

**RESOLUTION NO. 1100**

**A RESOLUTION CODIFYING AND COMPILING CERTAIN EXISTING GENERAL ORDINANCES FOR THE CITY OF CANBY.**

**WHEREAS**, on February 15, 2006 the Canby City Council adopted Ordinance 1200 which adopted a revised code of the City of Canby entitled the "Canby Municipal Code". Since that time the Council has adopted Resolutions 956, 1012, 1051, and 1070 codifying supplements.

**WHEREAS**, since that time Ordinances have been adopted affecting the Canby Municipal Code, causing the present general and permanent ordinances of the City to be inadequately arranged and classified and are insufficient in form and substance for the complete preservation of the public peace, health, safety and general welfare of the municipality and for the proper conduct of its affairs; and

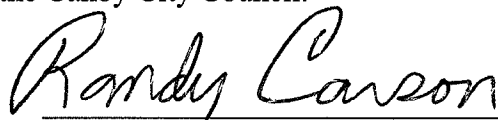
**WHEREAS**, the Acts of the Legislature of the State of Oregon empower and authorize the City to revise, amend, restate, codify and compile any existing ordinances and all new ordinances not heretofore adopted or published and to incorporate such ordinances into one ordinance in book form; and

**WHEREAS**, the League of Oregon Cities, Ordinance Services Program, in its efforts to promote better and more efficient municipal governing, is willing to undertake the codification of the City's ordinances;

**NOW THEREFORE, IT IS HEREBY RESOLVED** by the City Council of the City of Canby that the City hereby authorizes a general compilation, revision and codification of the ordinances of the City of a general and permanent nature and publication of such ordinances in book form, at a cost according to the standard rates and billing procedures for services under the program. A copy of the 2011 S-5 Supplement (codifying ordinances 1334-1341) is attached hereto as Exhibit "A".

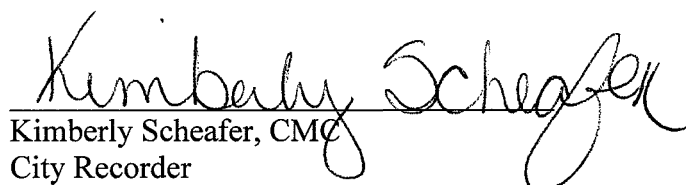
This resolution will take effect on June 1, 2011.

ADOPTED this 1st day of June 2011, by the Canby City Council.



Randy Carson  
Mayor

ATTEST:



Kimberly Scheafer, CMC  
City Recorder

# **CITY OF CANBY, OREGON**

## **CODE OF ORDINANCES**

2011 S-5 Supplement contains:  
Local legislation current through Ord. 1341, passed 3-2-2011

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**Canby - Administration and Personnel**



city-wide concern related to the Canby Comprehensive Plan or the Canby Planning and Development Code. (Ord. 1109, passed 11-20-2002)

membership shall include artists, art advocates and professionals, business owners, city staff, and a representative from Canby's Main Street Design Committee.

(Ord. 1341, passed 3-2-2011)

**CHAPTER 2.80: PUBLIC ART MURAL PROGRAM**

Section

- 2.80.010 Purpose.
- 2.80.020 Definitions.
- 2.80.030 Guidelines.
- 2.80.040 Ownership.
- 2.80.050 Implementation.

**§ 2.80.010 Purpose.**

The purpose of this Title and the policy of the City of Canby are to permit and encourage Public Art Murals located within Canby's Urban Renewal District for acquisition by the Urban Renewal Agency. Public Art Murals are to be placed on public wall space and paid for in full or in part with Urban Renewal Funds administered by Canby's Urban Renewal Director. The City Council recognizes that public murals can increase community identity and foster a sense of place and enclosure if they are located at heights and scales visible to pedestrians, are retained for longer periods of time and include a neighborhood process for discussion. (Ord. 1341, passed 3-2-2011)

**§ 2.80.020 Definitions.**

A public art mural means an original, two-dimensional work of visual art comprised of paint, executed by hand directly upon an exterior wall of a building, which is accessible to the public, and which has been approved by the Canby Urban Renewal Agency Director upon recommendation by the Public Mural Advisory Committee (PMAC).

Public Art Mural Advisory Committee (PMAC) means a group responsible for reviewing proposed public art murals and making recommendations to the Canby Urban Renewal Agency Director on the selection of Public Art Murals. Committee

**§ 2.80.030 Guidelines.**

The Canby Urban Renewal Agency Director in consultation with the Public Mural Advisory Committee and staff shall adopt guidelines to:

- A. Provide for annual reporting to the Agency;
- B. Provide a method for the appointment of representatives to the Public Mural Advisory Committee;
- C. Determine a method or methods of selecting and contracting with artists for the design, execution and siting of Public Art Murals;
- D. Determine a process for the ongoing care, maintenance and conservation of public art murals;
- E. Determine a process to deaccession public art murals;
- F. Set forth any other matter appropriate to the administration of this Chapter.

(Ord. 1341, passed 3-2-2011)

**§ 2.80.040 Ownership.**

All Public Art Murals acquired pursuant to this Chapter shall be acquired in the name of the City of Canby Urban Renewal Agency, and title shall vest in the City of Canby Urban Renewal Agency.

(Ord. 1341, passed 3-2-2011)

**§ 2.80.050 Implementation.**

The Canby Urban Renewal Agency Director in consultation with the Public Mural Advisory Committee and Mural Program Staff shall implement the provisions of this Chapter, in cooperation with all participating city departments.

(Ord. 1341, passed 3-2-2011)



**Canby - Administration and Personnel**

- 12.36.030 Definitions.
- 12.36.040 Registration of carriers.
- 12.36.050 Construction standards.
- 12.36.060 Location of facilities.
- 12.36.070 Telecommunications franchise.
- 12.36.080 General franchise terms.
- 12.36.090 General provisions.

**§ 12.36.010 Jurisdiction and management of the public rights-of-way.**

A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the City Charter and state law.

B. Public rights-of-way include but are not limited to streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and airspace over these areas.

C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.

E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

F. The city retains the right and privilege to cut or move any telecommunications facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.  
(Ord. 1036, passed 11-3-1999)

**§ 12.36.020 Regulatory fees and compensation not a tax.**

A. The fees and costs provided for in this chapter, and any compensation charged and paid for use of the public rights-of-way provided for in this chapter, are separate from and in addition to any and all federal, state, local and city charges as may be levied, imposed or due from a telecommunications carrier, its customers or subscribers, or on account of the lease, sale, delivery or transmission of telecommunications services.

B. The city has determined that any fee provided for by this chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees are not imposed on property or property owners, and these fees are not new or increased fees.

C. The fees and costs provided for in this chapter are subject to applicable federal and state laws.

(Ord. 1036, passed 11-3-1999)

**§ 12.36.030 Definitions.**

A. For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein.

1. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

2. The words "shall" and "will" are mandatory and "may" is permissive.

B. Words not defined herein shall be given the meaning set forth in the Communications Policy Act of 1934, being 47 USC §§ 201 and 521 *et seq.* as amended, the Cable Communications Policy Act of 1984, being 47 USC § 521 *et seq.*, the Cable Television Consumer Protection and Competition Act of 1992, being 47 USC §§ 201 and 521 *et seq.*, and the Telecommunications Act of 1996, being 47 USC § 151 *et seq.* If not defined there, the words shall be given their common and ordinary meaning.

Aboveground Facilities, see overhead facilities.

Affiliated Interest shall have the same meaning as O.R.S. 759.010.

Cable Act shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 *et seq.*, as now and hereafter amended.

Cable Service is to be defined consistent with federal laws and means the 1-way transmission to subscribers of video programming or other programming service; and subscriber interaction, if any, which is required for the selection or use of the video programming or other programming service.

City means the City of Canby, an Oregon municipal corporation, and individuals authorized to act on the city's behalf.

City Council means the elected governing body of the city.

City Property means and includes all real property owned by the city, other than public rights-of-way and utility easements as those are defined herein, and all property held in a proprietary capacity by the city, which are not subject to right-of-way franchising as provided in this chapter.

Conduit means any structure, or portion thereof, containing 1 or more ducts, conduits, manholes, handholes, bolts or other facilities used for any telegraph, telephone, cable television, electrical or communications conductors, or cable right-of-way, owned or controlled, in whole or in part, by 1 or more public utilities.

Construction means any activity in the public rights-of-way resulting in physical change thereto, including excavation or placement of structures, but excluding routine maintenance or repair of existing facilities.

Control or Controlling Interest means actual working control in whatever manner exercised.

Days means calendar days unless otherwise specified.

Duct means a single enclosed raceway for conductors or cable.

Emergency has the meaning provided for in O.R.S. 401.025.

Federal Communications Commission or FCC means the federal administrative agency or its lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

Franchise means an agreement between the city and a grantee which grants a privilege to use public right-of-way and utility easements within the city for a dedicated purpose and for specific compensation.

Grantee means the person to whom or which a franchise is granted by the city.

Oregon Public Utilities Commission or OPUC means the statutorily created state agency in the State of Oregon responsible for licensing, regulation and administration of certain telecommunications carriers as set forth in state law, or its lawful successor.

Overhead or Aboveground Facilities means utility poles, utility facilities and telecommunications facilities above the surface of the ground, including the underground supports and foundations for the facilities.

Person means an individual, corporation, company, association, joint stock company or association, firm, partnership or limited liability company.

Private Telecommunications Network means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for his, her or its use and not for resale, directly or indirectly. Private Telecommunications Network includes services provided by the state pursuant to O.R.S. 190.240 and 283.140.

Public Rights-of-Way include but are not limited to streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and airspace over these areas. This definition applies only to the extent of the city's right, title, interest or authority to grant a franchise to occupy and use the areas for telecommunications facilities. Public Rights-of-Way shall also include utility easements as defined below.

State means the State of Oregon.

Telecommunications Act means the Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C. 151 *et seq.*) and as hereafter amended.

Telecommunications Carrier means any provider of telecommunications services and includes every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the city.

Telecommunications Facilities means the plant and equipment, other than customer premises equipment, used by a telecommunications carrier to provide telecommunications services.

Telecommunications Service means any service provided for the purpose of the transmission of information, including, but not limited to voice, video or data, regardless of the transmission medium and whether or not the transmission medium is owned by the provider itself. Telecommunication service includes all forms of telephone services and voice, video, data or information transport, but does not include: (1) cable service; (2) open video system service, as defined in 47 C.F.R. 76; (3) private communications system services provided without using the public rights-of-way; (4) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; (5) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act; and (6) commercial mobile radio services as defined in 47 C.F.R. 20.

Telecommunications System, see telecommunications facilities above.

Telecommunications Utility has the same meaning as O.R.S. 759.005(1).

Underground Facilities means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

Usable Space means all the space on a pole, except the portion below ground level, the 20 feet of safety clearance space above ground level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that 6 feet of a pole is buried below ground level.

Utility Easement means any easement granted to or owned by the city and acquired, established, dedicated or devoted for public utility purposes.

Utility Facilities means the plant, equipment and property, including but not limited to the poles, pipes,

mains, conduits, ducts, cable, wires, plant and equipment located under, on or above the surface of the ground within the public right-of-way of the city and used or to be used for the purpose of providing utility or telecommunications services.

(Ord. 1036, passed 11-3-1999; Am. Ord. 1336, passed 11-3-2010)

**§ 12.36.040 Registration of carriers.**

A. Purpose. The purpose of registration is:

1. To assure that all telecommunications carriers who have facilities and/or provide services within the city comply with the ordinances, rules and regulations of the city;

2. To provide the city with accurate and current information concerning the telecommunications carriers who offer to provide telecommunications services within the city, or that own or operate telecommunications facilities within the city; and

3. To assist the city in the enforcement of this code and the collection of any city franchise fees or charges that may be due the city.

B. Registration Required. Except as provided in division D. of this section, all telecommunications carriers having telecommunications facilities within the corporate limits of the city and all telecommunications carriers that offer or provide telecommunications service to customer premises within the city shall register. The appropriate application and license from either the Oregon Public Utility Commission (PUC) or the Federal Communications Commission (FCC) qualify as necessary registration information. Applicants also have the option of providing the following information:

1. The identity and legal status of the registrant, including the name, address and telephone number of the duly authorized officer, agent or employee responsible for the accuracy of the registration information;

2. The name, address and telephone number for the duly authorized officer, agent or employee to be contacted in case of an emergency;

3. A description of the registrant's existing or proposed telecommunications facilities within the city, a description of the telecommunications facilities

that the registrant intends to construct, and a description of the telecommunications service that the registrant intends to offer or provide to persons, firms, businesses or institutions within the city; and

4. Information sufficient to determine whether the transmission, origination or receipt of the telecommunications services provided or to be provided by the registrant constitutes an occupation or privilege subject to any business license requirements. A copy of the business license or the license number must be provided.

C. Registration Fee. Each application for registration as a telecommunications carrier shall be accompanied by a nonrefundable registration fee in the amount of \$35, or as otherwise established by resolution of the City Council.

D. Exceptions to Registration. The following telecommunications carriers are excepted from registration:

1. Telecommunications carriers that are owned and operated exclusively for its own use by the state or a political subdivision of this state; and
  2. A private telecommunications network, provided that the network does not occupy any public rights-of-way of the city.
- (Ord. 1036, passed 11-3-1999)

**§ 12.36.050 Construction standards.**

A. General. No person shall commence or continue with the construction, installation or operation of telecommunications facilities within a public right-of-way except as provided in this code and in compliance with all applicable codes, rules and regulations.

B. Construction Codes. Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Code and the National Electrical Safety Code.

C. Construction Permits. No person shall construct or install any telecommunications facilities within a public right-of-way without first obtaining a construction permit and paying the construction permit fee. No permit shall be issued for the construction or installation of telecommunications facilities within a public right-of-way:

1. Unless the telecommunications carrier has first filed a registration statement with the city pursuant to § 12.36.040B. of this code; and, if applicable,

2. Unless the telecommunications carrier has first applied for and been granted a franchise pursuant to § 12.36.070 of this code.  
(Ord. 1036, passed 11-3-1999)

**§ 12.36.060 Location of facilities.**

A. Location of Facilities. All facilities located within the public right-of-way shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

1. Whenever all existing electric utilities, cable facilities or telecommunications facilities are located underground within a public right-of-way of the city, a grantee with permission to occupy the same public right-of-way must also locate its telecommunications facilities underground.

2. Whenever all new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public right-of-way of the city, a grantee that currently occupies the same public right-of-way shall relocate its facilities underground concurrently with the other affected utilities to minimize disruption of the public right-of-way, absent extraordinary circumstances or undue hardship as determined by the city and consistent with applicable state and federal law.

B. Interference with the Public Rights-of-Way. No grantee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the public rights-of-way by the city, by the general public or by other persons authorized to use or be present in or upon the public rights-of-way. All use of public rights-of-way shall be consistent with city codes, ordinances and regulations.

C. Relocation or Removal of Facilities. Except in the case of an emergency, within 90 days following written notice from the city a grantee shall, at no expense to grantor, temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the public rights-of-way whenever the city shall have determined that the removal, relocation, change or alteration is reasonably necessary for:

## References to Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1292 § 5.8	9-3-2008	13.16.082
1292 § 6.1	9-3-2008	13.16.090
1292 § 6.2	9-3-2008	13.16.091
1292 § 6.3	9-3-2008	13.16.092
1292 § 6.4	9-3-2008	13.16.093
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1292 § 6.9	9-3-2008	13.16.098
1292 § 6.10	9-3-2008	13.16.099
1292 § 6.11	9-3-2008	13.16.100
1292 § 6.12	9-3-2008	13.16.101
1292 § 6.13	9-3-2008	13.16.102
1292 § 6.14	9-3-2008	13.16.103
1292 § 6.15	9-3-2008	13.16.104
1292 § 7.1	9-3-2008	13.16.115
1292 § 7.2	9-3-2008	13.16.116
1292 § 8	9-3-2008	13.16.130
1292 § 9	9-3-2008	13.16.140
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1292 § 13.1	9-3-2008	13.16.210
1292 § 13.2	9-3-2008	13.16.211

### Canby - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
1292 § 13.3	9-3-2008	13.16.212
1292 § 13.4	9-3-2008	13.16.213
1292 § 14.1	9-3-2008	13.16.230
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1292 § 14.3	9-3-2008	13.16.232
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