat. (Ord. 740 section 10.4.40(C)(9)(c), 1984)

**16.68.040 Information to accompany plat.**

The following data shall accompany the final plat:

- A.** A preliminary title report issued by a title insurance company in the name of the owner of the land, showing all parties whose consent is necessary and their interest in the premises;
- B.** Sheets and drawings showing the following:
  - 1.** Traverse data including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners, and showing the error of closing, if any,
  - 2.** The computation of distances, angles, and courses shown on the plat,
  - 3.** Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing;
- C.** A copy of any deed restrictions applicable to the subdivision;
- D.** A copy of any dedication requiring separate documents;
- E.** A certificate by the city engineer that the subdivider has complied with the requirements for bonding or otherwise assured completion of required improvements; and
- F.** A certificate of the subdivider of the total cost or estimate of the total cost for the development of the subdivision in accordance with the provisions and requirements of this title or any other ordinance or regulation of the city relating to subdivision development. This certificate is to be accompanied by a final bid estimate of the subdivider's contractor, if there is a contractor engaged to perform the work, and the certificate of the total cost estimate must be first approved by the city engineer. (Ord. 740 section 10.4.40(C)(9)(d), 1984; Ord. 1111 section 3, 2003)

**16.68.050 Technical plat review.**

- A.** Upon receipt by the city, the plat and other data shall be reviewed to determine that the subdivision, as shown, is substantially the same as it appeared on the approved tentative plat and that there has been compliance with provisions of the law and of these regulations.
- B.** The City may make such checks in the field as are desirable to verify that the plat is sufficiently correct on the ground, and their representatives may enter the property for this purpose.

**C.** If the City determines that full conformity has not been made, the City shall advise the subdivider of the changes or additions that must be made and shall afford the subdivider an opportunity to make the changes or additions. (Ord. 740 section 10.4.40(C)(9)(e), 1984; Ord 1237, 2007)

**16.68.060 Planning Commission approval.**

Approval of the plat shall be indicated by the signatures of the Planning Director or their designee. After the plat has been approved by all city and county officials, one reproducible copy of all data (plat face, dedications, certificates, approvals), one copy of all plat data in a "dxf" digital format, and one copy of recorded restrictive and protective covenants shall be returned to the City Planner. (Ord. 899 section 5, 1993; Ord. 740 section 10.4.40(C)(9)(f), 1984; Ord 1237, 2007)

**16.68.070 Filing of final plat.**

Approval of the plat by the city, as provided by this division, shall be conditioned on its prompt recording. The subdivider shall, without delay, submit the plat to the county assessor and the county governing body for signatures, as required by Oregon Revised Statutes Chapter 92. The plat shall be prepared as provided by Oregon Revised Statutes Chapter 92. Approval of the final plat shall be null and void if the plat is not recorded within six months of the date of the signature of the Planning Director. (Ord. 740 section 10.4.40(C)(9)(g), 1984; Ord 1237, 2007)

## Chapter 16.76

### REQUIREMENTS

#### Sections:

- 16.76.010 Minimum requirements.**
- 16.76.020 General requirements.**
- 16.76.030 Standards and criteria.**
- 16.76.040 Exceptions.**

#### **16.76.010 Minimum requirements.**

The minimum requirements for a residential planned unit development shall include the following two items:

**A.** A minimum of fifteen percent of the gross area of the development shall be devoted to open space, and shall be located in a common area or dedicated to the public, except in the case of conversions of existing rentals to unit ownership, where the Planning Commission may permit a lesser requirement if it is found that adequate recreation facilities exist for the units.

**B.** The average area per dwelling unit shall not be less than that allowed within the zoning district in which the subdivision is located, unless alternative lot layout is used pursuant to ~~16.04.040(B)~~ **16.64.040(B)**. The average area shall be calculated by dividing the number of dwelling units into the gross area of the total land development, minus that area occupied by streets. The commission may grant a density bonus of not more than fifteen percent to planned unit developments where it is found that unique, beneficial design features (such as solar efficiency, recreation facilities, or other community assets) warrant such a bonus. The commission shall clearly state its findings in support of granting or denying a requested density bonus. (Ord. 740 section 10.5.50, 1984; Ord. 1338, 2010)

**C.** To achieve the goals of low impact development, buildings are encouraged to be clustered within the designated development area of the site. Clustering is intended to preserve open space, reduce total impervious surface area, and minimize development impacts on critical areas and associated buffers. Preservation of open space reduces potential stormwater runoff and associated impacts and provides area for dispersion, filtration and infiltration of stormwater. The arrangement of clustered buildings shall be designed to avoid development forms commonly known as linear, straight-line or highway strip patterns. (Ord. 890 section 57, 1993; Ord. 1338, 2010)

**D.** The use of LID best management practices in site design and development is required where site and soil conditions make it feasible option. LID practices shall meet the standards set forth in the Canby Public Works design Standards. (Ord. 1338, 2010)

**16.76.020 General requirements.**

Prior to development, application shall be made to the commission for site approval for all or any portion of the proposed development. Where only a portion of the development is submitted for approval, a master plan shall also be submitted indicating the intended layout for the total development. The form of the application shall follow the requirements and be subject to the standards and criteria of a subdivision or conditional use permit, depending upon whether the proposed development involves the division of property. Additional to the information which is otherwise required, the applicant shall submit accurate information on all of the following which may be applicable:

- A.** Any areas proposed to be dedicated or reserved for public parks, schools, playgrounds, or otherwise dedicated or reserved for public purposes;
- B.** Other undedicated open space set aside for the use of the residents of the development in common. Access and types of access for the open space area or areas shall be shown;
- C.** A general land use plan for the proposed subdivision indicating the areas to be used for various purposes;
- D.** Types of dwellings and site locations thereof;
- E.** Proposed locations of off-street parking areas with dimensions;
- F.** Pedestrian walks, malls and other trails, both public and private. The commission may require a complete circulation plan if warranted by the size and type of development;
- G.** The stages to be built in progression, if any;
- H.** The location of adjacent utilities intended to serve the development and a layout of the utilities within the development;
- I.** Table showing the density and lot coverage of the overall development;
- J.** Such other pertinent information as the commission may require in order to make necessary findings on the site approval. (Ord. 740 section 10.5.60(A), 1984)
- K.** A Traffic Impact Study (TIS) may be required in accordance with Section 16.08.150. (Ord. 1340, 2011)

**16.76.030 Standards and criteria.**

Additional to the standards and criteria listed in Divisions III and IV which are applicable to planned unit development, the following standards and criteria shall apply:

- A.** The site approval as acted upon by the commission shall be binding upon the developer, and variations from the plan shall be subject to approval by the commission.

**B.** All land within the planned unit development may be subject to contractual agreements with the city and to recorded covenants providing for compliance with the city's requirements.

**C.** The development of the property in the manner proposed will be in keeping with the requirements of this title, other than those provisions allowing for special treatment of PUD's.

**D.** The plan for the proposed development shall present a unified and organized arrangement of buildings and service facilities.

**E.** The development must be designed so that the land areas and buildings around the perimeter of the project do not conflict with the adjoining properties. The commission may establish special conditions for the perimeter of the development to minimize or mitigate potential conflicts.

**F.** Each planned unit development shall be a complete development considering all previous requirements. The commission may, in addition, require the inclusion of facilities such as special curbs, sidewalks, streetlights, storm drainage, sanitary sewers, underground power and telephone lines, landscaping and adequate easements for utilities.

**G.** Land which is not intended for physical development, such as buildings or street uses, may be required to remain in open space usage perpetually. Maintenance of such open space areas shall remain the responsibility of the individual owner or owners' association, in a manner outlined in the by-laws of such association.

**H.** The manner in which any open space or park and recreational area is to be maintained shall be submitted, along with the preliminary copy of the proposed owners' association bylaws and contractual agreements, with the preliminary subdivision. In the case of an individual owner, the commission may impose special requirements to assure long-term maintenance.

**I.** The Planning Commission may, and in the case of single story or townhouse structures shall, require the separation of utilities from one unit to the next.

**J.** In reviewing an application for the conversion of existing residential units to condominiums, the commission shall utilize the general standards as are applied to the new construction of planned unit developments. A proposed conversion which is not found to meet the standards customarily applied to planned unit developments will not be approved.

**K.** In reviewing an application for the conversion of existing residential units to condominiums, the Planning Commission shall consider the vacancy rates of multiple-family rental units throughout the city at the time of the application. It is the intent of

the city to assure that there is at least one suitable rental unit available and vacant for each unit converted to condominium ownership.

**L.** No fence/wall shall be constructed throughout a planned unit development 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. 740 section 10.5.60(B), 1984; Ord. 955 section 30, 1996)

**16.76.040 Exceptions.**

**A.** In considering a proposed planned unit development project, the approval thereof may involve modifications in the regulations, requirements and standards of the zoning district in which the project is located so as to appropriately apply such regulations, requirements and standards to the development. Modification of the lot size, lot width, and yard setback requirements may be approved by the commission at the time of the approval of the tentative subdivision plat or conditional use permit.

**B.** Building height shall conform to the zoning district in which the development is located.

**C.** Off-street parking and off-street loading requirement shall be pursuant to Division III. (Ord. 740 section 10.5.60(C), 1984)

## Division VIII. – GENERAL STANDARDS

### Chapter 16.88

#### **GENERAL STANDARDS AND PROCEDURES: GENERAL, TEXT AMENDMENTS, COMPREHENSIVE PLAN AMENDMENTS, AND TRANSPORTATION PLANNING**

#### **Sections:**

- 16.88.010**    **Applicability.**
- 16.88.020**    **Action on application.**
- 16.88.030**    **Applications and fees**
- 16.88.040**    **Temporary permits.**
- 16.88.050**    **Business license review.**
- 16.88.060**    **Council acceptance of dedicated land.**
- 16.88.080**    **Administration and enforcement.**
- 16.88.090**    **Revocation of conditional use permits and variances.**
- 16.88.100**    **Interpretation.**
- 16.88.110**    **Penalties and civil remedies.**
- 16.88.120**    **Enforcement procedure.**
- 16.88.160**    **Public officials**
- 16.88.160 170**    **Amendments to text of title.**
- 16.88.170**    **Public officials.**
- 16.88.180**    **Comprehensive Plan Amendments.**
- 16.88.190**    **Conformance with Transportation System Plan and Transportation Planning Rule**

#### **16.88.010    Applicability.**

The general standards and procedures set out in this chapter apply to the regulations of all sections of this title, except as may be specifically noted. (Ord. 740 10.8.10[part], 1984)

#### **16.88.020 Action on application.**

**A.** Any action taken by the commission or council on any application filed pursuant to the requirements of this title shall be based upon findings of fact entered by the commission or council in making the decision. Such findings of fact shall be based upon the standards and criteria listed in the pertinent section of this title and upon such other legal requirements as may exist.

- 1.** It is recognized that the burden of proof on all applications is upon the applicant in terms of justifying the proposal.
- 2.** The scope of the required findings of fact shall vary with the scope of the project such that a major project requires more extensive justification than does a minor project.

(Ord. 740 section 10.8.10(A), 1984; Ord. 981 sections 54 & 55, 1997; Ord. 1080, 2001)

#### **16.88.030 Applications and Fees**

Applications for annexations, zone changes, variances, conditional use permits, design review, appeals, other permits or approvals and property divisions initiated by property owners or their agents shall be made in writing and submitted to the City Planner. Each application shall be accompanied by a fee. Said fees shall be set out by resolution approved by the City Council. Fees shall differentiate between various processes and applications and no part of which shall be refunded. (Ord. 850 sections 1 and 2, 1990; Ord. 740 section 10.8.10(B), 1984)

#### **16.88.040 Temporary permits.**

The Building Official may issue temporary permits for buildings to be used for a construction office, storage incidental to construction of buildings on the property and for signs advertising a subdivision or tract of land or the lots therein. Such permits shall be issued for a specific time period and shall include a signed statement from the applicant agreeing to remove the structure or sign at the completion of that period. (Ord. 740 section 10.8.10(C), 1984)

#### **16.88.050 Business license review.**

Applications for a business license shall be reviewed for compliance with these regulations. The administrative procedure established by the city administrator for review of business license applications shall be followed in order to assure that business operators are made aware of code requirements such as sign regulations, parking standards, and land use regulations. No business license shall be issued until it is found that the proposed business will comply with the requirements of this code. Except, however, that a change in the type of business in an area zoned for industrial use need not meet complete parking requirements unless required to do so as a part of a discretionary hearing process conducted by the commission or City Council. (Ord. 740 section 10.8.10(D), 1984)

#### **16.88.060 Council acceptance of dedicated land.**

No property shall be considered to be dedicated to the city unless first accepted as such by the council, or shown as such on a legally recorded subdivision plat which has been signed by the City. The Planning Commission is empowered to accept dedication of land for public street purposes in a subdivision only, with all other dedications being the responsibility of the council. The applicant shall be responsible for furnishing adequate title insurance for any such land to be dedicated, unless this requirement is waived by the council for good cause. (Ord. 740 section 10.8.10(E), 1984; Ord 1237, 2007)

#### **16.88.070**

(Ord. 740 section 10.8.10(F), 1984; repealed by Ord. 981 section 12, 1997)

#### **16.88.080 Administration and enforcement.**

**A. Purpose.** Recognizing the need for fair and impartial administration and the importance of strict enforcement of these regulations, it is the intent of the council in adopting these regulations that all reasonable means of enforcement be utilized and maximum allowable penalties be sought for willful violations.



**B. Duty.** It shall be the duty of the City Planner, with assistance from other city staff, to administer and enforce this title. (Ord. 740 section 10.8.20 (A) and (B), 1984)

**16.88.090 Revocation of conditional use permits and variances.**

(Ord. 740 section 10.8.20(C), 1984; Ord. 955 section 31, 1996; renumber to 16.50.070 and 16.53.030; Ord 1237, 2007)

**16.88.100 Interpretation.**

The provisions of this title shall be held to be the minimum requirements fulfilling its objectives. (Ord. 740 section 10.8.20(D), 1984)

**16.88.110 Penalties and civil remedies.**

**A.** Unless otherwise provided, a person who knowingly violates this title is punishable upon conviction by a fine of not more than two thousand five hundred dollars. Each day a violation exists is a separate offense and may be punished as such.

**B.** When costs (attorney fees, court costs, staff or consultant expenses) are accrued in the enforcement of this title, the city may institute appropriate civil action to recoup the costs from the violators.

**C.** In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered, or used in violation of this title, the building or land in violation shall constitute a nuisance, and the city may, as an alternative for enforcing these requirements, institute injunction, mandamus, abatement, or other appropriate proceedings to prevent, enjoin temporarily or permanently, abate, or remove the unlawful location, construction, maintenance, repair, alteration or use.

**D.** Individuals who have been victimized by illegal land development practices shall be encouraged to seek civil relief from the developers for any and all costs and inconveniences which they have suffered as a result of such illegal practices. (Ord. 830 section 14, 1989; Ord. 740 section 10.8.20(E), 1984)

**16.88.120 Enforcement procedures.**

**A.** City staff and officials will work closely with local title insurance companies, developers and members of the real estate profession to ensure fair and reasonable enforcement of these regulations.

**B.** Upon finding any indication of a violation of state law relative to land division, city staff shall contact the Real Estate Division of the state Department of Commerce.

**C.** Upon finding that the regulations of this title have apparently been violated, the City Planner shall cause the following steps to be taken:

1. A member of the staff shall attempt to contact the property owner or apparent violator, explaining the requirements of this title and type of action which the city can be expected to take if the violation is not corrected.

2. If the property owner and/or violator is willing to correct the violation, he/she shall be given a reasonable amount of time to make such corrections.
3. If the owner and/or violator cannot be reached, is reached but does not intend to comply, or fails to comply within the time limits previously agreed to, the city shall take any of the following steps which are deemed appropriate in the situation:
  - a. Record a document affecting the title of all properties involved in the violation, thereby clouding the title and stating that no further permits will be issued for the development of any of the subject property;
  - b. Withhold any and all permits for the development of the property;
  - c. Disconnect the property from city services;
  - d. Cite the individual into a court of competent jurisdiction;
4. The City Planner shall notify, by certified mail, all record owners of the property involved, stating the nature of the remedial actions which the city is taking to correct the apparent violation. (Ord. 740 section 10.8.20(F), 1984)

**16.88.130**

(Ord. 740 section 10.8.30, 1984; Ord. 1019 section 12, 1999; Ord. 1043 section 3, 2000; mod. & renum. to 16.89 by Ord. 1080, 2001)

**16.88.135**

(Ord. 955 section 32, 1996; mod. & renum. to 16.89 by Ord. 1080, 2001)

**16.88.140**

(Ord. 740 section 10.8.40, 1984; Ord. 981 section 13, 1997; mod. & renum. to 16.89 by Ord. 1080, 2001)

**16.88.150**

(Mod. & renum. to 16.53 by Ord. 1080, 2001)

**16.88.160 Public officials.**

**The terms "City Administrator," "City Recorder," "City Engineer," "City Planner," and other references to individual employees by title, shall include any city staff member or consultant operating in an official capacity for the city. The terms are offered for the convenience of the user of this title and are not intended to impair the validity of this title. (Ord. 740 section 10.8.70, 1984)**

Moved and renumbered from 16.88.170 below to separate from TA and Comp Plan standards

**16.88.160 170 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.

**B. Application and Fee.** Application procedures shall be as described in Chapter 16.89.

**C. Public Hearing on an Amendment.** Before taking final action on a proposed amendment, the Planning Commission shall hold a public hearing on the amendment following the requirements for advertising and conduct of hearings prescribed in Division VIII.

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

**E. Record of Amendments.** The City Planner shall maintain a record of amendments to the text of this title in a form convenient for the use of the public. (Ord. 740 section 10.8.60, 1984; Ord. 981 section 15, 1997; Ord. 1080, 2001)

**~~16.88.170 Public officials.~~**

~~The terms "City Administrator," "City Recorder," "City Engineer," "City Planner," and other references to individual employees by title, shall include any city staff member or consultant operating in an official capacity for the city. The terms are offered for the convenience of the user of this title and are not intended to impair the validity of this title. (Ord. 740 section 10.8.70, 1984)~~

**16.88.180 Comprehensive Plan Amendments**

**A. Authorization to Initiate Amendments.** An amendment to the Comprehensive Plan 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.

**B. Application.** Application procedures shall be as described in Chapter 16.89.

**C. Legislative Plan Amendment Standards and Criteria.** In judging whether or not a legislative plan amendment shall be approved, the Planning Commission and City Council shall consider:

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

**D. Quasi-judicial Plan Amendment Standards and Criteria.** In judging whether a quasi-judicial plan amendment shall be approved, the Planning Commission and City Council shall consider:

1. The remainder of the Comprehensive Plan of the city, as well as the plans and policies of the county, state, or any local school or service districts which may be affected by the amendments;
2. Whether all required public facilities and services exist, or will be provided concurrent with the anticipated development of the area. (Ord. 740 section 10.8.80, 1984; Ord. 981 section 16, 1997; Ord. 1080, 2001)

**E.** For proposed comprehensive plan amendments, which must consider the long-term adequacy of the transportation system for TPR 660-10-060 compliance, ODOT must be consulted to determine whether a highway project is “reasonably likely to be funded” based on funding projections at that time. (Ord. 1340, 2011)

#### **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.

**B.** Amendments to the comprehensive plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and performance standards (e.g., level of service, volume to capacity ratio, etc.) of the facility identified in the Transportation System Plan. This shall be accomplished by one of the following:

1. Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
2. Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of Section – 0060 of the TPR. Such amendments shall include a funding plan or other mechanism so that the facility, improvement or service will be provided by the end of the planning period.
3. Altering land use designations, densities, or design requirements to reduce demand for vehicle travel and meet travel needs through other modes of transportation.
4. Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
5. Providing other measures as a condition of development, including transportation system management measures, demand management or minor transportation improvements.

**C.** A Traffic Impact Study may be required by the City in accordance with Section 16.08.150. (Ord. 1043, section 3, 2000; Ord. 1237, 2007; Ord. 1340, 2011)

## Chapter 16.89

### APPLICATION AND REVIEW PROCEDURES

Remove = ~~Strikethrough and Bold~~

Additions = **Bold and Underline**

Comments = *Italics, Bold and Underline*

#### Sections:

16.89.010	Purpose.
16.89.020	Description and summary of processes.
16.89.030	Type I procedure.
16.89.040	Type II procedure.
16.89.050	Type III procedure.
16.89.060	Type IV procedure.
16.89.070	Neighborhood meetings.
16.89.080	Application requirements and completeness.
16.89.090	Modifications.
16.89.100	<b><u>Administrative Reviews</u></b>

#### 16.89.010 Purpose.

The purpose of this chapter is to establish standard decision-making procedures that will enable the City, the applicant, and the public to review applications and participate in the decision-making process in a timely and effective way. (Ord. 1080, 2001)

#### 16.89.020 Description and Summary of Processes.

All land use and development applications shall be decided by using the procedures contained in this Chapter. Specific procedures for each type of permit are contained in Sections 16.89.030 through 16.89.060. The procedure type assigned to each permit governs the decision-making process for that permit. Additional requirements may be found in the individual chapters governing each permit type. The four types of procedure are described below. Table 16.89.020 lists the City's land use and development applications and their required procedures.

A. Type I Procedure (Ministerial). Type I decisions are made by the Planning Director without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria **or provisions** and applying those

criteria **or provisions** requires no use of discretion. **The appeal of a Type I Planning Director's decision is heard by the Planning Commission.**

*If certain regulations are appropriate to a proposal and are not considered met by the Planning Director, the application should have the right of appeal.*

**B. Type II Procedure (Administrative).** Type II decisions are made by the Planning Director with public notice and an opportunity for a public hearing. The appeal of a Type II decision is heard by the Planning Commission.

**C. Type III Procedure (Quasi-Judicial/Legislative).** Type III decisions are made by the Planning Commission after a public hearing, with appeals reviewed by the City Council. Type III procedures generally use discretionary approval criteria.

**D. Type IV procedure (Council Decision).** Type IV decisions generally apply to legislative matters, but include certain other applications as well. Legislative matters involve the creation, revision, or large-scale implementation of public policy (e.g., adoption of land use regulations, zone changes, and comprehensive plan amendments that apply to entire districts). Type IV matters are considered initially by the Planning Commission with final decisions made by the City Council. Annexations and certain quasi-judicial applications are also processed under the Type IV process. (Ord. 1080, 2001; Ord 1237, 2007)

**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
<b><u>Administrative Review</u></b>	<b><u>I</u></b>	<b><u>n/a</u></b>	<b><u>No</u></b>
<b><u>Administrative Review</u></b>	<b><u>II</u></b>	<b><u>100</u></b>	<b><u>No</u></b>
Amendments to Zoning Map	IV	500	Yes
Annexation, Minor and Major	IV	500	Yes
Appeals	III	200	No
Building Permit	I	n/a	No
Comprehensive Plan Amendment	IV	500	Yes
Conditional Use Permit	III	500	No
Condominium Construct. (less than 6 units)*	I	n/a	No
Interpretation	<b>See Section 16.05.020</b>		

Application Type	Process Type	Notice Radius (Feet)	Neighborhood Meeting Required
Lot Line Adjustment**	II	100	No
Modification	See Section 16.89.090		
Non-Conforming Structure/Use	II	100	No
Parking Lot/Paving projects	I	n/a	No
Partition, Minor and Major	<del>III</del> II	<del>200</del> 100	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
Site Plan Review	I	n/a	No
Temporary Permit (16.44.090)	See Chapter 16.44		
Temp. Hardship Permit (16.44.100)	II	100	No
Subdivision	III	500	Yes
Text Amendment	IV	500	Yes
Variance, Minor	II	200	No
Variance, Major	III	200	No

NOTES: \* See also Chapter 16.78

\*\* See also Chapter 16.58.

### 16.89.030 Type I procedure.

**A. Application requirements.** Type I applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

**B. Decision requirements.** The Planning Director's decision shall address all of the approval criteria. Based on the criteria and the facts contained within the record, the Planning Director shall approve, approve with conditions, or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at the City.

**C. Final decision.** The decision shall be final on the date it is mailed or otherwise provided to the applicant, whichever occurs first. (Ord. 1080, 2001)



**16.89.040 Type II procedure.**

**A. Preapplication conference.** A preapplication conference may be required by the Planning Director for Type II applications.

**B. Application requirements.** Type II applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

**C. Public notice.**

**1.** Before making a Type II decision, the Planning Director shall mail notice meeting the requirements of state law to:

**a.** All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020.

**b.** Any person who submits a written request to receive notice; and

**c.** Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies, as appropriate, for review of the application.

**d.** Any application that involves access to OR 99E or that is expected to impact the state highway system must be provided to the Oregon Department of Transportation for their review and comment regarding conformance with state access management and mobility standards and requirements.

**e.** Any application that is expected to impact a road under the jurisdiction of Clackamas County must be provided to Clackamas County for review and comment regarding county standards.

**2.** Notice of any proposal that includes a new transportation facility or improvement and where these facilities or improvements included or may impact a collector or arterial street, will be sent to the ODOT and Clackamas County or any special interest transportation groups as appropriate. Special interest transportation groups could include trucking organizations, bicycles and pedestrian interest groups, and interest groups for people with disabilities. Information that should be conveyed with the notice includes the following:

**a.** Project location

**b.** Proposed land use action

**c.** Location of project access point(s)

3. The public notice shall allow a 10-day period for submitting written comments before a decision is made on the permit.

4. The City shall prepare an affidavit of mailing for the public notice and make the affidavit part of the application file.

**D.** The Planning Director shall make Type II decisions in writing addressing all of the relevant approval criteria and standards. Based upon the criteria and standards, and the facts contained within the record, the Planning Director shall approve, approve with conditions, or deny the requested permit or action.

**E. Notice of Decision.**

1. Within five days of making a final decision on a Type II application, a notice of decision shall be sent to:

a. All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020;

b. Any person who submits a written request to receive notice; and

c. Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.

2. The notice of decision shall include information on the application, the City's decision, and a statement explaining how an appeal of the decision may be filed.

**F. Effective Date.** A Type II decision is final for purposes of appeal when it is mailed by the City.

**G. Appeal.** A Type II decision may be appealed to the Planning Commission as follows:

1. The following persons have legal standing to appeal a Type II decision:

a. The applicant;

b. Any person who was mailed notice of the decision; and

c. Any other person who participated in the proceeding by submitting written comments.

2. Procedure.

**a.** A Notice of Appeal shall be filed in writing, on forms provided for the purpose by the Planning Director, within 10 days of the date the Notice of Decision was mailed.

**b.** The Notice of Appeal shall be accompanied by all required information and fees.

**c.** An appeal of a Type II decision shall be made following the Type III public notice procedures, as described in Section 16.89.050.D.

**d.** The appeal shall be limited to the specific issues raised during the written comment period unless the hearings body allows additional evidence or testimony concerning any other relevant issue. The hearings body may allow additional evidence if it determines that such evidence is necessary to resolve the case. The purpose of this requirement is to limit the scope of Type II appeals by encouraging persons to submit specific concerns in writing during the comment period. Only in extraordinary circumstances should new issues be considered by the hearings body on appeal of a Type II decision.

**3.** The decision of the Planning Commission regarding an appeal of a Type II decision is the final decision of the City unless appealed to the City Council. An appeal to the City Council shall follow the same notification and hearing procedures as for the appeal of the staff decision.

**H.** Any decision or interpretation of this title made by staff that is not a Type II decision may be appealed to the Planning Commission without fee, provided that such appeal is filed in writing within ten days of the staff decision. Such appeals shall be heard as a new business item. The Planning Commission's decision on such appeals may be appealed to the City Council following the Type III public notice procedures, as described in Section 16.89.050.D. (Ord. 1080, 2001; Ord 1237, 2007; Ord. 1340, 2011)

#### **16.89.050 Type III Decision.**

**A. Pre-application conference.** A pre-application conference may be required by the Planning Director for Type III applications.

**B. Neighborhood meetings.** As directed in Table 16.89.020, the applicant may be required to present their development proposal at a neighborhood meeting before the City accepts the application as complete. See Section 16.89.070.

**C. Application requirements.** Type III applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

**D. Public notice.**

**1.** At least 20 days prior to a public hearing on a Type III decision or a Type II appeal decision, the Planning Director shall mail notice meeting the requirements of state law to:

- a.** All owners of real property and, if the owner's address is different from the site address, all residents of property, within the distance prescribed in Table 16.89.020;
- b.** The appointed chair of any neighborhood association whose boundaries include the subject property;
- c.** Any person who submits a written request to receive notice; and
- d.** Any governmental agency which is entitled to notice under an intergovernmental agreement entered into with the City.
- e.** For appeals, the appellant and all persons who provided testimony.

**2.** Notice of any proposal that includes a new transportation facility or improvement, and where these facilities or improvements included or may impact a collector or arterial street, will be sent to the ODOT and Clackamas County or any special interest transportation groups as appropriate. Special interest transportation groups could include trucking organizations, bicycle and pedestrian interest groups, and interest groups for people with disabilities. Information that should be conveyed with the notice includes the following:

- a.** Project location
- b.** Proposed land use action
- c.** Location of project access point(s)

**3.** The City shall prepare an affidavit of mailing for the public notice and make the affidavit part of the application file. Failure of any individual to receive notice as prescribed in this section does not invalidate the proceedings.

**4.** Written notice shall be published in a newspaper of general circulation in Canby once in either of the two consecutive weeks prior to the hearing.

**5.** At least ten (10) days before the hearing, written notice shall be posted at City Hall and such other conspicuous locations as the Council may determine to be appropriate.

**6.** At least ten (10) days before the hearing, the applicant shall post notice of the hearing on the property as directed by the Planning Director.

**7.** The Planning Director may expand the notice area or take other steps to assure that affected property owners or residents are made aware of the pending public hearing.

**8.** Any application that involves access to the state highway system must be provided to the Oregon Department of Transportation for their review and comment regarding conformance with state access management standards and requirements.

**E. Conduct of public hearing.**

**1.** In all evidentiary hearings required by this title the following procedures shall be followed:

**a.** All interested persons in attendance shall be heard on the matter of hearing, and this fact shall be communicated to those in attendance;

**b.** A summary of the application or other matter for hearing shall be given by the presiding officer or their designee;

**c.** The staff report shall be made followed by questions, if any, of the staff by the hearings body;

**d.** The public hearing shall be opened and testimony shall be received in the following order:

**i.** Applicant;

**ii.** Proponents;

**iii.** Opponents; and

**iv.** Rebuttal by proponents or applicant;

**e.** Close public hearing;

**f.** Questions and discussion by hearing body;

**g.** Decision by the hearing body except that further discussions, decision, or reopening of the public hearing may be postponed to another meeting, the time, date, and place of which shall be announced before adjournment.

**2.** All persons who speak at the hearing shall identify themselves by name, address, and interest in the matter. Attorneys or other agents shall be allowed to speak on behalf of all participants.

**3.** Physical evidence in the form of written documents, photographs, or other exhibits may be accepted by the hearing body if deemed to be pertinent.

4. A record made at any prior evidentiary hearing may be accepted, considered, and used by the hearing body at any subsequent hearing, and said body, by majority vote of a quorum present, may deny to accept or hear any repetitious matter.

5. The hearing body may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested. Upon recessing for these purposes, the hearing body shall announce the time and date when the hearing will be resumed.

6. Before the conclusion of the initial evidentiary hearing, any participant may ask the hearings body for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing as follows:

a. If the hearings body grants a continuance, the completion of the hearing shall be continued to a date, time, and place at least seven days after the date of the first evidentiary hearing. An opportunity shall be provided at the second hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence; or

b. If the hearings body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new 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 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 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

**c.** That the Commission did not adequately consider all of the information which was pertinent to the case.

**4.** The Council's action on an appeal shall be governed by the same general regulations, standards, and criteria as apply to the Commission in the original consideration of the application.

**J.** Any decision of the Planning Commission may be appealed to the City Council unless otherwise specified in this Title. Such appeals will be processed using the Type III procedures unless otherwise specified in this Title.

**K.** The decision of the City Council regarding a Type IV decision, appeal of a Planning Commission decision, or any other process contained within this title, is the final decision of the City. (Ord. 1080, 2001; Ord. 1111 section 5, 2003; Ord 1237, 2007)

### **16.89.060 Type IV decision.**

For certain applications, the City Council makes a final decision after a recommendation by the Planning Commission. These application types are referred to as Type IV decisions.

**A. Pre-application conference.** A pre-application conference may be required by the Planning Director for Type IV applications.



**B. Neighborhood meetings.** The applicant may be required to present their development proposal at a neighborhood meeting (see Section 16.89.070). Table 16.89.020 sets the minimum guidelines for neighborhood review but the Planning Director may require other applications to go through neighborhood review as well.

**C. Application requirements.** Type IV applications shall be made on forms provided by the Planning Director. The application shall be accompanied by all required information and fees.

**D. Public notice and hearings.** The public notice and hearings process for the Planning Commission's review of Type IV applications shall follow that for Type III applications, as provided in subsections 16.89.050.D and 16.89.050.E.

**E. Decision process.**

1. Approval or denial of a Type IV decision shall be based on the standards and criteria located in the code.
2. The hearings body shall issue a final written order containing findings and conclusions recommending that the City Council approve, approve with conditions, or deny the application.
3. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.
4. In cases involving attorneys, the prevailing attorney shall prepare the findings, conclusions, and final order. Staff shall review and, if necessary, revise, these materials prior to submittal to the hearings body.

**F. City Council proceedings:**

1. Upon receipt of the record of the Planning Commission proceedings, and the recommendation of the Commission, the City Council shall conduct a review of that record and shall vote to approve, approve with conditions, or deny the recommendation of the Planning Commission.
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.

**F.** Applicants or attendees may make audio or video recordings of the neighborhood meeting if desired. (Ord. 1080, 2001; Ord. 1111 section 5, 2003; Ord 1237, 2007)

**16.89.080 Application Requirements and Completeness.**

**A. Submittal.** Applications for land use and development permits shall be filed on forms provided by the purpose by the Planning Director. The application shall be made with all required information and fees.

**B. Fees.** Fees shall be set out by resolution adopted by the City Council. Fees shall differentiate between various processes and applications and no part of the fee shall be refunded unless approved by the Planning Director.

**C. Amendments to forms.** Application forms may be amended by the Planning Director. The Planning Commission shall first review and approve all proposed amendments as New Business Items.

**D. Completeness.** In reviewing an application for completeness, the following procedure shall be used:

1. When an application is received by the City, the Planning Director shall immediately determine whether the following essential items are present. If they are not, the Planning Director may choose not to accept the application, in which case the application shall be immediately returned to the applicant:

- a. The required form;
- b. The required fee; and
- c. The signature of the applicant on the form, and signed written authorization of the property owner of record if the applicant is not the owner.

2. Completeness.

a. After the application is accepted, the Planning Director shall review the application for completeness. If the application is incomplete, the Planning Director shall notify the applicant in writing exactly what information is missing within thirty (30) days of the application and allow the applicant 180 days to submit the missing information;

b. In accordance with the application submittal requirements, the application shall be deemed complete upon the receipt by the Planning Director of all required information. The applicant shall have the option of withdrawing the application or refusing to submit information requested under (a), above. For the refusal to be valid, it shall be made in writing and received by the Planning Director no later than fourteen (14) days after the date on the letter of incompleteness. If the applicant refuses in writing to submit the missing 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 will review intermediate modifications under the Type II process. If the Planning Director approves an intermediate modification, notice of the decision will be made in accordance with the Type II process. 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.

**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.

**D. Modification criteria.** Modification applications shall be evaluated based on the criteria pertaining to the original application being modified. (Ord. 1111, 2003; Ord 1237, 2007)

A Type I and Type II Administrative Review Application is added under TABLE 16.89.020 Land Use and Development Application Procedures. The application allows the Planning Director a ministerial or administrative process to address certain uses with clear and objective standards, and that may sometimes be even permitted in the zone but are subject to review criteria, standards, or regulations and require a review of additional information or requirements, such as license, registration, or permits from State, Federal, County, or other agencies. These documents should be provided to the City for verification and coordination with the other agencies. For example, Residential Facility is a permitted use but requires licenses from agencies that should be verified by the City before operating in a residential neighborhood. The appeal process is still available to the public. An administrative review procedure is established under 16.89.100 below.

#### **16.89.100 Administrative Reviews.**

**Where a determination about a proposed use, structure or the legality of a parcel cannot be made without interpretation or the exercise of factual, policy or legal judgment, the proposed use, structure, or the legality of a lot or parcel may be reviewed as an administrative review subject to submittal of an application as provided in this chapter. The administrative review procedures, as provided below, shall be followed in making these decisions.**

**A. The decision shall be made on the basis of the applicable city comprehensive plan and applicable standards and criteria in the City Of Canby land development and planning ordinance. The Planning Director or**

designee may attach any conditions of approval deemed necessary to ensure conformance of the use, structure, lot or parcel to the standards or criteria. Administrative Review Applications may be submitted and shall be signed as required in this chapter. Notwithstanding any other provisions of this title, the Planning Director or designee may forward any land use permit or application to the planning commission for a public hearing and initial decision.

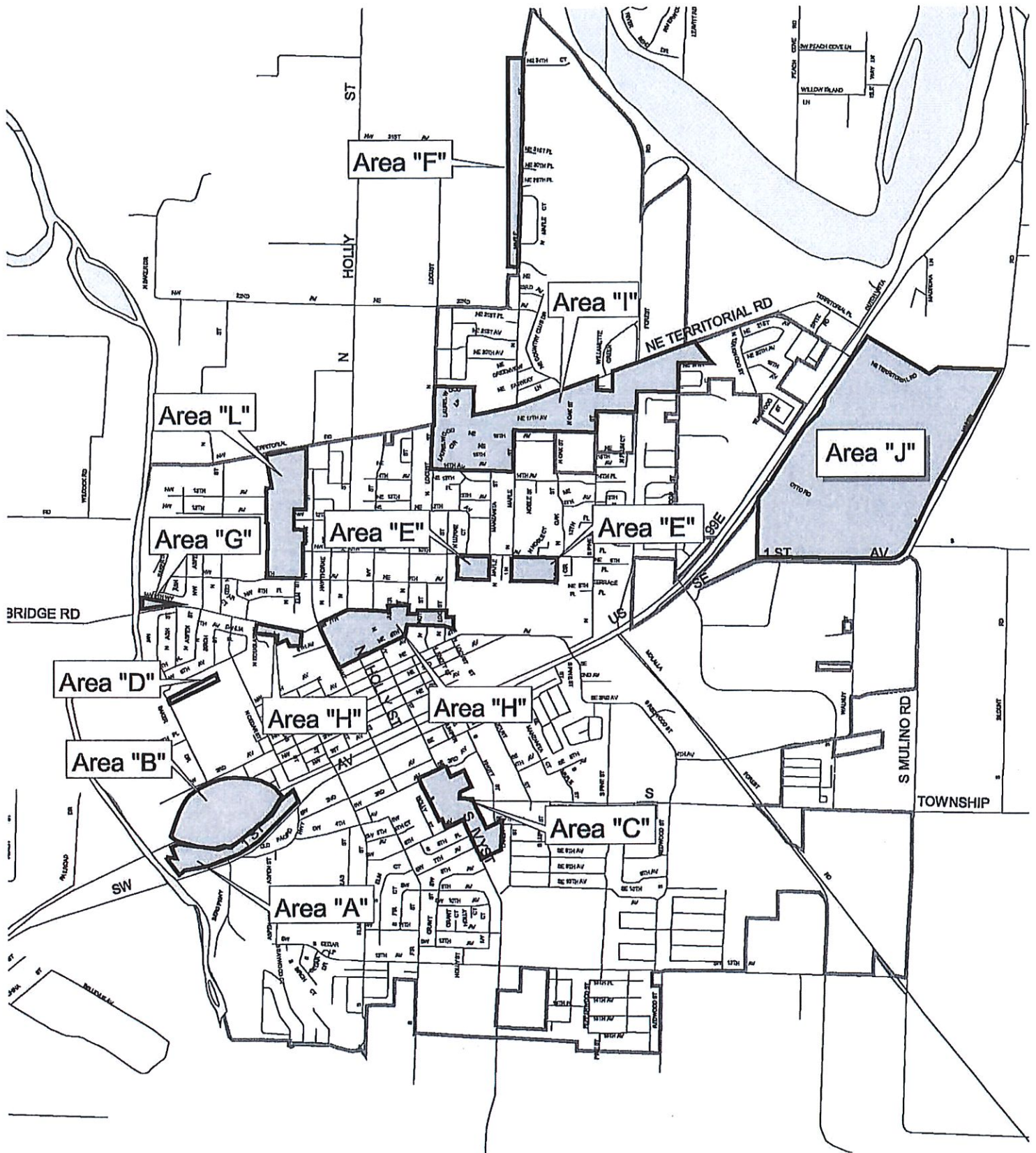
**B.** Notice of a decision shall be sent to the applicant, the owner(s) of the subject property, the co-tenants if the subject property is owned by tenants in common, and all property owners within the notification area prescribed by this chapter or as required by state law or administrative rule.

**C.** The applicant or any persons aggrieved or affected by the decision may file a request for a hearing to the City Planning Department within 10 days of the date the decision was rendered. The request must follow procedures in Sections 16.89.030 and 040.

**D.** The applicant may file a request for reconsideration without a hearing to the Planning Department within 10 days of the date the decision was rendered. The request must be in writing and received in the Planning Department office prior to the decision being final, and should explain wherein the decision is factually or legally incorrect, or state new facts material to the decision that were not available to the Planning Director, or propose modifications that will better conform the proposal to the requirements of this title. The request for reconsideration shall include a signed 30-day waiver of the 120-day time limit in the Oregon Revised Statutes.

Applicants shall be limited to one request for reconsideration per application. The Planning Director shall reconsider the matter and provide notice to the person requesting reconsideration and as required in subsection (B) of this section.

**E.** When reconsideration has been requested, the decision is stayed until final action is taken.



# City of Canby

## Areas of Special Concern



## EXHIBIT A - AREA K TEXT REMOVED

of the area obviates any need for an immediate zone change at this time. Any proposals for new development or redevelopment of the area, other than for one single-family dwelling, per lot, will require prior upzoning to R-2.

9. *Area "I"* consists of a wide strip of property bordering N.E. Territorial Road. It includes properties which are planned for medium density residential use and properties planned for high density residential use. Present development in the area includes apartments, condominiums, single-family dwellings, and vacant lots. Present zoning includes some R-2 areas and a predominance of R-1 areas. Street dedications and, in some cases, street improvements are needed to make some of the properties suitable for higher density development. New developments, other than one single-family dwelling per lot, will require prior upzoning to either R-1.5 or R-2, as appropriate.
10. *Area "J"* is a large area of multiple owners bounded on the west side by Highway 99E, SE 1<sup>st</sup> Avenue to the South, Haines Road to the East, and the Urban Growth Boundary to the north. The area contains numerous single family homes, a pub (The Spinning Wheel), several churches, and significant open space and natural features, the most notable is a large, man-made lake located in the approximate center of the area. Because of the existing mix of uses, this area presents a unique opportunity for the City to master plan the area and create appropriate zoning language and/or zoning overlays to encourage a mixed density neighborhood. Until a master plan is adopted, this area should be held in reserve and properties in this area should remain a low priority for annexation. The creation of this master plan should be high on the priority list for long-range planning project for the City. Through the 2002-2003 public process to locate appropriate areas for Medium and High Density Residential Land, this area was found to be appropriate for the equivalent of a minimum of 12 acres of High Density Residential Development and a minimum of 15 acres of Medium Density Development. During the master planning process, these numbers should be used as a guideline, but could be increased if, through a public input process, more is deemed desirable, especially if it is to protect existing open spaces, natural features, or other desirable elements for the area. Development of the master plan should concentrate on protecting the special natural and physical characteristics of the area
11. *Area "K"* – Removed (Ord. 1514, 2019).
12. *Area "L"* comprises approximately 30 acres of parcels zoned for low density residential development. The parcels have been farmed for many years and were outside the Urban Growth Boundary of the City until 2003.



The area presents a unique challenge because it is surrounded by existing neighborhoods that could be negatively impacted by development. In addition, the City has infrastructure requirements that must be developed following a comprehensive master plan addressing parks and/or open space provision, street and infrastructure design, public safety facilities, buffering, and other relevant issues. The master plan should integrated reasonable foreseeable uses of adjacent properties, Subdivision of the property should not occur unless such a master plan is approved by the Planning Commission. Creation of the master plan should include input from the public and neighborhood association.

- C) In each of the examples listed above where one single family dwelling per lot is to be allowed prior to upzoning, the City will review the plot plans of such dwelling units and set such conditions regarding building setbacks or orientation as may be necessary to assure that future higher densities or intensities of development will not be precluded because of such building placement.

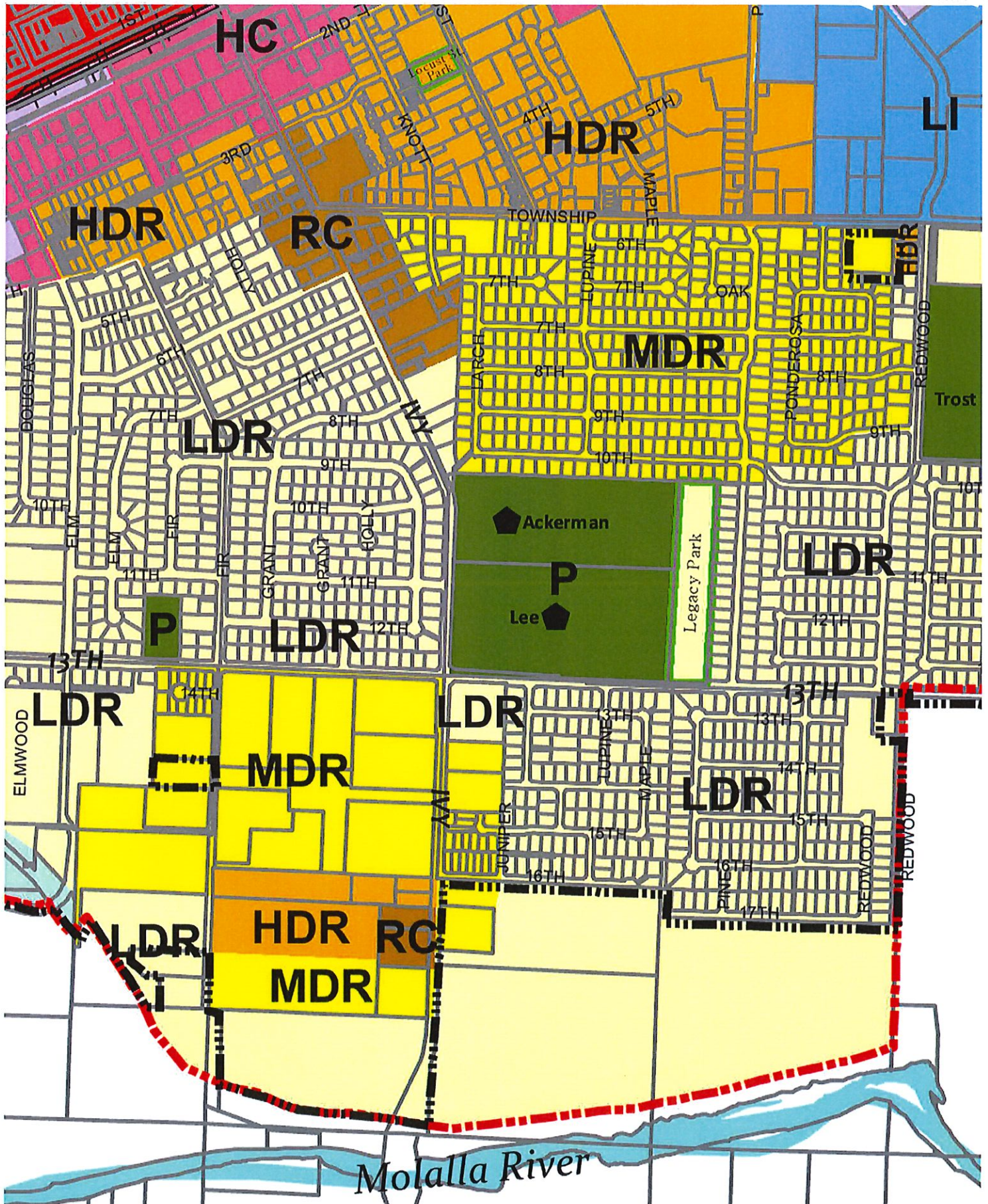
**POLICY NO. 7: CANBY SHALL STRIVE TO ENSURE THE EFFICIENT AND EFFECTIVE PROVISION OF INFRASTRUCTURE TO SERVE NEWLY ANNEXED AREAS.**

**IMPLEMENTATION MEASURES:**

- A) The City of Canby's annexation Development Map shall be used to identify properties required to adopt a Development Concept Plan (DCP) or Development Agreement (DA) prior to annexation



EXHIBIT B - COMP PLAN - AREA K





## Exhibit C

Ordinance No. 1514 Land Development and Planning Ordinance Amendments

(Temporary Placeholder to Land Development and Planning Ordinance Amendments until 2nd Reading of Ordinance so as to Reflect All Final Amendments Approved by the City Council)

## **ORDINANCE NO. 1514**

### **AN ORDINANCE AMENDING CANBY'S COMPREHENSIVE PLAN AND TITLE 16 OF THE CANBY MUNICIPAL CODE.**

**WHEREAS**, the City Council previously acted to deny a quasi-judicial land use application for which the provisions of Special Area "K" pertained, causing the specific designation which applied to that property to no longer have relevance; therefore staff proposed deleting reference to Special Area "K" from the Comprehensive Plan and to change the Comprehensive Plan Map from the existing RC-Residential Commercial land use designation to the LDR-Low Density Residential land use designation in order to be consistent with the existing zoning of the property as R-1 Low Density Residential; and

**WHEREAS**, city staff proposes a legislative text amendment to streamline, clarify, and update minor portions of 32 chapters and the Table of Contents of the Land Development and Planning Ordinance in Chapter 16 of the Canby Municipal Code; and

**WHEREAS**, the Canby Planning Commission, after holding five Work Study Sessions from January through April, 2019, then after providing appropriate public notice conducted a public hearing on said Comp Plan and Land Development Code Amendments on June 10, 2019 and continued said public hearing to a date certain on July 8, 2019, during which the citizens of Canby were given the opportunity to submit written comments for consideration at the Work Sessions and to come forward to present written comments and provide testimony at the public hearings on these proposed changes; and

**WHEREAS**, the Planning Commission found that the standards and criteria of Section 16.88.160 and 16.88.180 of the Land Development and Planning Ordinance concerning Text Amendments and Comprehensive Plan Amendments were met, and recommended approval to the City Council on a 4-1 vote the proposed changes as specified in their Findings and Final Order; and

**WHEREAS**, the City Council, after reviewing the record of the Canby Planning Commission regarding the subject amendments, concluded that the Planning Commission's findings of fact and the amendments are appropriate as recommended; therefore

### **THE CANBY CITY COUNCIL ORDAINS AS FOLLOWS:**

- (1) CPA/TA 19-01 is hereby approved and are hereby amended as detailed in Exhibit A for the Comprehensive Plan text and Special Areas of Concern Map, Exhibit B for the Comprehensive Plan Map, Exhibit C for Land Development and Planning Ordinance amendments (as directed to be modified by the Planning Commission written findings and final orders or as directed by the City Council findings and final order);

**SUBMITTED** to the Council and read the first time at a regular meeting thereof on August 7, 2019, ordered posted in three (3) public and conspicuous places in the City for a period of five (5) days, as authorized by the Canby City Charter; and to come up for final reading and action by the Canby City Council at a regular meeting thereof on August 21, 2019, commencing after the hour of 7:00 p.m., in

the Council Chambers located at 220 NE 2nd Avenue, Canby, Oregon.

---

Rick Robinson, City Administrator  
City Recorder Pro Tem

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on August 21, 2019 by the following vote:

YEAS\_\_\_\_\_ NAYS\_\_\_\_\_

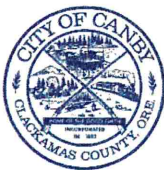
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Brian Hodson, Mayor

ATTEST:

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Rick Robinson, City Administrator, and  
City Recorder Pro Tem



# City of Canby

PO Box 930 Phone: 503.266.4021  
222 NE 2nd Ave Fax: 503.266.7961  
Canby, OR 97013 www.canbyoregon.gov

## *M E M O R A N D U M*

**TO:** *Honorable Mayor Hodson and City Council*  
**FROM:** *Rick Robinson*  
**DATE:** *August 7, 2019*

---

Issue: The 1992 Master Plan identified the need for a second Primary Clarifier when the population reached 15,000. Since preparation of the Master Plan, the per capita flows to the treatment facility have decreased, but the total load has increased to a point that a new primary clarifier is now warranted. The project includes a new clarifier similar to the existing one, the outcome measured by both increased capacity and the introduction of redundant system which will serve to reduce the risk of system failure.

Synopsis: Curran-McLeod has prepared an estimate of engineering and construction costs for the proposed new Primary Clarifier at the Wastewater Treatment Plant. The project scope includes the construction of a new Primary Clarifier, Mechanism replacement and refurbishing of the existing Primary Clarifier No. 1, expansion of the existing Activated Sludge pump station to install a new compressor, and construction of a primary scum drying bed.

The estimated project cost is \$1.365 million and the detail of the project cost estimate is included within Attachment A of the proposed agreement. Engineering services outlined in the proposed agreement total \$130,000.

The Project, as proposed is included in the Wastewater Treatment Plant Capital Improvement Plan and the expense would be SDC reimbursable.

Additional services, as outlined in Section D of the agreement, could be performed by the engineer for an additional fee based on the hourly rate as contained in Attachment B.

Excluded from the estimates are advertisement for bids, building or other permits, licenses, technical review fees, and other required costs and fees as may be required by local, state or federal authorities.

Recommendation:

*Staff recommends the Council approve Ordinance 1515.*

Recommended Motion:

***“I move to approve Ordinance 1515, AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CURRAN-MCLEOD, INC. CONSULTING ENGINEERS FOR DESIGN AND CONSTRUCTION PHASE ENGINEERING SERVICES FOR THE 2019 WASTEWATER TREATMENT PLANT PRIMARY CLARIFIER IMPROVEMENTS***

Attachments:

- Ordinance No. 1515
- City of Canby Sanitary Sewer Collection and Treatment System Agreement for Engineering Services
- Curran-McLeod Sanitary Sewer Collection and Treatment System Engineering Proposal

**ORDINANCE NO. 1515**

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CURRAN-MCLEOD, INC. CONSULTING ENGINEERS FOR DESIGN AND CONSTRUCTION PHASE ENGINEERING SERVICES FOR THE 2019 WASTEWATER TREATMENT PLANT PRIMARY CLARIFIER IMPROVEMENTS**

**WHEREAS**, CURRAN-McLEOD, INC. is the City's Engineer of Record; and

**WHEREAS**, the CITY OF CANBY intends to construct the Wastewater treatment Plant Primary Clarifier Improvements as soon as practicable; and

**WHEREAS**, CURRAN-McLEOD, INC. can provide timely design phase engineering and construction phase engineering for the Wastewater treatment Plant Primary Clarifier Improvements project.

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

**Section 1.** The Mayor is hereby authorized and directed to make, execute, and declare in the name of the CITY OF CANBY and on its behalf, an appropriate Agreement with CURRAN-MCLEOD, INC for engineering services in an amount not to exceed \$130,000.00. A copy of an Agreement with CURRAN-McLEOD, INC., including Attachment A and Attachment B, is attached hereto and by this reference incorporated herein.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, August 7, 2019, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, August 21, 2019, commencing at the hour of 7:00 PM in the Council Meeting Chambers located at 222 NW 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

---

Rick Robinson  
City Recorder

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 21st day of August 2019, by the following vote:

YEAS \_\_\_\_\_

NAYS \_\_\_\_\_

\_\_\_\_\_  
Brian Hodson  
Mayor

ATTEST:

\_\_\_\_\_  
Rick Robinson  
City Recorder



**CITY OF CANBY  
2019 WWTP PRIMARY CLARIFIER IMPROVEMENTS  
AGREEMENT FOR ENGINEERING SERVICES**

This Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between the **CITY OF CANBY**, Oregon, hereafter referred to as the OWNER, and **CURRAN-McLEOD, INC. Consulting Engineers**, Portland, Oregon, hereafter referred to as the ENGINEER.

The OWNER intends to construct Primary Clarifier No. 2 and required support facilities at the Wastewater Treatment Plant, and for which the ENGINEER agrees to perform the various professional engineering services for the design and construction of said improvements.

**WITNESSETH**

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

**SECTION A - ENGINEERING SERVICES**

The ENGINEER shall furnish engineering services to accomplish the work identified above and as more specifically defined in the July 11, 2019 correspondence attached as Exhibit A:

1. The ENGINEER will attend conferences with the OWNER, representatives of the State, or other interested parties as may be required for completion of the work previously described.
2. After the OWNER directs the ENGINEER to proceed, the ENGINEER will perform the necessary alignment determination, accomplish the detailed design of the projects, prepare construction Drawings, Specifications and Contract Documents, and prepare a final cost estimate based on the final design. It is also understood that if additional subsurface explorations (such as borings, soil tests, rock soundings and the like) are required, the ENGINEER will furnish coordination of said explorations without additional charge, but the costs incident to such explorations shall be paid for by the OWNER as set out in Section D hereof.

Statements of probable construction costs and detailed cost estimates prepared by the ENGINEER represent his best judgment as a design professional familiar with the Construction Industry. It is recognized, however, that neither the ENGINEER nor the OWNER has any control over the cost of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding or market conditions. Accordingly the ENGINEER cannot and does not guarantee that bids will not vary from any statement of probable construction cost or other cost estimate prepared by the ENGINEER.

3. The Contract Documents furnished by the ENGINEER under Section A-2 shall include the State of Oregon Prevailing Wage Rates or the Federal Davis Bacon Prevailing Wage Rates as applicable, and OWNER, funding agency, and state requirements as appropriate.
4. Prior to the advertisement for bids, the ENGINEER will provide for each Construction Contract, not to exceed 10 copies of detailed Drawings, Specifications, and Contract Documents for use by the OWNER, and for appropriate Federal, State, and local agencies from whom approval of the project must be obtained. The cost of such drawings, Specifications, and Contract Documents shall be included in the basic compensation paid to the ENGINEER. The OWNER pays the cost of permits and review fees as provided in Section F-2 of this Agreement.
5. The drawings prepared by the ENGINEER under the provisions of Section A-2 above shall be in sufficient detail to permit the actual location of the proposed improvements on the ground. The ENGINEER shall prepare and furnish to the OWNER without any additional compensation, three copies of a map(s) showing the general location of needed construction easements and permanent easements and the land to be acquired. Property surveys, property plats, property descriptions, abstracting and negotiations for land rights shall be provided by the OWNER, unless the OWNER requests, and the ENGINEER agrees to provide those services. In the event the ENGINEER is requested to provide such services, the ENGINEER shall be additionally compensated as set out in Section D hereof, unless this task is identified and included in the proposed scope of work herein.
6. The ENGINEER will furnish additional copies of the Drawings, Specifications and Contract Documents as required by prospective bidders, materials suppliers, and other interested parties, but may charge them for the reasonable cost of such copies. Upon award of each contract, the ENGINEER will furnish to the OWNER three sets of the Drawings, Specifications and Contract Documents for execution. The cost of these sets shall be included in the basic compensation paid to the ENGINEER. Drawings and Specifications as instruments of service are and shall remain the property of the ENGINEER whether the project for which they are made is executed or not. They are not to be used by the OWNER on other projects or extensions to this project except by agreement in writing and with appropriate compensation to the ENGINEER.
7. The ENGINEER will require prospective contractors to file an approved Pre-qualification Form with the Oregon Department of Transportation and will require a Bid Bond not to exceed 10% in the Bidding Documents to secure the Bid.
8. The ENGINEER will attend the bid opening and tabulate the bid proposals, make an analysis of the bids, make recommendations for awarding contracts for construction.
9. The ENGINEER will assist in the Preconstruction Conference, and will review and approve, for conformance with the design concept, any necessary shop and working drawings furnished by Contractors.

10. The ENGINEER will interpret the drawings and specifications to protect the OWNER against defects and deficiencies in construction on the part of the Contractor. The ENGINEER will not, however, guarantee the performance of any Contractor. Planning and design of the project and construction engineering services shall be accomplished with due diligence and in conformance with accepted industry standards of the practice of professional engineering.
11. The ENGINEER will provide general engineering review of the work of the contractors as construction progresses to assure conformance with the design concept.
12. The ENGINEER will establish baselines and grades for locating the work together with a suitable number of bench marks adjacent to the work as shown in the Contract Documents.
13. The ENGINEER, as representative of the OWNER during the construction phase, shall advise and consult with the OWNER and all of the OWNER'S instructions to the Contractor shall be issued through the ENGINEER. The ENGINEER shall have the authority to act on behalf of the OWNER to the extent provided in this Agreement.
14. Unless otherwise requested by the OWNER in writing, the ENGINEER will not provide Resident Construction Inspection. The ENGINEER'S undertaking construction inspection hereunder shall not relieve the Contractor of Contractor's obligation to perform the work in conformity with the Drawings and Specifications and in a workmanlike manner; shall not make the ENGINEER an insurer of the Contractor's performance; and shall not impose upon the ENGINEER any obligation to see that the work is performed in a safe manner.
15. The ENGINEER will review the Contractor's applications for progress and final payment and, when approved, submit same to the OWNER for payment.
16. The ENGINEER will prepare and review necessary contract Change Orders on a timely basis for consideration of approval by the OWNER.
17. The ENGINEER and a representative of the OWNER will make an inspection of the project or project element to determine the status of completion. The ENGINEER may issue a Certificate of Substantial Completion consistent with the General Conditions of the Construction Contract Documents.
18. The ENGINEER will provide the OWNER with one set of record drawings on electronic media and three sets of prints at no additional cost to the OWNER. Such drawings will be based upon construction records provided by the Contractor during construction, as specifically required in the Construction Contract, and reviewed by the ENGINEER, and from the ENGINEER'S construction data.
19. If State statutes require notices and advertisements of final payment, the ENGINEER shall assist in their preparation.

20. The ENGINEER will be available for site visits to furnish engineering services and consultations necessary to correct unforeseen project operation difficulties for a period of one year after the date of the Certificate of Substantial Completion of the facility. The ENGINEER will assist the OWNER in performing a review of the project during the 11th month after the date of initiation of the 12 month warranty period.

## **SECTION B - COMPENSATION FOR ENGINEERING SERVICES**

1. The OWNER shall compensate the ENGINEER for services in accordance with the following schedule:

### **Design Engineering:**

- Eighty Six Thousand and No/100 Dollars (\$86,000)

### **Construction Engineering:**

- Forty Four Thousand and No/100 Dollars (\$44,000)

2. The compensation for the above Engineering Services shall be as follows:
  - a. Design Services shall include items A-1 through A-5.
  - b. Billings shall be submitted monthly by the ENGINEER for Design Services during the previous month. Payments shall be made for these billings within 30 days. Billings shall be based on percent of completion for pre-design and Design services. The ENGINEER will provide a status report with the billing as requested.
  - c. Construction Engineering Services and Construction Inspection shall include items A-6 through A-20 and shall be billed by the ENGINEER on an hourly basis. The total shall not exceed the budget figures under Article B.1 above without the express written authorization of the OWNER.
  - d. Where hourly rates are used, they shall be in accordance with the Standard Hourly Rate Schedule, attached herewith and referenced Exhibit B.
  - e. In the event of multiple construction contracts, the ENGINEER may negotiate revised figures under Article B.1.
3. The budget figures shown above shall not be exceeded except by express written authorization of the OWNER.
4. Billings for Engineering Services shall be submitted in a format consistent with the payment provisions and format of the Agreement.

## **SECTION C - RESIDENT CONSTRUCTION INSPECTION**

If the OWNER requests the ENGINEER to provide Resident Construction Inspection, the ENGINEER will, prior to the Preconstruction Conference, submit a resume of the Resident Inspector's qualifications, anticipated duties and responsibilities for approval by the OWNER. The OWNER agrees to pay the ENGINEER for such services in accordance with the "Inspector" rate schedule set out in Exhibit B. The ENGINEER will render to OWNER for such services performed hereunder during such period, the same to be due and payable by the OWNER to the ENGINEER on or before the 10th day of the following period. A separate agreement shall be negotiated for Resident Construction Inspections Services setting out estimated hours required and maximum estimated fees and charges.

## **SECTION D - ADDITIONAL ENGINEERING SERVICES**

In addition to the foregoing being performed, the following services may be provided UPON WRITTEN AUTHORIZATION OF THE OWNER.

1. Financial feasibility or other special studies.
2. Record boundary surveys or other similar surveys, excepting surveys required to locate the construction project, or as identified in the scope of work.
3. Laboratory tests, borings, specialized geological, soil, hydraulic, or other studies recommended by the ENGINEER.
4. Record property surveys, detailed descriptions of sites, maps, drawings, or estimates related thereto; assistance in negotiating for land and easement rights.
5. Necessary data and filing maps for storm water discharge permits, water rights, adjudication, and litigation.
6. Redesigns not initiated by the ENGINEER after final Plans and Specifications have been approved by the OWNER, except redesigns to reduce the project cost to within the funds available.
7. Appearances before courts or boards on matters of litigation or hearings related to the project and providing services as an expert witness in connection with any public hearing, arbitration proceeding, or the proceedings of a court of record.
8. Preparation of Environmental Assessments or Environmental Impact Statement (E.I.S.).
9. Performance of detailed staking necessary for construction of the project in excess of the control staking set forth in Section A-12.
10. Preparing documents for alternate bids requested by the OWNER.

11. Providing consultation concerning replacement of any work damaged by fire or other cause during construction, and furnishing professional services of the type set forth as previously mentioned in this Agreement as may be required in connection with the replacement of such work.
12. Providing professional services made necessary by the default of the Contractor in the Construction Contract.
13. Providing construction engineering and inspection services after the construction contract time has been exceeded.

Unless identified as included in the proposed scope of work herein, payment for the services specified in this Section D shall be as agreed in writing prior to commencement of the work. The ENGINEER will render to OWNER for such services an itemized bill, once each month, for compensation for services performed hereunder during such period, the same to be due and payable by OWNER to the ENGINEER within 30 days.

#### **SECTION E - OWNER'S RESPONSIBILITIES**

1. The OWNER shall provide full information regarding his requirements for the project.
2. The OWNER shall designate, when necessary, a representative authorized to act in his behalf with respect to the project. The OWNER or his representative shall examine documents submitted by the ENGINEER and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the ENGINEER'S work.
3. The OWNER shall furnish all pertinent existing mechanical, chemical or other laboratory tests, inspections and reports as required by law or the Contract Documents, and which may impact the design.
4. The OWNER shall furnish such legal, accounting and insurance counseling services as may be necessary for the project and such auditing services as he may require to ascertain how or for what purposes the CONTRACTOR has used the moneys paid to him under the Construction Contract.
5. If the OWNER observes or otherwise becomes aware of any fault or defect in the project or non-conformance with the Contract Documents, he shall give prompt oral notice with written confirmation thereof to the ENGINEER.
6. The OWNER shall furnish information required of him as expeditiously as necessary for the orderly progress of the work.

## SECTION F - SPECIAL PROVISIONS

The following is agreed to by both parties:

1. That the OWNER reserves the right to request replacement of any Resident Inspector(s) furnished by the ENGINEER or to furnish the Resident Inspector(s) from the OWNER'S own forces, subject to the approval of the ENGINEER regarding the qualifications of the Resident Inspector(s). If the OWNER furnishes the Resident Inspector(s), the OWNER agrees that the Resident Inspector(s) will be under the direction and supervision of the ENGINEER.
2. That the OWNER shall pay for advertisement for bids, building or other permits, licenses, technical review fees, etc., as may be required by local, State or Federal authorities, and shall secure the necessary land easements and rights-of-way.
3. The ENGINEER will endeavor to assure compliance of his work with applicable State and Federal requirements.
4. That insofar as the work under this Agreement may require, the OWNER shall furnish the ENGINEER all existing maps, field survey data, grades and lines of streets, pavements, and boundaries, rights-of-way, and other surveys presently available, which will be returned upon project completion. ENGINEER will provide the OWNER a copy of survey notes establishing bench marks and location of improvements.
5. That if the engineering work covered in this Agreement has not been completed on or after the expiration of a Twenty-Four (24) month period from the date of execution of this Agreement, the OWNER or ENGINEER may, at the option of either, on written notice, request a renegotiation of Sections B, C, and D (providing for the compensation to be paid the ENGINEER for services rendered) to allow for changes in the cost of services. Such new schedule of compensation is to apply only to work performed by the ENGINEER after delivery date of such written notice.
6. That this Agreement is to be binding on the heirs, successors and assigns of the parties hereto and is not to be assigned by either party without first obtaining the written consent of the other. At least fifteen (15) days shall be allowed for such consent.
7. Attorney's fees: In the event a suit, arbitration or other legal action is required by either the OWNER or the ENGINEER to enforce any provision of this Agreement, the prevailing parties shall be entitled to all reasonable costs and reasonable attorney's fees upon litigation or upon appeal.
8. Termination
  - a. This Agreement may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten

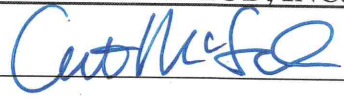
- (10) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination.
- b. The Agreement may be terminated in whole or in part in writing by the OWNER for its convenience, provided that the ENGINEER is given (1) not less than ten (10) calendar days' written notice, (delivered by certified mail, return receipt requested) of intent to terminate, and (2) opportunity for consultation with the terminating party prior to termination.
  - c. If termination for default is effected by the OWNER an equitable adjustment in the price provided for in the Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the ENGINEER at the time of termination may be adjusted to cover any additional costs to the OWNER because of the ENGINEER'S default. If termination for default is effected by the ENGINEER, or if termination for convenience is effected by the OWNER, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for any termination shall provide for payment to the termination, in addition to termination settlement costs reasonably incurred by the ENGINEER relating to commitments which had become firm prior to the termination.
  - d. Upon receipt of a termination action under paragraphs a. or b. above, the ENGINEER shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the OWNER reproducible data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the ENGINEER in performing this Agreement whether completed or in process.
  - e. Upon termination under paragraphs a. or b. above, the OWNER may take over the work and may award another party a contract to complete the work under this Agreement.
  - f. If, after termination for failure of the ENGINEER to fulfill contractual obligations, it is determined that the ENGINEER had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the OWNER. In such event, adjustment of the Agreement price shall be made as provided in paragraph c. of this clause.
9. The ENGINEER agrees to hold harmless and indemnify the OWNER against all claims, damages, losses and costs, including costs of defense, arising out of the negligent performances of engineering services under this Agreement. OWNER may make claim under applicable law against ENGINEER or ENGINEER'S insurance carriers for any loss, damage or cost arising out of ENGINEER'S negligent performance of services under this Agreement.



10. The ENGINEER agrees to acquire and maintain for the duration of this Agreement, Professional Liability Insurance in the nominal amount of \$2,000,000 per occurrence and \$2,000,000 aggregate.
11. The ENGINEER further agrees to obtain and maintain, at the ENGINEER'S expense, such insurance as will protect the ENGINEER from claims under the Worker's Compensation Act and such comprehensive general liability insurance as will protect the OWNER and the ENGINEER from all claims for bodily injury, death, or property damage which may arise from the performance by the ENGINEER or by the ENGINEER'S employees or agents.
12. The ENGINEER will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The ENGINEER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin, such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
13. ENGINEER covenants that he presently has no interest and shall not acquire interest, direct or indirect, which would conflict in any manner or degree with the performance of his services under this Agreement. Any interest on the part of the ENGINEER or his employees must be disclosed to the OWNER.
14. INDEPENDENT CONTRACTOR. It is agreed that ENGINEER is providing the services hereunder as an independent contractor and not as an employee of OWNER.  
  
OWNER shall have no right to control the manner of the performance of the services, but may place restrictions on ENGINEER relating to use of OWNERS premises. As an independent contractor, ENGINEER shall not be eligible to receive benefits otherwise provided to employees of the OWNER.
15. The records and documents with respect to all matters covered by the Agreement shall be subject at all times to inspection, review or audit by the OWNER, County, Federal or State officials so authorized by law during the performance of this contract. Required records shall be retained for a period of three (3) years after termination of this Agreement
16. No member or delegate to the Congress of the United States and no Resident Commissioner or City Official shall be admitted to any share or part of this Agreement or to any benefit that may arise hereunder.

17. This CONTRACT shall be construed according to the laws of the State of Oregon. Any litigation between the OWNER and the ENGINEER or out of work performed under this CONTRACT shall occur, if in the state courts, in the Clackamas County Court having jurisdiction thereof, and if in the federal courts, in the United States District Court for the District of Oregon.
18. This Agreement, including Exhibits A and B, represents the entire integrated agreement between the OWNER and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and ENGINEER.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in duplicate on the respective dates indicated below.

OWNER: <u>CITY OF CANBY</u>	ENGINEER: <u>CURRAN-McLEOD, INC.</u>
SIGNATURE: _____	SIGNATURE: <u></u>
NAME: _____	NAME: <u>CURT McLEOD</u>
TITLE: _____	TITLE: <u>PRINCIPAL</u>
DATE: _____	DATE: <u>7.11.19</u>

CURRAN-McLEOD, INC.  
CONSULTING ENGINEERS

6655 S.W. HAMPTON STREET, SUITE 210  
PORTLAND, OREGON 97223

July 11, 2019

Mr. Dave Conner  
City of Canby  
222 NE 2nd Avenue  
Canby, OR 97013

**RE: CANBY WASTEWATER TREATMENT FACILITY  
2019 PRIMARY CLARIFIER IMPROVEMENTS**

Dear Dave:

In accordance with the master planning prepared for the Canby Wastewater Treatment Facility, this year the City anticipates installing a second primary clarifier and associated support improvements. This is the last major unit process that is operating without any redundancy in the event of a mechanical or electrical failure.

The Master Plans prepared in the early 1990's indicated that this second primary clarifier should be constructed when the service population reached 15,000. This occurred several years ago. The System Development Charge methodology has always included this second primary clarifier as an eligible public improvement.

The Fiscal Year 2019 capital improvement project is anticipated to include four components:

1. Construction of a new Primary Clarifier No. 2;
2. Mechanism replacement and refurbishing existing Primary Clarifier No. 1;
3. Expansion of the existing Activated Sludge pump station to install a new compressor; and
4. Construction of a primary scum drying bed.

In the original planning documents in 1992, an area was allocated on the site plan for the proposed primary clarifier. All improvements in the area of this future clarifier have incorporated provisions with piping stub-outs and space allocation to easily add this proposed clarifier. This structure would be identical to the existing clarifier and located in the lawn area south of the existing unit. The existing primary headworks has provisions to balance the flow to each clarifier, and collect the effluent from each clarifier prior to entering the aeration basins.

The scope of work includes construction of a new pier-supported clarifier with sludge rake arm design. The sludge removal piping will connect to the existing piping in the sludge pumping vault and use the existing air-operated diaphragm pumps for disposal. Electrical supplies at this location will be adequate.

Mr. Dave Conner  
July 11, 2019  
Page 2

The existing primary sludge pumps at the primary vault, and the waste activated sludge pumps located at the secondary sludge pump station, are both dependent on a single source of high pressure air, provided by a compressor located in the primary sludge pumping vault. A second compressor is required to provide redundancy in the event of a mechanical failure of the existing air supply. Or alternatively, we will also be exploring revising the WAS pumping equipment to eliminate the need for air.

There is not sufficient space in the existing primary vault to add a second compressor, and it would also not be advisable to depend on the piping connecting the two stations. If a second compressor is used, the Secondary Sludge Pumping Building would be expanded to provide an isolated room for a compressor dedicated to the waste activated sludge pumps. Each compressor will also be able to provide redundancy for the other.

Disposal of the primary scum is proposed to be dewatered at a new drying bed, similar to the drying beds used by public works at the public works shops. The design of the new beds will incorporate a pea gravel media with access for easy sludge removal and off-site disposal. This facility will be located adjacent to the two primary clarifiers on the west edge of the property.

A detailed project cost estimate is attached to this review letter, totaling \$1.365 million, and a Capital Improvement Initiation Form has been previously completed. The project is budgeted from the Capital Reserve Fund for Fiscal Year 2020. The new primary clarifier, new mechanism in the existing clarifier, and the supporting improvements will better ensure permit compliance and minimize organic loading to the existing aeration basins. Design work is estimated to take five months and the project could be advertised for bids in late 2019 or early 2020.

Let me know if you have questions or would like more detail on any component of this work.

Very truly yours,

**CURRAN-McLEOD, INC.**



Curt J. McLeod, P.E.

Enclosure: Project Cost Estimate

**City of Canby WWTP Improvements Cost Estimate**  
**Primary Clarifier No. 2 and Support Improvements**  
**January , 2019**

**New Primary Clarifier:**

	Quantity	Units	Cost	Extension	Total
<b>Civil Work</b>					
Excavation	2200	cu yd	\$20	\$44,000	
Crushed rock	200	cu yd	\$20	\$4,000	
Sidewalk	800	Sq Ft	\$10	\$8,000	
Access Road	1	LS	\$15,000	\$15,000	
<b>Subtotal</b>					<b>\$71,000</b>
<b>Site Piping</b>					
Clarifier inlet piping	1	LS	\$15,000	\$15,000	
Clarifier outlet piping	1	LS	\$15,000	\$15,000	
Sludge piping	1	LS	\$15,000	\$15,000	
Process water Piping	1	LS	\$5,000	\$5,000	
<b>Subtotal</b>					<b>\$50,000</b>
<b>Mechanical</b>					
Clarifier Mechanism No. 2 & Launder	1	LS	\$175,000	\$175,000	
Sludge pump No. 2 (in existing vault)	1	LS	\$15,000	\$15,000	
Sludge pump valving	1	LS	\$5,000	\$5,000	
Mechanical Piping installation	1	LS	\$5,000	\$5,000	
Misc Mechanical	1	LS	\$5,000	\$5,000	
Coatings	1	LS	\$5,000	\$5,000	
<b>Subtotal</b>					<b>\$210,000</b>
<b>Structural</b>					
Handrails	220	LF	\$30	\$6,600	
Concrete	200	Cu Yd	\$1,200	\$240,000	
Misc Metals	1	LS	\$10,000	\$10,000	
<b>Subtotal</b>					<b>\$256,600</b>
<b>Electrical/SCADA</b>					
Demolition (sludge pump station MCC)	1	EA	\$5,000	\$5,000	
New MCC (replace existing)	1	LS	\$30,000	\$30,000	
Interior Light fixtures	4	Ea	\$600	\$2,400	
Conduit/Wiring/Grounding System	1	LS	\$50,000	\$50,000	
SCADA system/Software/Programming	1	LS	\$15,000	\$15,000	
<b>Subtotal</b>					<b>\$102,400</b>

<b>Primary Clarifier No. 1 Mechanism Replacement</b>			\$170,000	\$170,000
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**RAS Pump Station Improvements:**

Building Expansion	200 Sq Ft	\$100	\$20,000	
Air Compressor	1 LS	\$15,000	\$15,000	
Building electrical (lighting/recept)	1 LS	\$4,000	\$4,000	
HVAC modifications	1 LS	\$1,000	\$1,000	
New Power Distribution (from office)	1 LS	\$20,000	\$20,000	
Revise Bldg Power Dist to Existing Panels	1 LS	\$8,000	\$8,000	
New Power Distribution panel	1 LS	\$8,000	\$8,000	
Mechanical Piping (air)	1 LS	\$2,500	\$2,500	
Office MCC modifications	1 LS	\$2,500	\$2,500	
SCADA system/Software/Programming	1 LS	\$2,500	\$2,500	
<b>Subtotal</b>				<b>\$83,500</b>

**Total, RAS Pump Station Improvements**

<b><u>Total, Waste Scum Drying Bed</u></b>	1 LS	\$80,000	\$80,000	<b>\$80,000</b>
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Mobilization (5%)				\$50,500
Construction Costs				\$1,074,000
Engineering (12%)				\$130,000
Legal and contingency (15%)				\$161,000
<b>TOTAL PROJECT COST</b>				<b>\$1,365,000</b>

# STANDARD HOURLY RATES

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Effective January 1, 2019

Senior Principal Engineer	\$ 138.00
Principal Engineer	128.00
Project Engineer/Manager	125.00
Design Engineer/Manager	90.00
Design Technician/Inspector	90.00
Graphics Technician	75.00
Word Processing	65.00
Sub-Consultants	At Cost

# REIMBURSABLE EXPENSES

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CURRAN-McLEOD, INC. does not routinely invoice any reimbursable expenses. Auto expense, meals, travel, lodging, communication, publishing, and miscellaneous operating costs are all included in our established hourly rates and project budgets.





# *City of Canby*

## **MEMORANDUM**

**DATE:** *Prepared: July 26, 2019 for August 7, 2019 Council Hearing*

**TO:** *Mayor and City Council*

**FROM:** *Sandy Freund, AICP, Senior Planner*

**RE:** *Annexation (File No. ANN 18-06)*

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### **Background Summary:**

At their July 8, 2019 meeting, the Canby Planning Commission recommended that annexation (**File ANN 18-06**) be approved by the City Council. This request, if approved would annex into the City of Canby's jurisdiction all remaining portions of SE Township Road public right-of-way excluded during four previous annexations. The portion to be annexed is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road, totaling approximately 2.32 acres or roughly 110,000 square feet. This request also includes the portion of ROW that crosses Union Pacific (UP) railroad crossing DOT 760205P, MP 748.30, frequently used by Oregon Pacific Railroad who actually owns the tracks and signals for said portion of the rail line.

### **Discussion:**

Over the last 10-30 years the City has approved several annexations along SE Township Road. In particular the stretch between Molalla Forest Road and Mulino Road, which included four annexations: Resolution numbers 483, 825, 939, and 955 in 2007. Of these four annexations, only one (Resolution 939) included the annexation of SE Township Road into the City's jurisdiction. With the other three annexations, all or a portion of the public right-of-way of SE Township Road was inadvertently missed. Consequently, this annexation will close that gap and complete the annexation of SE Township Road into the City of Canby's jurisdiction. Lastly, this annexation request does not include developable property, but rather only public right-of-way, totaling approximately 2.32 acres or roughly 110,000 square feet, and is a technical formality which must be completed prior to the City taking over jurisdictional responsibility of SE Township Road.

### **Planning Commission Recommendation:**

The Planning Commission found that the annexation review criteria had been met, and therefore recommended that the City Council:

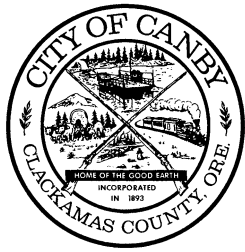
1. Approve Annexation 18-06, and,
2. Upon annexation, the public right-of-way will be incorporated into the City of Canby jurisdiction, and be removed from Clackamas County jurisdiction.



**Recommended Council Motion:** I move to approve Ordinance 1516 pursuant to the recommendation forwarded by the Planning Commission.

**Attachments:**

- Planning Commission Final Findings
- Planning Commission Annexation Public Hearing Draft Minutes for 7.8.19
- Staff Report ANN 18-06 SE Township Road Annexation with written public comments
- The City of Canby application materials submitted application forms, narrative, and drawings.



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

**A REQUEST FOR APPROVAL OF  
ANNEXATION OF A PORTION OF PUBLIC  
RIGHT-OF-WAY, SE TOWNSHIP ROAD )**

**FINDINGS, CONCLUSION & FINAL ORDER  
ANN 18-06  
CITY OF CANBY**

**NATURE OF THE APPLICATION**

The Applicant sought approval of Annexation application ANN 18-06 to annex into the City of Canby's jurisdiction all remaining portions of SE Township Road public right-of-way inadvertently missed during three previous annexations. The request does not include developable property, only public right-of-way totaling approximately 2.32 acres or roughly 110,000 square feet. As a result of the annexation, the aforementioned portion of SE Township Road will be brought into the City of Canby's jurisdiction, which will allow for all road maintenance activities, improvements, construction and reconstruction (including Capital improvements); repairs of related facilities within the roadway, including but not limited to, storm water drainage facilities, traffic control devices, street lights and roadside barriers, as well as all other responsibilities currently under the purview of Clackamas County in accordance with ORS 368 and IGA Resolution No. 1306 as agreed upon between the two jurisdictions

**HEARINGS**

The Planning Commission considered applications ANN 18-06 after the duly noticed hearing on July 8, 2019 during which the Planning Commission recommended by a 7/0 vote that the City Council approve ANN 18-06 per the recommendation contained in the staff report.

**CRITERIA AND STANDARDS**

In judging whether or not the annexation and zone change applications shall be approved, the Planning Commission determines whether criteria from the *City of Canby Land Development and Planning Ordinance* are met, or can be met by observance of conditions. Applicable criteria and standards were reviewed in the Planning Commission staff report dated and presented at the July 8, 2019 public hearing of the Planning Commission.

**FINDINGS AND REASONS**

The Planning Commission considered application ANN 18-06 at public hearing held on July 8, 2019 during which the staff report was presented, including all applicant submittal attachments. Staff recommended that the Planning Commission forward a recommendation of approval to the City Council for the proposed annexation.

After hearing public testimony, and closing the public hearing, the Planning Commission made no additional findings beyond those contained in the staff report to arrive at their decision and support their recommendation.

## **CONCLUSION**

In summary, the Planning Commission adopted the findings contained in the staff report, concluded that the annexation meets all applicable approval criteria, and approved File ANN 18-06 as stated below. The Planning Commission's order is reflected below.

## **ORDER**

Based on the application submitted and the facts, findings, and conclusions of the staff report, and testimony and evidence from the public hearing, the Planning Commission recommended to the City Council **APPROVAL** of annexation and zone change application **ANN 18-06** as follows:

1. ANN 18-06 be approved and,
2. Upon annexation, the zoning of all adjacent properties be represented to the centerline of the portion of public rights-of-way for SE Township Road annexed on the official zoning map for the City of Canby.

I CERTIFY THAT THIS ORDER approving ANN 18-06 SE TOWNSHIP RD RIGHT-OF-WAY which was presented to and APPROVED FOR RECOMMENDATION TO THE CITY COUNCIL by the Planning Commission of the City of Canby. DATED this 8th day of July, 2019.

John Savory  
Planning Commission Chair

Bryan Brown  
Planning Director

Laney Fouse, Attest  
Recording Secretary

ORAL DECISION: July 8, 2019

Name	Aye	No	Abstain	Absent
John Savory	✓			
Larry Boatright	✓			
Derrick Mottern				✓
Andrey Chernishov	✓			
J. Ryan Adams	✓			
Jeff Mills	✓			
Jennifer Trundy				✓

WRITTEN DECISION: July 8, 2019

Name	Aye	No	Abstain	Absent
John Savory	✓			
Larry Boatright	✓			
Derrick Mottern				✓
Andrey Chernishov	✓			
J. Ryan Adams	✓			
Jeff Mills	✓			
Jennifer Trundy				✓

ANN 18-06 NE Township Rd ROW Findings, Conclusion, & Final Order  
Signature Page

**PRESENT:** Commissioners John Savory, Larry Boatright, Andrey Chernishov, Jeff Mills and J. Ryan Adams  
**ABSENT:** Derrick Mottern and Jennifer Trundy  
**STAFF:** Bryan Brown, Planning Director, Sandy Freund, Senior Planner and Laney Fouse, Recording Secretary  
**OTHERS:** Gina and Robert Taylor, Lisa and Buzz Weygandt

## **CALL TO ORDER**

Chair Savory called the meeting to order at 7:00 p.m.

## **CITIZEN INPUT ON NON-AGENDA ITEMS – None**

## **MINUTES**

- a. Minutes not available.

## **NEW BUSINESS - None**

## **PUBLIC HEARINGS**

- a. City staff is requesting to annex all remaining portions of SE Township Rd public right-of-way (ROW), including the portion of ROW that crosses Union Pacific Railroad crossing DOT 760205P, MP 748.30. The public ROW subject to this annexation is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road. (ANN 18-06 SE Township Rd Annexation).

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare. There were none.

Sandy Freund, Senior Planner, entered her staff report into the record. This was a request to annex 2.32 acres of all remaining portions of the SE Township Road right-of-way. She pointed out a typo in the staff report. The portion of the right-of-way to be annexed was located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road and included one railroad crossing. There had been four annexations along Township, however only one of those four included right-of-way. This annexation proposed to bring in the remaining portions of Township into the City's jurisdiction. She reviewed the applicable criteria. Staff received one phone inquiry from Mr. Brink about how the annexation would affect his property. Staff recommended the Commission recommend approval of the annexation to the City Council.

Commissioner Mills said this annexation would stitch together all the property and make everything contiguous in this area. Ms. Freund said that was correct. It was a technical clean up.

There was no public testimony.

Chair Savory closed the public hearing.

**Motion:** A motion was made by Commissioner Boatright and seconded by Commissioner Chernishov to recommend approval to the City Council of ANN 18-06 SE Township Rd Annexation to annex all remaining portions of SE Township Rd public right-of-way (ROW), including the portion of ROW that crosses Union Pacific Railroad crossing DOT 760205P, MP 748.30. The public ROW subject to this annexation is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road. Motion passed 5/0.

- b. City staff is requesting consideration of a legislative text amendment to streamline, clarify, and update numerous sections of the Canby Land Development and Planning Ordinance Title 16 Canby Municipal Code (CMC). The text amendment proposal edits and updates 32 chapters and the Table of Contents from Title 16 of the Canby Municipal Code (CMC), and also amends one specific provision of the Canby Comprehensive Plan to delete Area “K” of Policy NO. 6 under Finding NO. 1 of the Buildable Lands Section. (TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K).

Chair Savory opened the public hearing and read the public hearing format. He asked if any Commissioner had ex parte contacts or conflicts of interest to declare. There were none.

Bryan Brown, Planning Director, entered his staff report into the record. This hearing was continued from the last meeting. He would be addressing the concerns in the four page submittal from the first public hearing. The first concern was regarding townhomes with common walls and the requirement for an alley or sidewalk type connection at the rear so that middle units would be able to exit the rear yard. Mr. Brown responded by trying to make it clear that staff was supportive of townhomes that would be accessible by rear alleys, however requiring rear alleys or public sidewalk easements at the back would not always work. In the situations when they could plan ahead in the design of the block length and circulation pattern in an area they could get to the option or requirement of rear alleys. Usually alleys like that were private streets and maintained by the adjacent lot owners or HOA. He gave an example of the option for alleys for townhomes in N Redwood Landing, although detached single family homes with no alleys were ultimately built there. He proposed changing the wording to strengthen and clarify that the preference was to have alleys and in situations where there were master planned areas that alleys would be required. In-fill development sites where rear alley access could not be feasibly accommodated would be permitted to be excluded from this requirement. He recognized that none of the townhomes that had been built in the past had rear alleys and they would not have alleys added as there was no way to connect them to a public street. Staff had no knowledge of any building code requirements or fire safety code requirements that required rear access for middle units. He read the new wording that was proposed. The next concern was changing the standard review process for partitions from a Type III to a Type II review. It was also proposed to delete the distinction between a major and minor partition. There was a right to appeal the Type II decision with a \$250 appeal fee. The main concern was removing the option for public testimony in a Type III Planning Commission review to a Type II staff review. He thought it was suitable to be staff level approval as partitions were limited land use decisions that had to be

approved by clear and objective standards. Applications either met the standards or they did not and there was little room for discretion.

There was discussion regarding whether or not staff should be making these decisions and the amount of the appeal fee.

Mr. Brown said most jurisdictions did partitions administratively because of the clear and objective standards and it was similar to other administratively approved applications. These would be partitions that would result in no more than three lots.

Commissioner Adams would be comfortable with the staff approval if the appeal fee was \$0.

Commissioner Boatright thought the Commission needed to hear the public input. He was not in favor of administrative approval for partitions.

Chair Savory agreed with Commissioner Boatright as the public should have the opportunity to give input on partitions. People needed to feel connected to their government and putting distance between the government and the people was not good.

Mr. Brown said the next concern was the 15 foot buffer and step up height provision for multi-family development. The request was for an exception to the 15 foot buffer in the case where the Comprehensive Plan showed the adjacent property to also be high density suitable for rezoning but was still R-1 zoned today. It came down to what was more important, always protecting the existing house or recognizing there was a difference in protecting it when it was low density on the Comprehensive Plan and not protecting it as much when it was intended to transition to high density in the Comprehensive Plan. He read the new wording that was proposed.

There was discussion regarding HB 2001 where any zone that allowed a single family home also could allow a duplex.

Mr. Brown clarified that the exception would change the setback from 15 feet to 7 feet.

Commissioner Mills was opposed to this change as it would in effect change the zoning of the adjacent property whether they wanted it or not. He read an article from the City of Portland, titled, "What is the difference between the Comprehensive Plan Map and zoning?" He thought it was improper to utilize the Comprehensive Plan Map to effectively make a zoning change that had not been approved. It was not a proper use of the Comprehensive Plan.

Mr. Brown said the last concern was related to use of private streets in a manner that impacted minimum lot size and density. Whenever a private street was utilized it was the responsibility of the property owners to maintain it. This could be done by making it a separate tract and establish CC&R's and a HOA to collect money to repair the street. By making it a tract, that area could not be counted towards the lot areas and developers could not make a 7,000 square foot lot with one-third of it in the middle of the road, changing the density in that area.

Commissioner Mills pointed out they needed to change the language in the partition chapter to remove the “major” and “minor” terminology.

Commissioner Boatright supported getting rid of the terminology and did not mind the \$250 appeal fee, but still thought partitions should come before the Planning Commission.

Mr. Brown clarified the \$250 appeal fee would not be applicable if the partitions still came to the Planning Commission because it would be an appeal of the Planning Commission’s decision, not of the staff’s decision, which was \$2,000.

Commissioner Boatright asked what if instead of putting in the alleys for middle units, they could put in sprinkler systems.

Mr. Brown said neither the building code nor fire code had any requirements for alleys for middle units.

Commissioner Chernishov explained how fire trucks needed a minimum of 250 feet for the fire hoses to wrap around the building. If they did not have the 250 feet, there needed to be an access into the property to get within 250 feet. If that could not be done, then fire sprinklers were required.

#### Public Testimony:

Gina Taylor, Canby resident, submitted a copy and read her public comments into the record. She did not think they should amend the major and minor partitions from Type III to Type II decisions as eliminating both public testimony and review by the Planning Commission eliminated the expertise these individuals could provide. She gave examples of this from her own experience on previous land use applications where the public had found requirements that staff had missed. Land use decisions were complicated and they needed to retain the current process which promoted and encouraged public participation. She pointed out the lack of attention to detail that included grammatical and technical errors that occurred in the reports submitted by the Planning Director and his staff. She was confused about in which zones the 10 foot separation between townhomes would be enforced. Her fifth concern was not addressed in the staff report where she had asked what provisions would be imposed on the 10 foot separation between townhomes. She thought the Commission should limit the authority of the Planning Director to Type I review only and not include Type II review. She asked the Commission to create an enforceable definition of a private street. She had requested including rear sidewalks or alleys for townhomes that included a middle unit and asked that the Commission individually give their opinions on this topic.

Mr. Brown explained how some of the examples Ms. Taylor gave did not apply.

Chair Savory closed the public hearing.

#### Commission Deliberation:

1. Townhouse Dwellings having Common Wall Construction.



Commissioners Mills, Chernishov, Adams, and Savory were in support of the exception as they thought the Fire Department would review these applications and raise any fire safety issues.

Commissioner Boatright was opposed to requiring back alleys for any application.

2. Changing the Standard Review Process for Partitions from a Type III Public Hearing to a Type II Planning Director Decision, now deleting the distinction between Major and Minor Partitions, and providing the right of appeal with adopted \$250 appeal fee.

Commissioner Chernishov supported changing partitions to a Type II review as most jurisdictions did them as administrative review and it made the process easier for developers.

Commissioner Adams was against the change as citizens gave valuable input and he did not think there should be a \$250 appeal fee as it could be a barrier to citizens from having access to their government.

Commissioner Boatright was against the change of review. He was not opposed to getting rid of the major and minor partition terminology as long as the applications came before the Planning Commission. He thought the opportunity for public input was important to maintain.

Commissioner Mills was supportive of the language change and deleting the major and minor partition. He would support changing it to a Type II if there was a \$0 appeal fee.

Chair Savory thought the more public access the better and was not in support of the \$250 appeal fee. He was fine with eliminating the major and minor partition distinction, but was against changing it to a Type II decision with an appeal fee.

Commissioner Chernishov asked who paid for the costs incurred for an appeal.

Mr. Brown said if the appeal was zero cost, the tax payers would be paying for the administrative work required. He noted if the appellant was successful and the Type I or Type II decision was overturned, the \$250 fee was refunded.

There was consensus to get rid of the “major” and “minor” terminology and the majority was in agreement to change the partitions to a Type II decision with a zero appeal fee.

3. Multiple family 15’ Buffer/Step-up Height Provision.

All of the Commission was opposed to allowing an exception for the 15 foot buffer/step up height provision.

4. Private Street Use as it Impacts Minimum Lot Size and Density

All of the Commission was in favor of this change.

**Motion:** A motion was made by Commissioner Adams and seconded by Commissioner Mills to recommend approval to the City Council of TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area L. The text amendment proposal edits and updates 32 chapters and the Table of Contents from Title 16 of the Canby Municipal Code (CMC), and also amends one specific provision of the Canby Comprehensive Plan to delete Area “K” of Policy NO. 6 under Finding NO. 1 of the Buildable Lands Section with the changes discussed tonight by the Planning Commission. Motion passed 5/0.

## **FINAL DECISIONS**

- a. ANN 18-06 SE Township Rd Annexation

**Motion:** A motion was made by Commissioner Mills and seconded by Commissioner Adams to approve the final findings for ANN 18-06 SE Township Rd Annexation. Motion passed 5/0.

- b. TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K

**Motion:** A motion was made by Commissioner Chernishov and seconded by Commissioner Adams to approve the final findings for TA/CPA 19-01 Development & Planning Ord. Title 16 CMC & Canby Comprehensive Plan – Area K. Motion passed 4/1 with Commissioner Boatright opposed.

## **ITEMS OF INTEREST/REPORT FROM PLANNING STAFF**

- a. Next regularly scheduled Planning Commission meeting – Monday, July 22, 2019

Mr. Brown discussed the items that would be on the next agenda.

## **ITEMS OF INTEREST/GUIDANCE FROM PLANNING COMMISSION**

- a. Status Update of HB 2001: Requires the allowance of duplexes in all residential zoned areas.

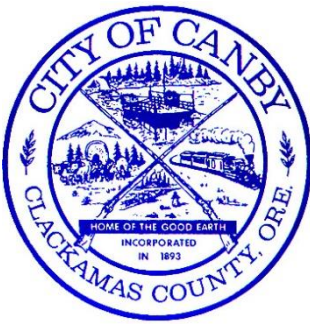
Mr. Brown passed out an article from the Sunday *Oregonian* regarding HB 2001. He also discussed the summary from the League of Oregon Cities. They would have to wait to see what needed to be done as far as implementing the bill.

Chair Savory thought this was a bad idea.

There was discussion regarding what could be done about the bill and encouraging citizens to contact their elected representatives about it.

## **ADJOURNMENT**

Chair Savory adjourned the meeting at 9:25 p.m.



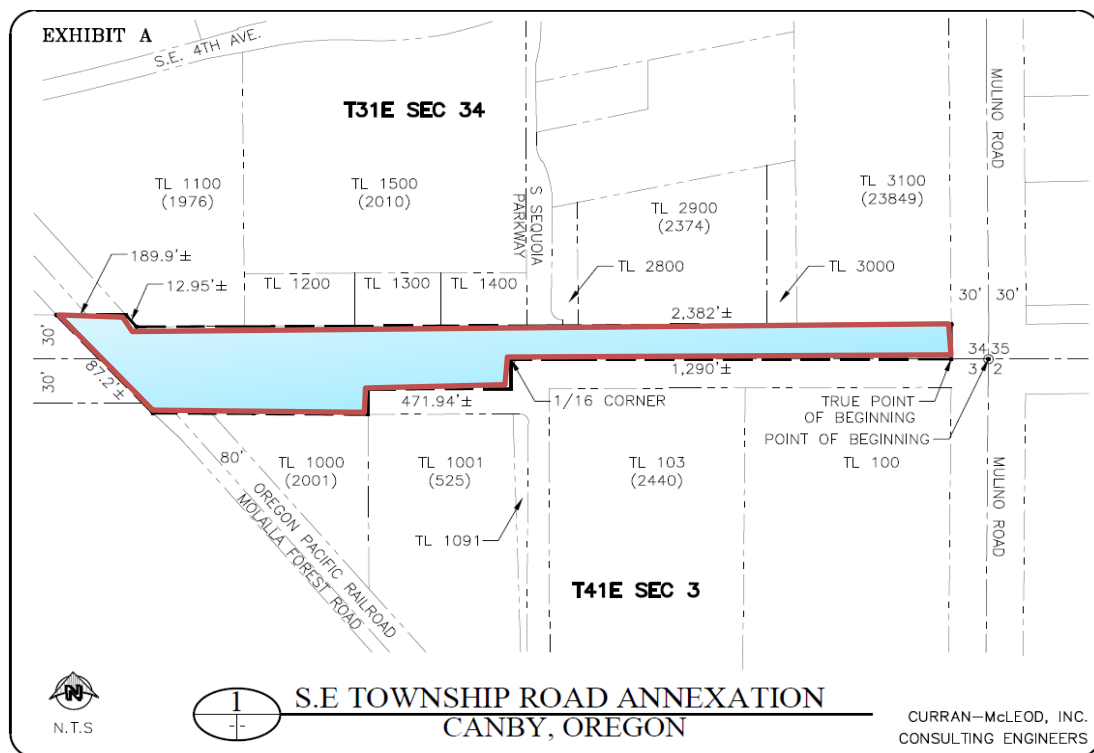
# City of Canby

## FILE #: ANN 18-06 – SE TOWNSHIP ROAD ANNEXATION From Molalla Forest Road East to Mulino Road

**HEARING DATE:** July 8, 2019  
**STAFF REPORT DATE:** June 28 2019  
**TO:** Planning Commission  
**STAFF:** Sandy Freund, AICP, Senior Planner

### Applicant Request:

This is a request to annex all remaining portions of SE Township Road public right-of-way (ROW), including the portion of ROW that crosses Union Pacific Railroad crossing DOT 760205P, MP 748.30. The public right-of-way subject to this annexation is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road.



### Staff Recommendation:

Based on the application submitted, the facts, findings, and conclusions of this report, staff recommends that the Planning Commission recommend to the City Council that:

1. ANNEXATION 18-06 be **APPROVED** and,
2. Upon annexation, the public right-of-way will be incorporated into the City of Canby jurisdiction, and be removed from Clackamas County jurisdiction.

## **Property / Owner Information**

**Location:** SE Township Road, Molalla Forest Road to Mulino Road  
**Lot Size:** 2.4 acres of public right-of-way (ROW)  
**Zoning:** M1 / M2 / Park  
**Comp Plan:** Light Industrial / Heavy Industrial / Park  
**Tax Lot:** Part of 3 1E 34 and 4 1E 3  
**Owner:** Oregon Pacific Railroad, Richard Samuels and Union Pacific Railroad  
**Applicant:** City of Canby

## **Attachments**

- A. Application and Narrative
- B. Site Plan / Map
- C. IGA – Resolution No. 1306

## **I. Introduction**

Over the last 10-30 years the City has approved several annexations along SE Township Road. In particular is the area between Molalla Forest Road and Mulino Road, which included four annexations: Resolution 483 in 1992, Resolution 825 in 2003, Resolution 939 in 2006, and Resolution 955 in 2007. These annexations included developable property, public right-of-way and related frontages. This annexation request does not include developable property, but rather only public right-of-way, totaling approximately 2.32 acres or roughly 110,000 square feet. Specific information is provided below in Section III.

## **II. Historic Overview**

Resolution 483 included 85.3 acres which included frontage between the railroad and the Cemetery on the north side of SE Township, but did not include the SE Township Road right-of-way.

Resolution 825 consisted of 151 acres and included the American Steel frontage, but also did not include the SE Township Road right-of-way abutting the frontage.

Resolution 939, consisting of 73.35 acres included the Weygandt property as well as the SE Township Road right-of-way.

Resolution 955 consisted of 32.62 acres of additional Industrial Park, which included the Parson's property on the north side of SE Township Road abutting Mulino Road, however did not include the SE Township Road right-of-way.

Of the three annexations listed above, only one (Resolution 939) included the annexation of SE Township Road into the City's jurisdiction. With the other three annexations, all or a portion of the public right-of-way of SE Township Road was inadvertently missed.

## **III. Project Overview & Existing Conditions**

This application specifically requests to annex into the City of Canby's jurisdiction all remaining portions of SE Township Road public right-of-way excluded during four previous annexations. The portion to be annexed is located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road, totaling approximately 2.4 acres or roughly 110,000 square feet. This request also includes the portion of ROW that crosses Union Pacific (UP) railroad crossing DOT 760205P, MP 748.30, frequently used by Oregon Pacific Railroad who actually owns the tracks and signals for said portion of the rail line.

Additionally, by annexing this remaining portion of SE Township Road into the City of Canby's jurisdiction, road maintenance activities will be consistent, as well as reduce confusion for the public as to which jurisdiction is responsible for the condition and maintenance of the road, which primarily serves the residents of Canby.

#### **IV. Applicable Criteria & Findings**

Applicable approval criteria used in evaluating this application are listed in the following Chapters from the *City of Canby's Municipal Code* including the *Land Development and Planning Ordinance* (Title 16):

- 16.08: General Provisions
- 16.84: Annexations
- 16.88: General Standards and Procedures
- 16.89: Application and Review Procedures

Section 16.084.040 (A.1-10) of the *City of Canby Land Development and Planning Ordinance*, Title 16, provides the approval criteria applicable to all annexation requests. Because this is an unusual request, in that it does not involve developable land area, but rather only public right-of-way, many of the criteria are not applicable. As a result, applicable criteria will be listed first in this report, followed by the non-applicable criteria summarized as to why it is not applicable.

#### **Applicable Criteria:**

##### **16.084.040. A: The following criteria shall apply to all annexation requests.**

- 3A. Statement of potential physical, aesthetic and related social effects of the proposed development on the community as a whole and on the neighborhood of which it will become a part; and proposed actions to mitigate identified concerns, if any. A neighborhood meeting is required as per Table 16.89.020 of the City of Canby Land Development and Planning Ordinance.**

#### **Findings:**

Potential physical, aesthetic and related social effects: The purpose of the annexation is to remove SE Township Road ROW from Clackamas County jurisdiction and move it into the City of Canby jurisdiction, resulting in a more simplified development review process for future projects. Future development will be required to comply with all City standards and regulations, rather than the County's. Additionally, the jurisdictional change will provide a better funding mechanism for roadway improvements and allow the City to determine the priority of making needed road improvements. Therefore, staff finds this criteria has been met.

- 9A. Compliance with other applicable city ordinances or policies.**

#### **Findings:**

The requested annexation area is included within the City's Urban Growth Boundary. The annexation request is in compliance with all City and County policies. All maintenance and permitting responsibility of the approximate 110,000 square foot portion of SE Township Road has been previously negotiated with Clackamas County and included in an Inter-Governmental Agreement (IGA). The IGA was adopted by the Canby City Council on December 5, 2018 as Resolution No. 1306. Staff finds the referenced IGA includes direction for the transfer of jurisdiction of SE Township Road once annexed into the City's boundary. Therefore, staff finds this criterion has been met.

**10A. Compliance of the application with the applicable sections of Oregon Revised Statutes Chapter 222.**

Findings:

Oregon Revised Statutes (ORS) Chapter 222 provides regulations for city boundary changes and other development requirements. Staff concludes that this proposal complies with all applicable provisions of the ORS, Chapter 222. Therefore, staff finds this criterion has been met.

**Non-Applicable Criteria:**

**1A: The City of Canby Annexation Development Map shall determine which properties are required to submit a Development Agreement or Development Concept Plan.**

- a. A Development Agreement (DA) binding for all properties located within the boundaries of a designated DA area as shown on the City of Canby Annexation Development Map.
- b. A Development Concept Plan (DCP) binding for all properties located within the boundaries of a designated DCP area as shown on the City of Canby Annexation Development Map. A Development Concept Plan shall address City of Canby infrastructure requirements.

Findings:

The public right-of-way, known as SE Township Road, is not located within a Development Concept Plan area or Development Agreement area, and there is no developable land associated with the request. Therefore, staff finds this criteria is not applicable.

**2A: Analysis of the need for additional property within the city limits shall be provided. The analysis shall include the amount of developable land (within the same class of zoning-low density residential, light industrial, etc.). Currently within the city limits; the approximate rate of development of those lands; and how the proposed annexation will affect the supply of development land within the city limits. A supply of development residential land to provide for the anticipated population growth over the following three years is considered to be sufficient.**

Findings:

There is no developable land included with this annexation application, therefore the demonstration of need is not applicable. Therefore, staff finds this criteria is not applicable.

**4A. Statement of availability, capacity and status of existing water, sewer, drainage, transportation, park and school facilities.**

**5A. Statement of increased demand for such facilities to be generated by the proposed development, if any, at this time.**

**6A. Statement of additional facilities, if any, required to meet the increased demand and any proposed phasing of such facilities in accordance with projected demand.**

Findings for 4A, 5A, and 6A:

The annexation request is for a portion of SE Township Road, a public right-of-way, with no developable properties related to this request. There will be no demand placed upon public utilities or infrastructure. Also, no additional utility improvements will be necessary. Therefore, staff finds these criteria are not applicable.

**7A. Statement outlining method and source of financing required to provide additional facilities, if any.**

Findings:

No additional facilities are necessary as part of this annexation request, as there is no property being developed, thus no funding is necessary. Therefore, staff finds this criteria is not applicable.

**8A. Statement indicating the type and nature of any Comprehensive Plan text or map amendments of Zoning text or map amendments that may be required to complete the proposed development. Proposed zoning must be consistent with zoning identified in any applicable adopted Development Concept Plan.**

Findings:

There is no Comprehensive Plan or Zoning text or map amendments associated with this annexation request, as there is no developable land included as part of the annexation request. There is also no related Development Concept Plan applicable. Therefore, staff finds this criteria is not applicable.

**V. Public/agency comments**

Notice of this application and opportunity to provide comment was mailed to owners of lots within 500 feet of the public right-of-way commonly known as SE Township Road and to all applicable public agencies and City departments on June 26, 2019. Any citizen and agency comments/written testimony received at the time of publication of this staff report will be attached herein, and be presented accordingly.

Staff did receive a phone call from Mr. Bill Brink on June 26, 2019 inquiring about the proposed right-of-way annexation. Mr. Brink's property is Tax Lot 3000, 2522 S Township Road, however in unincorporated Clackamas County. He asked the following questions:

- **Why is SE Township Road being annexed into the City?**
  - *Staff informed Mr. Brink that the annexation of SE Township Road is merely a technicality in order to bring the right-of-way into the City's jurisdiction in its entirety, and that this was the last portion of the road necessitating annexation.*
- **Does the annexation have anything to do with the Columbia bottling distribution warehouse project?**
  - *No, this annexation is not because of the Columbia bottling distribution warehouse project.*
- **If sidewalk improvements were constructed in the future, would he have to pay for them?**
  - *The costs of sidewalk improvements would not require Mr. Brink to pay for any portion that would be along his property frontage. The only way that could be a possibility in the future was if a Local Improvement District (LID) were formed to construct sidewalks along SE Township Road. And, in order to form an LID, it would take 50% approval of the affected property owners to agree to join an LID, as well as City Council approval. Currently there are no plans for sidewalks or an LID.*

- **If his well or septic failed, would he be required to annex into the City in order to hook-up to city water and sewer?**
  - *The annexation of SE Township Road in no way impacts the future annexation of Mr. Brink's property into the City, whether or not the well or septic should fail.*
  - *If Mr. Brink's septic, well, or both failed, it would be up to Clackamas County as to next steps for replacement and/or connection to city services, as the Brink's property is outside of the City's jurisdiction and is in unincorporated Clackamas County. If Mr. Brink's building were within 100 feet of existing city sewer lines, then he may need to connect to city sewer service, which would be a gravity flow system, and if the City determines they would be willing to extend service outside city limits. If the City agreed to an extraterritorial extension, Mr. Brink would likely be given time to complete an annexation within a reasonable time frame after making the connection.*

Staff has not received any other public comment regarding this annexation request.

**Summary:**

Because this annexation application is intended to correct the omission of this portion of SE Township Road from the previously approved annexations referenced on page 2, and there is no developable land related to the proposed annexation, staff concludes this annexation request is a technical formality which must be completed prior to the City taking over jurisdictional responsibility of SE Township Road.

Future road maintenance, improvements, construction and reconstruction (including Capital improvements); repairs of related facilities within the roadway, including but not limited to storm water drainage facilities, traffic control devices, street lights and roadside barriers will become the responsibility of the City of Canby, as well as all other responsibilities currently under the purview of Clackamas County in accordance with ORS 368 and IGA Resolution No. 1306 as agreed upon between the two jurisdictions. Lastly, because this annexation request does not provide additional developable lands or impacts on utility demands, a neighborhood meeting was not held regarding this technical annexation.





City of Canby  
Planning Department  
222 NE 2<sup>nd</sup> Avenue  
PO Box 930  
Canby, OR 97013  
(503) 266-7001

## LAND USE APPLICATION

### ANNEXATION Process Type IV

#### **APPLICANT INFORMATION:** *(Check ONE box below for designated contact person regarding this application)*

☐ Applicant Name: City of Canby Phone: (503) 266-7001  
Address: 222 NE 2nd Avenue Email: \_\_\_\_\_  
City/State: Canby, OR Zip: 97013

☒ Representative Name: Bryan Brown, Planning Director Phone: (503) 266-0702  
Address: 222 NE 2nd Avenue Email: BrownB@CanbyOregon.gov  
City/State: Canby, OR Zip: 97013

☐ Property Owner Name: Richard Samuels, OPRR Phone: (503) 659-5452  
Signature: \_\_\_\_\_  
Address: 9001 SE McBrod Avenue Email: RASOPR@GMail.com  
City/State: Milwaukie, OR Zip: 97222

☐ Property Owner Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Address: \_\_\_\_\_ Email: \_\_\_\_\_  
City/State: \_\_\_\_\_ Zip: \_\_\_\_\_

*NOTE: Property owners or contract purchasers are required to authorize the filing of this application and must sign above*

- ① All property owners represent they have full legal capacity to and hereby do authorize the filing of this application and certify that the information and exhibits herewith submitted are true and correct.
- ② All property owners understand that they must meet all applicable Canby Municipal Code (CMC) regulations.
- ③ All property owners hereby grant consent to the City of Canby and its officers, agents, employees, and/or independent contractors to enter the property identified herein to conduct any and all inspections that are considered appropriate by the City to process this application.

#### **PROPERTY& PROJECT INFORMATION:**

<u>SE Township Rd, Forest Road to Mulino Road</u>	<u>2.4 ac</u>	<u>Part of 3 1E 34 and 4 1E 3</u>
Street Address or Location of Subject Property	Total Size of Property	Assessor Tax Lot Numbers
<u>Public Street - No Structures</u>	<u>M1/M2/Park</u>	<u>LI / HI / Public</u>
Existing Use, Structures, Other Improvements on Site	Zoning	Comp Plan Designation
<u>Public Street - No Proposed Development</u>		
Describe the Proposed Development or Use of Subject Property		

STAFF USE ONLY				
FILE #	DATE RECEIVED	RECEIVED BY	RECEIPT #	DATE APP COMPLETE



City of Canby  
Planning Department  
222 NE 2<sup>nd</sup> Avenue  
P.O. Box 930  
Canby, OR 97013  
Ph: 503-266-7001  
Fax: 503-266-1574

## CHECKLIST

### ANNEXATION – TYPE IV

**All required application submittals detailed below must also be submitted in ELECTRONIC FORMAT on a CD, flash drive, FTP site, or via email to: [PlanningApps@canbyoregon.gov](mailto:PlanningApps@canbyoregon.gov)**

- | Applicant<br>Check                  | City<br>Check            |  |
|-------------------------------------|--------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy of this application packet. The City may request further information at any time before deeming the application complete.   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Payment of appropriate fees: Cash, check or credit card. Checks should be made out to the <i>City of Canby</i> . <b>NA</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <b>One (1) electronic copy of mailing addresses in either an EXCEL SPREADSHEET or WORD DOCUMENT</b> for all property owners and all residents within 500 feet of the subject property. If the address of a property owner is different from the address of a site, an address for each unit on the site must also be included and addressed to "Occupant." A list of property owners may be obtained from a title insurance company or from the County Assessor's office.  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy of a written statement and an electronic copy in <b>WORD</b> format describing the property to be annexed, including all existing improvements on the land, and detailing how the annexation and proposed zoning meet the approval criteria, and availability and adequacy of public facilities and services. <b><u>Ask staff for applicable Municipal Code chapters and approval criteria.</u></b> Applicable Code Criteria for this application includes:<br><br>_____<br>_____<br>_____<br>_____ |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy in written format of the minutes of the neighborhood meeting is required by Municipal Code 16.89.020 and 16.89.070. The minutes shall include the date of the meeting and a list of attendees. <b>NA</b>  |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy in written format of the minutes of the pre-application meeting <b>NA</b>   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy of a written statement, signed by at least 51% of the owners of land in the territory to be annexed that states, pursuant to ORS 222.170: "Consent to annex is hereby given by the undersigned, who represent more than half the owners of land in the territory, and who also own more than half of the land and real property in the contiguous territory, which represents more than half of the assessed value of all real property in the contiguous territory." <b>NA</b>                     |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | One (1) copy of the full quarter-section tax assessor's map with the subject property outlined. <b>NA</b>  |

- ☒ ☐ One (1) copy of the legal description of the property to be annexed, and a boundary survey certified by a registered engineer or surveyor containing bearings and one half of the adjacent street right-of-way, if applicable.
- ☒ ☐ One (1) copy of a Traffic Impact Study (TIS), conducted or reviewed by a traffic engineer that is contracted by the City and paid for by the applicant (payment must be received by the City before the traffic engineer will conduct or review a traffic impact study. Ask staff to determine if a TIS is required. **NA**  
*Note: A traffic impact analysis is not required if all the property to be annexed is located within the boundaries of an approved Development Concept Plan and a traffic impact analysis was completed for the Development Concept Plan.*
- ☒ ☐ If the property to be annexed is located inside a "Development Concept Area" identified on the Annexation Development Map, Figure 16.84.040 of Canby Municipal Code Chapter 16.84, then submit one (1) copy of an approved Development Concept Plan. **NA**
- ☒ ☐ If the property to be annexed is located inside a "Development Agreement Area" identified on the Annexation Development Map, Figure 16.84.040 of Canby Municipal Code Chapter 16.84, then submit one (1) copy of a Development Agreement intended to be approved and recorded with the property. **NA**

#### **ANNEXATION APPLICATION – TYPE IV: APPLICATION PROCESS**

1. Prior to submitting an application, all applicants are encouraged to request a pre-application meeting with the City, or the City Planner may determine that a pre-application meeting is necessary after an application has been discussed or upon receipt of an application by the City. To schedule a pre-application meeting, an applicant must submit a completed pre-application form and 2 paper copies of the preliminary plans to the City Planner, and all submittal materials must be submitted in electronic format. The City Planner shall forward the pre-application materials to the Canby Public Works Department to schedule the pre-application meeting. The fee for a pre-application meeting for an annexation is indicated in the City of Canby Master Fee Schedule for Pre-Application Conferences for Type III and IV applications.
2. Prior to submitting an application, all applicants must hold a neighborhood meeting with surrounding property owners and any recognized neighborhood association representative, pursuant to the procedures described in Canby Municipal Code Section 16.89.070. In certain situations, the Planning Director may waive the neighborhood meeting requirement.
3. At the time an application is submitted to the City, payment of required application processing fees is required. An application will not be accepted without payment of fees. City Staff can provide you with information concerning application fees.
4. Staff will check the application, making sure that it is complete and all fees are paid. Copies of the application materials are routed to various City/State/County departments, as applicable, for their comments. Along with the comments received from others, the application is reviewed for completeness. The City Planner will accept or return the application with a written list of omissions within thirty (30) calendar days of the submittal.
5. Staff investigates the application, writes a staff report, issues public notice, notifies surrounding property owners, and makes all facts relating to the request available to the Planning Commission and all interested parties.
6. Prior to the public hearing, the City will prepare notice materials for posting on the subject property. This material will be posted by staff at least ten (10) days before the public hearing.

**CITY OF CANBY**

# **SE Township Road Annexation Application**

**Molalla Forest Road East to Mulino Road**

**Applicant: City of Canby  
Planning Department  
222 NE 2nd Avenue,  
Canby, OR 97013**

**Owners: Public Right-of-Way  
and  
Richard Samuels  
Oregon Pacific Railroad  
9001 SE McBrod Ave  
Milwaukie, OR 97222**

December 2018

**CURRAN-McLEOD, INC., CONSULTING ENGINEERS**  
Portland, Oregon

**City of Canby**  
**SE Township Road Annexation Application**

December 2018

**INTRODUCTION**

The City of Canby has approved multiple annexations along SE Township Road over the past three decades. Of special interests are the annexations approved along SE Township Road between the Molalla Forest Road and Mulino Road, which included the following:

Resolution 483 in 1991:

85.3 ac which includes the frontage between the railroad and the Cemetery on the north side of Township, but did not include the Township Road right-of-way;

Resolution 825 in 2003:

151 ac which included the American Steel frontage but again did not include the Township Road right-of-way abutting the frontage;

Resolution 939 in 2006:

73.35 ac which included the Weygandt property and also included annexation of the Township Road right-of-way abutting the property.

Resolution 955 in 2007:

32.62 ac of additional Industrial Park that included the Parson's property on the north side abutting Mulino Road, but did not include any right-of-way.

In each annexation excepting that in Resolution 939, all or portions of the public right-of-way of SE Township Road were inadvertently omitted. This current application is requesting approval of an annexation to the City of Canby of all remaining SE Township Road public right-of-way, located between the western boundary of the Molalla Forest Road and the western boundary of Mulino Road.

This is an unusual annexation application which does not include any developable property, and very few of the approval criteria are applicable. The approval criteria listed in the Canby Municipal Code were evaluated and approved at the time of each individual annexation of the parcels abutting the right-of-way, as listed above. Based on the absence of developable property, and each abutting property having demonstrated compliance with the approval criteria at the time of the original annexation applications, this current application to annex SE Township Road should be approved.

## **OWNERSHIP**

The area to be annexed includes public right-of-way and a crossing of the Oregon Pacific Railroad. All OPRR improvements, including the tracks and signals, are owned by the Oregon Pacific Railroad. The land is provided by the Union Pacific Railroad to the OPRR without charge. As a result of the minor percentage of the annexation land in the railroad crossing (0.19 acres or approximately 8% of the annexation) and the timeline required to secure a signature from the Union Pacific Railroad, the OPRR only is included as a property owner and has signed in support of this annexation application.

Consent to annex this area is requested and approved by the City of Canby, who represents 92% of the area to be annexed.

## **AREA DESCRIPTION**

This annexation is limited to the public right-of-way and railroad crossing. Within the City limits, this right-of-way abuts M-1 light and M-2 heavy industrial zoned land, and the Zion Memorial Cemetery, which is zoned as Park land. This right of way also fronts on several properties that are currently outside of the City limits, which have Land Use Designation LI Light Industrial.

The right-of-way annexation required along SE Township Road varies in width from the western boundary of the Molalla Forest Road to the western boundary of Mulino Road. The north half of the right-of-way to be annexed is 30 feet in width across the Forest Road and railroad property. From the railroad crossing east, the north half annexation is 20 feet in width for the remaining distance to Mulino Road.

The south half of the right-of-way to be annexed is 37 feet in width across the Forest Road and railroad and the across the frontage of BBC Steel. Continuing east, the adjacent American Steel property requires an annexation of 20 feet in width from the east boundary of the BBC Steel property to the sixteenth corner. East of sixteenth corner to Mulino Road, the right-of-way was previously annexed by Resolution 939, so no additional area is needed.

The total area of the proposed annexation is approximately 2.32 acres.

SE Township Road is a fully functioning collector street in the City's Transportation System Plan. The street frontage is only partially developed with curbs and sidewalks. The majority of the street in this reach has no curb or sidewalk, but will ultimately be fully developed. There is no other intended use for this requested annexation area other than to function as a collector street.

## **FACILITIES AND SERVICES**

No developable property is included in this annexation request, so no public facilities are required.

## **NEIGHBORHOOD INVOLVEMENT**

We anticipate that neighborhood meetings were previously held for each of the annexations referenced above. As a result, and due to the fact that there is no additional developable property included in this application, the Canby Planning Department has determined that a neighborhood meeting is not warranted for this application.

## **APPLICATION FEES**

In that fees were collected for each of the annexations referenced above, the Canby Planning Department has proposed to waive any fee for this application.

## **CMC 16.84.040 STANDARDS AND CRITERIA**

A.1.a. DA Area: This area included in the annexation request is not located within a Development Agreement area.

A.1.b. DCP Area: This area included in the annexation request is not located in a Development Concept Plan area.

A.2. Need for Additional Property: As there is no developable land included with this application, the demonstration of need would not be applicable.

A.3. Potential Physical, Aesthetic and Related Social Effects: The purpose of this annexation is to incorporate the public right-of-way into the jurisdiction of the City of Canby and remove it from the jurisdiction of Clackamas County. This will result in simplifying development approvals. Future development will follow the City of Canby's standards as opposed to the Clackamas County standards. This jurisdictional change will provide a better funding mechanism for roadway improvements and allow the City to determine the priority of making needed improvements.

A.4. Availability of Public Services: As there are no developable properties included in the annexation request, there is no demand placed on any public utilities.

A.5. Increased Utility Demands: This annexation will not increase the demand for any public utilities.

A.6. Additional Utility Facilities Required: No additional utility improvements are required to serve this annexation.

A.7. Funding for Additional Utility Facilities: No additional funding is required for utility facilities with this annexation.

A.8. Comp Plan and Zoning Amendments: There are no requested comprehensive plan amendments associated with this annexation request. Once annexed, the area should be designated with zoning to match the adjoining properties.

A.9. Compliance with City Requirements: This annexation request is in compliance with all City and County policies and has been previously negotiated with Clackamas County and included in an Inter Governmental Agreement. The requested annexation area is included within the City's Urban Growth Boundary.

A.10. Compliance with ORS 222: This application is in compliance with the State statute, and the City of Canby will be able to comply with the requirements mandated on the City without exception.

## **CONCLUSION**

This application is intended to correct an omission in several prior annexations. The evaluation criteria contained in CMC 16.84.040 had previously been applied to each annexation abutting this public right-of-way, and each has been previously approved. Approval of this current annexation request does not provide any additional developable lands and will have no impact on utility demands. This application satisfies all applicable evaluation criteria.

The neighborhood meeting and any application fees are requested to be waived. A legal description, sketch and list of all property owner's name and addresses within 500 feet of the annexation property are attached with this application narrative.

### **Attachments:**

- Annexation Application
- List of property owners and addresses within 500 feet
- Legal Description of the annexation



City of Canby  
**SE Township Road Right-of-Way Annexation Legal Description**  
December 2018

This description is for the annexation of SE Township Road Right-of-Way from the Western boundary of the Oregon Pacific Railroad to the western Right-of-Way line of Mulino Road, as described following and shown on the attached sketch labeled Exhibit A:

Beginning at the Northeast corner of Section 3, Township 4 South, Range 1 East, of the Willamette Meridian, said point being on the centerline of SE Township Road and centerline of S Mulino Road; thence Westerly along the North line of said Section 3, a distance of 30 feet to the True Point of Beginning; thence continuing Westerly along the North line of said Section 3, which is also the centerline of SE Township Road, a distance of 1,290 feet more or less to the one-sixteenth corner; thence Southerly at right angles to the North line of said Section 3, a distance of 20 feet along the West line of the East one-half of the Northeast one quarter of said Section 3, to the Northeast corner of that tract of land conveyed to American Steel, L.L.C. in Fee Number 2007-083231 Clackamas County Deed Records; thence Westerly along a line measured 20 feet South of and parallel the North line of said Section 3, said line also being the North boundary of said American Steel, L.L.C. tract, a distance of 471.94 feet more or less to the Northwest corner of said American Steel L.L.C. tract; thence South, at right angles to the North line of said Section 3, a distance of 17 feet along the West line of said American Steel L.L.C. tract to a point; thence Westerly, along a line parallel and 37 feet south of the North line of said Section 3, a distance of 682.64 feet more or less to a point on the Southwestern Right-of-Way line of the Oregon Pacific Railroad; thence Northwesterly along said Southwestern Railroad Right-of-Way line a distance of 87.22 feet more or less to a point being 30 feet measured perpendicular and North of the North line of said Section 3; thence Easterly, along a line parallel and 30 feet North of the North line of said Section 3, a distance of 104 feet more or less to a point on the Northeastern right-of-way line of said Oregon Pacific Railroad; thence Southeasterly along said Northeastern Railroad Right-of-way line a distance of 12.95 feet more or less to a point on the North Right-of-Way line of SE Township Road, said point being 20 feet measured perpendicular to the North line of said Section 3; thence Easterly along a line parallel and 20 feet North of the North line of said Section 3, a distance of 2,382 feet more or less to the Western Right-of-Way line of Mulino Road; Thence Southerly along the alignment of said Western Right-of-Way line of S Mulino Road, a distance of 20 feet to the True Point of Beginning.



EXP 12/2018

**EXHIBIT A**

S.E. 4TH AVE.

**T31E SEC 34**

TL 1000  
(1976)

TL 1500  
(2010)

S SEQUOIA  
PARKWAY

TL 2900  
(2374)

TL 2700  
(23849)

189.9'±

12.95'±

TL 1200

TL 1300

TL 1400

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N.T.S

**1 S.E TOWNSHIP ROAD ANNEXATION**  
**CANBY, OREGON**

CURRAN-McLEOD, INC.  
CONSULTING ENGINEERS



1815 NW 169<sup>th</sup> Place, Suite 2090  
Beaverton, OR 97006  
Telephone: 503-848-2127

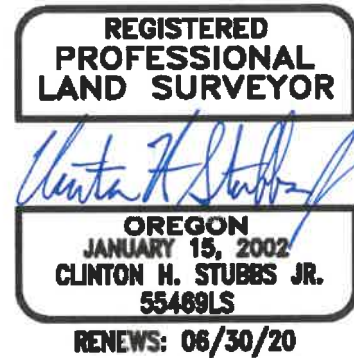


Exhibit A  
**Right-of-way Dedication Description**  
**S. Township Road**

January 3, 2019  
NWS Project Number 1792

A 17.00 foot wide strip of land being a portion of Parcel III of that property conveyed to the Boyer Family Trust by a deed recorded on July 25, 2008 as Fee Number 2008-052797, Clackamas County Deed Records, located in the northeast one-quarter of Section 3, Township 4 South, Range 1 East, Willamette Meridian, City of Canby, Clackamas County, Oregon, and being more particularly described as follows:

Commencing at a 3 inch aluminum disk located at the north one-quarter corner of said Section 3, said point being on the centerline of S. Township Road; Thence along the north line of said northeast one-quarter, also being the centerline of S. Township Road, South 88°08'50" East 269.48 feet; Thence departing said centerline, South 01°51'10" West 20.00 feet to a 5/8 inch iron rod with a yellow plastic cap stamped "Compass Corp.", said point being located on the southerly right-of-way line of S. Township Road (20.00 feet southerly from the centerline thereof, when measured at right angle), and the Point of Beginning;

Thence along the southerly right-of-way line of S. Township Road, South 88°08'50" East 578.42 feet to the northeast corner of said Parcel III; Thence along the east line of said Parcel III, South 01°51'36" West 17.00 feet to a point located 37.00 feet southerly from the centerline of said S. Township Road, when measured at right angles; Thence parallel with and 37.00 feet southerly from said centerline, when measured at right angles, North 88°08'50" West 564.25 feet to a point on the southwesterly line of said Parcel III; Thence along said southwesterly line, North 37°56'44" West 22.13 feet to the Point of Beginning.

The above described tract of land contains 9,713 square feet, more or less.

The basis of bearings for this description is the Oregon North State Plane Coordinate System.

# EXHIBIT A (MAP)

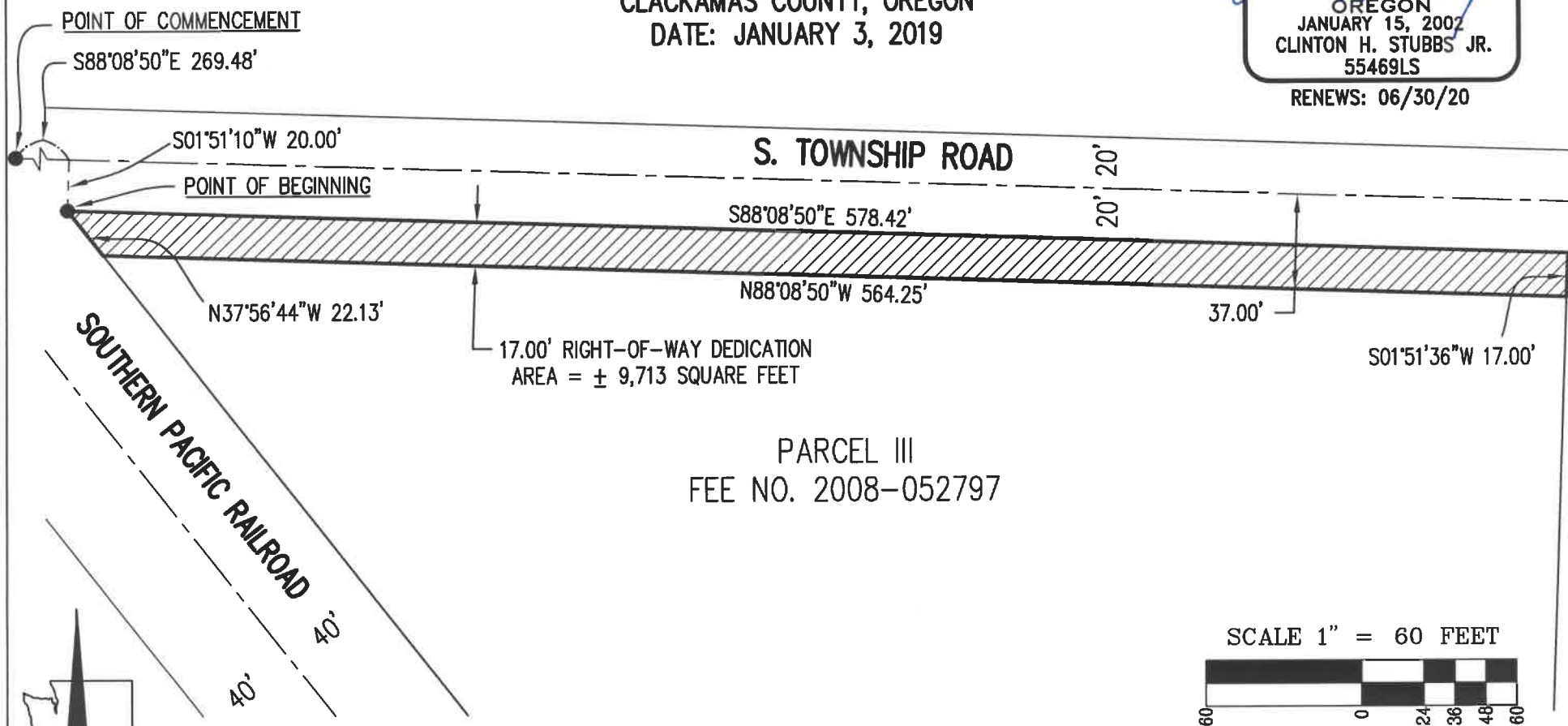
LOCATED IN THE NE 1/4 OF SECTION 3,  
TOWNSHIP 4 SOUTH, RANGE 1 EAST, W.M.,  
CITY OF CANBY,  
CLACKAMAS COUNTY, OREGON  
DATE: JANUARY 3, 2019

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

*Clinton H. Stubbs Jr.*

OREGON  
JANUARY 15, 2002  
CLINTON H. STUBBS JR.  
55469LS

RENEWS: 06/30/20



## PREPARED FOR:

BBC STEEL CORP.  
2001 S. TOWNSHIP ROAD  
CANBY, OR 97013

JOB NAME: BBC STEEL

JOB NUMBER: 1792

DRAWING NUMBER: 1792 DEDICATION

DRAWN BY: CHS

CHECKED BY: SFF

# NORTHWEST

# SURVEYING, Inc.

1815 NW 169th PLACE,  
SUITE 2090  
BEAVERTON, OR 97006  
PHONE: 503-848-2127  
FAX: 503-848-2179  
nwsurveying@nwsrvy.com

City of Canby  
**SE Township Road Right-of-Way Annexation Legal Description**  
 December 2018

This description is for the annexation of SE Township Road Right-of-Way from the Western boundary of the Oregon Pacific Railroad to the western Right-of-Way line of Mulino Road, as described following and shown on the attached sketch labeled Exhibit A: B

Beginning at the Northeast corner of Section 3, Township 4 South, Range 1 East, of the Willamette Meridian, said point being on the centerline of SE Township Road and centerline of S Mulino Road; thence Westerly along the North line of said Section 3, a distance of 30 feet to the True Point of Beginning; thence continuing Westerly along the North line of said Section 3, which is also the centerline of SE Township Road, a distance of 1,290 feet more or less to the one-sixteenth corner; thence Southerly at right angles to the North line of said Section 3, a distance of 20 feet along the West line of the East one-half of the Northeast one quarter of said Section 3, to the Northeast corner of that tract of land conveyed to American Steel, L.L.C. in Fee Number 2007-083231 Clackamas County Deed Records; thence Westerly along a line measured 20 feet South of and parallel the North line of said Section 3, said line also being the North boundary of said American Steel, L.L.C. tract, a distance of 471.94 feet more or less to the Northwest corner of said American Steel L.L.C. tract; thence South, at right angles to the North line of said Section 3, a distance of 17 feet along the West line of said American Steel L.L.C. tract to a point; thence Westerly, along a line parallel and 37 feet south of the North line of said Section 3, a distance of 682.64 feet more or less to a point on the Southwestern Right-of-Way line of the Oregon Pacific Railroad; thence Northwesterly along said Southwestern Railroad Right-of-Way line a distance of 87.22 feet more or less to a point being 30 feet measured perpendicular and North of the North line of said Section 3; thence Easterly, along a line parallel and 30 feet North of the North line of said Section 3, a distance of 104 feet more or less to a point on the Northeastern right-of-way line of said Oregon Pacific Railroad; thence Southeasterly along said Northeastern Railroad Right-of-way line a distance of 12.95 feet more or less to a point on the North Right-of-Way line of SE Township Road, said point being 20 feet measured perpendicular to the North line of said Section 3; thence Easterly along a line parallel and 20 feet North of the North line of said Section 3, a distance of 2,382 feet more or less to the Western Right-of-Way line of Mulino Road; Thence Southerly along the alignment of said Western Right-of-Way line of S Mulino Road, a distance of 20 feet to the True Point of Beginning.

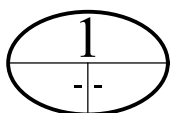
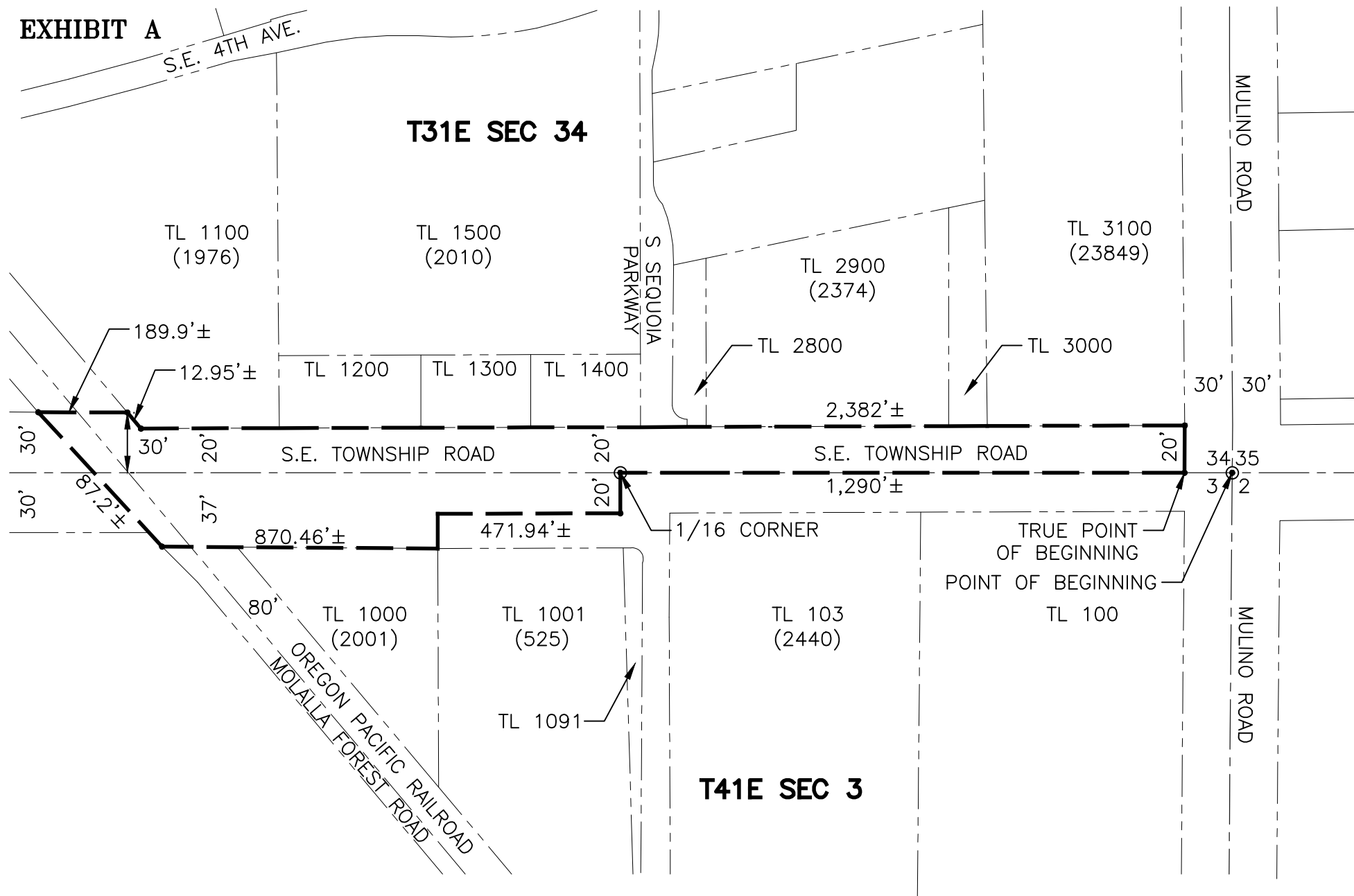


EXP 12/2018

EXHIBIT A

T31E SEC 34

T41E SEC 3



**S.E TOWNSHIP ROAD ANNEXATION  
CANBY, OREGON**

## **ORDINANCE NO. 1516**

**AN ORDINANCE, PROCLAIMING ANNEXATION INTO THE CITY OF CANBY, OREGON ALL REMAINING PORTIONS OF SE TOWNSHIP ROAD PUBLIC RIGHT-OF-WAY (ROW), ROUGHLY 2.4 ACRES, LOCATED BETWEEN THE WESTERN BOUNDARY OF THE MOLALLA FOREST ROAD AND THE WESTERN BOUNDARY OF MULINO ROAD, INCLUDING THE PORTION OF ROW THAT CROSSES UNION PACIFIC RAILROAD CROSSING DOT 760205P, MP 748.30.**

**WHEREAS**, on August 7, 2019, at a public hearing the City Council of the City of Canby approved by a vote of \_\_\_\_ to \_\_\_\_, Annexation (ANN 18-06) which called for the annexation of 2.4 acres of remaining public right-of-way into the City of Canby. The applicant is the City of Canby. A complete legal description and survey map of the right-of-way known as SE Township Road delineates the property to be annexed and is attached hereto as Exhibit A & B respectively and by this reference are incorporated herein; and

**WHEREAS**, Pursuant to CMC 16.84.080, the City must proclaim by ordinance or resolution, the annexation of said property into the City and set the boundaries of the property by legal description; and

**WHEREAS**, an application was filed by the City as the applicant listed above to annex the road right-of-way identified and bring said right-of-way into the City's jurisdiction as previously negotiated with Clackamas County and included in an Inter-Governmental Agreement (IGA) adopted by the Canby City Council on December 5, 2018 as Resolution No. 1306; and

**WHEREAS**, a public hearing was conducted by the Canby Planning Commission on July 8, 2019 after public notices were mailed, posted and published in the Canby Herald, as required by law; and

**WHEREAS**, the Canby Planning Commission heard and considered testimony regarding the annexation for annexations by Figure 16.84.040 of Chapter 16.84 of the Land Development and Planning Ordinance at the public hearing and at the conclusion of the public hearing; the Planning Commission voted to recommend that the City Council approve the application; and

**WHEREAS**, the Canby City Council considered the matter and the recommendation of the Planning Commission following a public hearing held at its regular meeting on August 7, 2019; and

**WHEREAS**, the Canby City Council, after considering the applicant's submittal, the staff report, the Planning Commission's hearing record and their recommendation documented in their written Findings, Conclusions and Order, and after conducting its own public hearing; voted to approve the annexation; and

**WHEREAS**, the written Findings, Conclusions and Order of the Council action is to be approved by the City Council at the next regular Council meeting on August 21, 2019; and

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

Section 1. It is hereby proclaimed by the City Council of Canby that 2.4 acres of right-of-way described, set, and shown in Exhibit A & B and attached hereto, is annexed into the corporate limits of the City of Canby, Oregon.

**SUBMITTED** to the Council and read the first time at a regular meeting thereof on August 7, 2019 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter, and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on August 21, 2019, commencing at the hour of 7:00 PM at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, Canby, Oregon.

\_\_\_\_\_  
Rick Robinson  
City Recorder Pro Tem

**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on August 21, 2019 by the following vote:

YEAS \_\_\_\_\_ NAYS \_\_\_\_\_

---

\_\_\_\_\_  
Brian Hodson  
Mayor

ATTEST:

\_\_\_\_\_  
Rick Robinson  
City Recorder Pro Tem





# City of Canby

PO Box 930 Phone: 503.266.4021  
222 NE 2nd Ave Fax: 503.266.7961  
Canby, OR 97013 www.canbyoregon.gov

## ***M E M O R A N D U M***

***TO:*** *Honorable Mayor Hodson and City Council*  
***FROM:*** *Jerry Nelzen, Public Works Lead*  
***DATE:*** *August 7, 2019*  
***THROUGH:*** *Rick Robinson, City Administrator*

---

**Issue:** Purchase of a 2019 Crosswind 1 Regenerative Air Street Sweeper.

**Synopsis:** The Public Works Department would like to purchase a new Elgin Crosswinds 1 Street Sweeper. The new sweeper will cost \$281,751. The City will be trading in the 1996 Elgin Pelican Street Sweeper for \$2,500; making the total purchase price \$279,251. The 1996 street sweeper is 23 years old with 27,923 miles. The cost to maintain the old sweeper is no longer economical or sustainable, therefore a new sweeper is needed.

Funds were included in the FY19-20 adopted budget to purchase a new Street Sweeper. Half of the funds to be used will come out of the Streets budget and the other half will come out of the Stormwater budget.

**Recommendation:** Staff recommends that Council approve Ordinance No. 1517.

**Recommended motion:** ***"I move to approve Ordinance No. 1517, AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH OWEN EQUIPMENT FOR THE PURCHASE OF ONE 2019 ELGIN CROSSWIND 1 STREET SWEEPER FOR THE CANBY PUBLIC WORKS DEPARTMENT."***

**Attached:** Ordinance No. 1517

Exhibit A-Proposal Summary from Owen Equipment for a Crosswind 1 Regenerative Air Street Sweeper with Single Engine

## **ORDINANCE NO. 1517**

### **AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH OWEN EQUIPMENT FOR THE PURCHASE OF ONE 2019 ELGIN CROSSWIND 1 STREET SWEEPER FOR THE CANBY PUBLIC WORKS DEPARTMENT.**

**WHEREAS**, a street sweeper is an essential tool for the City of Canby's Public Works Department in order to provide street maintenance services for its citizens; and

**WHEREAS**, The City of Canby wishes to trade in one 1996 Elgin Pelican Street Sweeper and purchase one 2019 Elgin Crosswind 1 Street Sweeper for the Canby Public Works Department; and

**WHEREAS**, the cost of the street sweeper has been included in the Adopted Budget for Fiscal Year 2019-2020; and

**WHEREAS**, The Canby Public Works Department, in consultation with the Canby Fleet Services Department, selected a base sweeper along with options needed to provide the City of Canby with an efficient sweeping unit; and

**WHEREAS**, the City Council, meeting and acting as the Contract Review Board for the City of Canby, has reviewed the Owen Equipment Proposal Summary provided in the staff report and believes it to be in the best interest of the city to purchase this vehicle from Owen Equipment; now therefore

### **THE CITY OF CANBY, OREGON, ORDAINS AS FOLLOWS:**

**Section 1.** The City Administrator is hereby authorized on behalf of the City of Canby to enter into a contract with Owen Equipment for the purchase of one 2019 Elgin Crosswind 1 Street Sweeper for the quoted amount of \$281,751 with a \$2,500 trade in credit for a total purchase price of \$279,251. A copy of the Proposal Summary from Owen Equipment is attached hereto and marked as Exhibit "A" and by this reference incorporated herein.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on August 7, 2019; ordered posted as required by the Canby City Charter and scheduled for second reading on August 21<sup>st</sup>, 2019, after the hour of 7:00 pm at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, Canby, Oregon.

---

Rick Robinson  
City Recorder Pro-Tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 21<sup>st</sup> day of August, 2019, by the following vote:

YEAS \_\_\_\_\_

NAYS \_\_\_\_\_

\_\_\_\_\_  
Brian Hodson  
Mayor

ATTEST:

\_\_\_\_\_  
Rick Robinson  
City Recorder Pro-Tem

## **Presents a Proposal Summary**

of the



### **Crosswind 1**

Crosswind 1 Regenerative Air Street Sweeper with Single Engine

for

City of Canby  
Canby, OR

# Sourcewell Contract #122017-FSC

## **PRODUCT DESCRIPTION**

- Equipped with Memory Sweep;8.0 cu. Yd. Hopper, right and left side brooms, sweeper is powder coated from powder coatings chart 2003/N with powder coated gray undercarriage.

## **STANDARD FEATURES**

- Alternator, 95 amp
- Backup Alarm, electric
- Blower, 20,000 CFM rating with Linatex lined housing
- Brooms, hydraulic rotation
- Brooms, Dual with side broom lights for night operation
- Broom Measurement Ruler
- Camera, rear mounted
- Console, w/rocker switches for all sweep functions, including memory sweep with full gauge package including tachometer, engine hour meter, oil pressure indicator, coolant temperature, voltmeter and fuel lever indicator, water level gauge and warning lights for hopper pressure controls and manual reset circuit breakers
- Doors, access fiberglass doors provide easy service and maintenance on auxiliary engine, hydraulic and electrical system
- Electronic Throttle sweep resume/sweep transport/reverse pick-up
- Hopper rear door hydraulically opened/closed and locked/unlocked with external controls.
- Hose, hydrant fill, 16' 8" with coupling
- In-Cab Hopper Dump
- LED Clearance Lights
- Lights, rear clearance and rear identification
- Manuals, operator and parts
- Mirrors, West Coast type with 8" convex inserts, one each side
- Pick-up head, hydraulically operated, 14" (355 mm) outside diameter pressure hose, 12-3/4" (324mm) inside diameter suction hose with quick disconnect on suction side
- Spray nozzles, sixteen (16), seven (7) in the pick-up head, three (3) in the suction nozzle, three (3) at each side broom
- Side Broom Outer Position Stop
- Trans Oil Cooler
- Vacuum enhancer, in-cab operated
- Water tank, molded polyethylene, 240 gallons (907L)
- Water pre-filter, hydrant fill hose
- Sweeper Painted Standard White
- Chassis Painted Standard White
- Red Logo

## **ADDITIONAL FEATURES**

- 2020 Freightliner M2 106
- AM/FM/CD Radio
- Left Hand Fender Mirror
- Right and Left Hand Heated and Remote-Controlled Mirrors
- 12" Convex Mirrors
- LED Stop/Tail/Turn
- (1) Spare Chassis Key
- PM-10 Complaint
- Memory Sweep
- Side Broom Tilt Option Right Hand

- Side Broom Tilt Option Left Hand
- Lifeliner Hopper System
- Right Hand Inspection Door with Step and Handle
- 6" Hopper Drain
- Front Spray Bar
- Vacuum Enhancer
- Hopper Deluge
- Dual Side Broom Scrubbing Position
- Air Purge for Water System
- Hydraulic Oil Level Gauge W/Thermometer on Tank
- Cab & Rear LED Strobe
- Dual LED Side Broom and Rear LED Flood Lights
- Individual Switches for Dual Side Broom & Rear Flood Lights-LED
- 2.5 Lb. Fire Extinguisher
- Triangle Reflective Flares (3)
- Warranty through 5th Year (Parts/Labor)
- Sweeper Service Manual
- Sweeper - Operator Manual
- Sweeper Parts Manual
- Chassis Operators Manual
- Chassis Parts Manual
- Chassis Service Manual
- Pick Up Head Vibrator
- Pick Up Head Curtain Lifter
- Pick Up Head Nozzles- PM-10
- 4 Camera System, Back Up, Left Hand, Front Bumper and Pick Up Head
- Paint Sweeper Body Blue
- Midwest Autolube for Chassis and Sweeper
- Factory Inspection for 3 People
- Training for 1 Person at Owen Equipment Elgin Training

**\*\*\*\*\*Options Not Included In Price\*\*\*\*\***

- **Midwest Autolube for Sweeper Only- \$4312.00**

<b>Factory Total:</b>	<b>\$290,743.00</b>
<b>Sourcewell Discount:</b>	<b>-\$8992.00</b>
<b>Total Price:</b>	<b>\$281,751.00</b>
<b>1996 Pelican Trade In:</b>	<b>-\$2500.00</b>
<b>Total Price w/ Trade In:</b>	<b>\$279,251.00</b>

Price valid for 30 Days from date of 6/19/2019

Product Model: CROSSWIND 1  
Product Model: CROSSWIND 1  
Proposal Date: 6/19/2019  
Quote Number: 2019-29659  
Price List Date: 1/22/2019  
P.O. Number:

Payment Terms:

Proposal Notes:

- 1. Multiple unit orders will be identical to signed proposal. Changes or deviations to any unit of a multiple unit order will require a new signed proposal.
- 2. Chassis specifications and data codes for customer supplied chassis must be submitted to and approved by Elgin Sweeper Company prior to submittal of customer purchase order
- 3. All prices quoted are in US Dollars unless otherwise noted.

SIGNED BY:

\_\_\_\_\_ Date: \_\_\_\_\_

## **LIMITED WARRANTY**

ELGIN SWEEPER COMPANY warrants each new machine manufactured by it against defects in material and workmanship provided the machine is used in a normal and reasonable manner. This warranty is extended only to the original user-purchaser for a period of twelve (12) months from the date of delivery to the original user-purchaser.

ELGIN SWEEPER COMPANY will cause to be repaired or replaced, as the Company, may elect, any part or part of such machine which the Company's examination discloses to be defective in material or workmanship.

Repairs or replacements are to be made at the selling Elgin distributor's location or at other locations approved by ELGIN SWEEPER COMPANY.

The ELGIN SWEEPER COMPANY warranty shall not apply to:

1. Major components or trade accessories such as but not limited to, trucks, engines, tires or batteries that have a separate warranty by the original manufacturer.
2. Normal adjustments and maintenance services.
3. Normal wear parts such as but not limited to, broom filters, broom wire, shoe runners and rubber deflectors.
4. Failures resulting from the machine being operated in a manner or for a purpose not recommended by ELGIN SWEEPER COMPANY.
5. Repairs, modifications or alterations without the consent of ELGIN SWEEPER COMPANY which, in the Company's sole judgment, have adversely affected the machine's stability or reliability.
6. Items subjected to misuse, negligence, accident or improper maintenance.

The use in the product of any part other than parts approved by ELGIN SWEEPER COMPANY may invalidate this warranty. ELGIN SWEEPER COMPANY reserves the right to determine, in its sole discretion, if the use of non-approved parts operates to invalidate the warranty.

Nothing contained in this warranty shall make ELGIN SWEEPER COMPANY liable for loss, injury, or damage of any kind to any person or entity resulting from any defect or failure in the machine.

**TO THE EXTENT LIMITED BY LAW, THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

This warranty is also in lieu of all other obligations or liabilities on the part of ELGIN SWEEPER COMPANY, including but not limited to, liability for incidental and consequential damages on the part of the Company or the seller.

ELGIN SWEEPER COMPANY makes no representation that the machine has the capacity to perform any functions other than as contained in the Company's written literature, catalogs or specifications accompanying delivery of the machine.

No person or affiliated company representative is authorized to give any other warranties or to assume any other liability on behalf of ELGIN SWEEPER COMPANY in connection with the sale, servicing or repair of any machine manufactured by the Company.

ELGIN SWEEPER COMPANY reserves the right to make design changes or improvements in its products without imposing any obligation upon itself to change or improve previously manufactured products.





# City of Canby

PO Box 930 Phone: 503.266.4021  
222 NE 2nd Ave Fax: 503.266.7961  
Canby, OR 97013 www.canbyoregon.gov

## *M E M O R A N D U M*

**TO:** *Honorable Mayor Hodson and City Council*  
**FROM:** *Rick Robinson*  
**DATE:** *August 7, 2019*

---

Issue: The Canby Parks and Recreation Advisory Board and City Council has identified as a priority the construction of a Splash Pad at Maple Street Park and approved a construction budget of \$400,000. Staff issued a Request for Proposals, receiving three responses. After reviewing the proposals Staff and the Parks and Recreation Advisory Board have recommended acceptance of the Proposal submitted by 2KG Contractors, Inc.

Synopsis: The Canby Parks and Recreation Advisory Board and City Council have identified the construction of a Splash Pad as one of its highest priorities. After reviewing the recommendation and evaluating possible locations, the City Council directed staff to prepare a Request for Proposals to construct the Splash Pad at Maple Street Park.

The City received proposals from T Edge Construction, Splash Zone, and 2KG Contractors, Inc. After reviewing the proposals and applying the scoring criteria established in the RFP, both staff and the Parks and Recreation Advisory Board have recommended the selection of 2KG Contractors, Inc. to construct the Splash Pad. 2KG Contractors, Inc. submitted three design concepts, ranging in price from \$344,752 to \$380,635. The recommendation of those reviewing the proposals is to select the "Grasslands" design alternative, at \$380,635. Of particular interest in this proposal was an understanding of Canby's designation as a "Garden Spot". The "Grasslands" design alternative, while the most costly of the three, did much to capture this philosophy. If approved, the Contractor would then prepare three design concepts using the "Grasslands" philosophy and staff would conduct a community meeting to provide for community involvement in the selection of the types of features to be included in the Splash Pad.

In reviewing the possible locations within Maple Street Park with the Parks and Recreation Advisory Board and Parks Staff, it was acknowledged that the tennis courts are seldom used because of large cracks that have been partially filled with asphalt, but which should be completely demolished

and new courts constructed. Our intent at this time is to have our Public Works staff remove the tennis courts, relocate them to the north of their current location as a new project during the 2021-22 fiscal year, and construct the Splash Pad and a seating area at the old tennis court site.

This proposed location is particularly beneficial since immediately to the south of the tennis court site is a childrens playground. This creates an opportunity to locate the Splash Pad in close proximity to the playground, making it possible for parents to view their children from a central location between the two park features. To take full advantage of this opportunity, staff is requesting that the existing budget be increased from the \$400,000 currently established to \$475,000. With the construction budget set at \$380,365, staff would work with the approximately \$95,000 contingency to address any change orders that might result from the community input meeting, and begin the design and construction of a covered seating area between the Splash Pad and the playground. The full project budget would be SDC eligible and our Finance Department would prepare a supplemental budget during the year to add the additional \$75,000 to the approved project budget.

The Splash Pad construction details, budget and an initial rendering of the “Grasslands” design option are included in Exhibit A to the Personal Services Agreement.

Recommendation: *Staff recommends the Council approve Ordinance 1518.*

Recommended Motion: ***“I move to approve Ordinance 1518, AN ORDINANCE ESTABLISHING A BUDGET OF \$475,000 FOR THE CONSTRUCTION OF A SPLASH PAD AND RELATED IMPROVEMENTS AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH 2KG CONTRACTORS, INC. FOR DESIGN AND CONSTRUCTION OF A SPLASH PAD AND RELATED IMPROVEMENTS, AND AUTHORIZING THE CITY ADMINISTRATOR TO APPROVE CHANGE ORDERS WITHIN THE ESTABLISHED BUDGET, AND TO SIGN THOSE OTHER DOCUMENTS REQUIRED FOR THE COMPLETION OF THE PROJECT, AND DECLARING AN EMERGENCY***

Attachments:

- Ordinance No. 1518
- Personal Services Agreement between City of Canby and 2KG Contractors, Inc
- Exhibit A to the Personal Services Agreement

## **ORDINANCE NO. 1518**

**AN ORDINANCE ESTABLISHING A BUDGET OF \$475,000 FOR THE CONSTRUCTION OF A SPLASH PAD AND RELATED IMPROVEMENTS AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH 2KG CONTRACTORS, INC. FOR DESIGN AND CONSTRUCTION OF A SPLASH PAD AND RELATED IMPROVEMENTS, AND AUTHORIZING THE CITY ADMINISTRATOR TO APPROVE CHANGE ORDERS WITHIN THE ESTABLISHED BUDGET, AND TO SIGN THOSE OTHER DOCUMENTS REQUIRED FOR THE COMPLETION OF THE PROJECT, AND DECLARING AN EMERGENCY**

**WHEREAS**, The city of Canby issued a Request for Proposals for design and construction services of a Splash Pad to be located at Maple Street Park; and

**WHEREAS**, The City received three proposals for the design and construction of a Splash Pad; and

**WHEREAS**, the three proposals were scored by City Staff and the Parks and Recreation Advisory Board using the scoring matrix provided in the Request for Proposals; and

**WHEREAS**, the proposal submitted by 2KG Contractors, Inc. was selected as the successful proposal; and

**WHEREAS**, the proposal submitted by 2KG Contractors, Inc. included three design concepts as required in the Request for Proposals, including the preferred "Grasslands" design concept proposal priced at \$380,635; and

**WHEREAS**, City staff have identified an opportunity to increase capacity in Maple Street Park and provide additional seating for park users immediately adjacent to the Splash Pad project and the existing playground.

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

**Section 1.** The City Administrator is hereby authorized and directed to make, execute, and declare in the name of the CITY OF CANBY and on its behalf, an appropriate Agreement with 2KG Contractors, Inc. for design and construction services in the amount of \$380,635. A copy of the Agreement with 2KG Contractors, Inc., including Exhibit A, is attached hereto and by this reference incorporated herein.

**Section 2.** The City Administrator is hereby authorized to approve change orders within the total established budget of \$475,000, and to sign those other documents required for the completion of the project.

**Section 3.** Due to the desire to have this project complete and available to the community by Memorial Day, 2020, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on August 7, 2019, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on August 21, 2019, commencing at the hour of 7:00 PM at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

---

Rick Robinson  
City Recorder Pro-Tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the August 21, 2019, by the following vote:

YEAS \_\_\_\_\_

NAYS \_\_\_\_\_

---

Brian Hodson  
Mayor

ATTEST:

---

Rick Robinson  
City Recorder Pro-Tem

## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the CITY OF CANBY (City) and 2KG Contractors, Inc.

- A. City requires services which Contractor is capable of providing, under terms and conditions hereinafter described.
- B. Contractor is able and prepared to provide such services as City requires, under those terms and conditions set forth.

The Parties Agree a Follows:

- 1. Scope of Services. Contractor's services under this Agreement are set forth in Exhibit "A", attached hereto.
- 2. Contractor Identification. Contractor shall furnish to City its employer identification number as designated by the Internal Revenue Service, or Contractor's Social Security Number, as City deems applicable. **Contractor understands it is required to obtain a City of Canby Business License for conducting business in the City. Contractor agrees to obtain a Canby Business License prior to commencing work under this contract.**
- 3. Compensation:
  - A. City agrees to pay Contractor according to the proposed rate schedule submitted with the Contractor's proposal. See Exhibit "A" attached hereto. Contractor agrees that \$380,635 is the not to exceed price of this contract, without prior written approval from the City.
  - B. City agrees to pay Contractor within 30 days after receipt of Contractor's itemized statement reporting completed work. Amounts disputed by the City may be withheld pending settlement.
  - C. City certifies that sufficient funds are available and authorized for expenditure to finance costs of the Agreement.
- 4. Contractor is Independent Contractor.
  - A. Contractor's services shall be provided under the general supervision of the City Administrator. Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Paragraph #3 of this Agreement.
  - B. Contractor certifies that it is either a carrier-insured employer or a self-insured employer as provided in Chapter 656 of the Oregon Revised

Statutes.

- C. Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City Employee has an interest, will or has received any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.
- 5. **Subcontractors and Assignment.** Contractor shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from City. City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any subcontract between Contractor and subcontractor shall require the subcontractor to comply with all terms and conditions this agreement as well as applicable OSHA regulations and requirements.
- 6. Work is Property of City. All work performed by Contractor under this Agreement shall be the property of the City. City agrees that the Contractor may use its work in other assignments if all City of Canby data and references are removed.
- 7. Term.
  - A. This Agreement may be terminated by:
    - 1. Mutual written consent of the parties.
    - 2. Either party, upon thirty (30) days written notice to the other, delivered by certified mail or in person.
    - 3. City, effective upon deliver of written notice to Contractor by certified mail, or in person, under any of the following:
      - a. If Contractor fails to provide services called for by this Agreement within the time specified or any extension thereof.
      - b. If Contractor fails to abide by the terms of this Agreement.
      - c. If services are no longer required.
- 8. Professional Standards. Contractor shall be responsible to the level of competency presently maintained by others practicing the same type of work in City's community, for the professional and technical soundness, accuracy and adequacy of all work and materials furnished under this authorization.

By entering into this agreement, contractor represents and warranties that they have complied with the tax laws of the State of Oregon and the City of Canby.

Further, for the duration of this contract, Contractor promises to continue to comply with said State and local tax laws. Any failure to comply with tax laws will be considered a default of this contract and could result in the immediate termination of this agreement and/or other sought damages or other such relief under applicable law.

9. Insurance. Insurance shall be maintained by the Contractor with the following limits:

A. For Comprehensive General Liability Insurance, Contractor shall provide a Certificate of Insurance naming the City of Canby as an additional named insured showing policy limits of not less than \$2,000,000 Combined Single Limit for Bodily Injury/Property Damage on an occurrence basis.

B. For Automobile Insurance, Contractor shall provide a Certificate of Insurance naming the City of Canby as an additional named insured showing policy limits of not less than \$2,000,000 Combined Single Limit for Bodily Injury/Property Damage on an occurrence basis for any vehicle used for City business or use otherwise related to this contract.

C. For Professional Liability—errors and omissions—a \$2,000,000 Combined Single Limit for Bodily Injury/Property Damage limit. **(Required for Architects, Appraisers, Attorneys, Consultants, Engineers, Planners, Programmers, etc.)**. For purposes of professional liability, Contractor shall provide proof of a Certificate of Insurance naming the City of Canby as a Certificate Holder.

D. For Worker's Compensation, Contractor shall provide a Certificate of Insurance naming the City of Canby as a Certificate Holder showing Worker's Compensation Insurance with statutory limits of coverage.

Procuring of such required insurance at the above-stated levels shall not be construed to limit the Contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, loss, or related costs caused by or related to Contractor's negligence or neglect connected with this Agreement.

10. Legal Expense. In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorneys fees, costs, and expenses as may be set by the court both at trial and all appeals there from.

11. Modifications. Any modification of the provisions of this Agreement shall be in writing and signed by the parties.

12. Notices. Any notice, bills, invoices, reports, or other documents required by this Agreement shall be sent by the parties by United States mail, postage paid, electronically, faxed, or personally delivered to the address below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing unless sooner received.
13. Entire Agreement. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.
14. Savings Clause. Should any provision of this Agreement be found to be in conflict with any federal or Oregon state law, or final controlling decision of any Court of competent jurisdiction, or ruling or decision of any controlling administrative agency, all other provisions of this Agreement shall remain in full force and effect.

CITY: City Administrator  
City of Canby  
PO Box 930  
Canby, OR 97013

CONTRACTOR: 2KG Contractors  
Mario Lipari,  
Owner/Secretary/Treasurer  
4917 NE 185<sup>th</sup> Drive  
Portland, OR 97230

Please submit invoices to: Attn: Accounts Payable  
City of Canby  
PO Box 930  
Canby, OR 97013  
ap@canbyoregon.gov

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers.

CONTRACTOR:

By:  sec/tre

Date: 7.25.19

CITY OF CANBY

By:

Date:



**Subcontractors will be used   X   Yes        No (If Yes, please complete List of Subcontractors attached to this Agreement)**

Approved as to Form:

\_\_\_\_\_  
Joseph Lindsay, City Attorney

## **LIST OF SUBCONTRACTORS**

*As per Section 5 of the Personal Services Agreement, the following businesses will be subcontractors. Subcontractors are required to have a City of Canby Business License prior to commencing work under this contract.*

Name of Business	Address	Phone	CCB#
------------------	---------	-------	------

**WHPacific 9755 SW Barnes Rd, Ste 300, Portland, OR 97225 503-626-0455**

**Anderson Poolworks 9500 SW Boeckman Rd, Wilsonville, OR 97070 503-625-5628**

**The City hereby approves the above listed subcontractors.**

# City of Canby

Date \_\_\_\_\_



Proposal for:  
**Maple Street Park Splash Pad**  
**City of Canby**

Located at: 1300 N Maple Street  
Canby, OR

Submitted:  
June 14, 2019



**WHPacific**





4917 N.E. 185th Drive • Portland, OR 97230 • (503) 489-2020 • Fax (503) 489-0990 • Oregon CCB # 80251

May 31, 2019

City of Canby  
222 NE 2<sup>nd</sup> Ave  
Canby, OR 97013  
Attn: City Administrator

Re: RFP – Professional Services for Design and Construction of Splash Pad

Mr. Robinson-

On behalf of all of us at 2KG Contractors, I would like to thank you for this opportunity to submit our proposal for the Maple Street Park Splash Pad. 2KG Contractors resume is filled with a history of public works contracts, from fire stations to wastewater treatment plants, as well as some unique structure building, including public swimming pools.

2KG Contractors Inc. is an S-Corporation, founded in 1989 that is equally owned by Kevin Folker – President, and Mario Lipari - Secretary /Treasurer. As the officers of the corporation we are granted authority to negotiate and execute agreements for the benefit of the company.

We are enthusiastically responding to this RFP while partnering with Anderson Poolworks, WHPacific, and Waterplay Solutions. 2KG's bonding and insurance are both underwritten by Travelers.

I believe we have a team that will deliver the project you have set out to build, while overcoming all the challenges associated with a project of this caliber.

Respectfully,

A handwritten signature in blue ink, appearing to read "Mario Lipari", is written over a horizontal line.

Mario Lipari  
Secretary/Treasurer



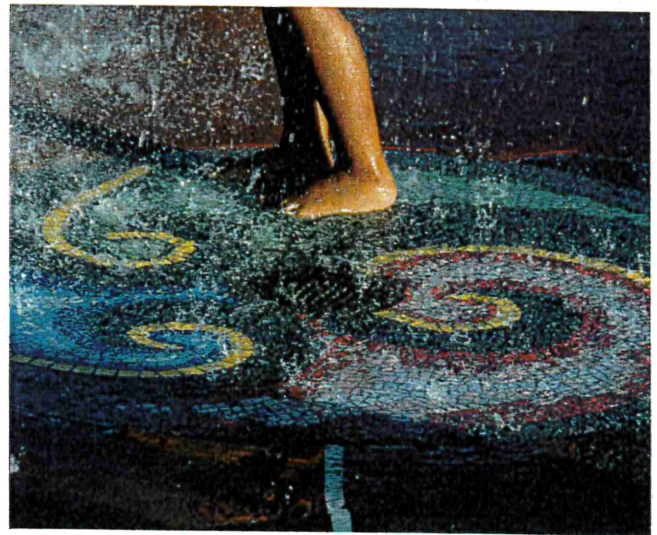
## Project Approach

Our team of 2KG Contractors, Anderson Poolworks, WHPacific, and Waterplay look forward to teaming with the City to bring your vision for a splash pad at Maple Street Park into reality. We will work with you to provide an iconic splash pad that meets the needs of the community while also being low-maintenance.

Waterplay has provided three design alternatives, on pages 4 through 9, for your review and selection. It is our understanding that the City will garner the community's involvement to choose a favorite design alternative. Once an alternative is chosen, the WHPacific design team will work with you to find the most appropriate location on the site for the splash pad, and will prepare scaled concept site plan options for the City's review. After review and design refinement, WHPacific will prepare construction documents for the splash pad, that will be used for permitting. Construction will begin in the early spring of 2020 for a scheduled grand opening date of Memorial Day 2020 for the project.

Our approach to the project will be to provide you with a splash pad that puts priority in:

- Meeting the needs of the community
- Low-maintenance design
- Meeting the highest safety and quality standards
- Multigenerational space for all ages and ability levels
- Encourage social, physical, cognitive and creative development through play
- Efficient and sustainable use of water through activation
- Durable, weather-resistant materials
- Self-contained design (no over-spray)
- Turn-key, easy to operate system



Our team understands the complexities of both design and construction of splash pads, as evidenced by our teams' experience. We have delivered successful splash pads for other local municipalities on a similar budget and scale. Since this splash pad project will be the first of its kind for the City, we appreciate the importance of providing you with support throughout the design and construction phase. We want to help you create an icon for the City's Parks and Recreation district, and leave you with a finished product that the community loves.



## Design Concepts

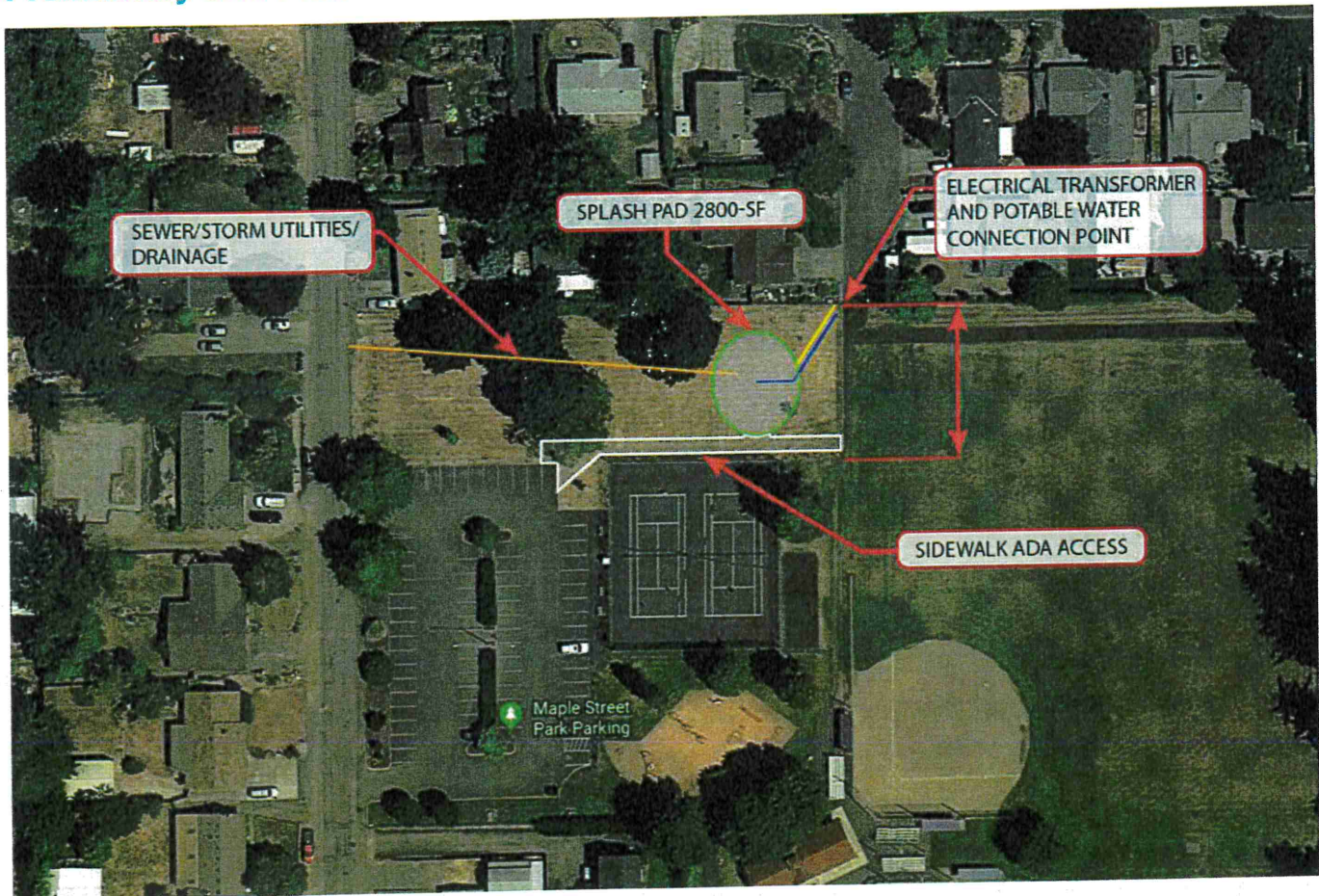
The City of Canby Splash Pad will be a fun, inclusive space for community members of all ages and abilities to enjoy. The three designs included in this proposal were created to encourage collaboration and allow for free, unstructured, explorative play in a safe environment—perfect for the whole family to enjoy.

The designs presented in this proposal meet sustainability best practices through the use of an activator which sequences the water through the space and turns off the water when not in use.

We hope you enjoy the designs presented in this proposal and look forward to helping make this project a reality.



## Preliminary Site Plan





## Splash Pad Vision

THE CURIOSITY AND WONDERMENT OF PLAY  
CREATES MOMENTS IN WHICH WATERPLAYERS  
BUILD THEIR FUTURE SELVES.

### Play paves the way for a stronger future.

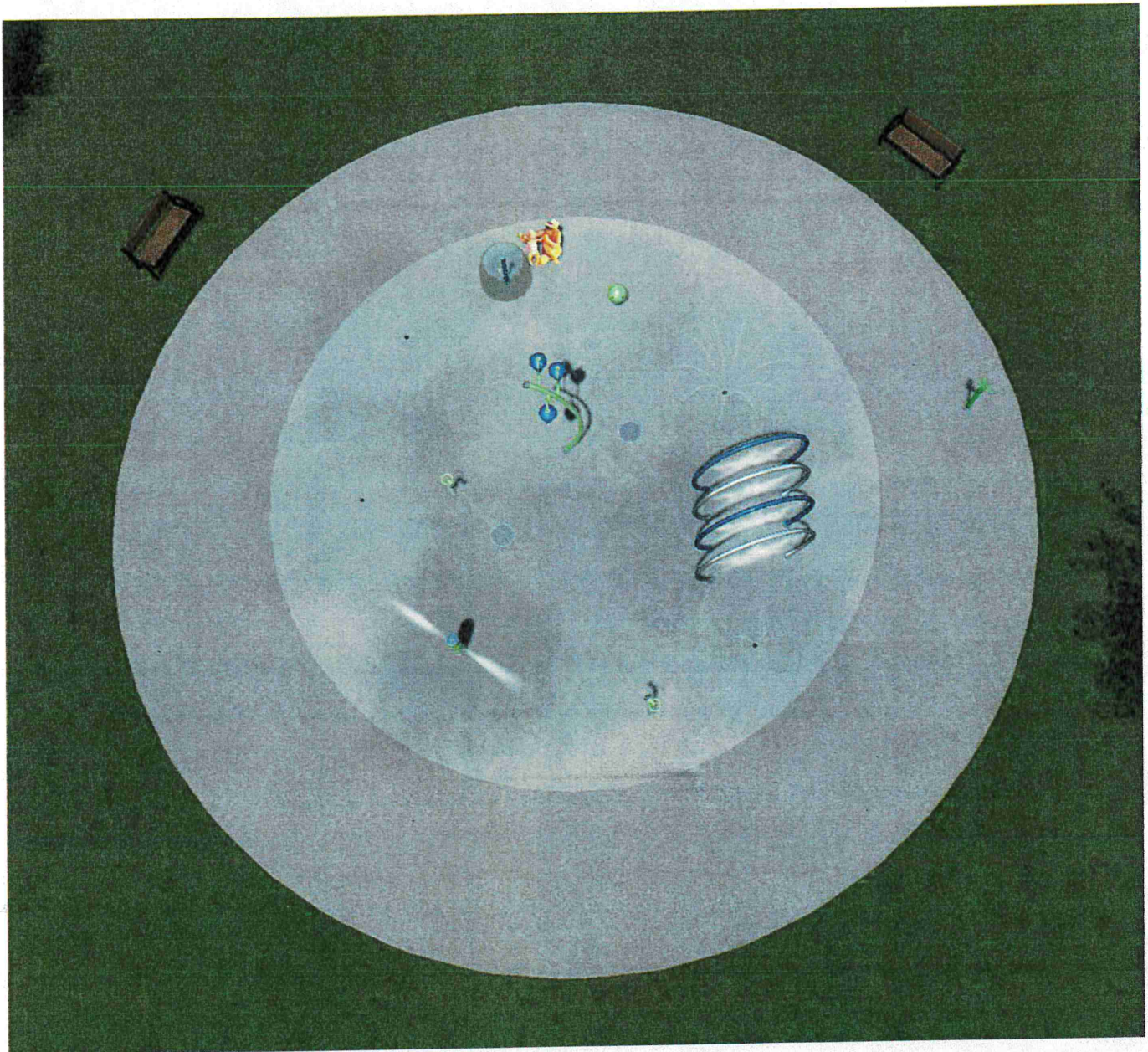
Your project supports cognitive  
and emotional learning, and  
physical well being through  
experiential play - creating a  
solid foundation for socially-  
adjusted, well adapted adults.

#### Your Project:

- Promotes STEM learning through investigative play elements.
- Encourages physical activity and full body range of motion: bending, reaching, pushing and pulling, and spinning.
- Ignites creativity and imagination through color, theming, and sensory experience.
- Unites waterplayers with opportunities to collaborate while simultaneously providing opportunities for more thoughtful, introspective play.



## **“Classic” Design Alternative - Plan View**



*Packed with play, this classic splash pad design features smooth curves and casual colors that complement any environment.*

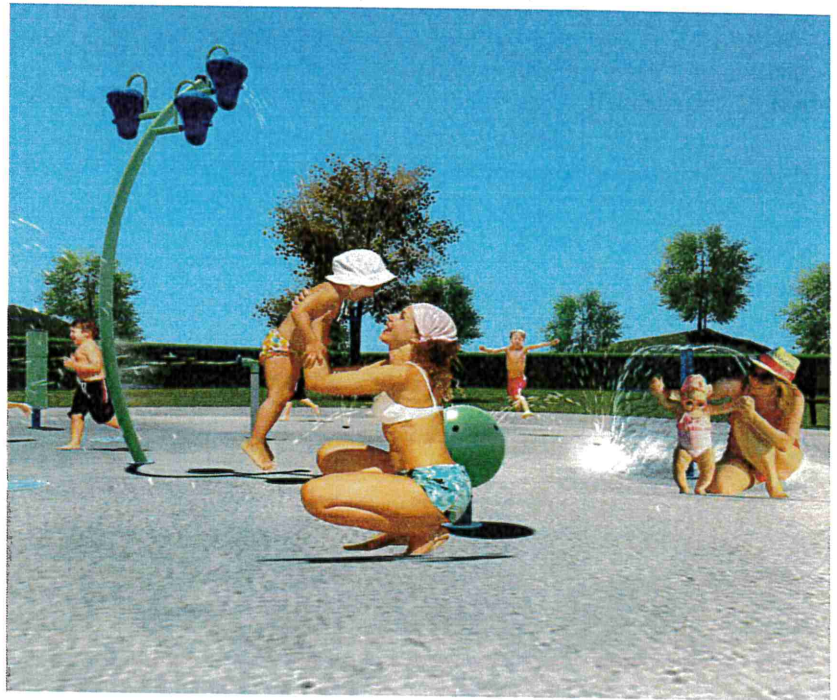




## **“Classic” Design Alternative - Perspective Views**



*Play features perfectly sized for toddlers and wide enough for wheelchairs encourage fully inclusive play environments.*





## **"Cirque" Design Alternative - Plan View**



*Bursting with imagination, the Cirque product collection delights waterplayers with a spectacular water show. Park goers can push, spin, plug and take aim with the different water elements throughout the space, keeping them coming back for more.*





## **“Cirque” Design Alternative - Perspective Views**



*Exciting visual elements and bright colors encourage creative play.*





## **"Grasslands" Design Alternative - Plan View**

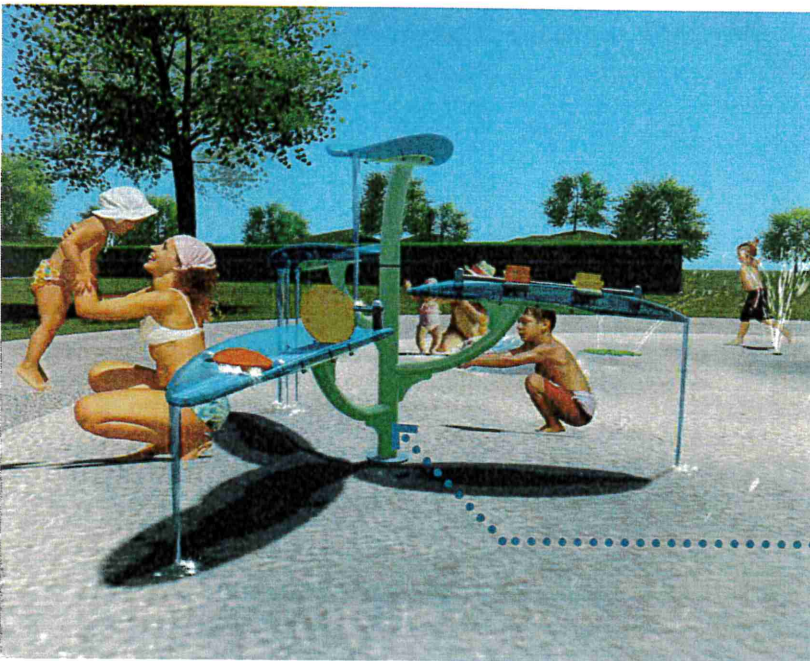


*The Grasslands product collection brings the beauty of nature to the splash pad with tall blades of dewy grass, whimsical wildflowers and waterfalls for an imaginative adventure.*





## "Grasslands" Design Alternative - Perspective Views



•• With the ability to host 16 users, the Waterfall 3 promotes STEM learning through thought-provoking experiential play.



## Splash Pad Vision

### *Spiny Squirt in "Classic"*

*A wonderful sensory experience  
for toddlers - and it spins!*



*The product sets the stage  
for adventure, exploration,  
and discovery.*

All three designs take into consideration various play styles and abilities in order to create a well-rounded play space perfect for careful toddlers, thrill seekers, those who like to tinker, and budding explorers.

### *Misty Twisty in "Classic"*

*With a graphic this  
feature becomes  
a spraying puzzle*



*Run through the  
Roue Cyr's arch  
or spin the nozzle  
to affect the  
flow of water.*

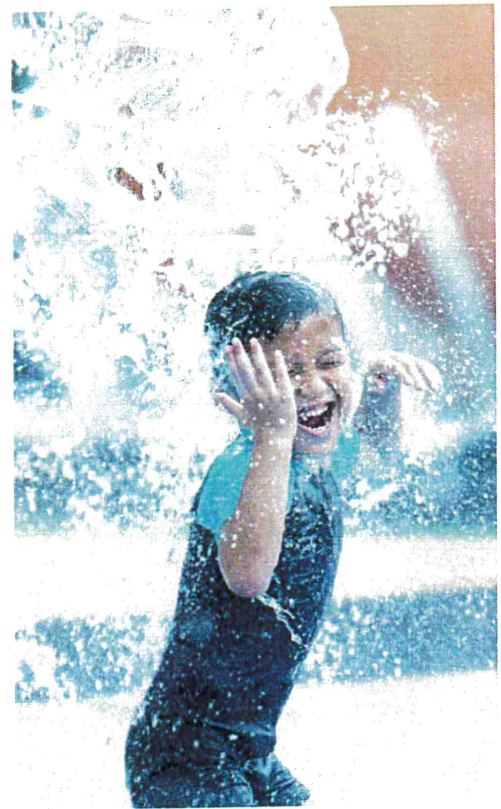


### *Roue Cyr in "Cirque"*

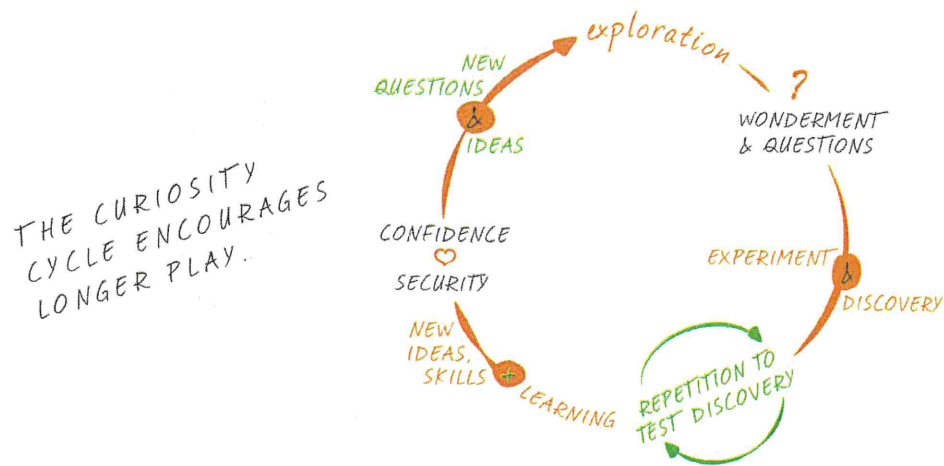
*The Waterfall 3  
is packed with  
tinkering parts  
for the engineer  
in all of us.*



### *Waterfall 3 in "Grasslands"*



## Inspiration



## EXPERIENCE

The true value of play comes from the experiences we have. When play is fun, stimulating and exciting for a child, growth and development flows naturally. Waterplay products focus on cognitive and emotional development, and physical well being—supporting the unique developmental stages of every waterplayer.

## SUSTAINABILITY

Our non-toxic materials and costings ensure safety for waterplayers and the environment. We are committed to designing products with low flow rates and optimized water use through activation, sequencing and water management best practices.

## INCLUSION

Our products are designed for maximum participation. Using universal design principals, ADA and ASTM safety standards, Waterplay creates rewarding play experiences for all ages and abilities.

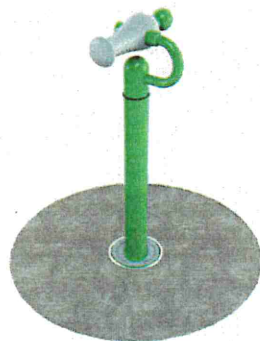




## Inspiration

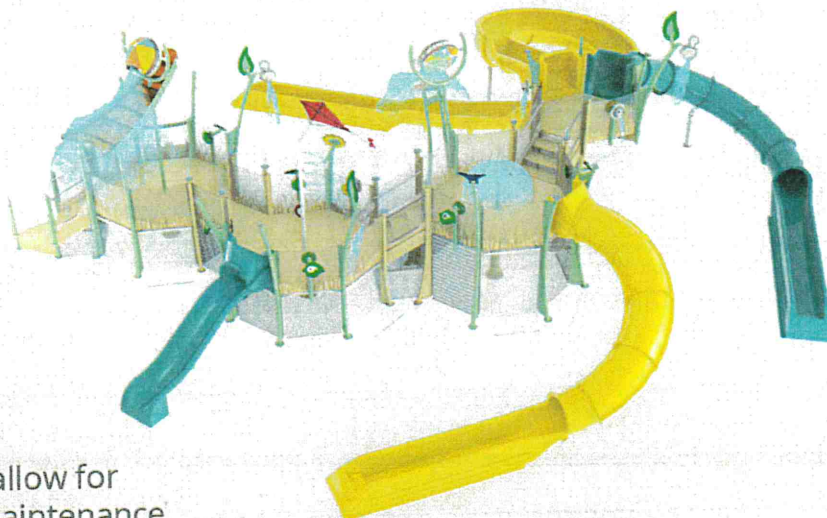
Design your space with the **future** in mind.

*Don't limit the possibilities of your next project. Phase your installation, swap out play features, plan for future expansions or even a complete retrofit. Waterplay's mounting systems simplify your ownership by providing added flexibility to your design throughout your project's lifecycle.*



**playPHASE™**

Flush-to-grade, removeable base.



**playCONNECT™**

Removable post features allow for flexibility and enhanced maintenance.

SIMPLIFY YOUR OWNERSHIP:

PHASE **SWAP** *EXPAND* maintain **RETROFIT**





## Investment

### warranty

Waterplay is proud to offer an industry-leading warranty that supports your project through it's lifecycle.

**25 years** | Stainless steel

**10 years** | Aluminum

**5 years** | Fiberglass and plastics

**2 years** | Hardware

### standards + sustainability

As an organization and manufacturer we're committed to making a difference both in-house and through the products we ship worldwide.

**ISO** | 9001 certified (quality management )

**ASTM F2461** | standard practice for manufacturing, construction, operation and maintenance of aquatic play equipment (created in collaboration with Waterplay®)

**ASTM F1487** | standard for consumer safety performance specification for playground equipment for public use

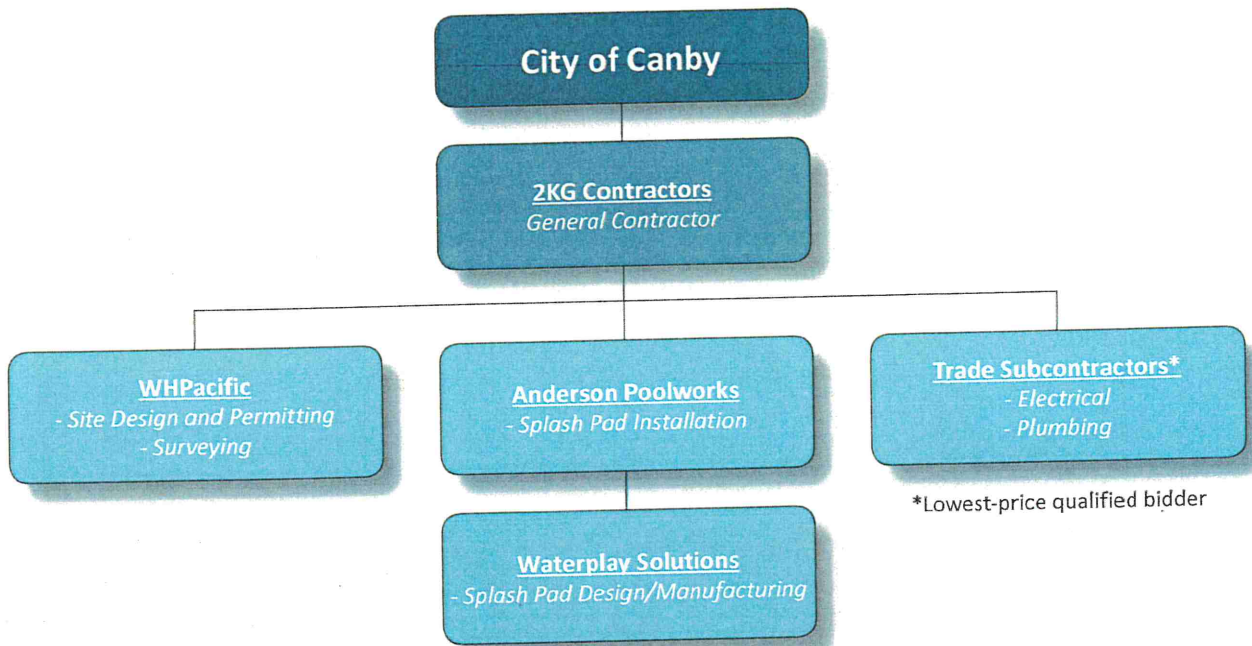
**ASTM F2376** | standard practice for classification, design, manufacturing, construction and operation of water slide systems

**CAN/CSA Z614** | standard for public-use play spaces and play equipment intended for use by children aged 18 months to 12 years

We actively reduce waste by sourcing recyclable materials with consideration to the amount that will be left unused. Our non-toxic materials and coatings ensure safety for waterplayers and the environment. We are committed to designing products with low flow rates and encouraging play spaces that optimize water use through activation, sequencing and water management best practices.

**ISO** | 14001 (environmental management)

## Contract Organization Chart



## Roles and Responsibilities

### 2KG Contractors

2KG will be the general contractor for the project, and prime consultant for the City. 2KG will subcontract the installation of the splash pad to Anderson Poolworks, as well as the electrical and plumbing work to the lowest qualified bidder in the spring of 2020. 2KG will self-perform:

- Site work
- Grading, earthwork, and erosion control
- Utility trenching and backfill
- Concrete

### WHPacific

WHPacific will work with the city to develop concept site plan alternatives for review, and then refine the design for final permit drawings. Since the project is expected to provide ADA accessibility, an existing conditions and topographic survey will be provided by WHPacific, in AutoCAD format, as the basis from which to begin design work.

### Anderson Poolworks

Anderson Poolworks will provide construction services for the splash pad, as designed by Waterplay. Maintenance training of the splash pad will be provided by Anderson Poolworks for city maintenance staff.





## Splash Pad Experience - Anderson Poolworks

### Centennial Park, Woodburn, Oregon

Approximately 2,400 sq. ft. flow-through splash pad with 17 water features offers one of the park's most popular venue for children of all ages. Running around a dragon fly, mushroom maze, jet ways, water cage, water fences makes hot summer days a joy for parents and children alike. A nearby concrete seating helps reduce imported debris thus resulting in decreased maintenance requirement of the debris trap.

**Contact:**

Jim Rowe, City Manager  
City of Woodburn  
503.982.5265



### Riverfront Splashpad, Salem, Oregon

Due to its popularity, it is advised to commission a splash pad during a cloudy day and whenever kids are possibly engaged in other activities. Such was the case with the Riverfront Splashpad, a 1,960 sq. ft., the park's main attraction on a summer day. Situated within walking distance to Salem's downtown shopping centers and a hop away from the equally trendy carousel, this splash pad is a kids' delightful spot to become drenched. Caution: towels may be necessary as the 17 water features are not meant to keep the young ones dry.

**Contact:**

JD Clarizio, City Manager  
City of Salem  
503.588.6396



## Additional Project References

Brandon Johnson Memorial  
Culver, Oregon

**Contact:** Cindy Dix, City Representative  
541.410.8022

Alderbrook Apartments  
Vancouver, Washington  
**Contact:** John Wyland  
503.209.7555

Thompson Park  
The Dalles, Oregon  
**Contact:** Scott Baker, N. Wasco  
County Parks and Rec Director  
541.410.8022



## Splash Pad Experience - WHPacific

### Walnut Street Park, Hillsboro, Oregon

WHPacific has provided landscape architecture and civil engineering services for improvements to the existing 2.5 acre Walnut Street Park in Hillsboro, Oregon. Improvements included a new splash pad facility along with associated grading, sidewalk and utility improvements. A new storm water LIDA swale was also constructed to treat new impervious areas.

#### Contact:

Mary Ordal, Project Manager  
Hillsboro Parks and Recreation  
503.681.6225  
mary.ordal@ci.hillsboro.or.us



### Magnolia Neighborhood Park, Hillsboro, Oregon

This new, 3.5-acre park features a zero-depth "spray-ground" water play feature, a play structure, custom, in-house-designed open-beam picnic shelter with barbecue facilities, a tennis court, sport court, and a sustainable rain garden. Placed at the top of the site, WHPacific designed a unique picnic shelter which establishes an *icon image* for the park. Waterplay designed the splash pad, dubbed a "silicone forest", with a zero-depth play pad and enviro-friendly water features.

#### Contact:

Mary Ordal, Project Manager  
Hillsboro Parks and Recreation  
503.681.6225  
mary.ordal@ci.hillsboro.or.us





## Experience - Waterplay Reference Project

### Rotary Spray Park, Fort St. John, Canada

A refurbished splash park, double the size of its predecessor, sprouts to life allowing park-goers a chance to enjoy the beauty of nature while playing with water!

Design:

- Raining leaves, splashing dew drops and friendly critters spur curious minds into action and complement the park setting.
- Squishy puddles bring the joy of rain to the play pad and a learning lab for exploration and discovery.
- Distinct play zones accommodate different styles of water play for all ages and abilities
- Smooth stones and shaded sitting areas create an attractive public space where the community can gather to relax, socialize and connect through play.

*"The park opened three weeks ago, with the planned grand opening delayed due to weather. Still, the park has seen no shortage of use, with an average of 100 residents dropping by every day!"*

- Lori Ackerman  
Mayor, Fort St. John City Council, British Columbia





## Scope of Design/Permitting Services

### Site Survey - WHPacific

WHPacific survey crew shall prepare a site survey map of the work area needed to develop drawings for this project. Surveyed information includes topography, utilities, paving, and vegetation. The site survey shall be generated in AutoCAD 2018, and will serve as the basis of the drawings listed below.

### Concept Site Plan Alternatives - WHPacific

WHPacific's Landscape Architecture Studio will develop two (2) concept-level site plan alternatives for the selected splash pad design. We will work with the City to show different options for how the splash pad can be located on the project site, and how access can be provided to it. We'll consider any future expansion that the City would like to account for. Based on feedback provided by the City, we will refine the design into one (1) plan for Construction Documents.

#### *Deliverables:*

- Two (2) scaled concept-level site plan alternatives
- One (1) design review meeting with the city (in person or web-conference)

### Construction Documents - WHPacific

WHPacific will prepare construction documents, stamped by a licensed landscape architect and/or civil engineer, that will be used for permitting. The list of drawings provided will include:

**Cover Sheet & General Information** – Prepare a site vicinity map with list of drawing sheets and legal site description.

**Existing Conditions Plan & Demolition Plan** - Review site survey provided by WHPacific survey crew. Identify items to be removed, salvaged, and preserved. Pavement and subgrade piping located in proximity to park improvements will require clear measures for protection and preservation.

**Site Plan** – Site plan to show materials and layout locations of splash pad, accessible pathway to the splash pad, re-seeding as required to establish lawn.

**Grading and Erosion Control Plan** – Create a grading plan showing the existing and proposed contours and spot elevations. Show necessary erosion control measures and include WES required details and notes for erosion control.

**Composite Utility Plan** – Prepare plan showing sewer and water connections to the new improvements. Sewer utilities include a drain system for the splash pad and conveyance piping for drainage. Electrical design will be design build by the electrical subconsultant, however, we will provide basic direction and show underground conduits as needed for the splash pad mechanics.

**Site Details** – As needed for construction of project components.

#### *Deliverables:*

- Cover Sheet & General Information
- Existing Conditions & Demolition Plan
- Site Plan
- Grading and Erosion Control Plan
- Composite Utility Plan
- Site Details

Paper plots and electronic files of all drawing sheets will be submitted to City of Canby. Drawings will be set up at 1 inch equals 20 feet scale on 22"x34" size sheets (or as required for permitting).



## Design Services Assumptions

1. Certified arborist services and/or tree inventory is/are not included.
2. Land Use Review and Land Use Application services are not included.
3. Public Outreach and Involvement is not included.
4. Street improvement design and traffic study is/are not included.
5. Irrigation design is not included.
6. Stormwater report is not included.
7. Site signage design is not included.
8. Structural design is not included.
9. Geotechnical report is not included.
10. As-Built/Record drawings are not included.
11. All design work will be completed in AutoCAD 2018.

## Scope of Construction Services

2KG Contractors shall self perform or subcontract all work as set forth in the RFP. The scope of work shall include:

**General Contractor Services** – Permit fees, project management/coordination, special inspections/testing, Division 1 miscellaneous items such as temporary fencing, disposal, and porta potty.

**Earthwork** – Clearing and grubbing of the project site, rough grading, erosion control measures, trenching and backfill, building pad excavation and compacting, and finish grading.

**Concrete** – Base preparation/compaction, formwork, sidewalks to splash pad, splash pad surface sloped to drain, equipment pad. All concrete to be standard spec broom-finish.

**Plumbing** – Cold water connection to existing potable service at the northeast corner of the project area, piping to splash pad.

**Sewer** – Collection in catch basin at center of splash pad, sewer to connect into Maple Street existing sewer drainage.

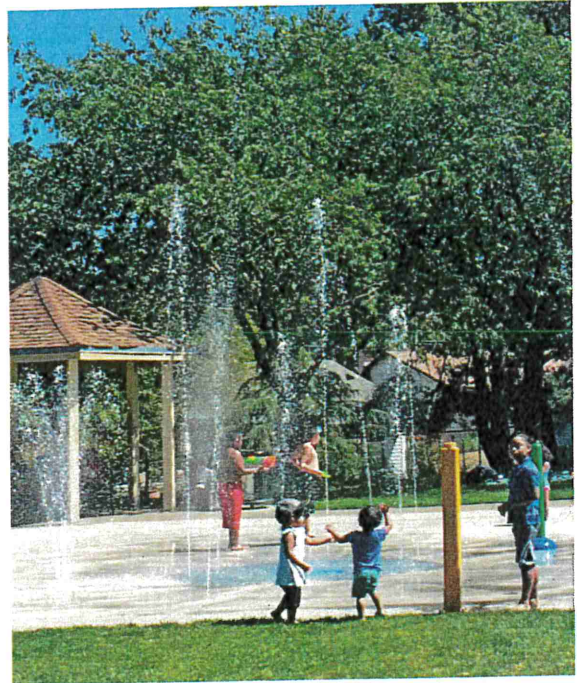
**Electrical** – Connection to existing electrical service at the northeast corner of the project area, power wiring to splash pad, water feature controller wiring, grounding and bonding, junction boxes as required.

**Splash Pad** – One (1) outdoor recreational spray park with a splash pad measuring approximately 2800 square feet, including splash pad components as shown in this proposal and as selected by the City, all water feature piping, valves, wiring, solenoids, unions, fittings, water feature manifold, drains, and controller. Commissioning will be including in our scope of services, including initial start-up, one-day training, operation and maintenance manuals, and manufacturer warranties.

## Construction Services Assumptions

1. Water supply will be from an existing potable water service roughly 200' NE of the splash pad location.
2. Electrical supply will be from an existing service roughly 200' NE of the splash pad location.
3. Sewer will connect to an existing sewer line at Maple Street.
4. SDC fees, if required, will be paid by the City.
5. The City will provide access to the project site.
6. If the City determines that the splash pad shall be located in place of the tennis courts, the City shall be responsible for the demolition permits, demolition, offhaul, and disposal of the tennis courts.





## Tentative Project Schedule

Below is the proposed project schedule, which includes individual stages of design, permitting, and construction. While the schedule may fluctuate from time to time, the important milestones should be met in order to keep the project on pace for its grand opening on May 25, 2020, Memorial Day.

TASK													
Contract Awarded	7/1												
Site Survey		8/7											
Community Engagement (by City of Canby)		8/7											
Concept Site Plans			9/9										
City Review (2 weeks)				9/23									
Final Site Plan and Construction Drawings					11/15								
Permitting								1/31					
Pre-Construction Meeting (scheduled by City)									2/7				
Construction Schedule												5/15	
Project Completion													Grand Opening: Memorial Day 5/25
	Jun-19	Jul-19	Aug-19	Sep-19	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	





## Proposed Total Cost

The fee is limited to completing the design and construction work as described in this proposal. We are providing a breakdown of our fees, to allow you to understand the full list of project costs we expect to incur:

### "Classic" Design Alternative

<b>General Contractor</b>	
Permits Allowance	\$5,000
Project Management/Coordination	\$10,000
Special Inspection/Testing	\$5,000
Div. 1 Misc (Temp fence, disposal, porta pots, etc)	\$5,000
<b>Earthwork</b>	
Erosion Control Measures	\$3,500
Sanitary Sewer	\$18,500
Clearing and Grubbing	\$4,500
Building Pad	\$5,000
Sidewalk (200LF x 5ft wide)	\$3,500
Site Restoration	\$15,000
AC Patching	\$2,500
<b>Concrete</b>	
Splash Pad	\$32,000
Equipment Pad	\$1,500
Sidewalk	\$10,000
<b>Subcontractors</b>	
Survey, Design, Construction Drawings (WHPacific)	\$25,000
Plumbing	\$15,000
Electrical	\$20,000
Splash Pad Installation (Anderson Poolworks)	\$65,000
Splash Pad System and Components (Waterplay)	\$61,265
<b>Subtotal</b>	<b>\$307,265</b>
Overhead and Profit (10%)	\$30,727
Bonding and Insurance (2%)	\$6,760
<b>Total</b>	<b>\$344,752</b>

### "Cirque" Design Alternative

Total (\$344,752 + \$8,081)	\$352,833
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### "Grasslands" Design Alternative

Total (\$344,752 + \$35,883)	\$380,635
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### Add Alternates (as requested)

Concrete seat wall 18" tall x 18" wide (price per linear foot)	\$75.00 LF
Additional Concrete paving 4" (price per square foot)	\$12.00 SF
Fixed bench (unit price)	\$1,000.00
Trash receptacle (unit price)	\$250.00

## Project Financing

Financing options are available for the splash pad components, to help bring the budget into focus. Please contact Waterplay Solutions Sales Support with any questions regarding project financing.



## Pick the payment that works for you and your customers

With Marlin's Pick-A-Payment program, your customers have the flexibility to match their financing plan with their budget. And we'll work by your side to ensure they get the equipment - and support - they need to keep pushing forward.

Equipment Cost	24 Mos.	36 Mos.	48 Mos.	60 Mos.
\$10,000	\$495	\$350	\$275	\$231
\$20,000	\$988	\$700	\$551	\$462
\$30,000	\$1447	\$1003	\$774	\$648
\$40,000	\$1930	\$1338	\$1032	\$864
\$50,000	\$2301	\$1561	\$1209	\$1000
\$60,000	\$2761	\$1873	\$1450	\$1203

\*Rates subject to change without notice.

### FINANCE APPLICATION

May we contact lessee if additional information is needed? ☐ YES ☐ NO

Full Legal Business Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_ Equip. Cost: \_\_\_\_\_

Equipment Description: \_\_\_\_\_

Equipment Address: \_\_\_\_\_

Business Phone: \_\_\_\_\_ Website: \_\_\_\_\_

Years Owned: \_\_\_\_\_ State of Organization: \_\_\_\_\_ Terms (mos.): \_\_\_\_\_

Email: \_\_\_\_\_ Dealer Contact: \_\_\_\_\_

Business Type: ☐ CORP. ☐ LLC ☐ PARTNERSHIP ☐ PROPRIETORSHIP

The person(s) supplying the above information certifies to Marlin Business Bank and its affiliates that it is true and correct. The Owners/Partners/Guarantors recognize that their individual credit histories may be a factor in the evaluation of the lease applicant and, thus, authorize Marlin Business Bank and its affiliates or its designee to investigate their personal credit status. This includes obtaining and using their consumer credit reports from time in the credit evaluation and collection processes.

X \_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

Questions about your Kompan Project? Contact:

WaterPlay Rep Name and contact info goes here

**KOMPAN**  
Let's play

Financing equipment  
has never been easier:

- Complete Project financing to include Equipment, Surfacing, Freight, and Installation
- \$0 Money Due at Signing
- Replace Worn and Damaged Existing Structures
- Add-on and up-grades made easy
- Does not affect Grants or Government subsidy programs

For financing information, please call:

Tony Ferrono at 856-505-4144 or email  
aferrono@marlincapitalssolution.com



Proposal: Maple Street Park Splash Pad  
June 14, 2019



## Project Contact Information

### 2KG Contractors

Mario Lipari  
Owner/Secretary/Treasurer  
mario@2kgcontractors.com  
503.489.2020

### WHPacific

Jon Champlin  
Landscape Architect/Project Manager  
jchamplin@whpacific.com  
503.372.3637

### Anderson Poolworks

Eduard Baba  
Estimator/Project Manager  
eddie@andersonpoolworks.com  
503.625.5628

### Waterplay Solutions

Sales Support  
Sean Hare  
sean.hare@waterplay.com  
205.712.3393 ext 137

Technical Support  
Jeff Scobie  
jeff.scobie@waterplay.com  
205.712.3393 ext 124

Post-Installation Specialist  
Aaron Schmidt  
aaron.schmidt@waterplay.com  
205.712.3393 ext 216

*We are here to help you navigate  
your project from concept to  
installation and beyond.*

**THANK YOU!**

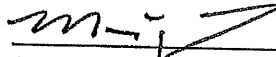
## PROPOSAL FORM

The undersigned Contractor agrees to provide a splash pad proposal in accordance with the specifications. I/We have stated herein the proposal and fees that I/We will furnish and deliver as specified.

The City of Canby reserves the right to cancel any agreement in the event that terms of this agreement are violated.

2KG CONTRACTORS

Name of Contractor  
(Person, Firm, Corp)



Signature of Authorized Representative

4917 NE 185th DRIVE

Address

MARIO LIPARI SEC/TRES

Name and Title (Please Print)

PORTLAND, OR 97230

Address

5.31.19

Date

503. 489. 2020

Telephone Number

MARIO@2KGCONTRACTORS.COM

E-Mail Address

LIST OF SUBCONTRACTORS

*As per Section 5 of the Personal Services Agreement, the following businesses will be subcontractors. Subcontractors are required to have a City of Canby Business License prior to commencing work under this contract.*

[illegible]

**The City hereby approves the above listed subcontractors.**

City of Canby

Date \_\_\_\_\_

Waterplay has completed more than 3000 spray park projects world wide,  
below is a list of notable projects for our parks in Washington



Titlow Park, Tacoma, WA (2012)



Angel Lake Park, Seatac, WA (2013)



Northacres, Seattle, WA (2011)

### Waterplay Installs • Washington



Henry Mosses Pool, Renton, WA (2013)





## Waterplay Installs • Washington



Edmonds City Park,  
Edmonds (2015)



Beacon Mountain Park,  
Seattle (2012)



Franklin Park,  
Tacoma (2013)

Cordata Community Park, Bellingham, WA (2019)

Airway Heights (2019)  
Spokane

Yakima Valley YMCA (2019)  
Yakima, WA

Yesler Park  
Seattle (2018)

Edgecliff Park  
Spokane, WA (2017)

Downtown Park  
Redmond (2017)

Burien Town Square  
Burien (2017)

Redmond Aquatic Play Pad,  
Redmond (2018)

Inspiration Playground  
Bellevue (2016)

Nelson Farm, Suncadia Resort  
Cle Elum (2016)

Edmonds City Park  
Edmonds (2015)

Reaney Pool  
Pullman (2015)

Pioneer Park  
Puyallup (2014)

Henry Mosses Aquatic Centre  
Renton (2013)

Angle Lake Park  
Seatac (2013)

Holley Park  
La Center (2013)

Kimbrow Pool Features  
Fort Lewis (2012)

Lewis McChord AFB  
Tacoma (2012)

Franklin Park  
Tacoma (2013)

Titlow Park  
Tacoma (2012)

Tom Taylor YMCA  
Gig Harbor (2012)

Beacon Mountain Park at Jefferson  
Seattle (2012)

Georgetown Park,  
Seattle (2012)

Tri Cities Court Club  
Kennewick (2012)

Greenacres Park  
Spokane (2012)

Northacres Park  
Seattle (2011)

Columbia Park  
Kennewick (2008)

Woodland Park Zoo  
Seattle (2008)

Greenstone- Grandview Spray Park,  
Spokane (2007)

Shadle Spray Park,  
Spokane WA (2007)

John C. Little Sr.,  
Seattle (2007)

Bainbridge Island Aquatic Centre  
Bainbridge island (2006)

Grandview Residential  
Spokane (2006)

Please contact Waterplay for specific locations or for park owner and designer information

## Waterplay Installs • Washington

PAGE 3



Holley Park  
La Center (2013)



Pioneer Park  
Puyallup (2014)



Shadle Park  
Spokane(2007)

Please contact Waterplay for specific locations or for park owner and designer information





# City of Canby

PO Box 930 Phone: 503.266.4021  
222 NE 2nd Ave Fax: 503.266.7961  
Canby, OR 97013 www.canbyoregon.gov

## MEMORANDUM

**TO:** *Honorable Mayor Hodson and City Council*  
**FROM:** *Rick Robinson*  
**DATE:** *August 7, 2019*

Issue: Legacy Park is equipped with an all-weather surface over a portion of the improved park. The surface, installed a number of years ago, is beginning to fail and the replacement of the surface has been budgeted in the 2019-20 FY adopted budget. Parks staff have received two proposals for the replacement of the surface, with a low proposal of \$81,905.00. Staff is requesting an emergency declaration to allow an adequate construction period prior to the rainy season.

Synopsis: Parks staff have identified the replacement of the all-weather surface at Legacy Park as a priority project in the 2019-20 fiscal year. The existing surface which was installed a number of years ago is beginning to fail, and the replacement of the surface has been budgeted in the 2019-20 FY adopted budget.

Parks staff have received two proposals for the replacement of the surface, ranging in cost from \$81,905.00 to \$102,857.14. The low proposal of \$81,905.00 was submitted by Landscape Structures, Inc.

Staff is requesting an emergency declaration to allow an adequate construction period prior to the rainy season.

Recommendation: *Staff recommends the Council approve Ordinance 1519.*

Recommended Motion: ***"I move to approve Ordinance 1519, AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH LANDSCAPE STRUCTURES, INC, IN THE AMOUNT OF \$81,905.00, AND DECLARING AN EMERGENCY***

Attachments:

- Ordinance No. 1519
- Personal Services Agreement between City of Canby and Landscape Structures, Inc.
- Exhibit A to the Personal Services Agreement

## ORDINANCE NO. 1519

### **AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH LANDSCAPE STRUCTURES, INC, IN THE AMOUNT OF \$81,905.00, AND DECLARING AN EMERGENCY**

**WHEREAS**, The City received two proposals for the replacement of the all-weather surface at Legacy Park; and

**WHEREAS**, the two proposals for the replacement of the surface ranged in cost from \$81,905.00 to \$102,857.14; and

**WHEREAS**, the proposal submitted by Landscape Structures, Inc. was the low responsive proposal, priced at \$81,905; and

**WHEREAS**, pricing for the materials for the improvements was included in State Contract #6484; and

**WHEREAS**, an emergency has been declared in order to complete the installation of the all-weather surface prior to the rainy season in Canby, assuring the availability of a safe all-season surface for Canby's residents.

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

**Section 1.** The City Administrator is hereby authorized and directed to make, execute, and declare in the name of the CITY OF CANBY and on its behalf, an appropriate Agreement with Landscape Structures, Inc. construction services in the amount of \$81,905.00. A copy of the Agreement with Landscape Structures, Inc., including Exhibit A, is attached hereto and by this reference incorporated herein.

**Section 2.** Due to the desire to have a safe all-season surface available to Canby residents prior to the upcoming rainy season, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on August 7, 2019, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on August 21, 2019, commencing at the hour of 7:00 PM at the Council Meeting Chambers located at 222 NE 2<sup>nd</sup> Avenue, 1<sup>st</sup> Floor, Canby, Oregon.

---

Rick Robinson  
City Recorder Pro-Tem

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the August 21, 2019, by the following vote: .

YEAS \_\_\_\_\_

NAYS \_\_\_\_\_

---

Brian Hodson  
Mayor

ATTEST:

---

Rick Robinson  
City Recorder Pro-Tem

## PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between the CITY OF CANBY (City) and Landscape Structures, Inc. (Contractor).

- A. City requires services which Contractor is capable of providing, under terms and conditions hereinafter described.
- B. Contractor is able and prepared to provide such services as City requires, under those terms and conditions set forth.

The Parties Agree a Follows:

- 1. Scope of Services. Contractor's services under this Agreement are set forth in Exhibit "A", attached hereto.
- 2. Contractor Identification. Contractor shall furnish to City its employer identification number as designated by the Internal Revenue Service, or Contractor's Social Security Number, as City deems applicable. **Contractor understands it is required to obtain a City of Canby Business License for conducting business in the City. Contractor agrees to obtain a Canby Business License prior to commencing work under this contract.**
- 3. Compensation:
  - A. City agrees to pay Contractor according to the proposed rate schedule submitted with the Contractor's proposal. See Exhibit "A" attached hereto. Contractor agrees that \$81,905.00 the not to exceed price of this contract, without prior written approval from the City.
  - B. City agrees to pay Contractor within 30 days after receipt of Contractor's itemized statement reporting completed work. Amounts disputed by the City may be withheld pending settlement.
  - C. City certifies that sufficient funds are available and authorized for expenditure to finance costs of the Agreement.
- 4. Contractor is Independent Contractor.
  - A. Contractor's services shall be provided under the general supervision of the City Administrator. Contractor shall be an independent contractor for all purposes and shall be entitled to no compensation other than the compensation provided for under Paragraph #3 of this Agreement.
  - B. Contractor certifies that it is either a carrier-insured employer or a self-

insured employer as provided in Chapter 656 of the Oregon Revised Statutes.

- C. Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City Employee has an interest, will or has received any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this contract, except as specifically declared in writing.

5. **Subcontractors and Assignment.** Contractor shall neither subcontract any of the work, nor assign any rights acquired hereunder, without obtaining prior written approval from City. City, by this Agreement, incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any subcontract between Contractor and subcontractor shall require the subcontractor to comply with all terms and conditions this agreement as well as applicable OSHA regulations and requirements.

6. Work is Property of City. All work performed by Contractor under this Agreement shall be the property of the City. City agrees that the Contractor may use its work in other assignments if all City of Canby data and references are removed.

7. Term.

- A. This Agreement may be terminated by:

1. Mutual written consent of the parties.
2. Either party, upon thirty (30) days written notice to the other, delivered by certified mail or in person.
3. City, effective upon deliver of written notice to Contractor by certified mail, or in person, under any of the following:
  - a. If Contractor fails to provide services called for by this Agreement within the time specified or any extension thereof.
  - b. If Contractor fails to abide by the terms of this Agreement.
  - c. If services are no longer required.

8. Professional Standards. Contractor shall be responsible to the level of competency presently maintained by others practicing the same type of work in City's community, for the professional and technical soundness, accuracy and adequacy of all work and materials furnished under this authorization.

By entering into this agreement, contractor represents and warranties that they have complied with the tax laws of the State of Oregon and the City of Canby.

Further, for the duration of this contract, Contractor promises to continue to comply with said State and local tax laws. Any failure to comply with tax laws will be considered a default of this contract and could result in the immediate termination of this agreement and/or other sought damages or other such relief under applicable law.

9. Insurance. Insurance shall be maintained by the Contractor with the following limits:
  - A. For Comprehensive General Liability Insurance, Contractor shall provide a Certificate of Insurance naming the City of Canby as an additional named insured showing policy limits of not less than \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage on an occurrence basis.
  - B. For Automobile Insurance, Contractor shall provide a Certificate of Insurance naming the City of Canby as an additional named insured showing policy limits of not less than \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage on an occurrence basis for any vehicle used for City business or use otherwise related to this contract.
  - C. For Professional Liability—errors and omissions—a \$1,000,000 Combined Single Limit for Bodily Injury/Property Damage limit. **(Required for Architects, Appraisers, Attorneys, Consultants, Engineers, Planners, Programmers, etc.)**. For purposes of professional liability, Contractor shall provide proof of a Certificate of Insurance naming the City of Canby as a Certificate Holder.
  - D. For Worker's Compensation, Contractor shall provide a Certificate of Insurance naming the City of Canby as a Certificate Holder showing Worker's Compensation Insurance with statutory limits of coverage.

Procuring of such required insurance at the above-stated levels shall not be construed to limit the Contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, loss, or related costs caused by or related to Contractor's negligence or neglect connected with this Agreement.
10. Legal Expense. In the event legal action is brought by City or Contractor against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for attorneys fees, costs, and expenses as may be set by the court both at trial and all appeals there from.
11. Modifications. Any modification of the provisions of this Agreement shall be in writing and signed by the parties.

12. Notices. Any notice, bills, invoices, reports, or other documents required by this Agreement shall be sent by the parties by United States mail, postage paid, electronically, faxed, or personally delivered to the address below. All notices shall be in writing and shall be effective when delivered. If mailed, notices shall be deemed effective forty-eight (48) hours after mailing unless sooner received.
13. Entire Agreement. This Agreement contains the entire understanding of the parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Agreement.
14. Savings Clause. Should any provision of this Agreement be found to be in conflict with any federal or Oregon state law, or final controlling decision of any Court of competent jurisdiction, or ruling or decision of any controlling administrative agency, all other provisions of this Agreement shall remain in full force and effect.

CITY: Rick Robinson, City Administrator  
City of Canby  
PO Box 930  
Canby, OR 97013

CONTRACTOR: Landscape Structures, Inc  
601 7<sup>th</sup> Street South  
Delano, MN 55326

**Please submit invoices to: Attn: Accounts Payable  
City of Canby  
PO Box 930  
Canby, OR 97013  
ap@canbyoregon.gov**

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers.

**CONTRACTOR: CITY OF CANBY**

By: By:

Date: Date:

**Subcontractors will be used \_\_\_\_ Yes \_\_\_\_ No (If Yes, please complete List of Subcontractors attached to this Agreement)**

Approved as to Form:

\_\_\_\_\_  
Joseph Lindsay, City Attorney

11/6/15

## LIST OF SUBCONTRACTORS

*As per Section 5 of the Personal Services Agreement, the following businesses will be subcontractors. Subcontractors are required to have a City of Canby Business License prior to commencing work under this contract.*

[illegible]

**The City hereby approves the above listed subcontractors.**

## City of Canby

Date \_\_\_\_\_



# EXHIBIT A

## Landscape Structures Representative

Ben Stanford  
Ross Recreation Equipment, Inc.

503-432-8950  
bens@rossrec.com

### Prepared For:

Contact Name Jeff Snyder  
Bill To Name City of Canby  
Bill To 182 N. Holly Street  
P.O. Box 930  
Canby, Oregon 97013  
United States

Phone (503) 266-4021 x 232  
Ship To Name City of Canby  
Ship To 1470 NE Territorial Road  
Canby, Oregon 97013  
United States



HGAC Contract # PR 11-18

ALL PURCHASE ORDERS, CONTRACTS, AND  
CHECKS TO BE MADE OUT TO:

LANDSCAPE STRUCTURES, INC.  
601 7TH STREET SOUTH  
DELANO, MN 55328 U.S.A.

763-972-3391 800-328-0035  
Fax: 763-972-3185

Quote Name Surface America PIP for 3,840 Sq Ft  
Opportunity Name Legacy Park Surfacing  
Quote Number 00029769

Quote Date 7/1/2019  
Quote Exp Date 10/1/2019  
Est Lead Time 2-4 weeks

Quantity	Product	Product Description	Sales Price	Total Price
1.00	Install-Rubber Surfacing	Installation of Surface America Poured-in-Place rubberized surfacing for 3,840 square feet at a 3-1/2" thickness by a manufacturer certified installer. Price does not include sub-base preparation, drainage, design work or inspections.  General contractor is responsible for verifying that quoted material meets all details and that sub-base is prepared at the proper hold down from finish grade. Surfacing will be installed to follow slope of the sub base and thickness of safety surfacing quoted to be kept consistent; surfacing will not be installed thicker over drains unless requested. Please advise if installation is to be installed in any other manner so quote can be adjusted. Thicknesses installed to meet industry standards for ASTM testing of 1000 HIC/ 200GMax. *Installations over 2,000 sf will have seams in the finished surface.	\$24,230.00	\$24,230.00
1.00	Installation	Receive and Offload materials  Demo and Disposal of existing tiles	\$1,760.00	\$1,760.00
1.00	Site Work	**Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.  Surface America Poured-In-Place Rubber surfacing materials: ~Square Footage: 3,840 sf ~Thickness: 3-1/2" (per 8' CFH of play equipment) ~Binder: Standard Aromatic Binder ~Color: 50% Color & 50% Black speckled mix	\$8,426.00	\$8,426.00
1.00	Surface America PIP Rubber	*Teal, Yellow, Purple, and Primary Red are considered premium colors, if any are used for more than 25% of the color mix, an additional materials charge will apply. *Any change in color, thickness, square footage or binder type will require a change order. Contractors bidding are responsible to verify that quoted material meets the project requirements. *Does not include sub-base materials. Acceptable sub-base materials include: Concrete, Asphalt, or Crushed Stone. More details available upon request.	\$41,329.00	\$41,329.00

\*It is the responsibility of the General Contractor to verify all colors and square footage prior to placing an order. Any revision to materials will require a revised quote and may result in a price increase.

\*Thicknesses quoted to meet industry standards for ASTM testing of 1000 HIC/200GMax.

Materials Amount	\$41,329.00
Tax Amount	\$0.00
Labor Total	\$34,416.00
Freight Amount	\$6,160.00
Total	\$81,905.00

#### Notes to Customer

SIGNATURE BELOW ACCEPTING THIS PROPOSAL WILL CONSTITUTE A PURCHASE ORDER ONLY UPON APPROVAL BY LANDSCAPE STRUCTURES, INC. CUSTOMER RECEIPT OF AN ORDER ACKNOWLEDGEMENT CONSTITUTES SUCH APPROVAL.

Signature \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Thank you for the opportunity to quote your upcoming project. PLEASE NOTE: quote does not include installation, offload, payment and performance bonds, engineering calculations, security, storage, permits, inspection, or safety surfacing unless otherwise noted.

Deposits may be required before order can be placed depending on customer credit terms. Your purchase is subject to the terms and conditions of this quote, approval of this quote agrees to those terms.

If ordering materials after the expiration date, please add 3-6% annually to materials for anticipated price increase. If this is for a BID, it is the responsibility of the General Contractor bidding to adjust their bid to accommodate anticipated pricing. Please also note that sales tax will be based on the current rate at the time of shipping, not order date. Customer will be expected to cover these taxes.

**HGACBuy**