



Oregon  
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development  
635 Capitol Street, Suite 150  
Salem, OR 97301-2540  
(503) 373-0050  
Fax (503) 378-5518  
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

03/01/2013

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Canby Plan Amendment  
DLCD File Number 004-12

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, March 14, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Angie Lehnert, City of Canby  
Gordon Howard, DLCD Urban Planning Specialist  
Jennifer Donnelly, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

# Notice of Adoption

In person  electronic  mailed

DATE  
STAMP

DEPT OF  
FEB 22 2013  
LAND CONSERVATION  
AND DEVELOPMENT  
For Office Use Only

This Form 2 must be mailed to DLCD within **20-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Canby**

Local file number: **TA 12-02**

Date of Adoption: **2/20/13**

Date Mailed: **2/21/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 9/1/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

This text amendment consists of numerous revisions, including overall grammatical corrections, overall language clarifications, clarification of application and review procedures, clarification of the duties of the Planning Director, clarification and modifications of various design standards, clarification and alteration of sign standards, alteration of lighting standards, clarification that establishment of the Site and Design Review Board is optional and that the Planning Commission serves as the Site and Design Review Board when no separate Site and Design Review Board is appointed, omission of outdated solar access/balance standards, and alteration of the membership and appointment requirements of the Historic Review Board. The amendments to Title 16 of the Canby Municipal Code, the *Canby Land Development and Planning Ordinance* are attached in; additions are highlighted in yellow and omissions are highlighted in yellow and have strikethrough.

Does the Adoption differ from proposal? Yes

Wording changes and additional code clarifications.

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **N/A**

Acres Involved: **N/A**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

None

---

Local Contact person (name and title): **Angie Lehnert, Associate Planner**

Phone: **503-266-70**

Extension: **262**

Address: **111 NW 2nd Avenue**

City: **Canby**

Zip: **97013**

Fax Number:

E-mail Address: **lehnerta@ci.canby.or.us**

---

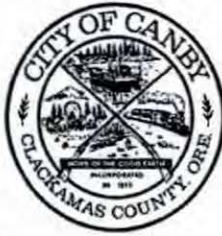
## ADOPTION SUBMITTAL REQUIREMENTS

**This Form 2 must be received by DLCD no later than 20 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18**

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail **plan.amendments@state.or.us**.



BEFORE THE CITY COUNCIL  
OF THE  
CITY OF CANBY

AN APPLICATION TO AMEND THE ) FINDINGS, CONCLUSION & RECOMMENDATION  
CANBY MUNICIPAL CODE, CHAPTER ) TA 12-02  
16 OF THE LAND DEVELOPMENT ) City of Canby  
AND PLANNING ORDINANCE )

**NATURE OF APPLICATION**

The City of Canby initiated amendments to the text of the Title 16 of the Canby Municipal Code, the *Canby Land Development and Planning Ordinance*, in order to improve the development process in Canby and clarify the requirements of Title 16. This text amendment consists of numerous revisions, including overall grammatical corrections, overall language clarifications, clarification of application and review procedures, clarification of the duties of the Planning Director, clarification and modifications of various design standards, clarification and alteration of sign standards, alteration of lighting standards, clarification that establishment of the Site and Design Review Board is optional and that the Planning Commission serves as the Site and Design Review Board when no separate Site and Design Review Board is appointed, omission of outdated solar access/balance standards, and alteration of the membership and appointment requirements of the Historic Review Board.

**CRITERIA AND STANDARDS**

In judging whether or not this legislative land use amendment of Title 16 of the Canby Municipal Code should be amended, the Planning Commission and City Council must consider criteria from Chapter 16.88 of the *Land Development and Planning Ordinance*:

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

**FINDINGS AND REASONS**

The Planning Commission held public hearings on December 10, 2012 and January 14, 2013, and the City Council held a public hearing on February 6, 2013, during which the staff report was presented. The Planning Commission recommended approval of the proposed text amendments.

Therefore, the City Council adopted the findings contained in the TA 12-02 staff report dated February 6, 2013, and concluded that the text amendment meets all of the approval criteria, as reflected in the written Order below.

**CONCLUSION**

The Canby City Council concludes that the proposed amendment complies with the Comprehensive Plan of the city, and the plans and policies of the county, state, and local districts, and will preserve functions and local aspects of land conservation and development.

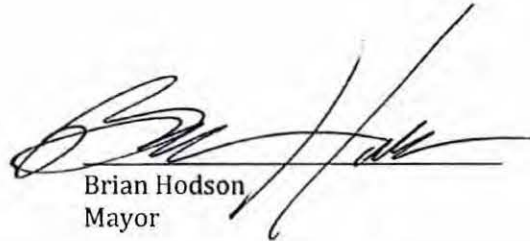
**ORDER**

**THE CANBY CITY COUNCIL HEREBY APPROVES TA 12-02.**

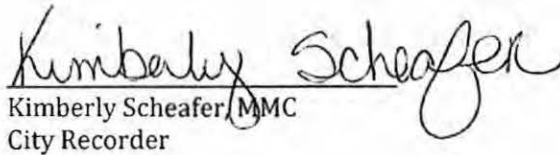
**I CERTIFY THAT THIS ORDER** approving **TA 12-02** was presented to and **APPROVED** by the Canby City Council.

AYES: 5  
NOES: 0

**DATED** this 6<sup>th</sup> day of February 2013.

  
Brian Hodson  
Mayor

**ATTEST:**

  
Kimberly Scheafer, MMC  
City Recorder

**ORDINANCE NO. 1369**

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

**WHEREAS**, the City of Canby initiated amendments to the text of Title 16 of the Canby Municipal Code, the *Canby Land Development and Planning Ordinance*, in order to improve the development process in Canby and clarify the requirements of the Title 16. This text amendment consists of numerous revisions, including overall grammatical corrections, overall language clarifications, clarification of application and review procedures, clarification of the duties of the Planning Director, clarification and modifications of various design standards, clarification and alteration of sign standards, alteration of lighting standards, clarification that establishment of the Site and Design Review Board is optional and that the Planning Commission serves as the Site and Design Review Board when no separate Site and Design Review Board is appointed, omission of outdated solar access/balance standards, and alteration of the membership and appointment requirements of the Historic Review Board. The amendments to Title 16 of the Canby Municipal Code, the *Canby Land Development and Planning Ordinance* are attached in Exhibit A; additions are highlighted in yellow and omissions are highlighted in yellow and have strikethrough.

**WHEREAS**, the Planning Commission held public hearings on December 10, 2012, and January 14, 2013, during which the citizens of Canby were given the opportunity to present testimony on these proposed changes; and

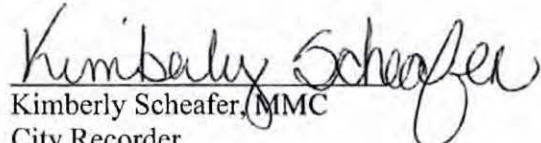
**WHEREAS**, the Planning Commission found that the standards and criteria of the *Canby Comprehensive Plan* and the *Canby Land Development and Planning Ordinance* concerning text amendments were satisfactorily met, and therefore recommended by a vote of 6-0 to forward a recommendation of approval to the City Council, and

**WHEREAS**, the City Council, after reviewing the text amendment, supporting materials, and testimony at a public hearing on February 6, 2013 found that the proposed amendment complies with the *Canby Comprehensive Plan* and the *Canby Land Development and Planning Ordinance*, and the plans and policies of the county, state, and local districts and will preserve the function and local aspects of land conservation and development; that there is a public need for the change; that the amendment will serve the public need better than any other change which might be expected to be made; that the amendment preserves and protects the health, safety, and general welfare of the residents in Canby; and that it complies with the Statewide Planning Goals; and therefore

**THE CITY OF CANBY ORDAINS AS FOLLOWS:**

- 1) The City Council hereby approves Text Amendment file TA 12-02; and
- 2) The City Council approves amendment of Title 16, of the Land Development and Planning Ordinance of the City of Canby, as detailed in Exhibit A.

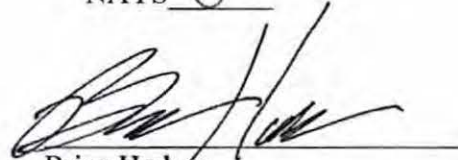
**SUBMITTED** to the Canby City Council and read the first time at a regular meeting thereof on February 6, 2013 and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on February 20, 2013, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers located at 155 N.W. 2<sup>nd</sup> Avenue, Canby, Oregon.

  
Kimberly Scheafer, MMC  
City Recorder


**PASSED** on the second and final reading by the Canby City Council at a regular meeting thereof on February 20, 2013 by the following vote:

YEAS 6

NAYS 0

  
Brian Hodson  
Mayor

ATTEST:

  
Kimberly Scheafer, MMC  
City Recorder

## Exhibit A

## Chapter 16.05

### INTERPRETATIONS

#### Sections:

16.05.010 Purpose.

16.05.020 Procedure.

#### 16.05.010 Purpose.

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

(Ord. 1080, 2001)

#### 16.05.020 Procedure.

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

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

For more complex interpretations, i.e interpretations that are discretionary and that do not have objective approval criteria, ~~The Planning Director is authorized to issue or decline to issue a requested interpretation and shall advise the applicant and any other person who requested a written copy of the decision in writing within 14 days after the request is made, whether or not the City will issue an interpretation.~~ Basis for declining may include, but is not limited to, a finding that the subject code section affords only one reasonable interpretation. The Planning Director's decision to issue or not issue an interpretation is final when the decision is mailed to the party requesting the interpretation. The decision shall become effective 10 days after delivery/ mailing, unless an appeal is filed. Any such appeal shall be processed as described in Chapter 16.89.

~~C. Written Interpretation. If the Planning Director decides to issue an interpretation, it shall be issued in writing and shall be mailed or delivered to the person requesting the interpretation, any other person who requested a copy, and those receiving public notice of the decision. The written interpretation or notice thereof shall be issued within 14 days after the City advises the applicant that an interpretation shall be issued. The decision shall become effective 10 days after mailing, unless an appeal is filed. Any such appeal shall be processed as described in Section 16.89.040(H). (Ord. 1237, 2007)~~

CD. Public Notice. For more complex interpretations, i.e interpretations that are discretionary and that do not have objective approval criteria, ~~N~~notice of the Planning

Director's decision shall be sent to all property owners and residents within 200 feet of the subject property. (Ord. 1237, 2007)

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

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

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

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

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

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

i. minimizing dust generation,

ii. minimizing transportation of aggregate to city streets, and

iii. minimizing infiltration of environmental contaminants including, but not limited to, motor oils, fuels, volatile organic compounds (e.g. benzene, toluene, ethylbenzene, xylene), and ethylene glycol are met.

The ~~decision maker Planning Commission~~ **Commission** 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.

Over 250	As required by Public Works Director
-------------	--------------------------------------

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

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

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

**43-10.** 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.

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.

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.

3. Required yards on southern and western exposures may be reduced by not more than five feet for eaves or canopies 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.)

E. 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. Other regulations:

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

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

3. Required setbacks on southern and western exposures may be reduced by not more than five feet for eaves or canopies 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)

**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 60-70 percent of the total possible points from the Design Menu are accumulated for the whole development;
3. 10-15 percent of the points used to meet (2) above are from the LID category; and,
4. the applicant has received a minimum of one point in each applicable category.

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

**Table 16.21.070 Multi-Family Design Menu**

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

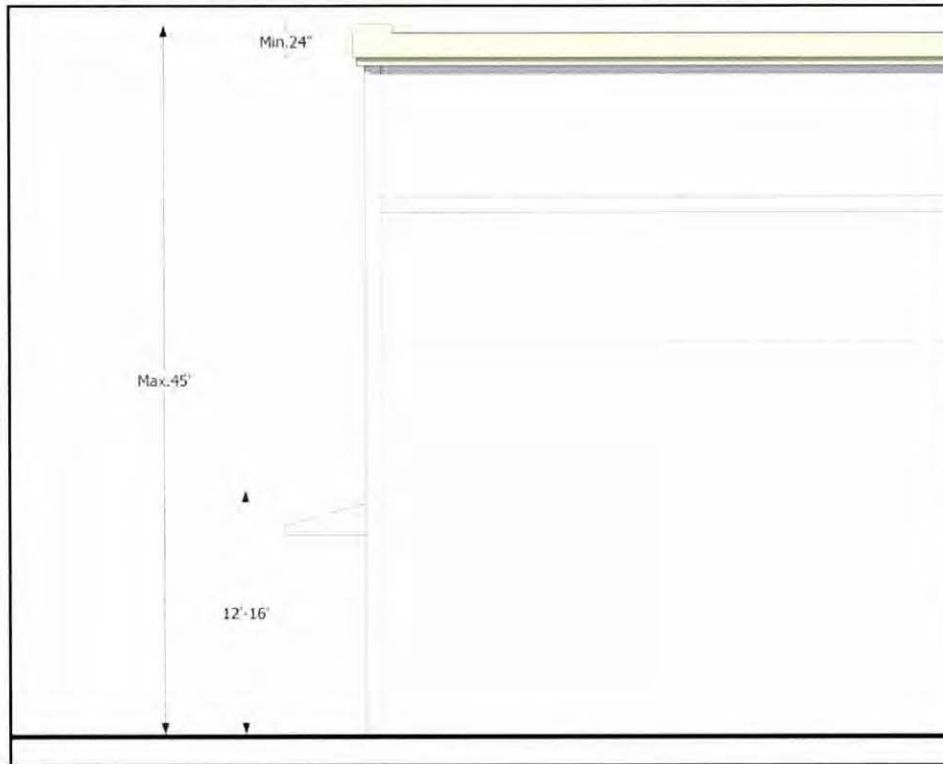
Design Criteria	Possible Points				
	0	1	2	3	4
<b>Parking</b>					
Screening of parking and/or loading facilities from public right-of-way	Not screened	Partially screened	Fully screened	-	-
Parking lot lighting provided	No	Yes	-	-	-
Parking location (behind building is best)	Front	Side	Behind	-	-
Number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

Design Criteria	Possible Points				
Site's frontage has buildings within 25 feet of front lot line. (Full points may be given when courtyards are adjacent to the frontage.)	0-25% of street frontage	26-50% of street frontage	≥51% of street frontage	-	-
<b>Screening of Storage Areas and Utility Boxes</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Trash storage is screened from view by solid wood fence, masonry wall or landscaping.	No	Yes	-	-	-
Trash storage is located away from adjacent property lines.	0 - 10 feet from adjacent property	11 - 25 feet from adjacent property	>25 feet from adjacent property	-	-
Utility equipment is screened from view.	Not screened	Partially screened	Fully screened	-	-
<b>Prevention of Monotonous and Incompatible Design</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Horizontal length of all buildings is a maximum of 120 feet.	101 - 120 feet	81 - 100 feet	≤80 feet	-	-
Roofs have a gable, hip or 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.	-	-	-

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

(Ord. 1338, 2010)

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



**3. Screening.** All exterior garbage collection areas, recycling collection areas and mechanical equipment shall be screened with a site obscuring fence, landscaping on all sides, wall, other enclosure, or architectural element per the requirements below (see Figure 16 for examples of good screening design). All 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.

Standards	Applicability
2. Building entries and doors	
<p>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 <b>customer</b> entries may be provided and serve as principal entries (e.g., oriented to parking areas to the side or rear of buildings) <b>and treatment of these entrances with awnings, lighting, signage, etc. is required.</b> (See Figure 36)</p>	CC, TC
<p>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)</p>	CC, TC, OHC
<p>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).</p>	CC, TC, OHC
<p>d. Design features. Commercial and mixed-use building entries must comply with at least x of the following:</p> <ul style="list-style-type: none"> <li>(1) Recessed entries. If recessed, principal entries shall be recessed a minimum of 3 feet into the building façade (see Figure 39).</li> <li>(2) Awnings or canopies. These may be used to provide weather protection and a visual element and meet standards (see Figure 40).</li> <li>(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).</li> <li>(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).</li> <li>(5) Engaged columns or piers may be used to reinforce and highlight entries (see Figure 43).</li> <li><b>(6) Use of blade signs.</b></li> </ul>	CC: x=3; TC: x=2; OHC: x=2

Standards	Applicability
1. Architectural bays	
<p>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.</p>	<p>CC, TC: x=30; OHC: x=50</p>
<p>b. Height of bays. For large single-story buildings (greater than 6,000 square feet), taller than 16 feet, design and decorative elements required in sections 3, 4 and 5 will extend to the top of the ground floor (i.e., just below the roof, cornice or parapet).</p>	<p>OHC</p>
<p>c. Design elements. Each architectural bay within a commercial or mixed-use building shall incorporate at least x of the following elements (see Figure 49):</p> <ol style="list-style-type: none"> <li>(1) Engaged columns or piers.</li> <li>(2) Transom windows over doorways.</li> <li>(3) Storefront cornice or beltcourse</li> <li>(4) Canopies, awnings, or overhangs provided along a minimum of 50 percent of the overall street-facing building length.</li> <li>(5) Storefront frieze or sign band.</li> <li>(6) Bulkheads.</li> </ol>	<p>CC: x=3; TC: x=2; OHC: x=2</p>
<p>d. Decorative accents. Each architectural bay within a commercial or mixed-use building shall incorporate at least x of the following elements (See Figure 50):</p> <ol style="list-style-type: none"> <li>(1) Projecting window sills (12 to 24 feet above grade).</li> <li>(2) <del>Horizontal and vertical window</del> mullions.</li> <li>(3) Building lighting (minimum of 2 lights), including wall sconces, pendants, gooseneck fixtures, or lighting recessed into awnings. Wall-mounted fluorescent lights and internally lit awnings are not permitted.</li> <li>(4) Medallions (minimum of 2).</li> <li>(5) Projecting or blade signs (8 to 12 foot clearance from bottom of sidewalk).</li> </ol>	<p>CC: x=3; TC: x=2; OHC: x=2</p>

Standards	Applicability
<p>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 <b>horizontal and vertical</b> 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> </ul>	<p>CC: x=2; TC: x=1; (buildings of 2 or more stories only)</p>

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

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-:

(Proposed figure):



**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.

- 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.

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-C, 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

**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 options:
  - a. One pole sign or one monument sign, plus and one wall sign, plus and window signs, and temporary signs; or
  - b. Two wall signs, and 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.
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)

## Chapter 16.43

### OUTDOOR LIGHTING STANDARDS

#### Sections:

- 16.43.010 Purpose.
- 16.43.020 Definitions.
- 16.43.030 Applicability.
- 16.43.040 Lighting Zones.
- 16.43.050 Exempt Lighting.
- 16.43.060 Prohibited Light and Lighting.
- 16.43.070 Luminaire Lamp Lumens Wattage, Shielding, and Installation Requirements.
- 16.43.080 Height Limits.
- 16.43.090 Lighting Controls.
- 16.43.100 Exceptions to Standards.
- 16.43.110 Lighting Plan Required.

#### 16.43.010 Purpose.

The purpose of this section is to provide regulations for outdoor lighting that will:

- A. Regulate uses of outdoor lighting for nighttime safety, utility, security, productivity, enjoyment and commerce.
- B. Minimize glare, particularly in and around public rights-of-way.
- C. Minimize light trespass, so that each owner of property does not cause unreasonable light spillover to other property.
- D. Preserve the night sky for astronomy and enjoyment.
- E. Conserve energy and resources to the greatest extent possible.

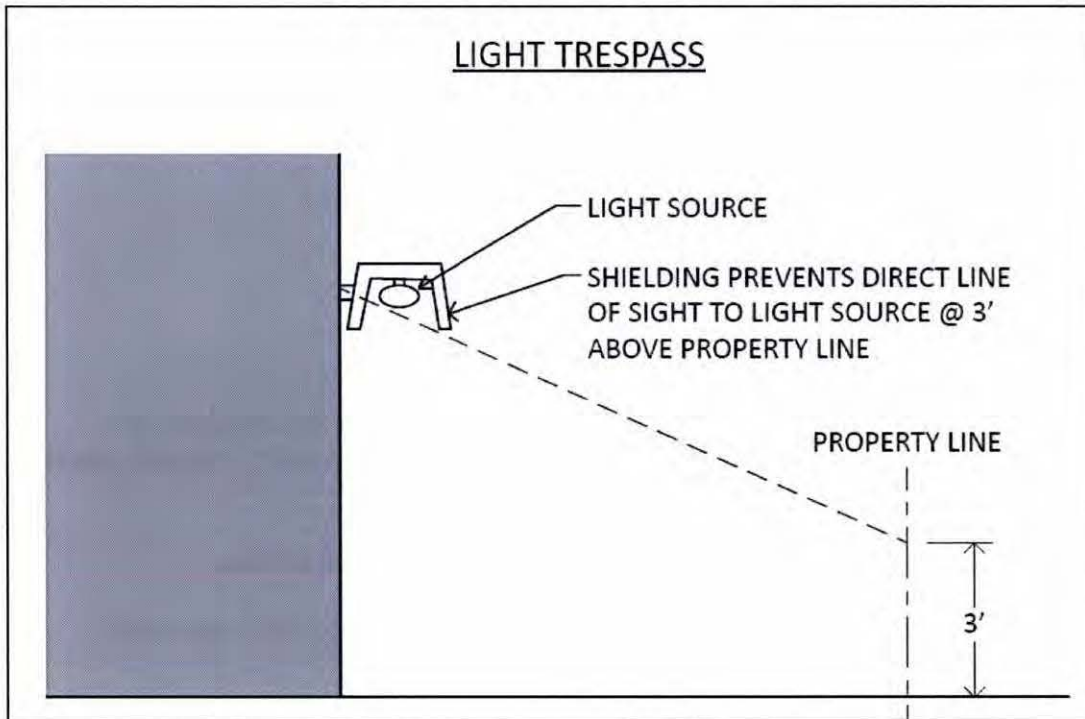
#### 16.43.020 Definitions

The following words, phrases and terms as used in this chapter shall have the following meaning:

- A. Artificial Sky Glow. The brightening of the night sky attributable to man made sources of light.
- B. Candela. The unit of luminous intensity of a lighting source emitted in a given direction.

- 4. Unshielded. A luminaire that may emit its flux in any direction.
- N. Spill Light. Lighting from a lighting installation that falls outside of the boundaries of the property on which the installation is sited.
- O. Temporary Lighting. Lighting installed with temporary wiring and operated for less than 60 days in any calendar year.

**Figure 16.43.1: Light Trespass**



**16.43.030 Applicability.**

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

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

shall ~~meet~~ ~~invoke~~ the requirements of this Code for the entire property, including previously installed and any new outdoor lighting.

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

**16.43.040 Lighting Zones.**

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

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

**Table 16.43.040 Lighting Zone descriptions**

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

**16.43.050 Exempt Lighting.**

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

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

- B. Internal lighting for signs in conformance with provisions in section 16.42.040 of this code.
- C. Temporary lighting for theatrical, television, and performance events.
- D. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- E. Code-required exit signs.
- F. Code-required lighting for stairs and ramps.
- G. Lighting required and regulated by the Federal Aviation Administration, U.S. Coast Guard, or other federal, state, or county agency.
- H. Interior lighting.
- I. Temporary lights for emergency public or private utility maintenance or public safety.
- J. Lighting fixtures existing prior to this ordinance not exceeding 520 lumens 30-watts.

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

- A. All outdoor light sources, except street lights, shall be shielded or installed so that there is no direct line of sight between the light source or its reflection at a point 3 feet or higher above the ground at the property line of the source. Light that does not meet this requirement constitutes light trespass. Streetlights shall be fully shielded. However, the applicant is permitted to have some unshielded lighting if lumens are within the limits of Table 16.43.070 below.
- B. The following lighting systems are prohibited from being installed or used except by special use permit:
  - 1. Aerial Lasers.
  - 2. "Searchlight" style lights.
  - 3. Other very intense lighting, defined as having a light source exceeding 5200 lumens 300-watts.

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

- A.** All outdoor lighting shall comply with the limits to lamp wattage and the shielding requirements in Table 16.43.070 per the applicable Lighting Zone. These limits are the upper limits. Good lighting design will usually result in lower limits.
- B.** The city may accept a photometric test report, lighting plan, demonstration or sample, or other satisfactory confirmation that the luminaire meets the requirements of the shielding classification.
- C.** Such shielded fixtures must be constructed and installed in such a manner that all light emitted by the fixture complies with the specification given. This includes all the light emitted by the fixture, either directly from the lamp or by a diffusing element, or indirectly by reflection or refraction from any part of the fixture. Any structural part of the fixture providing this shielding must be permanently affixed.
- D.** All canopy lighting must be fully shielded. However, indirect upward light is permitted under an opaque canopy provided that no lamp or vertical element of a lens or diffuser is visible from beyond the canopy and such that no direct upward light is emitted beyond the opaque canopy.
- E.** Landscape features shall be used to block vehicle headlight trespass while vehicles are at an external point of service (i.e. drive-thru aisle).
- F. E.** All facade lighting must be restricted to the facade surface. The margins of the facade shall not be illuminated. Light trespass is prohibited. ~~The sides of commercial buildings without a customer entrance shall not be lit.~~

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

Lighting Zone	Fully Shielded	Shielded	Partly Shielded	Unshielded (Shielding is highly encouraged. Light trespass is prohibited.)
LZ 1	150 2600 lumens or less	60 800 lumens or less	None Permitted	Low voltage landscape lighting and temporary holiday lighting.
LZ 2	450 7800 lumens or less	400 1600 lumens or less	60 800 lumens or less	Landscape and facade lighting 1600 lumens 100 watts or less; ornamental lights of 800 lumens 60 watts or less.

1. Sport fields.
2. Construction lighting.
3. Industrial lighting for hazardous areas where the heat of the lighting fixture may cause a dangerous situation.
4. National and State Flag lighting with spotlights greater than 450 lumens 40 watts.

**B.** To obtain such approval of an exception, applicants shall demonstrate that the proposed lighting installation:

1. Has received every reasonable effort to mitigate obtrusive light and artificial sky glow, supported by a signed statement from a registered engineer or by a lighting certified professional describing the mitigation measures.
2. The Planning Director shall review each such application. Approval may be granted if, upon review, the Planning Director believes that the proposed lighting will not create unwarranted glare, sky glow, or light trespass.

#### **16.43.110 Lighting Plan Required**

A lighting plan shall be submitted with the development or building permit application and shall include:

- A.** A site plan showing the location of all buildings and building heights, parking, and pedestrian areas.
- B.** The location and height (above grade) of all proposed and existing luminaires on the subject property.
- C.** Luminaire details including type and wattage lumens of each lamp, shielding and cutoff information, and a copy of the manufacturer's specification sheet for each luminaire.
- D.** Control descriptions including type of control (time, motion sensor, etc.), the luminaire to be controlled by each control type, and the control schedule when applicable.
- E.** Any additional information necessary to demonstrate compliance with the standards in this section. (Ord.1338, 2010)

**16.46.020 Ingress and egress.**

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

**16.46.030 Access connection.**

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

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 ~~must~~ submit an access management plan. The access management plan shall explain the need for the modification and demonstrate that the modification maintains the classified function and integrity of the facility. An access management plan shall be prepared and certified by a traffic or civil engineer registered in the State of Oregon. An access management plan shall at minimum contain the following:

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

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

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

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

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

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

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

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

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

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

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

6. Chairman. The duly appointed chairman of the Planning Commission shall also serve as chairman for site and design review applications in accordance with Chapter 16.06 if the Planning Commission Chairperson serves on the Design Review Board. If the Planning Commission Chairperson does not serve on the Board, a Design Review Board Chairperson will be selected by a majority of Design Review Board members.

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

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

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

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

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

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

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

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

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

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

3. Temporary public structures which will be removed within two (2) years of placement.
4. Commercial and industrial aAccessory 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. ~~except in the C-1 zone. In the C-1 zone, all new parking lots that do not involve buildings or structures are subject to site plan review, as required in Section 16.49.~~ All new paved areas and parking lots in excess of 2,500 square feet must meet the requirements of Section 16.49.150.
8. Single family or two-family dwellings and their accessory structures, and any alterations or remodeling thereof.
9. Minor public facilities.
10. Approved Public Art Murals as defined in CMC Chapter 2.80.020.

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

D. No fence/wall shall be constructed throughout a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission. (Ord. 1315, 2009; Ord. 1237, 2007; Ord. 1080, 2001; Ord. 1019 section 2, 1999; Ord. 981 sections 52&53, 1997; Ord. 955 section 23, 1996; Ord. 890 section 43, 1993; Ord. 848, Part III, section 1, 1991; Ord. 1341, 2011)

**16.49.035 Application for Site and Design Review**

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

1. Type II – If the applicant meets all applicable site and design review standards set forth in Chapters 16.41 and 16.49; the applicant shall submit a Type II application for approval pursuant to the approval criteria set forth in 16.49.040.2; or

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

**B.** All other projects subject to site and design review approval pursuant to Section 16.49.030 are subject to the Type III procedural requirements set forth in Chapter 16.89. The applicant shall submit a Type III application for approval pursuant to the approval criteria set forth in 16.49.040. **4**. (Ord 1296, 2008)

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

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

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

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

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

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

5. The Board shall, in making its determination of compliance with **this Ordinance subsections B through D above**, shall use the matrix in Table 16.49.040 to determine compatibility unless this matrix is superseded by another matrix applicable to a specific zone or zones under this title. An application is considered to be compatible with the standards of Table 16.49.040, **in regards to subsections B, C, and D above**, if the following conditions are met:

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

b. At least **10 15** percent of the points used to comply with (a) above must be from the list of LID Elements in Table 16.49.040. (Ord. 1338, 2010).

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

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

D. The Board shall, in making its determination of compliance with the above requirements, be guided by the objectives and standards set forth in this Ordinance section. It must be demonstrated that all required public facilities and services are available, or will become available through the development, to adequately meet the needs of the proposed development. If the site and design review plan includes utility facilities or public utility facility, then the City Planner shall determine whether those aspects of the proposed plan comply with applicable standards..

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

F. As part of the site and design review, the property owner may apply for approval to cut trees in addition to those allowed in Chapter 12.32, the city Tree Ordinance. The granting or denial of said application will be based on the criteria in Chapter 12.32. The cutting of trees does not in and of itself constitute change in the appearance of the property which would necessitate application for site and design review. (Ord. 848, Part III, section 2, 1991; Ord. 955 section 24 & 25, 1996; Ord 1237, 2007, Ord 1296, 2008)

**Table 16.49.040 Site Design Review Menu**

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

Design Criteria	Possible Points				
	0	1	2	3	4
<b>Parking</b>					
Screening of parking and/or loading facilities from public right-of-way	Not screened	Partially screened	Fully screened	-	-
Parking lot lighting provided	No	Yes	-	-	-
Parking location (behind building is best)	Front	Side	Behind	-	-
Number of parking spaces provided (% of minimum required)	>120%	101-120%	100%	-	-
<b>Screening of Storage Areas and Utility Boxes</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Trash storage is screened from view by solid wood fence, masonry wall or landscaping.	No	Yes	-	-	-
Trash storage is located away from adjacent property lines.	0 - 10 feet from adjacent property	11 - 25 feet from adjacent property	>25 feet from adjacent property	-	-
Utility equipment, including rooftop equipment, is screened from view.	Not screened	Partially screened	Fully screened	-	-
<b>Access</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Distance of access to nearest intersection.	≤70 feet	71 - 100 feet	>100 feet	-	-
Pedestrian walkways from public street/sidewalks to building entrances.	One entrance connected.	-	Walkways connecting all public streets/sidewalks to building entrances.	-	-
			All entrances connected.		

Design Criteria	Possible Points				
<b>Access, cont</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Pedestrian walkways from parking lot to building entrance.	No walkways	Walkway next to building only	Walkways connecting all parking areas to building entrances No more than one undesignated crossing of access drive.		
<b>Tree Retention</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Percentage of trees retained For trees outside of building footprint and parking/access areas (3 or more trees)	No arborist report or follows <10% of arborist report	Follows 1025-50% of arborist report	Follows 51-75% of arborist report	Follows >75% of arborist report	-
Replacement of trees removed (percent of those recommended for retention in arborist report)	<50%	≥50%	-	-	-
<b>Signs</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Dimensional size of sign (% of maximum permitted)	>75%	50-75%	<50%	-	-
Similarity of sign color to building color	Not similar	Somewhat similar	Similar	-	-
Pole sign used	Yes	No	-	-	-
Location of sign	>25 feet from driveway entrance	Within 25 feet of driveway entrance	-	-	-
<b>Building Appearance</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Style (similar to surroundings)	Not similar	Somewhat similar (1 or 2 points possible depending on level of similarity)		-	-
Color (subdued and similar to surroundings is better)	Neither	Similar or subdued	Both	-	-
Material (concrete, wood and brick are best)	Either 1 or 2 points may assigned at the discretion of the Site and Design Review Board				
Size of building (smaller is better)	>20,000 square feet	≤20,000 square feet	-	-	-
Provision of public art (i.e. murals, statues, fountains, decorative bike racks, etc.)	No	-	-	-	Yes
<b>Landscaping</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Number of non-required trees provided	-	At least one tree per 500 square feet of landscaping.	-	-	-

Design Criteria	Possible Points				
	0	1	2	3	4
<b>Landscaping, cont</b>					
Amount of grass (less grass is better) (% of total landscaped area)	>50%	25-50%	<25%	-	-
<b>Location of shrubs</b>	<b>Foreground</b>	<b>Background</b>	-	-	-
<b>Low Impact Development (LID)</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
Use of pervious paving materials (% of total paved area)	<10%	-	10-50%	51-75%	>75%
Provision of park or open space area for public use	None	-	Open space (Generally not for public use)	-	Park (public or privately owned for public use)
Use of drought tolerant species* in landscaping (% of total plants)	<25% drought tolerant	-	25-50% drought tolerant	51-75% drought tolerant	>75% drought tolerant
Provision of additional interior parking lot landscaping (% of minimum required)	100%	101-110%	111-120%	>120%	-
Provision of an eco-roof or rooftop garden (% of total roof area)	<10%	-	-	10-50%	>50%
Parking integrated within building footprint (below-grade, structured parking, or tuck-under parking) (% of total on-site parking)	<10%	-	-	10-50%	>50%
Disconnecting downspouts from city stormwater facilities (existing buildings only)	None	Some downspouts disconnected	All downspouts disconnected	-	-
Shared parking with adjacent uses or public parking structure (% of total required parking spaces)	None	<50%	≥50%	-	-
<b>Provision of rain gardens/bioretention areas for stormwater runoff (% of total landscaped area)</b>	<b>None</b>	<b>-</b>	<b>10-50%</b>	<b>51-75%</b>	<b>&gt;75%</b>
<b>*Drought tolerant species per Metro's list.</b>	<b>Total Possible Points = 64 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 ~~are specifically~~ contemplated by ~~subsection (1) of this section~~, and the listing below is intended to be illustrative only and not to be construed as a limitation of the authority granted by this section.

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

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

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

**16.49.055**

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

**16.49.060 Time limit on approval.**

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

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

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

**16.49.065 Bicycle and pedestrian facilities.**

Developments coming under design review shall meet the following standards:

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

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

C. For new office parks and commercial development:

1. At least one sidewalk connection between the proposed development and each abutting commercial or office property shall be provided. One connection shall also be provided to each neighborhood.

2. Walkways shall be provided to the street for every 300 feet of developed frontage.

3. Walkways shall be direct with minimal driveway crossings.
4. Walkways shall be linked to the internal circulation of the building.
5. Walkways shall be at least five feet wide and shall be raised, or have different paving materials when crossing driveways or other vehicle maneuvering areas. (Ord. 1043 section 3, 2000)

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

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

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

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

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

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

**16.49.080 General provisions for landscaping.**

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

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

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

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

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

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

F. During the construction process:

1. The owner or the owner's agent shall provide above and below ground protection for existing trees and plant materials identified to remain.
2. Trees and plant materials identified for preservation shall be protected by chain link fencing placed around the tree, at the drip line.
3. If it is necessary to fence within the drip line, such fencing shall be specified by a qualified arborist, nurseryman or landscape architect.
4. Neither top soil storage nor construction material storage shall be located within the drip line of trees designated to be preserved.

5. Where site conditions make necessary grading, building, paving, trenching, boring, digging, or other similar encroachment upon a preserved tree's drip line area, such grading, paving, trenching, boring, digging or similar encroachment shall only be permitted under the direction of a qualified arborist, nurseryman or landscape architect. Such direction must assure that the health needs of trees within the preserved area can be met.
6. Tree root ends shall not remain exposed.
- G. Landscaping under preserved trees shall be compatible with the retention and health of said trees.
- H. When it is necessary for a preserved tree to be moved in accordance with the Tree Ordinance, the landscaped area surrounding said tree or trees shall be maintained and replanted with trees which relate to the present landscape plan, or if there is no landscaping plan, then trees which are complimentary with existing, nearby landscape materials.
- I. Any required landscaped area shall be designed, constructed, installed and maintained so that within three (3) years, the ground shall be covered by living grass or other plant material. (The foliage crown of trees shall not be used to meet this requirement.) A maximum of five percent of the landscaped area may be covered with bark chips, mulch, or other similar materials. A maximum of five percent of the landscaped area may be covered with rock, stones, walkways, or other similar material acceptable to the Board. Required sidewalks shall not be used to meet the landscaping requirements. ~~Plant size and spacing shall follow the Oregon Department of Transportation standards.~~
- J. All trees and plant materials shall be healthy, disease-free, damage-free, well-branched stock, characteristic of the species. The use of tree and plant species native to the Pacific Northwest is encouraged. Any new **street** tree planted must be included on the city's list of approved tree species.
- K. Landscaping **methods should be guided by** ~~shall be installed in accordance with the provisions of the most recent edition of the Sunset Western Garden Book 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.

under common ownership. Any paved vehicular area which is used specifically as a utility storage lot or a truck loading area shall be exempt from landscaping requirements within a parking lot.

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

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

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

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

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

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

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

1. Reach a mature height of **approximately** forty (40) feet. Trees must be **approximately at least two-inch (2")**~~three-inch (3")~~ caliper at the time of planting.

2. Cast moderate to dense shade in summer.
3. Be long lived, i.e., live to be over approximately ~~over~~ sixty (60) years.
4. Do well in an urban environment:
  - a. Be pollution tolerant; and
  - b. Be tolerant of direct and reflected heat.
5. Require little maintenance:
  - a. Be mechanically strong;
  - b. Be insect and disease resistant; and
  - c. Require little pruning.
6. Be resistant to drought conditions.
7. Be barren of fruit production.

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

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

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

**16.49.130 Revegetation in unlandscaped areas.**

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.

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.

**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 ~~level through the use of LID practices~~. 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

**TABLE 16.89.020**  
**Land Use and Development Application Procedures**

Application Type	Process Type	Notice Radius (Feet)	Neighborhood Meeting Required
Access permit to public street	I	n/a	No
Amendments to Zoning Map	IV	500	Yes
Annexation, Minor and Major	IV	500	Yes
Appeals	III	200	No
Building Permit/ <b>Site Plan Review</b>	I	n/a	No
Comprehensive Plan Amendment	IV	500	Yes
Conditional Use Permit	III	500	No
Condominium Construct. (less than 6 units)*	I	n/a	No
Interpretation	<b>See Chapter Section 16.05.020</b>		
Lot Line Adjustment**	III	400 n/a	No
<b>Modifications, Minor and Major</b>	See Section 16.89.090		
Non-Conforming Structure/Use	II	100	No
Parking Lot/Paving projects	I	n/a	No
Partition, Minor <b>and Major</b>	III	200 n/a	No
Partition, Major	III	200	No
Planned Unit Development	III	200	Yes
Sign Permit ( <b>non-SDR</b> )	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
<b>Site Plan Review</b>	I	n/a	<b>No</b>
Temporary Permit (16.44.090)	See Chapter 16.44		
Temp. Hardship Permit (16.44.100)	II	100	No

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 **is are** made:

a. That the Commission did not correctly interpret the requirements of this title, the Comprehensive Plan, or other requirements of law;

b. That the Commission did not observe the precepts of good planning as interpreted by the Council; or

4. In cases involving attorneys, the prevailing attorney shall prepare the findings, conclusions, and final order. Staff shall review and, if necessary, revise, these materials prior to submittal to the hearings body.

**F. City Council proceedings:**

1. Upon receipt of the record of the Planning Commission proceedings, and the recommendation of the Commission, the City Council shall conduct a review of that record and shall vote to approve, approve with conditions, or deny the recommendation of the Planning Commission.

2. The City Council may question those individuals who were a party to the public hearing conducted by the Planning Commission if the Commission's record appears to be lacking sufficient information to allow for a decision by the Council. The Council shall hear arguments based solely on the record of the Commission.

3. The City Council may choose to conduct public hearings on Comprehensive Plan amendments, amendments to the text of this title, zone map amendments, and annexations. If the Council elects to conduct such hearings, it may do so in joint session with the Planning Commission or after receiving the written record of the Commission. (Ord. 1080, 2001)

**16.89.070 Neighborhood Meetings.**

**A.** Applicants are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application in order to solicit input, identify issues, and exchange information about the proposed meeting.

**B.** The Planning Commission or Planning Director may require an applicant to hold a meeting in the neighborhood prior to accepting an application as complete. A neighborhood meeting is required for some application types, as shown in Table 16.89.020, unless this requirement is waived by the Planning Director.

**C.** At least two weeks prior to the neighborhood meeting, the applicant shall mail notice of the meeting to:

1. The appointed chair and all active members of any neighborhood association in whose boundaries the application lies; and

2. All of those who would receive notice of the application's public hearing before the Planning Commission.

**D.** The meeting shall be held in a fully accessible location approved by the City.

**E.** Following a required neighborhood meeting, applicants shall prepare a written summary of pertinent issues raised and shall prepare a detailed response to each issue. This material shall be submitted to the Planning Department in electronic format at least two weeks before the initial public hearing.

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

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

F. Standards and criteria. Approval or denial of a complete application shall be based upon the standards and criteria that were applicable at the time the application was first accepted. (Ord. 1080, 2001)

### **16.89.090 Modifications.**

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

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

B. Intermediate Modification. Intermediate modifications are those that do not fit the definitions in 16.89.090(A) or (C). The Planning Director Commission will review intermediate modifications under the Type II process as new business items. If the Planning Director Commission approves an intermediate modification, notice of the decision will be made in accordance with the Type II process distributed to individuals with standing and the owners and residents of the properties noticed during the original application review process. The Planning Director may waive the requirement to notice those with standing in cases when the final decision date on the original application was more than five years prior to the modification application date. The individuals noticed may obtain a public hearing on the issue by filing a request in writing within ten days of the notice mailing date. Any additional costs of such hearings shall be paid by the modification applicant. Hearing notice shall follow the requirements of the procedure type of the original application. The Planning Commission may require any Intermediate Modification to be processed as a Major Modification, using the decision criteria in section 16.89.090.

C. Major Modification. Any modification that would result in a substantial impact to an approved site plan, land use decision, or condition of approval is a major modification. Major modifications shall be processed using the procedure type of the original application.

Division IX. – SOLAR ACCESS REQUIREMENTS

Chapter 16.90

SOLAR ACCESS DEFINITIONS

Sections:

16.90.010 Definitions.

16.90.020 Figures.

16.90.010 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

**16.90.020 Figures.**

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

Figure 3

NORTH-SOUTH DIMENSION OF THE LOT

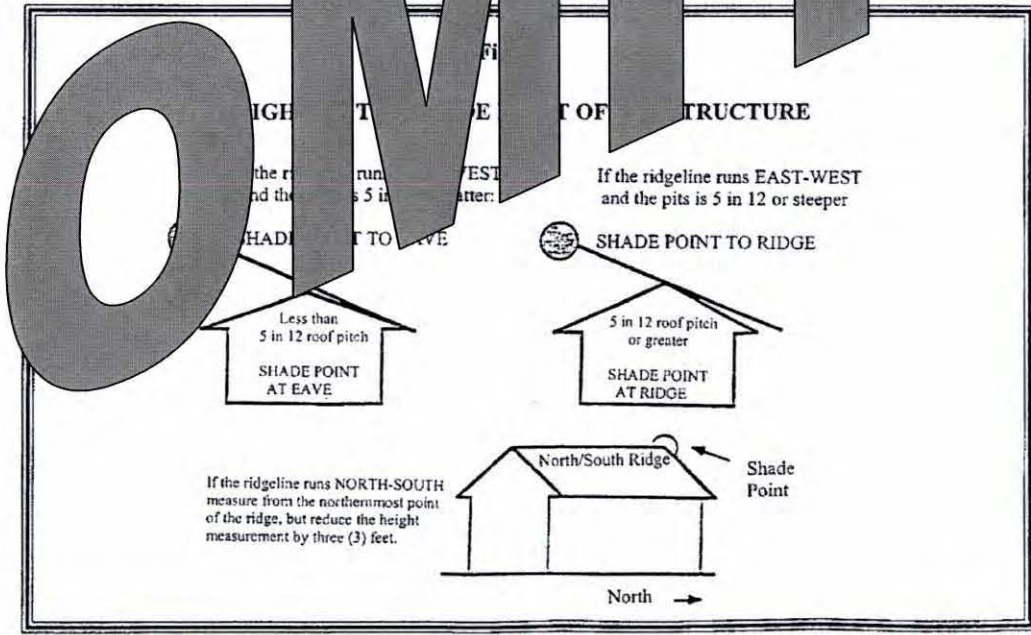
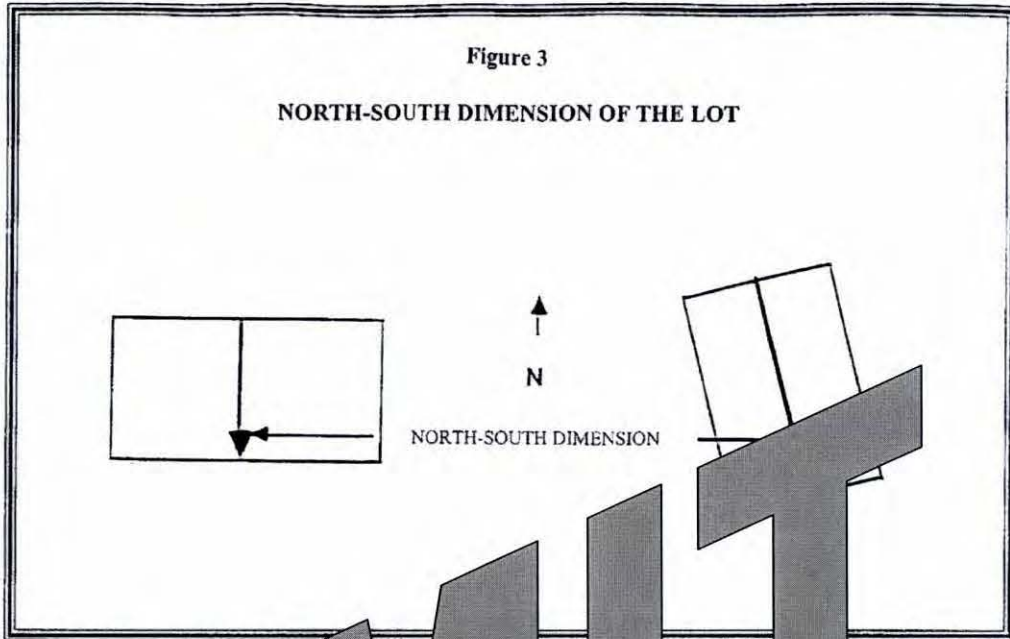


Figure 5

SHADE POINT HEIGHT

Measure to average grade at the front lot line

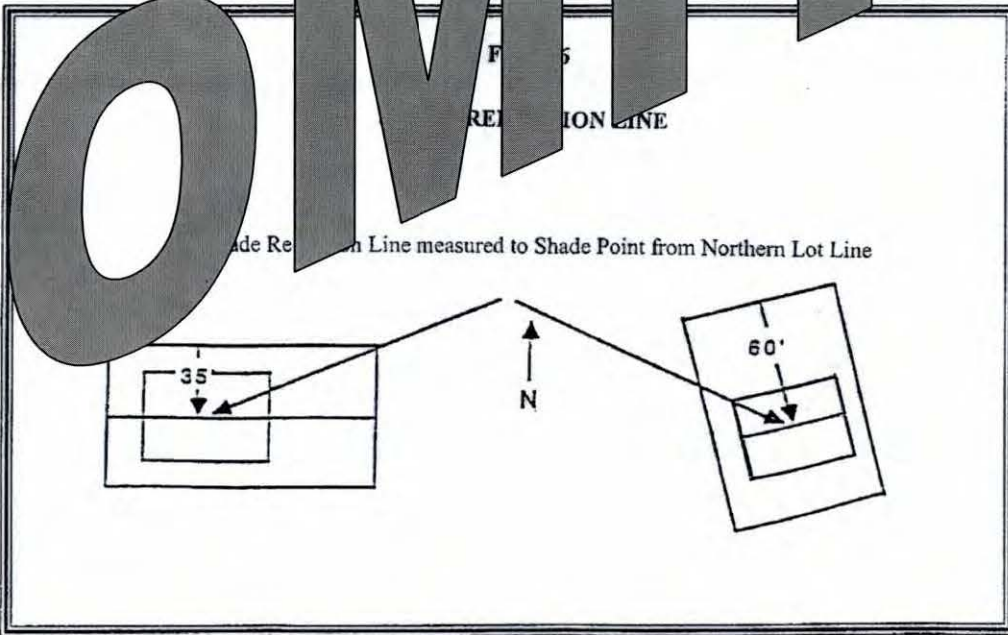
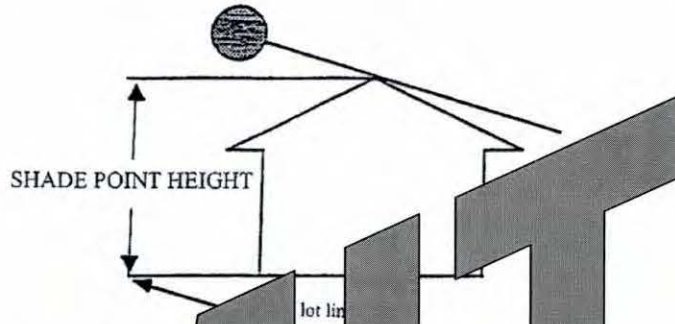


Figure 7  
SOLAR GAIN LINE

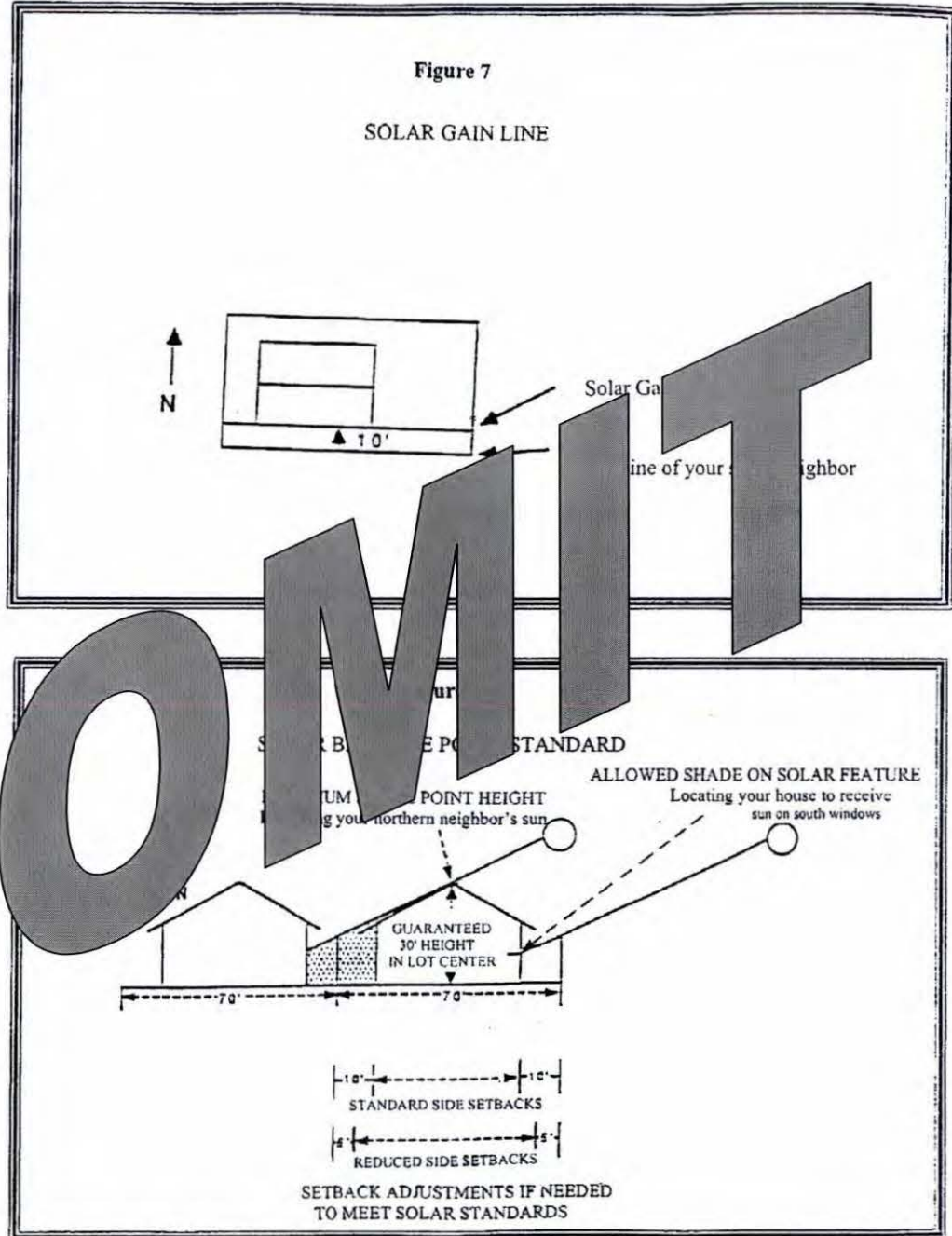


Figure 9

SOLAR LOT OPTION 1: BASIC REQUIREMENTS

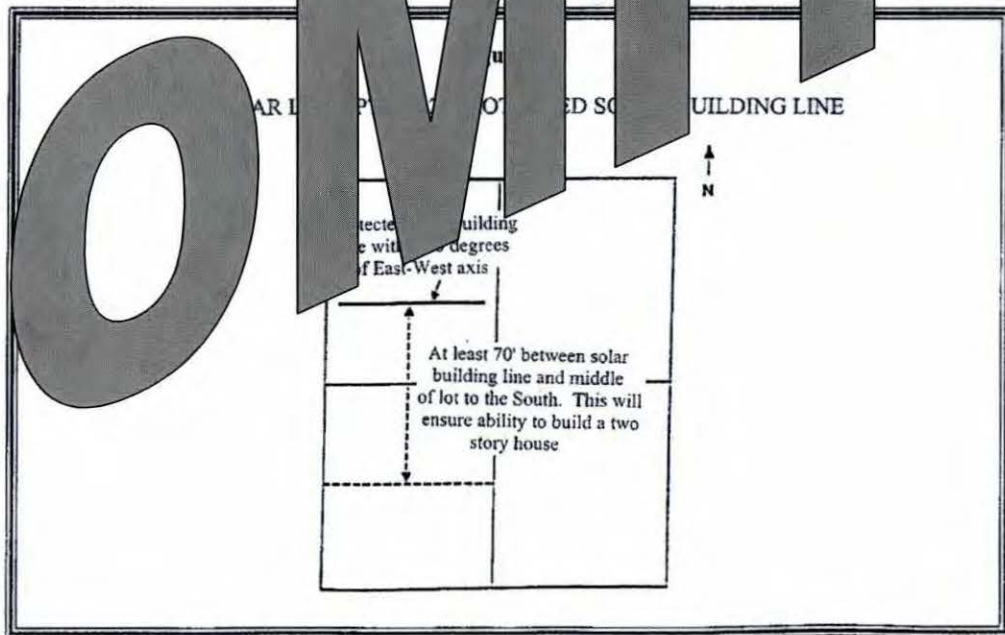
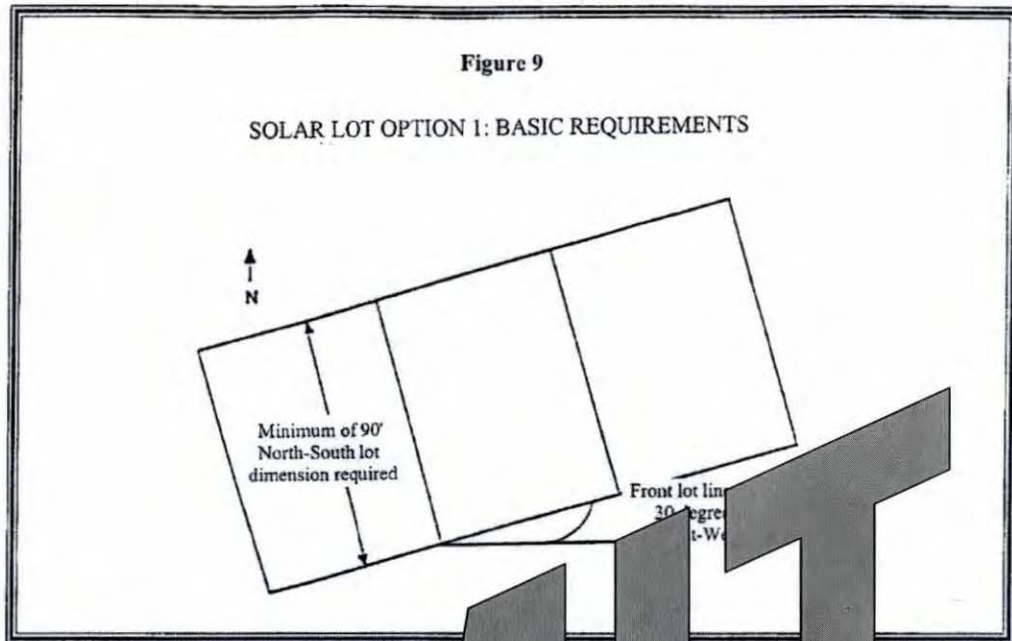
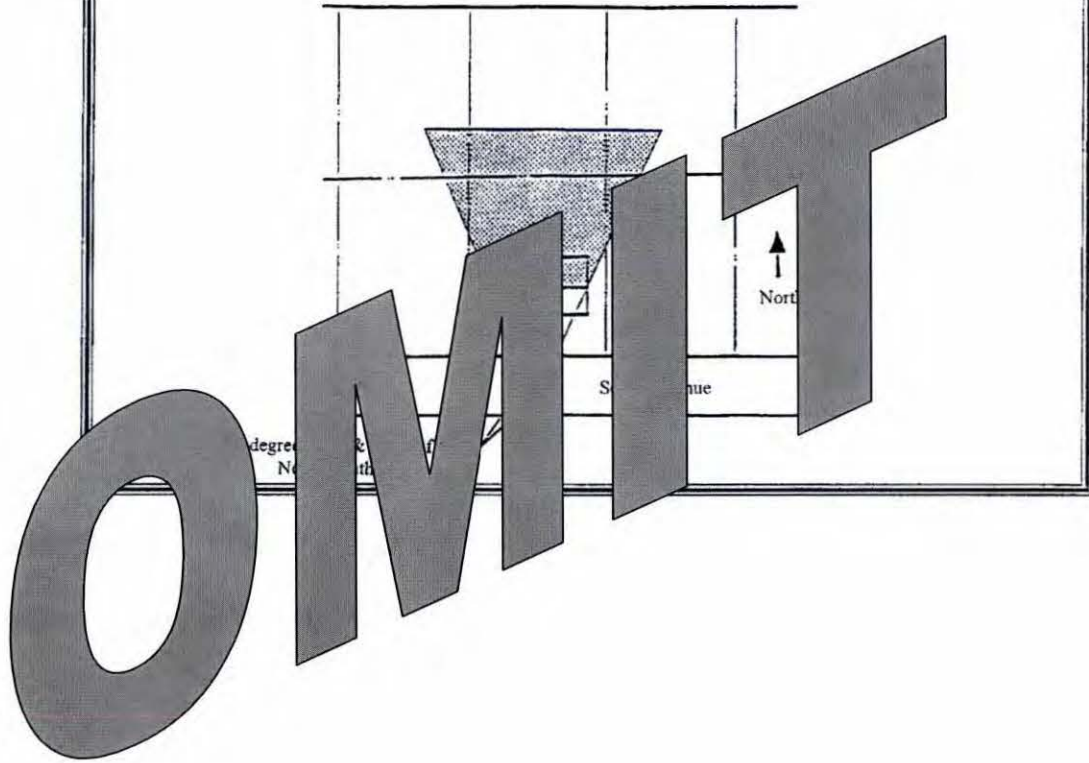


Figure 11

SHADOW PATTERN



## Chapter 16.95

### SOLAR ACCESS STANDARDS FOR NEW DEVELOPMENT

#### Sections:

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

#### 16.95.010 Purpose.

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

#### 16.95.020 Applicability.

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

#### 16.95.030 Design standard.

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

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

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

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

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

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

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

**16.95.040 Exemptions from design standard.**

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

**A. Slopes.** The site, or a portion of the site for which the exemption is sought, is sloped 20 percent or more in a direction greater than 45 degrees east or west of true south, based on a topographic survey by a licensed professional land surveyor or USGS or other officially recognized topographic information.

**B. Off-site shade.** The site, or a portion of the site for which the exemption is sought, is within the shadow pattern of off-site features, such as, but not limited to structures, topography, or non-exempt vegetation, which will remain after development occurs on the site from which the shade is originating.

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

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

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

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

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

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

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

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

**16.95.050 Adjustments to design standards.**

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

A. Adverse impacts on density and cost or amenities.

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

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

**a.** The portion of the site for which the adjustment is sought has a natural grade that is sloped 10 percent or more and is oriented greater than 45 degrees east or west of true south, based on a topographic survey of the site by a professional land surveyor or USGS or other officially recognized topographic information.

**b.** There is a significant natural feature on the site, identified as such in the Comprehensive Plan or development ordinance, that prevents given streets or lots from being oriented for solar access, and it will exist after the site is developed.

**c.** Existing road patterns must be continued through the site or must terminate on-site to comply with applicable road standards or public road plans in a way that prevents given streets or lots in the development from being oriented for solar access.

**d.** An existing public easement or right-of-way prevents given streets or lots in the development from being oriented for solar access.

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

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

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

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

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

**16.95.060 Protection from future shade.**

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

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

**16.95.070 Application.**

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

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

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

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

**16.95.080 Process.**

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

## Chapter 16.100

### SOLAR BALANCE POINT STANDARDS

#### Sections:

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

#### **16.100.010 Purpose.**

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

#### **16.100.020 Applicability.**

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

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

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

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

relative to true south; and, if applicable,

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

**16.100.040 Maximum shade point height standard.**

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

**A. Basic Requirement.**

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

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

Where:

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

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

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

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

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

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

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

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

1. An existing or approved building or structure;

2. A topographic feature; or

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

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

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

1. An undevelopable area;

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

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

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

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

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

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

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

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

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

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

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

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

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

**A.** An applicant may, but is not required to, perform the calculations in or comply with the standards of section 16.100.070.

**B.** Applicants are encouraged to design and site a proposed habitable structure so that the lowest height of any solar feature(s) will not be shaded by buildings or non-exempt trees on lot(s) to the south. The applicant should complete the following calculation procedure to determine if solar feature(s) of the proposed structure will be shaded. To start, the applicant should choose which of the following sources of shade originating from adjacent lot(s) to the south to use to calculate the maximum shade height at the north property line:

1. Existing structure(s) or non-exempt trees; or
2. The maximum shade that can be cast from future buildings or non-exempt trees, based on Table C. If the lot(s) to the south can be further divided, then the north-south dimension is assumed to be the minimum lot width required for a new lot in that zone.

**C.** The height of the lowest point of any solar feature of the proposed structure is calculated with respect to either the average elevation or the elevation at the midpoint of the front lot line of the lot to the south.

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

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

Where:

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

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

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

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

**16.100.080 Solar balance point.**

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

**16.100.090 Yard setback adjustment.**

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

**A. R-1 Zone:**

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

**B. R-1.5 Zone:**

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

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

C. R-2 Zone:

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

**16.100.100 Review process.**

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

OMNIT

**16.110.025 Historic Review Board.**

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

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

**Members are appointed by the City Council upon recommendation by the Committee Chairperson and assigned Council Liaison. The Mayor may vote only to break a tie, if necessary. Any Board member failing to attend three consecutive meetings without approval of the Board Chairperson may be removed by the Council and a new member appointed to complete the unexpired term. Historic Review Board members serve at the pleasure of the City Council and are subject to removal at any time by the Council with or without cause.**

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

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

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

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

rnby  
Avenue  
97013



DEPT OF

FEB 22 2013

LAND CONSERVATION  
AND DEVELOPMENT

ATTEN: PLAN AMENDMENT SPECIALIST  
DLCD  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540