



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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## NOTICE OF ADOPTED AMENDMENT

October 7, 2009



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 003-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office. This adoption was adopted by the City on September 16, 2009, and passed the 21-day appeal period from the date of the adoption.

Appeal Procedures\*

### **DLCD DEADLINE TO APPEAL: Acknowledged under ORS 197.625 and ORS 197.830 (9)**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 if no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.

Under ORS 197.830 (9) a notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.

Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist

FORM 2

# DLCD

## Notice of Adoption

In person  electronic  mailed

DEPT OF  
LAND CONSERVATION  
AND DEVELOPMENT

DEPT OF

SEP 29 2009

LAND CONSERVATION  
AND DEVELOPMENT Only

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: **City of Canby, OR**

Local file number: **TA-09-02**

Date of Adoption: **09/16/2009**

Date Mailed: **09/25/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 05/20/2009

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".

Zoning Text amendment to create a Type I (ministerial) permit process and regulations for temporary vendor activity on private property. (Ord.No. 1315)

Fee Schedule amendment to add a fee for processing a Temporary Vendor Permit application and a fee for processing a Temporary Vendor Renewal application. (Res.No. 1044)

Does the Adoption differ from proposal? **Yes** differs slightly – The fee amendment was added after the original DLCD notice was sent in May.

Plan Map Changed from: -

to: -

Zone Map Changed from: -

to: -

Location: -

Acres Involved:

Specify Density: Previous:

New:

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...

45-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. 003-09 (17591) [15731]

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

None

**ORDINANCE NO. 1315**

**AN ORDINANCE AMENDING CANBY MUNICIPAL CODE CHAPTERS 16.08 AND 16.49 FOR THE PURPOSE OF REGULATING TEMPORARY VENDOR ACTIVITY ON PRIVATE PROPERTY.**

**WHEREAS**, the City of Canby initiated an application (application no: TA-09-02) for an amendment to the text of Title 16 for the purpose of regulating temporary vendor activity on private property; and

**WHEREAS**, the Planning Commission held a public hearing concerning the text amendment application on July 13, 2009, and based on their determination that the proposed amendment met all required approval criteria, voted 5-0 to forward a recommendation of approval to City Council; and

**WHEREAS**, the Planning Commission re-opened the public hearing on August 24, 2009, in order to review the issue of whether to exempt non-profit entities from the proposed standards, and voted 6-0 to forward a recommendation to City Council that non-profit entities not be exempt from the standards; and

**WHEREAS**, City Council received the text amendment application and Planning Commission's recommendation of approval on August 05, 2009, and received Planning Commission's supplemental recommendation concerning non-profit entities on September 02, 2009; and the City Council found 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; 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

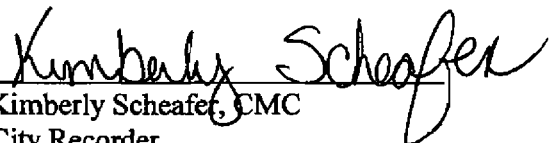
**WHEREAS**, the City Council voted 4-0 to approve Text Amendment No. TA 09-02 as presented, based on the findings in the August 05, 2009, Council staff report, and directed staff to present Council with an ordinance for adoption; and

**WHEREAS**, this ordinance is for the purpose of codifying Text Amendment No. TA 09-02 into law; now therefore,

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

Section 1. Title 16 of the Canby Municipal Code, otherwise known as the "Land Development and Planning Ordinance of the City", is amended as detailed in Exhibit A.

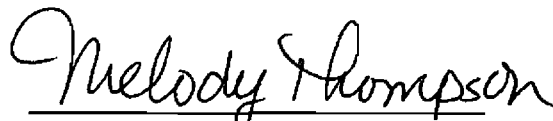
**SUBMITTED** to the Canby City Council and read the first time at a regular meeting therefore on Wednesday, September 02, 2009, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and scheduled for second reading before the City Council for final reading and action at a regular meeting thereof on Wednesday, September 16, 2009, commencing at the hour of 7:30 pm at the Council Meeting Chambers located at 155 N.W. 2<sup>nd</sup> Avenue, Canby, Oregon.

  
Kimberly Scheafer, CMC  
City Recorder

**PASSED** on second and final reading by the Canby City Council at a regular meeting thereof on the 16th of September, 2009, by the following vote:

YEAS 3

NAYS 0

  
Melody Thompson, Mayor

ATTEST:

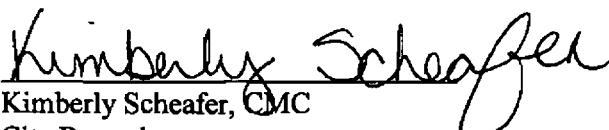
  
Kimberly Scheafer, CMC  
City Recorder

EXHIBIT "A" to ORDINANCE 1315

**AMENDMENT TO TEXT OF TITLE 16 (TA-09-02)**

Deleted text is illustrated below in ~~strikeout font~~, added text is illustrated in red underlined font.

*Add the following section to CMC Chapter 16.08..*

**16.08.140 Temporary vendor.**

Any person who exhibits goods or services for sale or for offer in a temporary manner on private property, from a vehicle, trailer, tent, canopy, shipping container, or other temporary structure, or from one's person or displayed on the ground or off the ground, shall first obtain permit approval in compliance with the following standards, and shall operate in compliance with this section and with all other applicable sections of the Canby Municipal Code.

**A. Exemptions. The following temporary activities do not require a Temporary Vendor permit, and are exempt from the standards in this section:**

1. Any person engaged in the mere delivery of any goods or services to a site, which were purchased from a regular place of business inside or outside the city;

2. Any person engaged in delivery, exhibition, sale or offering of food on a site for a period of time not to exceed 2 hours during any 24 hour period;

3. Any contractor who is engaged in constructing, maintaining, or repairing a structure, utility, equipment, or landscaping on a site; or

4. Any person conducting a garage sale per Section 5.04.020.

**B. Permit process.**

1. A request for a Temporary Vendor permit shall be processed as a Type I decision pursuant to the procedures set forth in Chapter 16.89. A Temporary Vendor permit applicant shall demonstrate that the proposed activity meets all fire and life safety codes, and is in compliance with this section and with all other applicable sections of the Canby Municipal Code.

2. An application for a Temporary Vendor permit shall include a site plan drawn to scale, which includes all existing lot lines, setbacks, structures, landscaped areas, paved areas, and parking and loading spaces; and illustrates the proposed location and layout of all the Temporary Vendor's structures, equipment, furnishings, signage, and inventory.

3. The Temporary Vendor activity (e.g., retail, restaurant, etc) shall be an outright permitted use in the zoning district in which it is located; Or if the use is conditionally permitted in the zoning district, a Conditional Use Permit approval shall be required prior to issuance of a Temporary Vendor permit.

4. A "Site and Design Review" permit is not required for a permitted Temporary Vendor.

5. Any signage displayed by the Temporary Vendor must be in compliance with Chapter 16.42 sign standards, and all required Sign permits must be obtained.

6. A Temporary Vendor must obtain a City of Canby business license.

C. Duration. A Temporary Vendor permit may be granted for a site for up to 90 consecutive calendar days, and then may be renewed once upon request for an additional 90 days, provided that the temporary vendor activity has been conducted in compliance with all applicable codes, and no public safety incidents have occurred on the site related to the temporary vendor activity. In no case shall a site be permitted to host Temporary Vendor activity for more than 180 days in any 12 month period.

D. A Temporary Vendor shall be located on a paved surface with adequate vehicular and pedestrian ingress and egress, in compliance with Section 16.10.070. Inventory and equipment shall not be displayed or stored in any landscaped areas.

E. A Temporary Vendor shall comply with all required development standards, such as height limitations, setbacks, vision clearance areas, and applicable conditions of any previous land use decisions for the site.

F. Equipment such as trash cans, fuel tanks, or generators shall be screened such that it is not visible from any abutting public right-of-way.

G. A Temporary Vendor shall not displace any vehicle parking spaces that are required to meet the minimum off-street parking requirements of another use on site or on a nearby site. A Temporary Vendor shall not encroach into required loading space areas, driveways, or vehicle maneuvering areas.

H. A Temporary Vendor that displaces one or more vehicle parking spaces is prohibited for any site that:

1. Is non-conforming in terms of meeting minimum required vehicle parking or loading space requirements; or

2. Has been granted a vehicle parking exception, and currently has less than the required minimum number of off-street vehicle parking spaces.

I. The property owner and the temporary vendor permit holder shall be jointly and severably responsible for any violation of this section or other applicable sections of the Canby Municipal Code. Any such violation may result in the immediate revocation or non-renewal of a temporary vendor permit, and may result in the denial of any future temporary vendor permit for the site upon which the violation occurred.

*Amend the following section in CMC Chapter 16.49...*

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

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

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

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.

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

- a. Signs that are not a part of a reviewable development project. Signs that are a part of a reviewable development project, and that are proposed more than two (2) years beyond the final occupancy of the reviewed development.
- b. Alterations or remodeling that do not change the exterior of the building.
- c. Temporary public structures which will be removed within two (2) years of placement.
- d. Accessory structures under 500 square feet.
- e. Temporary commercial tent/canopy structures, which meet the Uniform building or Fire Code, and which will be removed within thirty (30) days of placement.
- f. Temporary Vendor activity permitted pursuant to Section 16.08.140.
- g. Parking lot or paving projects. If no buildings or structures are involved, paving or parking lot development in excess of 2,500 square feet of impervious surface is exempted from site and design review, except in the C-1 zone. In the C-1 zone, all new parking lots that do not involve buildings or structures are subject to site plan review as required in Section 16.49. All new paved areas and parking lots in excess of 2,500 square feet must meet the requirements of Section 16.49.150.
- h. Single family or two-family dwellings, and any alterations or remodeling thereof.

**hi. Minor public facilities.**

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

**4. No fence/wall shall be constructed throughout a project that is/was subject to site and design review approval where the effect or purpose is to wall said project off from the rest of the community unless reviewed and approved by the Planning Commission.**



**RESOLUTION NO. 1044**

**A RESOLUTION AMENDING FEES FOR THE CITY OF CANBY PLANNING DEPARTMENT, TO ADD TEMPORARY VENDOR APPLICATION FEES.**

**WHEREAS**, Oregon Revised Statute 227.175 authorizes the City to set fees for processing land use applications and limited land use applications, based on the actual or average cost of providing those services; and

**WHEREAS**, Canby Municipal Code 16.88.030 authorizes the City Council to set fees by resolution for processes and applications concerning annexations, zone changes, variances, conditional use permits, design review, appeals, other permits or approvals, and property divisions; and

**WHEREAS**, the City Council last updated fees for the City of Canby Planning Department in June 2009, by adopting Resolution No. 1025; and

**WHEREAS**, the City Council has amended the Land Development and Planning Ordinance of the City, by passing Ordinance No. 1315, which establishes standards for temporary vending activities on private property, and which includes a requirement that temporary vendors submit a Type I application to obtain a temporary vendor permit; and

**WHEREAS**, the City Council now wishes to set the fee for a Temporary Vendor Permit application at \$100; and

**WHEREAS**, the City Council now wishes to set the fee for a Temporary Vendor Permit Renewal application at \$80; and

**WHEREAS**, the City Council now wishes to provide non-profit entities with a 50 percent reduction of both the \$100 Temporary Vendor Permit application fee, and the \$80 Temporary Vendor Permit Renewal application fee; and

**WHEREAS**, an amendment to the Planning Department Fee Schedule is a land use decision; and

**WHEREAS**, an amendment to the Planning Department Fee Schedule does not act to rezone property, and is therefore not subject to Oregon Revised Statute 227.186 noticing requirements; and

**WHEREAS**, the Planning Commission held a public hearing, for which public notice was provided by publishing written notice in the July 8<sup>th</sup> edition of the Canby Herald, and by posting written notice pursuant to Canby Municipal Code 16.89.060.D requirements on June 23, 2009; and

**WHEREAS**, the City Council has determined that the City relies on revenue from Planning Department fees in order to provide services necessary for citizen involvement in the City's land use review functions, and therefore Planning Department Fees are in compliance with Goal 1 of Oregon's Statewide Planning Goals, which is "citizen involvement"; and

**WHEREAS**, the City Council has determined that the City relies on revenue from Planning Department fees in order to carry out site- and area-specific implementation measures, such as reviewing limited land use, land use, and permit applications to determine consistency with the City's land use plans, and therefore Planning Department Fees are in compliance with Goal 2 of Oregon's Statewide Planning Goals, which is "land use planning"; and

**WHEREAS**, the City Council has determined that the rates hereinafter specified for Planning Department activities are based on the actual or average cost of providing services, and are therefore just, reasonable, and necessary; and

**WHEREAS**, Oregon law requires that a governing body, when adopting a fee resolution imposing new rates, may include a provision classifying said fees as subject to or not subject to the limitations set in Section 11(b), Article XI of the Oregon Constitution;

**NOW THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Canby, as follows:

**Section 1.** The Fees to be charged by the Planning Department shall be as set forth in Exhibits "A" and "B" attached hereto, and by reference incorporated herein.

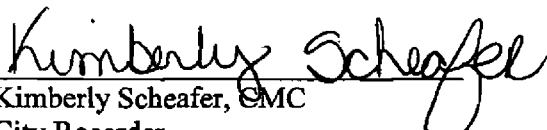
**Section 2.** The City Council hereby classifies the fees imposed herein as not subject to the limitations imposed by Section 11(b), Article XI of the Oregon Constitution.

**Section 3.** This decision is final on September 18, 2009. This resolution shall take effect on October 16, 2009.

**ADOPTED** by the Canby City Council at a regular meeting thereof on September 16, 2009.

  
\_\_\_\_\_  
Melody Thompson  
Mayor

ATTEST:

  
\_\_\_\_\_  
Kimberly Scheafer, EMC  
City Recorder

**Exhibit A  
PLANNING DEPARTMENT FEE SCHEDULE**

	<b>CURRENT FEE</b>	<b>NEW FEE (NC = no change)</b>
Annexation	Sliding scale – see Exhibit B	NC
Annexation, election deposit (applicant pays all costs)	\$2,500	NC
Appeal of interpretation or type II decision to Planning Commission	\$1,600	NC
Appeal of Planning Commission decision to City Council	\$1,920	NC
Building permit site plan review	Sliding scale – see Exhibit B	NC
Comprehensive plan amendment	\$3,220	NC
Conditional use permit	\$2,040	NC
Condominium construction, less than six units	\$280	NC
Interpretation	\$580	NC
Legal Review – Development Agreement/Development Concept Plan	Applicant pays actual costs	NC
Lien search	\$20	NC
Lot line adjustment	\$520	NC
Modification, minor	\$100	NC
Modification, intermediate	\$720	NC
Modification, major	\$720	NC
Modification public hearing (additional charge)	\$460	NC
Non-conforming structure/use	\$520	NC
Parking lot/paving projects	\$300	NC
Partition, major	\$1,360	NC
Partition, minor	\$1,280	NC
Planned unit development	\$1,480	NC
Plat review	\$100	NC
Preconstruction conference	\$100 (-+\$60 per hr. over 2 hrs)	NC
Sign permit for design reviews	\$280	NC
Site and design review	Sliding scale – see Exhibit B	NC
Special permit (hardship)	\$100	NC
Special permit public hearing (additional charge)	No fee	NC
Subdivision	Sliding scale – see Exhibit B	NC
Temporary vendor permit	---	\$100 (note: 50% fee reduction for non-profit entities)
Temporary vendor permit renewal	---	\$80 (note: 50% fee reduction for non-profit entities)
Text amendment	\$2,880	NC
Transportation analysis	Applicant pays actual costs	NC
Variance, major	\$2,120	NC
Variance, minor	\$520	NC
Zoning map amendment	\$2,640	NC

October 16, 2009

**Exhibit B**  
**SLIDING SCALE FEE PROPOSALS**

Staff proposes four sliding scales, for plan reviews (by valuation), design reviews (by acreage & cost of public improvements), annexations (by acreage), and subdivisions (per lot). This approach minimizes the impact on small applications while fairly recovering the higher costs created by large applications.

**Annexations**

<u>Rate</u>		<u>Sample Fees</u>	
< 1 acre	\$1,850 (base fee)	1 acre	\$1,850
1 – 10 acres	\$105 per acre	5 acres	\$2,270
11 – 50 acres	\$55 per acre	10 acres	\$2,795
51+ acres	\$10 per acre	50 acres	\$4,995
		300 acres	\$7,495

**Subdivisions**

<u>Rate</u>		<u>Sample Fees</u>	
4 lots	\$1,700 (base fee)	4 lots	\$1,700
5 – 10 lots	\$95 per lot	10 lots	\$2,270
11+ lots	\$130 per lot	25 lots	\$4,220
		50 lots	\$7,470
		100 lots	\$13,970

**Site and Design Reviews**

Total fee = size component + public improvements component

*Size Component (based on acreage)*

- \$1500 first 0.5 acres
- \$100 for each additional 0.1 acres from 0.5 acres up to 2.5 acres
- \$100 for each additional 0.5 acres from 2.5 acres up to 8.0 acres
- \$100 for each additional 1.0 acres from 8.0 acres up to 13 acres
- \$5000 maximum for 13 acres and above.

*Public Improvements Component*

0.3% of total estimated public improvement cost (to be submitted with design review application). No cap on cost.

Examples:

Gramor/Fred Meyer (17.3 acres, \$1,700,000 public improvements):	\$10,100
Spectrum Woodworking (3.95 acres, all public improvements preexisting):	\$3,800
Denny's (1.19 acres, all public improvements preexisting):	\$2,200
Emmert office building (0.41 acres, \$25,000 public improvements):	\$1,575

## **Building Permit Plan Reviews**

### *Residential*

Single Family House	\$45 per application
Duplex (including conversions of single family to duplex)	\$60 per application
Non-living space addition (garage, carport, porch)	\$25 per application
Living space addition	\$35 per application
(expansion and/or creation of accessory dwelling)	
Multifamily based on valuation	\$30/unit (first 20 units) \$10/unit (each additional unit)
Demolitions	\$10

### *Commercial, Industrial Fee Schedule*

Demolitions	\$30
Signs, commercial tenant improvements and remodels not involving additional square footage	\$50
All others based on building square footage:	
0 to 2,000 square feet	\$100
2,001 to 5,000	\$100 for the first 2,000 sq.ft. and \$1.75 for each additional 100 sq.ft. or fraction thereof.
5,001 to 10,000	\$152.50 for the first 5,000 sq.ft. and \$1.50 for each additional 100 sq.ft. or fraction thereof.
10,001 to 50,000	\$160 for the first 10,000 sq.ft. and \$1.25 for each additional 100 sq.ft. or fraction thereof.
50,001 to 100,000	\$210 for the first 50,000 sq.ft. and \$1.00 for each additional 500 sq.ft. or fraction thereof.
100,001 and up	\$260 for the first 100,000 sq.ft. and \$0.75 for each additional 1,000 sq.ft. or fraction thereof.

### Examples:

Denny's Diner: \$157

Safeway remodel/addition: \$676

Milgard windows: \$894



UNITED STATES POSTAGE  
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02 1P \$001.560  
0003129678 SEP 28 2009  
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**DLCD**

**Attn: Plan Amendment Specialist  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540**