



**City of Sherwood
PLANNING COMMISSION
Sherwood City Hall
22560 SW Pine Street
Sherwood, OR 97140
July 27, 2010 – 7 PM**

Planning Commission will hold a work session on July 27, 2010. Work sessions are informal. Public may attend.

Work sessions are informal meetings where the Commission and staff can discuss topics but no formal action is taken from these meetings. Work sessions are open to the public in accordance with public meeting laws.

Planning Commission Work Session agenda items:

1. Code Clean-Up Discussion
 - a. Public Notice
 - b. Fences
 - c. Street Tree Removal
 - d. Residential Uses
 - e. Variances and Adjustments

Next Meeting:

1. **August 10, 2010** – Public Hearings – Continued TEA Concept Plan and Code Clean-Up Phase I



MEMORANDUM

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Jim Patterson

DATE: July 20, 2010
TO: Planning Commission
FROM: Julia Hajduk, Planning Manager
SUBJECT: Code Clean-Up Project Packet Materials

Attached are the Phase II issue papers prepared by the Planning Department for Fences (Attachment 1), Street Trees (Attachment 2), Residential Uses (Attachment 3) and Variances and Adjustments (Attachment 4). These topics are all related to the residential uses and are the primary focus of this Phase. We are hoping to begin getting the Planning Commissions comments and suggestions as we continue our outreach for public input and in preparation for the listening session on these topic September 14th.

These issue papers will also be available on the web site.

Fences– Issue Paper

Description of issue:

The fence requirements (16.58.030) are a part of the Zoning and Community Development Code. The fence standards are universal- they apply to residential, commercial and industrial uses. The same height and location standards regulate walls and hedges which leaves little flexibility. The fence standards do have special regulations for fences within the corner-side lots in residential zones; however, they are not very clear.

The fence standards are not flexible as they are the same for fences, walls and hedges as defined by the section. The planning department has run into problems with this over time. Citizens have tried to increase their privacy by growing tall vegetation. Per the fence regulations, a property owner cannot grow a large arborvitae hedge above 6 feet tall. The code does not indicate if there is a difference between a solid or partially transparent fence. For example, there have been inquiries about adding an additional foot of lattice to the top of a fence for additional privacy and aesthetics. Two issues for the Planning Commission to consider are: Should there be a difference between a solid fence and one with openings? Should decorative lattice be permitted above the maximum fence standard?

There is currently a one size fits all fence code that allows the same size fence throughout the City. Planning staff has also heard over time that a six foot fence does not provide adequate security and screening for commercial and industrial sites. The City of Newberg distinguishes between residential and commercial/industrial when it comes to their fence standards. They allow the commercial/industrial fences to be up to eight feet tall (151.556.D.2.). This is similar to a number of neighboring jurisdictions.

The corner side yard standards provide additional clear vision areas on corner lots. It is also believed that the intent of the standard is to protect the pedestrians experience as they walk along corner lots. However, these standards are not consistent with accessory dwelling units or deck standards. Also, the corner side yard standards do not take into consideration lot size. Property owners with larger lots are required to adhere to standards designed for a standard (5,000-7,000 square foot) lot and cannot fence much of the backyard. The corner lot standards need to be revised or the accessory dwelling units and deck standards need to be revised in order to make these code standards consistent. The lot size needs to be considered in the corner side yard standards as well.

Code Sections (language included on page 2-4):

16.58.030 – Fences, Walls and Hedges

Public input received:

Attachment 1

No specific input was received regarding this code update issue; however staff has interacted with citizens that have voiced their frustration with the fence code in the past. There was general comment during phase I of the code clean-up that fences should be addressed but there were no specific comments.

Comparison to other jurisdictions and the Oregon Model Code:

See attached table on page 5.

Initial Staff Recommendation

It is recommended that hedges be removed from the fence and wall standards. The current standard is very limiting and has created problems for citizens. There was one citizen who felt his fence had to be higher in order to give him and his family more privacy. His solution was to plant arborvitae along his fence line, however, he could not create a screen over six feet tall. He then asked how far apart he would need to plant arborvitae to make it a plant and not a screen. There is no clear and objective way to determine when a dense planting becomes a hedge. It is recommended that, if hedges are regulated, there should be different height and location standards and clear definitions. Listing only fences and walls is consistent with other jurisdictions.

To address lattice on top of fences it is recommended that the fence language specifically say that any decorative additions to the fence are included in the maximum height limits of the zone. Alternatively, the code could permit an additional foot or so of lattice on top of a six foot fence. It is recommended that lattice be defined so that residents do not create an additional foot of screening beyond what is determined appropriate fence height. This could be done by requiring a building permit if the fence is taller than six (6) feet in height.

It is recommended that the height limit for fences in commercial and industrial areas be increased to eight (8) feet. This is consistent with neighboring jurisdictions and gives commercial and industrial developments the security and privacy needed for their businesses.

It is recommended that corner side yard standards be removed and the fence standards reference the clear vision standards instead. Neighboring jurisdictions reference their vision clearance standards. By eliminating the corner side standard there will be less confusion and the fence standards will be more consistent with the deck and accessory structure standards as there have been problems in the past with the inconsistencies between them.

Code Language (Current)

16.58.030 FENCES, WALLS AND HEDGES

Generally

A. Purpose: The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effect of fences can include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

B. Definition: For purposes of this Section, a corner lot adjoining two (2) City streets shall have both yards adjoining the streets considered as front yards.

C. Types of Fences: The following standards apply to walls, fences, hedges, mounds, and screens of all types (or a combination thereof) whether open, solid, wood, metal, wire, masonry, plant vegetation or other materials.

D. Location:

1. Fences up to forty-two inches (42") high are allowed in required front building setbacks.

2. Fences up to six feet (6') high are allowed in required side or rear building setbacks, except fences adjacent to public pedestrian access ways and alleys shall not exceed forty-two inches (42") in height unless there is a landscaped buffer at least three (3) feet wide between the fence and the access way or alley.

3. Rear (flag) lot access drives shall be separated from abutting property(ies) by a minimum of forty-two inch (42") sight-obscuring fence or a 42"-72" high landscape hedge within a four (4) foot landscape buffer. Alternatively, where existing mature trees and vegetation are suitable, the Planning Supervisor may waive the fence/buffer in order to preserve the mature vegetation.

4. Additionally, all fences shall be subject to the clear vision provisions of Section 16.58.010.

(Ord. 2006-021)

E. Provisional Locations:

1. On corner lots in residential areas, where a home is characterized as back-to-back (See diagram adopted herein as shown in the illustration of these text provisions):

a. A six-foot (6') fence may extend into the required second front yard in an amount not to exceed fifty percent (50%) of the distance measured between the house and sidewalk.

b. Said fence may not extend beyond eight feet (8') from the rear of the house toward the front.

2. On corner lots in residential areas where a home is characterized as back-to-front (See diagram adopted herein as shown in the illustration of these text provisions):

a. A six-foot (6') fence may extend into the second required front yard in an amount no greater than five feet (5') from the house.

b. Said fence may not extend beyond eight feet (8') from the rear of the house to the front.

3. Fences in yards affecting cul-de-sacs are exempt from this Subsection.

F. Provisional Conditions: The following conditions are applied to those fences constructed pursuant to Subsection E.

1. The clear vision standards of Section 16.58.010 apply and take precedence over these provisions in the event of conflict between this Section and Section 16.58.030.
2. Wire/chain link fencing is not allowed along any residential street frontage.

G. General Conditions

1. In all cases, the following standards are applied:
 - a. Fences must be structurally sound and maintained in good repair. Fences may not be propped up in any way from the exterior side.
 - b. Chain link fencing is not allowed in any required residential front yard setback.
 - c. The finished side of the fence must face the street.
 - d. Wood fences along side yards that are shared between two properties shall be a "good neighbor" design with alternating boards.
 - e. Buffering: If a proposed development is adjacent to an existing farming operation, a buffer plan that includes, but is not limited to, setbacks, fencing, landscaping, and maintenance via a homeowner's association shall be submitted and approved as part of the preliminary plat or site plan review process per Section 16.90.020 and Chapter 16.122.

H. Administrative Variance: The City Manager or his/her designee may grant an administrative variance to this Section.

I. Abatement of Fences in Non-Compliance

1. Fences that do not conform to Subsection E of this Code must come into compliance when the house is sold, when other permits are issued, or by September 1, 2003, whichever is earlier. Fences constructed affecting cul-de-sacs or fences creating inadequate site distances pursuant to Section 16.58.010 must come into compliance immediately.
2. Chain link fences forty-two inches (42") or under in front yard setbacks, erected prior to adoption of this ordinance, or other fences which, when installed, were legal under the Municipal Code of Ordinances effective at that time, are exempt from Subsection (I)(1).

J. Penalties: Violations of this Section shall be subject to the penalties defined by Section 16.02.040.

(Ord. 96-1014 § 1; 93-964; 86-851)

Fence and Yard Comparison among Jurisdictions

Jurisdiction	How tall are fences permitted to be?*	Are fences, walls and hedges regulated by the same regulations?	Are there special corner lot standards in addition to clear vision?	Are variances or conditional use permits allowed to increase the height of a fence, wall or hedge?	Additional Comments
Sherwood	6'	Yes	Yes	No	
Newberg	6' – Residential 8' - commercial/ industrial	Fences and walls only.	Yes, the owner must select a front yard and interior yard. The clear vision standard must be maintained. Vision Clearance applies		
Tualatin	6' along arterials/collector and expressways Min. 8' I-5/ I- 205	Appears to be fence only.		Variances are prohibited. If a development cannot meet the TDC an architectural review application can be submitted.	
Tigard	6'	All are listed in the same section but they are defined and called out when the standard applies to each type of screening.	No – must comply with vision clearance.		Over 6' tall a building permit is required.
Lake Oswego	6' – residential 8' – non-residential	Fences and walls only. Specifies that hedges and other natural growth is not a fence.	No – must comply with vision clearance.	Variances possible to increase the height of a fence.	Allows fences on top of retaining walls not to exceed 8 'Over 6' tall a building permit is required.
Wilsonville	6'	Appears to be fence only.	No – must comply with vision clearance.		The development review board can determine the height of a fence when reviewing an application
Oregon Model Code	6'	Fences and walls only.	The development review board can impose additional restrictions for corner lots.		Over 6' tall a building permit is required.

*This does not include fences in front yard.

Street Tree– Issue Paper

Description of issue:

The three areas related to street trees that need to be reviewed include street tree removal, tree spacing and the approved street tree list. Existing street tree standards are not clear; for example, it is difficult to determine if a tree is a required street tree. The street tree removal process is burdensome. Residents frequently call staff to find out if they need a permit to remove their tree. Lately, people have been interested in removing street trees because they are creating a safety hazard by lifting sidewalks. There have also been concerns about the ability to remove trees. We have heard from some residents that would like to receive notice before a street tree is removed in their neighborhood.

The code authorizes the Parks Board to approve the removal of street trees; however the approval criteria are not clearly identified and it is not clear how long the process will take or what the outcome of the tree removal requests will be. The Parks Board reviews resident's street tree removal requests by listening to the recommendation from the Public Works staff. If the Public Works staff recommends the removal of the tree the Parks Board will generally approve the request. The primary reasons that people request the removal of a street tree are because the tree is diseased or dying or it is impacting the sidewalk or water line. To our knowledge the Parks Board does not prepare findings or send out notices of decision to those who have requested to remove a tree. Staff is not aware of any street tree removal requests that have been denied.

In addition to street tree removal, street tree spacing is an issue. The current code requires that a developer provide one (1) tree for every 25 feet of frontage. This does not take into account any driveways, utilities, etc. Since the driveways are not taken into account, there are cases when "X" amount of trees are required but they do not fit into the landscaping strip. The result will be that trees are planted in front yards or the trees are planted too close together. This can cause the tree to be less healthy and creates uncertainty in the future when trying to determine if a tree in the front yard may be a street tree.

Finally, the approved street tree list needs to be updated. There are trees that do not have the appropriate root structure to be placed within a planter strip. The fruit bearing trees that are currently on the list create a safety concern as well as a mess. The smashed fruit can cause people to slip and can attract bees and other potentially harmful pests. The Public Works Department must dedicate work hours to cleanup the fruit from the public streets and sidewalks. In addition to fruit trees, there are a number of street trees that should be removed from the list because their roots can lift and break sidewalks, also creating a safety hazard.

Code Sections (language included on page 3-9):

16.162.050 – Trees along Public Streets or on other Public property

Appendix J – Approved Street Tree List

Public input received:

The City has received comments indicating that there is confusion about the street tree removal process and who is responsible for the trees. There are a number of street trees in the City that are damaging the sidewalks and, in some cases private property; comments to this affect were received during the outreach in phase I of the code clean-up project. These public comments resulted in this topic moving higher up on the priorities list.

Specific comments included the recommendation to require a variety of species of trees to be planted to avoid destruction if there is disease, to not allow trees in planter strips (they felt that this resulted in the need to water and caused stress to the trees), to allow the trees to be spaced further apart (not require 1 for every 25 feet of frontage). While no specific comments were provided, staff has heard over the years frustration about having to go to Parks Board to obtain approval to remove. Staff also recently heard from a citizen who felt that there should be more scrutiny placed on the removal of street trees. They stated that there may be measures available to address impacts to utilities and sidewalks without removing the tree.

Comparison to other jurisdictions and Oregon Model Code:

See attached table on page 10.

Initial Staff Recommendation

It is recommended that the street tree removal process be specifically outlined to allow staff to direct residents to clear guidelines that explain how to request approval for street tree removal. Attachment 1 is from the City of Tualatin Code and is generally a good example; however, it is not proposed that we implement a program where we remove trees upon request. It would also be beneficial to require a permit to ensure that all of the required materials have been submitted prior to the review and develop clear and objective review criteria to allow permit approval without going to the Parks Board.

It is also recommended that the spacing standards indicate how far apart street trees should be as other jurisdictions have done. The current spacing standards have created problems as there is often not enough space for all of the required street trees when driveways and utilities are taken into account.

The street tree list should be reevaluated to ensure recommended street trees are appropriate and provide recommended trees for varying circumstances (in narrow planter strips, under power lines, etc). Staff will review the approved lists of other jurisdictions that have up to date tree lists as well as The Friends of Trees data base and make recommendations accordingly.

Code Language (Current)

16.142.050 Trees Along Public Streets or on Other Public Property

A. Trees Along Public Streets

Trees are required to be planted by the land use applicant to the following specifications along public streets abutting or within any new development. Planting of such trees shall be a condition of development approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets.

1. Tree location: Trees shall be planted within the planter strip along newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines.

(Ord. 2006-021)

2. Tree size: A minimum trunk diameter of two (2) inches DBH and minimum height of six (6) feet.
3. Tree spacing: A minimum of one (1) tree for every twenty-five (25) feet of public street frontage, or two (2) trees for every buildable lot, whichever yields the greater number of trees. Double fronting lots shall have a minimum of one (1) street tree for every twenty-five (25) feet of frontage. Corner lots shall have a minimum of three (3) street trees.
4. For minor arterial and major collector streets, the City may require planted medians in lieu of paved twelve (12) foot wide center turning lanes, planted with trees to the specifications of this subsection.
5. Tree types: Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in Appendix J of this Code.

(Ord. 2006-021)

B. Prohibited Trees and Shrubs

1. Poplar, conifer, cottonwood, willow, ailanthus, any other native tree species, and fruit and nut trees, are prohibited along public streets as such trees tend to grow in such manner as to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same.
2. Poplar, cottonwood, and willow trees are prohibited on other public or private property not along public streets, when, in the City's determination, such trees may tend to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same. English ivy, holly and Himalayan blackberries are also prohibited on public property.

C. Removal and Cutting of Trees

1. For the purposes of this Section, "removal and cutting" shall be defined as the falling or removal of a tree, or any other deliberate action by any person, the natural result of which is to cause the death or substantial destruction of the tree. Prohibited removal and cutting activities do not include normal trimming or pruning when done in accordance with generally accepted arboricultural practices. The authorizations required by this subsection shall not apply to any

removal or cutting associated with development activities authorized by the land use approvals contemplated by this Section 16.142.060. Subsection C of this Section shall only govern the removal or cutting of trees along public streets or of trees and woodlands on public property not part of a land use application.

2. Any tree located on public property or along public streets, as per this Section, shall not be subsequently removed or cut without the authorization of the Parks Advisory Board, unless removal or cutting is necessitated by the tree:
 - a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or
 - b. Obstructing public ways or sight distance so as to cause a safety hazard, or
 - c. Interfering with or damaging public or private utilities, or
 - d. Being defined as a nuisance as per City nuisance abatement ordinances, or
 - e. Otherwise becoming a hazard to life or property, in the City's determination.
3. All requests for authorization to remove or cut trees or woodland shall be made in writing stating reasons and circumstances necessitating removal or cutting. The Parks Advisory Board shall consider the request in open session at any duly convened Board meeting. Any Board authorization for the removal and cutting of such trees or woodlands shall be made in writing, setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in City records, as per other Notices of Decision required by this Code. Any tree or woodland removed per this Section shall be replaced with a new tree or trees selected from Appendix J of this Code. The party initiating the request for tree or woodland removal is responsible for all costs of replacement, including installation. This Section shall apply to any party requesting tree or woodland removal or cutting, including the City.
4. In the specific circumstances listed in subsection C2 of this Section only, the City Manager or his or her designee may administratively authorize the immediate removal of such trees or woodlands without Parks Advisory Board review. Any administrative authorization for the removal or cutting of such trees or woodlands shall be made in writing setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in City records as per other Notices of Decision required by this Code. Any tree or woodland removed as per this Section shall be replaced with a new tree or trees selected from Appendix J of this Code. The party initiating the request for tree or woodland removal shall be responsible for all costs of said replacement, including installation. This Section shall apply to any party requesting tree or woodland removal or cutting, including the City.

D. Trees on Private Property

Any tree, woodland or any other vegetation located on private property, regardless of species or size, that interferes with or damages public streets or utilities, or causes an unwarranted increase in the maintenance costs of same, may be ordered removed or cut by the City Manager or his or her designee without Parks Advisory Board review.

Any order for the removal or cutting of such trees, woodlands or other vegetation, shall be made and processed as per applicable City nuisance abatement ordinances.

E. Penalties

The abuse, destruction, defacing, cutting, removal, mutilation or other misuse of any tree planted on public property or along a public street as per this Section, shall be subject to the penalties defined by Section 16.02.040, and other penalties defined by applicable ordinances and statutes, provided that each tree so abused shall be deemed a separate offense.

(Ord. 91-922 § 3)

APPENDIX J -- CITY OF SHERWOOD
RECOMMENDED STREET TREES
TABLE INSET:

Acer - Maple	
Acer platanoides cavalier - Cavalier Norway Maple	
p. cleveland	Cleveland Norway Maple
p. cleveland	Cleveland II Norway Maple
p. columnare	Columnar Norway Maple
p. fairway	Fairway Sugar Maple
p. olmsted	Olmsted Norway Maple
p. summershade	Summershade Maple
Acer rubrum red sunset - Red Sunset Maple (Old Town)	
r. royal red	Royal Red Maple
r. gerling	Gerling Red Maple
r. tilford	Tilford Red Maple
Carpinus - Hornbeam	
Carpinus betulus pyramidals	Pyramidal Hornbeam European
b. columnaris	Pyramidal Hornbeam European

b. fastigiata	Pyramidal Hornbeam	European
Cercidiphyllum - Katsura Tree		
c. japonicum	Katsura Tree	
Cercix, canadensis - Canadian Red Bud		
Fraxinus - Ash		
americana	White Ash	
americana	Autumn Purple Ash	
angustifolia dr. pirone	Dr. Pirone Ash	
oxycarpa flame	Flame Ash	
raywoodi	Raywood Ash	
latifolia	Oregon Ash	
Ginkgo		
bilboa	Maidenhair Tree	
bilboa	Autumn Gold	
bilboa	Fairmount	
Gleditsia		
triacanthos sunburst	Honey Locust	
Liquidamber		
styraciflua	American Sweetgum	
Liriodenrod		
tulipifera	Tulip Tree	
Magnolia		
grandiflora vars	Evergreen Magnolia	

grandiflora	Southern Magnolia
kobus dr. merrill	Dr. Merrill Magnolia
Platanus	
aceriflora	London Plane Tree
Purnus - Cherry - Plum	
avium plena	Double Flowering Cherry
avium scanlon	Scanlon Globe Cherry
serrulata vars (nonweeping)	Japanese Cherry
okame	Okame Cherry
blireana	Blireana Plum
cerasifera newport	Newport Plum
pissardi	Pissardi Plum
thundercloud	Thundercloud Plum
vesuvius	Krauter's Vesuvius Plum
maacki	Amur Chokecherry
serrula	Redbark Cherry
padus alterti	Alberti Cherry
spaethi	Spaethi Cherry
virginiana var. mellanocarpa canada red	Chokecherry
padus	European Birdcherry
grandiflora	Bigflowered Birdcherry
berg	Rancho Birdcherry
purpurea	Purpleleaf Birdcherry
Quercus	
palustris	Pin Oak
rubra	Red Oak

Tilia - Linden	
americana	American Linden
cordata	Little Leaf Linden
glenleven	Glenleven Linden
redmond	Redmond Linden
euchlora	Crimean Linden
tomentosa	Silver Linden
bicentennial	Bicentennial Linden
greenspire	Greenspire Linden
salem	Salem Linden

RECOMMENDED TREES UNDER POWER LINES

Acer ginnala -- Amur Maple
 Acer campestre -- Hedge Maple
 Acer palmatum -- Japanese Maple
 Acer griseum -- Paperbark Maple
 Acer circinatum -- Vine Maple
 Amelanchier x grandiflora -- Apple Serviceberry
 Amelanchier Canadensis -- Shadblow Serviceberry
 Cercis Canadensis -- Eastern Redbud
 Clerodendrum trichotomum -- Glorybower Tree
 Cornus florida -- Flowering Dogwood
 Cornus kousa -- Japanese Dogwood
 Crataegus phaenopyrum -- Washington Hawthorn
 Crataegus x lavellei -- Lavelle Hawthorn
 Fraxinus excelsior globosum -- Globe-Headed European Ash
 Fraxinus ornus -- Flowering Ash
 Fraxinus oxycarpa aureopolia -- Golden Desert Ash
 Koelreuteria paniculata -- Goldenrain Tree
 Laburnum x waterii -- Golden Chain Tree
 Malus -- Flowering Crabapple
 Prunus -- Flowering Cherry
 Pyrus calleryana -- Flowering Pear "Cleveland Select"
 Styrax japonica -- Japanese Snowbell
 Syringa reticulata -- Japanese Tree Lilac

PROHIBITED STREET TREES

Acer, Silver Maple
 Acer, Boxelder
 Ailanthus, gladiosa - Tree-of-heaven
 Betula; common varieties of Birch
 Ulmus; common varieties of Elm
 Morus; common varieties of Mulberry

Salix; common varieties of willow
Coniferous Evergreen (Fir, Pine, Cedar, etc.)

Street Tree Removal Comparison among Jurisdictions

Jurisdiction	Is there a street tree removal process?	Is a permit required to remove a street tree?	Who is the decision maker for tree removal?	Do the street trees have to be replaced? If yes, how?	Required street tree spacing	Additional removal criteria
Sherwood	Yes	No	Yes, the Parks Board	Yes	25' (must plant 1 per 25')	N/A
Newberg	Yes	Yes	No, is reviewed through a right of way permit application.	Yes – consistent with the approved street tree plan or the approved street tree list	Arterials and minor arterials – 50' Collector and local streets- 35'-40'	N/A
Tualatin	Yes	Yes	No, the Operations Director makes the decision.	The tree must be replaced with a tree that is on the approved list. They are replaced one-for-one.	30' (most street trees, 60' feet for a few specified trees)	They outline what needs to be submitted, how the tree must be removed, the permit process and fees. The spacing is determined by the type of street tree.
Tigard	Yes	No	No, the City Arborist must approve the street tree removal.	The tree must be replaced. The replacement tree must be on the approved street tree list.	Sm. – 15'-20' Med. – 20'-30' Lg. – 30'-40'	A letter is submitted to the City Arborist requesting That a tree be removed. Cannot be planted within 2' Of paving or 4'from Driveways, fire hydrants, or Utility poles.
Beaverton	Yes	Yes (unless falls under exemptions related to utilities. 211.B.6)	No. Tree plans I and II are approved by the director. Tree plan III requires planning commission or Board of Design Review approval.	The replacement tree must be a similar species and there is a replacement table for deciduous and coniferous trees that outlines the required size of the replacement tree.	Fastigate, columnar-20' Global, Pyramidal -25' Spreading crown –30' Mitigation – min. 10'	Street tree removal is regulated by the Site Development (PW) Department. A facilities permit is required per 211.B.5
Oregon Model Code	No	N/A	N/A	N/A	No more than 30' with exceptions	

Attachment 1

Section 74.705 Street Tree Removal Permit.

(1) A person who desires to remove or destroy a tree, as defined in TDC 31.060, in or upon public right-of-way shall make application to the Operations Director on City forms.

(2) The applicant must provide:

(a) the applicant's name and contact information and if applicable that of the applicant's contractor;

(b) the number and species of all street trees the applicant desires to remove;

(c) a clear description of the street trees' the applicant desires to remove;

(d) the date of removal;

(e) the reason(s) for removal; and

(f) other information as the Operations Director deems necessary.

(3) Upon the Operations Director approving the removal of a street tree, the applicant or designated contractor shall replace each removed tree

on a one-for-one basis by fulfilling the following requirements:

(a) Remove both the tree and stump prior to planting a replacement tree, or request the City to remove the tree and stump and pay the applicable fee(s) established in TDC 74.706; and

(b) Replace the removed tree by planting a species of street tree permitted by Schedule A of the TDC Chapter 74 within the time period specified in writing by the Operations Director; or, the applicant may request within sixty (60) days of the permit approval date that the City replace the street tree and pay the applicable fee(s) established in TDC 74.706. If an applicant opts for the City to plant the replacement tree, the Operations Department may plant the tree on its usual tree-planting schedule. Planting done by the applicant or designated contractor shall comply with all applicable TDC sections and any additional requirements imposed by the Operations Director.

(c) The applicant shall comply with all applicable TDC sections and additional requirements imposed by the Operations Director. The Operations Director may:

(i) waive the one-for-one replacement requirement if he or she determines that the replacement would:

1. conflict with public improvements or utility facilities, including but not limited to fire hydrants, water meters and pipes, lighting fixtures, traffic control signs; private improvements or utility facilities – including but not limited to driveways and power, gas, telephone, cable television lines; or, minimum vision clearance;
2. interfere with the existing canopy of adjacent trees, the maturation of the crown of the proposed replacement tree, or both;

(iii) direct how to plant replacement tree(s).

(d) a person who fails to comply with TDC 74.705 shall pay an enforcement fee and a restoration fee to the City of Tualatin, as set forth in TDC 34.220(3), in addition to civil penalties in TDC 31.111.

[Added by Ord. 963-96, § 9, passed June 24, 1996. Amended by Ord 1079-01, § 2, passed July 23, 2001] (Ord. 1079-01, Amended, 07/23/2001; Ord. 1279-09 §3, Amended March 23, 2009]

Residential Uses Issue Paper

Description of Issue:

Residential uses and structures have an integral role in the use and enjoyment of one's property within a residential use zone. As with most residential community standards, the issues center on balancing one property owner's enjoyment, aesthetics and privacy with that of one's neighbor. This issue paper will discuss three main topics within the residential uses section: uses, home business and accessory structures.

Several issues have become known with respect to the Code Clean Up Project-either through the surveys or listening session comments. Planning staff has identified some issues over time and other identified issues are a result of a need to "check in" so to speak to make sure that the Code reflects the current community's needs and aesthetic values. Information should be especially clear, concise and easy to follow for this section. Often residents contact Planning staff because they cannot find the requirements that they need in the Code or understand their complexity. More often, their issue requires clarification from staff as to the meaning or interpretation of a specific section. For example, the chimneys and decks section and supplementary standards are not included in the residential section and difficult to find unless the user is very familiar with the Code.

When identifying permitted uses in the residential zone, the Code divides the general residential zones into five categories ranging from Very Low Density Residential to High Density Residential. The Table, "Residential Uses" found on page 16 identifies the uses that are permitted or conditional within a specific zone classification. If the use is conditional, a conditional use permit is required, often a costly prospect for the average resident. This has become more pronounced with the recent interest in raising a small number of chickens for eggs. Although we have received multiple inquiries over the past year about chickens, no one has filed a conditional use permit application at a cost of over \$4000. Additional uses the Planning Commission may want to explore further could be solar, wind turbines, or ham radio extensions. As Sherwood grows and changes, the Planning Commission could evaluate other residential uses to see if they comport with the community's standards and enhance the City's livability. Inconsistencies are prevalent throughout these sections and should be clarified, condensed or removed. For example, commercial trade schools are prohibited but public and private schools are permitted conditionally. Government offices are conditional, but not other offices. Special care facilities are allowed in the HDR with specific language that adds assisted living facilities; however, this is not listed in the other residential zone sections that describe special care facilities as a conditional use.

In examining the Home Occupation Section, staff has received few if any complaints from neighbors who live near a home business. On the other hand, we often get requests from potential home occupation applicants who want to expand the number of customers or employees permitted or deliveries allowed. The categories of Type I and II Home Occupations are somewhat confusing as they are labeled identical to our land

use process; however the Type II Home Occupation is considered to be a Type I land use decision and a Type I Home Occupation is allowed outright.

With respect to accessory structures, the Planning Department identifies problems with structures not identified specifically as structures such as flagpoles, pergolas and other such things that do not have four walls. Additional issues pertain to a structure's size and proximity to the rear property line.

Staff has found that other jurisdictions allow more encroachment into the setback for architectural details such as dormers, porch overhangs and bay windows. There is no mechanism for a limited use process rather than a Type III conditional use permit for a potential noisy or smelly accessory structure or use in a residential zone. This may be used when involving uses, such as chickens, large play structures etc. Other jurisdictions such as Wilsonville, Portland and the Model Code allow a provision for limited use designation rather than a conditional use in the residential zone. This section needs overall updating and clarification. We hope through the survey process and listening sessions to learn if the existing standards are meeting the community's needs.

Code Sections (language included on page 2):

§ 16.12-20 Very Low Density Residential to High Density Residential

§ 16.42 Home Occupations

§ 16.50 Accessory Uses, Decks

§ 16.62 Chimneys

Public input received:

Staff reviews home occupation permits and accessory structures to ensure compliance with the Code. Home business applicants usually comment on wanting more employees or customers onsite. Some wish to advertise their business either with a larger sign or an A frame to be out during the day. We have not received any information from neighbors that have a dispute about the standards in place.

With respect to accessory structures, most input comes in the way of misunderstanding the existing standards and the determination of what constitutes an accessory structure. There is confusion as to covering decks and allowing structures in the side yard of a corner lot or flag lot.

As of July 9, 2010, we have received eight surveys. Of the eight submitted, seven would support permitting chickens on residential property, in a limited manner. The other survey left that question blank. Other questions pertaining to this issue paper related to accessory structures and home occupations. Most of the survey respondents are satisfied with the existing standards.

Comparison to other jurisdictions and the Oregon Model Code:

See Tables beginning on page 11

Initial Staff Recommendation

Residential Use Recommendations:

- Review the specific language of under “Special Care Facility” and determine whether assisted living facility should be conditionally allowed in the other zones
- Determine whether government offices are any different than offices for private use
- Determine whether there should be a separate limited approval process rather than a conditional use permit for uses that should require some notification and approval if certain conditions can be put in place.
 - Consideration of new uses: bed and breakfasts, solar, wind turbines, ham radio extensions, poultry, etc

Accessory Structure Recommendations:

- The square footage of the accessory structures allowed in Sherwood is one of largest and should be reviewed.
- Clarify the definitions of accessory structure. Either specifically exclude or add, flag poles, pergolas etc. (See Lake Oswego)
- The proportion of total areas encumbered by structure should be considered. For example if it is a large yard, maybe allow more square footage for an accessory structure, (if setbacks comply.)
- Special notice to neighbors (permission) or limited use provision with conditions for potential residential uses that may be noisy or smelly structures as allowed in the Model Code of Oregon (See Wilsonville)
- Clarify the general definition of accessory structure for possible exclusions to the definition
- Consider allowing more portions of architectural features to be in required setbacks.
- Move the chimney section to the accessory structure section.

Home Occupation Recommendations

- Change the “Type I and II” to “Class 1 and 2”
- Consider responses generated from surveys
- Discuss whether number of employees or customers could be modified with special conditions
- Explore whether to add a notification process to neighbors of Class II business as other jurisdictions have done. (

Code Language (Current)

Definition Section § 16.10.020

Accessory Building/Use: subordinate building or use which is customarily incidental to that of the principal use or building located on same property

Example of Residential Use Section

Chapter 16.16 MEDIUM DENSITY RESIDENTIAL LOW (MDRL)*

Sections:

16.16.020 Permitted Uses

The following uses and their accessory uses are permitted outright:

- A. Single-family detached or attached dwellings.
- B. Two-family dwellings.
- C. Accessory dwelling unit subject to Chapter 16.52.
(Ord. 2000-1108 § 3)
- D. Manufactured homes on individual lots as per Section 16.46.010.
(Ord. 89-898 § 1; 86-8510)
- E. Manufactured home parks, subject to Section 16.46.020.
(Ord. 89-898 § 1)
- F. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets.
- G. Home occupations, subject to Chapter 16.42.
- H. Group homes not exceeding five (5) unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district.
(Ord. 91-922 § 2; 86-851)
- I. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.
- J. PUDs, subject to Chapter 16.40 and Section 16.12.070.
- K. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.86.
(Ord. 86-851 § 3)
- L. Residential care facility.
(Ord. 91-922 § 2)

16.16.030 Conditional Uses

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Chapter 16.82:

- A. Churches and parsonages.
- B. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited.
- C. Daycare facilities other than family day care providers, which are permitted outright.
(Ord. 91-922 § 2; 86-851)

- D. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
 - E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
 - F. Plant nurseries and other agricultural uses including commercial buildings and structures.
 - G. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes.
 - H. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs.
 - I. Public and private utilities, including but not limited to telephone exchanges, electric sub-stations, gas regulator stations, sewage treatment plants, water wells, and public work yards.
 - J. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the Commission.
 - K. Raising of animals other than household pets.
 - L. Public golf courses.
- (Ord. 91-922 § 2; 86-851 § 3)

Compare to High Density Residential

Chapter 16.20 HIGH DENSITY RESIDENTIAL (HDR)*

16.20.020 Permitted Uses

The following uses and their accessory uses are permitted outright:

- A. Single-family detached or attached dwellings.
- B. Two-family dwellings.
- C. Accessory dwelling unit subject to Chapter 16.52.
- D. Manufactured homes on individual lots as per Section 16.46.010.

- E. Multi-family dwellings, including boarding and rooming houses.
- F. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets.
- G. Home occupations, subject to Chapter 16.42.
- H. Group homes not exceeding five (5) unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district.

(Ord. 91-922 § 2; 86-851)

- I. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally.
- J. PUDs, subject to Chapter 16.40 and Section 16.12.070.
- K. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.86.

(Ord. 86-851 § 3)

- L. Residential Care Facility.

(Ord. 91-922 § 2)

- M. Special Care Facilities including but not limited to convalescent homes, nursing homes, specialized living facilities and assisted living facilities.
- N. Townhomes, subject to Chapter 16.44.

16.20.030 Conditional Uses

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Chapter 16.82:

- A. Churches and parsonages.
- B. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited.
- C. Daycare facilities other than family day care providers which are permitted outright. (Ord. 91-922 § 2; 86-851)
- D. Government offices, including but not limited to postal stations, administrative offices, police and fire stations.
- E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers.
- F. Plant nurseries and other agricultural uses including commercial buildings and structures.
- G. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs.
- H. Public and private utilities, including but not limited to telephone exchanges, electric sub-stations, gas regulator stations, sewage treatment plants, water wells, and public work yards.
- I. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the Commission.
- J. Raising of animals other than household pets.
- K. Public golf courses. (Ord. 91-922 § 2; 86-851 § 3)

§ 16.42 Home Occupations

16.42.010 Purpose

It is the purpose of this chapter to permit residents an opportunity to use their homes to engage in small-scale business ventures. Home occupations are regulated to ensure that they do not alter the residential character of the neighborhood, nor infringe upon the rights of nearby residents to the peaceful enjoyment of their neighborhood and homes. (Ord. 2002-1130 § 3; 86-851)

16.42.020 Authority

The provisions of this Code are intended to apply to those entities required to obtain a Sherwood business license under the provisions of the Sherwood Municipal Code Chapter 5.04. No person shall carry on a home occupation, or permit such use to occur on property, which that person owns or is in lawful control, contrary to the provisions of this ordinance. A person must first determine if a permit, for such use in the manner provided by this section, is required.

(Ord. 2002-1130 § 3; 86-851)

16.42.030 Exemptions

- A. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises.
 - B. Short-term sales from a residence shall not be deemed to fall under the regulations for home occupations. Such sales shall not exceed one (1) week in duration and a two (2) week period in any given calendar year. Examples of such uses are, but not limited to, garage sales, estate sales, rummage and craft sales.
- (Ord. 2002-1130 § 3; 86-851)

16.42.040 Type I and Type II Home Occupations

- A. Home occupations or professions shall be carried on wholly within the principal building and clearly secondary, in the City's determination, to the use of the building as a dwelling. All home occupations shall be administered as either Type I or II, distinguished by the potential impacts they represent to the neighborhood. Both Type I and Type II Home Occupations are required to apply for and maintain a City of Sherwood business license.
 - B. Type I home occupations are exempt from the permitting process and defined by the listed criteria.
- (Ord. 2002-1130 § 3; 86-851)

16.42.050 General Definition and Criteria for Home Occupations

- A. Home occupations or professions are businesses carried on wholly within a residential building requiring a City business license. Home occupations are clearly incidental and accessory to the use of the property as a dwelling, and they are not detrimental or disruptive in terms of appearance or operations to neighboring properties and residents. The occupation or profession does not require additional off-street parking nor upset existing traffic patterns in the neighborhood. All home occupations shall be in accordance with the following general criteria:
 - 1. All business operations shall comply with the current City of Sherwood noise ordinance and shall not produce any offensive vibration, smoke, dust, odors, heat, glare or electrical interference detectable to normal sensory perception at the property line.
 - 2. No exterior remodeling which alters the residential character of the structure shall be permitted.
 - 3. The occupation or profession shall not occupy more than twenty-five percent (25%) of the total floor area of all habitable buildings on the property, including customary accessory buildings.
 - 4. There shall be no storage and/or distribution of toxic or flammable materials and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals which are engaged in home occupations shall make available to the Fire Marshal for review the Material Safety Data Sheets which pertain to all potentially toxic and/or flammable materials associated with the use.

5. There shall be no exterior storage of vehicles of any kind used for the business with the exception of one commercially licensed vehicle of not more than one ton gross vehicle weight (GVW) that may be parked outside of a structure or screened area.

16.42.060 Type I Home Occupation Criteria Defined

A. Type I home occupations shall be conducted in accordance with the following defined criteria:

1. Only the principal occupant(s) of a residential property may undertake home occupations.
2. Storage of materials is confined to the interior of the residence with no exterior indication of a home occupation.
3. No exterior signs that identify the property as a business location.
4. No clients or customers to visit the premises for any reason.
5. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television and any other advertising media.
6. Deliveries to the residence by suppliers may not exceed three per week and shall be prohibited on weekends.

(Ord. 2002-1130 § 3)

16.42.070 Type II Home Occupation Permit Criteria Defined

A. Type II home occupations require a permit and shall be conducted in conformance with the following criteria:

1. One non-illuminated exterior sign, not to exceed one (1) square foot.
2. The number of customers and clients shall not exceed 5 visits per day. Customers and clients may not visit the business between the hours of 10:00 PM and 7:00 AM, Monday through Friday and between 7:00 PM and 8:00 AM, Saturday and Sunday.
3. Storage of materials on the premises shall be screened entirely from view of neighboring properties by a solid fence. Exterior/outside storage of materials shall not exceed five percent (5%) of the total lot area and shall not encroach upon required setback areas of the zone.
4. Commercial pick up and deliveries shall be limited to one (1) per day on weekdays and shall be prohibited on weekends.
5. A maximum of one volunteer or one on-site employee, who is not a principal resident of the premises.

16.42.080 Prohibited Uses

A. Because of the potential adverse impacts they pose to residential neighborhoods, the following uses are not allowed as home occupations and must be conducted as allowed in a commercial or industrial zone:

1. Auto body repair, restoration and painting.
2. Commercial auto repair (auto repair for other than the property owners/tenants personal vehicles).
3. Junk and salvage operations.
4. Storage and/or sale of fireworks.

(Ord. 2002-1130 § 3; 86-851)

16.42.090 Permit Procedures for Type II Home Occupations

An application for a Type II Home Occupation Permit shall be filed according to the application procedures of Chapter 16.72, in conjunction with a City business license, accompanied by the appropriate fee as per Section 16.74.010. The application shall identify the type of use and address the conditions contained in Chapter 16.42 and other applicable sections of this Code. The Planning Director or his designee may impose additional conditions upon the approval of Type II home occupation permits to ensure compliance with the requirements of this chapter. The action of the Planning Director may be appealed as per Chapter 16.76.

(Ord. 2002-1130 § 3)

16.42.100 Expiration and Revocation of Home Occupation Permits

A. Type II Home Occupation permit expiration.

A Type II home occupation permit shall be valid for a period of one (1) year. Renewal of the permit shall be accomplished in the same manner as an application for a new permit under this section.

B. Grounds for revocation.

The Planning Director may revoke a home occupation permit at any time for the following reasons:

1. A violation of any provision of this Chapter.
2. A violation of any term or condition of the permit.
3. Failure to pay the City of Sherwood Business License fee in a timely manner.

When a Type II home occupation permit has been revoked, a new Type II home occupation permit will not be issued to the applicant or other persons residing with the applicant for a period of up to twenty-four (24) months.

Chapter 16.50 ACCESSORY USES*

16.50.010 Standards

For uses located within a residential zoning district, accessory uses, buildings, and structures, excluding decks, which are subject to Section 16.60.050, shall comply with all requirements for principal uses, buildings, and structures except where specifically modified below; and shall also comply with the City of Sherwood Building Code as amended. Where this Code and the Building Code conflict, the most stringent shall apply.

- A. Any accessory building shall have not more than seven hundred and twenty (720) square feet of ground floor area and shall be no taller than 25 feet in height.
- B. No accessory building or structure over three (3) feet in height shall be allowed in any required front or side yard. Accessory buildings may be allowed in required side and rear building setbacks as described below.
- C. Detached accessory structures that do not require a building permit per the Building Code shall maintain a minimum 3-foot distance from any side or rear lot line and must be a minimum of six (6) feet from an accessory or primary structure. Attached accessory structures that do not require a building permit per the Building Code shall

be setback a minimum of three (3) feet from any side property line and fifteen (15) feet from a rear property line.

- D. No accessory building or structure over three (3) feet in height that requires a building permit per the Building Code shall be located closer than five (5) feet to any side or rear property line and six (6) feet from any accessory or primary structure.
- E. Any accessory building or structure that requires a building permit per the Building Code attached by a common wall or permanent roof or foundation to the principal building or structure must comply with all setbacks for the principal building or structure.
- F. No accessory building or structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way, including but not limited to streets, alleys, and public and/or private easements.

16.50.020 Conditional Uses.

Any accessory use and/or structure associated with a conditional use shall be allowed only after approval in accordance with Chapter 16.82.

16.50.030 Conflicts of Interpretation.

A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions of Chapter 16.88.

16.60.050 Decks

Uncovered decks which are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks shall not be allowed in the required front or side yard setbacks. Uncovered decks 30 inches above grade that require a building permit placed on properties adjacent to wetland or open space tracts that are publicly dedicated or in public ownership, may project into the required rear yard, but shall not be closer than ten (10) feet from the rear property line. All other decks will comply with the required set backs for the underlying zoning district. Decks shall not be allowed in the required front or side yard setbacks.

Chapter 16.62 CHIMNEYS, SPIRES, ANTENNAS, AND SIMILAR STRUCTURES*

16.62.010 Heights

Except as otherwise provided, the height limits established by this Code shall not apply to chimneys, stacks, water towers, radio or television antennas, towers, windmills, grain elevators, silos, elevator penthouses, monuments, domes, spires, belfries, hangars, solar heating devices, and to wireless communication facilities two hundred (200) feet in height or less.

16.62.020 Permit Required

Notwithstanding Section 16.62.010, a conditional use permit shall be required for all such structures that exceed the height limitations of a zoning district, except as specifically otherwise permitted in that district.

16.62.030 Parapets

A parapet wall not exceeding four (4) feet in height may be erected above the height limit of the building on which it rests.

Jurisdiction	Accessory Use and Structure Requirements
Oregon Model Code	<p>Definition: A structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure. Accessory structures are detached from the primary structure. Examples of accessory structures include but are not limited to: garages, decks, fences, arbors, gazebos, heat pumps, and other structures.</p> <ul style="list-style-type: none"> No Taller than 14 ft. and no larger than 1,000 sq. feet of building footprint. Taller than 14 ft or larger than 1,000 square feet of building footprint.
Sherwood	<ul style="list-style-type: none"> Accessory Uses: subordinate building or use which is customarily incidental to that of the principal use or building located on the same property. Not larger than 720 square feet and 25 feet tall If no building permit required then 3-foot distance from any side or rear lot line and must be a minimum of six (6) feet from an accessory or primary structure. Attached accessory structures that do not require a building permit per the Building Code shall be setback a minimum of three (3) feet from any side property line and fifteen (15) feet from a rear property line. No accessory building or structure over three (3) feet in height that requires a building permit per the Building Code shall be located closer than five (5) feet to any side or rear property line and six (6) feet from any accessory or primary structure
Beaverton	<ul style="list-style-type: none"> For lots 10k or less, the combined footprint of all accessory structures may not exceed 500 sq. feet. Regardless of lot size, cannot be over 25% of rear yard area. No more than 1 story or 15 ft. Must be six feet off main building 3 ft from rear line but not be built over easement if over 8 ft. then set back one more ft for each ft over 8 ft. Other structures that CAN project into required yard: paved terraces, unroofed landings, window sills architectural features may project not more than 2ft into any required yard.
Hillsboro	<ul style="list-style-type: none"> Regardless of the side and rear yard requirements of the zone, in a residential zone a side or rear yard may be reduced to three feet for an accessory structure erected more than 65 feet from a street other than an alley, provided the structure is detached from other buildings by six feet or more and does not exceed a height of ten (10) feet, nor an area of 450 square feet The 10-foot height of an accessory structure eligible for reduced setbacks as described in this section shall be measured from grade to the mid-point between the roof peak and the roof eave.

<p>Lake Oswego</p>	<ul style="list-style-type: none"> • Building permit is not required for certain accessory structures that are less than 200 sq. ft in size and less than 10 ft. in height in residential zones; however, such structures do need to meet all setbacks requirements which is a standard State Building Code standard • All structures greater than 30" above grade, whether enclosed or not count toward lot coverage, unless Code specifically exempts all or a portion of the structure from lot coverage calculations. • Side or rear setbacks may be reduced to three feet for accessory structures if it is located more than 40 feet from a street, detached by more than five feet, does not exceed a height of 10 ft. or area of 600 sq. ft, AND if noise producing then the abutting property owner must agree in writing that the placement o the accessory structure may be located within this accessory structure setback exception
<p>Portland</p>	<ul style="list-style-type: none"> • Mechanical equipment: heat pumps, air conditioners, emergency generators, and water pumps, NOT allowed in required front, side, or rear building setbacks. • Vertical structures: flag poles play or garden structures, radio antennas, satellite receiving dishes and lamp posts. • Vertical structures are allowed in required building setbacks if they are no larger than 2 ft. in width, depth or diameter and no taller than 8 ft. • Single arbor structure that is up to 6 ft. wide up to 3 ft deep and 8 ft tall allowed in front and allow for pedestrian access • Flagpoles are allowed in any building setback • Uncovered horizontal structures: decks stairways, entry bridges wheel chair ramps, swimming pools hot tubs tennis courts that are not covered or enclosed • Minor projections allowed: uncovered decks, stairways, and wheelchair ramps that are more than 2.5 ft. above ground, and are attached to a building, may extend into a required building setback up to 20% of the depth of the setback but must be 3 ft. from lot line • Covered accessory structures: garages greenhouses, studios, storage building, covered decks and porches and recreational structure • Covered structures if 6 ft or less in height are allowed in side and rear but not in front. If over 6 ft. are not allowed in required building setbacks. • Building coverage: combined building coverage of all detached covered accessory structures may not exceed 15 % of the total area of the site.
<p>Newberg</p>	<ul style="list-style-type: none"> • Accessory buildings are limited to one story • Building Height Exemptions: for the housing of elevators, stairways, tanks, ventilating fans, and similar equipment required to operate and maintain the building fire or parapet walls • No more than 2 accessory buildings and must satisfy lot coverage limits of 20-50% depending on zone

<p>Tigard</p>	<ul style="list-style-type: none"> • If site is less than 2.5 acres, an accessory structure may not exceed 528 sq. ft. If over 2.5 acres then can be 1000 sq ft. • Cannot be more than 15 feet in height • Not allowed in the front yard setback • Must be at least five feet away from side and rear yard setback • Cannot exceed max lot coverage allowed in base zone
<p>Tualatin</p>	<ul style="list-style-type: none"> • Accessory Structure or Use: A structure or use incidental and subordinate to the main use of the property and which is located on the same lot with the main use, such as, but not limited to, garage, carports, tool sheds, private greenhouses, utility buildings, and home occupations. • Maximum building coverage is 45 % and setbacks of 15 feet in single family
<p>Wilsonville</p>	<ul style="list-style-type: none"> • Accessory buildings and uses shall conform to front and side yard setback requirements If the accessory buildings and uses do not exceed 120 square feet or ten (10) feet in height, and they are detached and located behind the rear-most line of the main buildings, the side and rear yard setbacks may be reduced to three (3) feet. • Accessory buildings and uses shall conform to front and side yard setback requirements. If the accessory buildings and uses are detached and located behind the rear most line of the main buildings, at least one-half (1/2) of the side yard setback. • In no case shall a setback less than three (3) feet be permitted unless a Reduced Setback Agreement has been approved and properly recorded,
<p>Washington Co.</p>	<ul style="list-style-type: none"> • Definition similar to Sherwood's definition • Occupy no more than 25% of required rear yard • Urban areas: 600 sq. feet • Buildings under 120 sq. feet can be within 3 ft. of rear or side yard except street side yard • Larger buildings must meet setbacks • Provides definition of detached: if distance between the closest walls of primary building and the accessory building is greater than 20 ft or if closer than 20 ft. not connected by a covered structure such as breezeway.

Home Occupations

	Number of Employees/ customers	Signs number	Deliveries	Percentage of house sq. footage
Oregon Model Code	One employee 8 customers	4 square feet	3 and no dispatching employees	Not listed
Sherwood	Type I: NONE Type II: One employee and 5 customers per day	Type I : No sign Type II: 1 square foot	Type I: 3 per week Type II: 1 per day	25 % but 50% in Old Town
Beaverton	Type I: none /no customers Type II: 1 employee: 8 customers per day	None Only a name plate	One per day 2 deliveries	700 sq. feet of area
Hillsboro	2 relatives and 10 customers per day	Not listed	3 per week	Not listed
Lake Oswego	No employees that don't live there	Attached to bldg.: One sign not exceeding 1 sq.ft Or one non- illuminating sign not exceed 2 square ft.	None listed	25% limit
Portland	Type A: 0 B: 1 employee OR 8 customers B&B and family day care: Exempt	Only use business address	Type B only: between 8 and 5	Only one business in home, retail sales must be accessory to any service
Newberg	1 employee	none	not discussed	25%
Tigard	Type I : no Type II: 1	Type I: None Type II: 1 sq..ft	3 per week	25% all indoor May have 2 businesses
West Linn	3 employees	1 sign 1.5 sq. ft	Five per day	Accessory bldg. may be used
Washington Co.	Exempt: NO customers Type I: 5 customers per day and no employees Type II: 9 customers per day and One employee	1 identification sign not to exceed 2 sq ft in area	One commuter vehicle	25% or not more than 600 sq. feet and may operate in accessory structure if Type 2:

Residential Uses

Use	VLDR	LDR	MDRL	MDRH	HDR
Single-Family Dwelling Unit	P	P	P	P	P
Two Family Dwelling Unit			P	P	P
Multifamily Dwelling Unit			P	P	P
Townhomes			P	P	P
Accessory Dwelling Unit	P	P	P	P	P
Manufactured Homes	P	P	P	P	P
Agricultural uses, such as truck farming and horticulture,	P	P	P	P	P
Home occupations	P	P	P	P	P
Group homes, family daycare providers,	P	P	P	P	P
Public recreational facilities	P	P	P	P	P
PUDs	P	P	P	P	P
Temporary Uses	P	P	P	P	P
Residential Care Facility	P	P	P	P	P
Churches	C	C	C	C	C
Cemeteries	C	C	C		
Public and Private schools-NO commercial trade schools	C	C	C	C	C
Day Care Facilities	C	C	C	C	C
Government Offices	C	C	C	C	C
Public Use Buildings	C	C	C	C	C
Plant Nurseries	C	C	C	C	C
Special Care Facilities * ¹	C	C	C	C	P
Private Lodges, Country Clubs, Golf Courses	C	C	C	C	C
Public and Private Utilities	C	C	C	C	C
Any business service processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use	C	C	C	C	C
Radio, Television and similar communications stations, on lots with a minimum width and depth equal to the height of any tower in conformance	C	C	C	C	C
Raising of Animals other than Household Pets	C	C	C	C	C
Public Golf Courses	C	C	C	C	C

¹ Special Care Facilities including but not limited to convalescent homes, nursing homes, specialized living facilities and assisted living facilities is listed in the HDR as permitted Conditional Use in all other Zones: Special Care Facilities including but not limited to hospitals, sanitariums, and convalescent homes(NOTE that it does NOT Include Assisted Living Facilities

Variance – Issue Paper

Description of Issue:

The City processes requests for modifying existing Zoning and Community Development Code standards under two categories of variances: General and Administrative Variance. The first type, General Variance is categorized as Type III process. However, the code indicates that the Planning Commission hears the modification and makes the decision, rather than the Hearings Officer as would normally be the process for a Type III. Clarification is needed as to the proper procedure for these applications. General Variance requests are a “catch all” for any modification or alteration that does not fit the administrative variance designation. Administrative variances address on-site requirements only and the request must not deviate from the standards by more than 25%. If the request were for a greater modification, then it would fall under the General Variance.

Administrative Variances are a Type II process with notice and a staff level decision. The current code process allows for a staff level review of administrative variances of up to 25% (excluding lot size). The fee for an administrative variance is \$1102 per lot and per standard. If someone requests a hearing for any reason, the Planning Commission will hear the matter. If a hearing is requested, the applicant must pay the difference in fee, currently \$4145 for a Type III.

The criteria for granting a variance are very subjective and hard to administer fairly for all applicants extending over time. The approval criteria includes:

- Demonstration that there are “exceptional and extraordinary circumstances” that do not apply to other properties;
- the hardship must not be self imposed and must be “out of the control of the applicant;” and
- the variance must be necessary for preservation of a property right,”

A survey of variance applications from 1998 to present indicates that most variance requests involved minimizing the required setbacks in a residential zone. During that same time, two separate variances (setbacks and lot size) were denied due to lack of extraordinary circumstances.

The administrative variance section was added to the **§ 16.84 Variance** in 1992 with the intent to allow “provisions for minor dimensional variances” that “would be of benefit to the building community and Sherwood residents in terms of cost and process time, yet still requires notice to the neighbors.” Because of this addition rather than integrating the sections together, the language and criteria do not correspond well to one another and is confusing to administer.

Code Sections (Language Included on page 3): § 16.84 Variances

Summary of Existing Process: There are two specific code sections in the Variance Chapter: **§ 16.84.010 Generally** and **§16.84.020 Administrative Variance**. The criteria for an administrative variance include the general variance criteria as well as the additional criteria specifically identified in the administrative variance section. Any dimensional variance request over a twenty-five percent change goes to the Commission, as does anything under 25% if a hearing is requested. The Variance is listed as a Type III process under Division III (Administrative Procedures); however, a Planning Commission hearing is a Type IV process. Administrative variances are limited to on-site requirements for:

1. Dimensional Requirements, except lot area
2. Dimensional standards for off street parking or the number of spaces
3. On-site requirements must be under a 25% reduction or change in the standard

Public Input received:

Over the years, staff has received comments regarding this section that indicate the process is too stringent and confusing. Some feel that the language of “extraordinary” criterion is difficult to demonstrate and unnecessary if the applicant wants a minor deviation from the standard. Additionally, applicants of an administrative variance face the uncertainty of a neighbor requesting a hearing with the Planning Commission and not provide any reason. This adds cost to the development for something that already must be “extraordinary” and outside of the control of the applicant.

Planning staff has talked to potential applicants about applying for a variance but most are discouraged to do so because of the expense, stringent criteria and uncertainty of a possible hearing request even for administrative variances. An example of a common request is a property owner that wants to build a deck or place a cover over a deck that encroaches slightly into the rear setback. They must apply for an administrative variance and face the uncertainty that the Planning Commission could ultimately hear the matter, thus cost them \$4,145.

Comparison to other Jurisdictions and the Oregon Model Code:

See Table (Pages 6-13)

Initial Staff Recommendation

Other jurisdictions often have multiple tiers to evaluate the type of variance or adjustment requested. The Model Code of Oregon provides a good example of different tiers and scales of variance to evaluate. Lake Oswego and West Linn have also developed classes of variance in their development codes. If an objective request for a setback variance is requested, staff can review it administratively, within a certain guideline, such as five percent of the requirement. When an applicant requests a

greater variance from the Code, then more scrutiny, subjectivity and review by the Planning Commission or other review authority is warranted. From what we have heard and experienced, the SZCDC lacks that type of scale to evaluate the variety of variances and adjustments that make sense to grant if an objective criteria is at issue.

Staff recommends that we determine what constitutes a minor adjustment and consider less stringent requirements and process for minor adjustments. Staff recommends modifying the criteria so that the language has a set of objective standards to analyze and remove subjective adjectives such as extraordinary that are often too difficult to administer. Administrative variances should have a separate objective criteria that is limited to certain sections such as setbacks and other dimensional and numerical requirements.

Code Language (Current)

16.84.010 GENERALLY

1. Authorization

The Commission may authorize variances from the standard requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property, strict application of this Code would cause undue or unnecessary hardship. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use is located. In granting a variance, the Commission may attach conditions which it finds necessary to protect the best interests of surrounding properties and neighborhoods, and otherwise achieve the purposes of the adopted Comprehensive Plan, the Transportation System Plan, and this Code.

(Ord. 86-851 § 1)

2. Approval Criteria

No variance request shall be granted unless each of the following is found:

- A. Exceptional and extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the effective date of this Code, topography, or other circumstances over which the applicant has no control.
- B. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity.
- C. The authorization of the variance will not be materially detrimental to the purposes of this Code, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the goals, objectives and policies of the Comprehensive Plan.
- D. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.
- E. The hardship does not arise from a violation of this Code.

(Ord. 92-943 § 3; 86-851)

3. Application Content

An application for a variance shall be filed with the City and accompanied by a fee, as determined by Section 16.74.010. The application shall be accompanied by a site plan,

drawn to scale, showing the dimensions and arrangement of the proposed development. The applicant is responsible for submitting a complete application which addresses the review criteria of this Chapter and other applicable sections of this Code. Except for variances authorized under Section 16.84.020, variance requests shall be subject to public notice and hearing as per Chapter 16.72.

4. Time Limits

Authorization of a variance shall be void after two (2) years or such lesser time as the approval may specify unless substantial construction in the City's determination has taken place. The Hearing Authority may extend authorization for an additional period not to exceed one (1) year upon a written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 16.74.010.

(Ord. 2003-1148 § 3; 91-922; 86-851)

5. Revocation

Any departure from approved plans not authorized by the Hearing Authority shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of variance approval are not or cannot be satisfied, the variance or building and occupancy permits, shall be revoked.

(Ord. 2003-1148 § 3; 91-922)

16.84.020 ADMINISTRATIVE VARIANCE

Authorization to Grant or Deny Variances to on-site requirements

The City Manager or his or her designee may authorize a variance from the standards of this Code relating to dimensional and on-site requirements, except lot area. Provided, however, that no variance under this section shall be greater than 25% of the requirement from which the variance is sought.

(Ord. 92-943 § 3)

1. Criteria for Variances Granted Under Section 16.84.010

A. In the case of a yard or other dimensional variance, except lot area, the applicant shall address the findings in Section 16.84.010 as well as show the approval will result in:

1. More efficient use of the site.
2. Preservation of natural features, where appropriate.
3. Adequate provisions of light, air and privacy to adjoining properties.
4. Adequate access.

B. In the case of a variance to the dimensional standards for off-street parking spaces or the minimum required number of off-street parking spaces, the applicant shall show that approval will provide adequate off-street parking in relation to user demand. The following factors may be considered in granting such an exception:

1. Special characteristics of users which indicate low demand for off-street parking (e.g. low income, elderly).
2. Opportunities for joint use of nearby off-street parking facilities.
3. Availability of public transit.
4. Natural features of the site (topography, vegetation and drainage) which would be adversely affected by application of required parking standards.

(Ord. 92-943 § 3)

2. Procedures for Variances Granted Under Section 16.84.020

A. An administrative variance shall be decided by the City Manager or his or her designee unless an individual entitled to notice under subsection (B) requests a hearing. If a hearing is requested, the proposal shall be decided by the Planning Commission. The application fee shall be less than for a variance requested under Section 16.84.010, and as specified in the City fee schedule. If a hearing is requested, the variance must be processed as a regular variance and requires the full fee. The administrative variance fee shall be credited against the regular variance fee in such circumstances. If the applicant then decides to withdraw the request, the original fee is non-refundable.

B. The City shall notify the applicant and all property owners within one hundred (100) feet of the proposal by mailed notice. Any property owner or person present may present written comments to the City which address the relevant criteria and standards. Such comments must be received by the City within ten (10) calendar days from the date on the notice.

C. If a property owner or a person residing or doing business within the one hundred (100) feet of the proposal presents written comments as described in subsection (B), that individual may also request that a public hearing be held by the Planning Commission on the proposal. A request for a hearing must be submitted in writing and received within ten (10) calendar days from the date on the notice.

D. If no public hearing is requested as described in subsection (C), the Manager shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all the relevant variance requirements. The applicant may appeal this decision to the Planning Commission.

E. If a public hearing is requested as provided in subsection (C) or the Manager's decision is appealed as provided in subsection (D), the hearing shall be conducted pursuant to Chapter 16.72 of the Code.

F. The decision of the Planning Commission may be appealed to the City Council by a party to the hearing in accordance with Chapter 16.76 and shall be a review of the record supplemented by oral arguments relevant to the record presented by the parties.

Jurisdiction	Variance Code Types and Criteria
Oregon Model Code	<ul style="list-style-type: none"> • Three different levels of Variances: A, B, C. Class A: Type I: (No Notice) Admin. Variances (10%) to Front, Side, Lot coverage and landscape area based on conditions of site, limited to one lot per application Class B: Type II : (Notice) Individual platted and Recorded Lots only, not allowed for partition or subdivision process, Minimum Housing Density standards due to physical constraints, Vehicular Access and Circulation Standards, Street Tree requirements, Parking and Loading Standards, variance to max or minimum yard setbacks to avoid or reduce impacts to floodplains, significant trees, wetlands, or other natural features. Class C: (Notice): Catch all if the other two don't apply Criteria: <ul style="list-style-type: none"> • Not detrimental to the Code or policies • Hardship exists that is peculiar to lot size, shape or topography • Use proposed will be the same as permitted under this title • Existing physical and natural systems, will not be adversely affected • Hardship not self imposed • Variance is minimum that would eliminate the hardship
Sherwood	<ul style="list-style-type: none"> • General Variance and Administrative Variance • Administrative Variance granted for extraordinary circumstances that do not apply to other properties • 100 ft Notice given and hearing required and processed as Type III but heard by PC if requested by neighbor for an administrative variance • May provide written testimony in lieu of hearing request for administrative variance • Up to 25 % variance granted for administrative variances by City Manager or designee
Beaverton	<ul style="list-style-type: none"> • Major and Minor Adjustments • Minor: Numerical Site Development Requirements contained in Land Use or the grading standards contained in Special Requirements: Limited to 10% adjustment Type II (Planning Director) • Major Adjustment Type III (Planning Commission) <ul style="list-style-type: none"> • Involves between 10-50% adjustment to the numerical Site Development Requirements contained in Land Use or the grading standards contained in Special Requirements • Any change to parking requirements

<p style="text-align: center;">Hillsboro</p>	<p>Either the Hearings Board may authorize variances where it can be shown that owing to special and unusual circumstances related to a specific piece of property or use, the literal interpretation would cause an undue or unnecessary hardship on the applicant</p> <p>Only Planning Commission can authorize a variance for Mixed Use and Development Review</p> <p>Conditions for Granting a Variance</p> <ul style="list-style-type: none"> • Exceptional or extraordinary conditions apply to the property that does not apply generally to other properties in same zone. • Necessary to preserve property right • Not be materially detrimental to purposes of this Ordinance, be injurious to property in zone • Minimum variance from the provisions and standards of this Ordinance which alleviate the hardship <p>Specific criteria for Granting a Parking Variance, Regulatory Floodplain standard</p> <p>Public Hearing required, notice to 200 foot radius</p>
<p style="text-align: center;">Lake Oswego</p>	<p>Class I and II Variances</p> <p><u>Class I, Minor Variance:</u> not detrimental to the public health or safety, or materially injurious to properties within 300 feet of the property and Proposal will not adversely affect existing physical and natural systems</p> <p><u>Class II, Major Variance:</u> Prevents unnecessary hardship and development consistent with the request will not be injurious to neighborhood in which property is located or to property established to be affected by the request and minimum necessary to make reasonable use of property; and not in conflict with Comp Plan Standards:</p> <p>Class I: Administrative: small changes that have little or no effect on adjacent property</p> <ul style="list-style-type: none"> • Yard setback that is 20% or less • Lot width of 5 ft or less • Lot coverage or floor area ratio up to 15% • Max fence height • Dormers • Driveway from intersection • Street frontage • Driveway width

<p style="text-align: center;">Lake Oswego</p>	<p>Class II: Likely impact to neighboring property</p> <ul style="list-style-type: none"> • Setback for accessory structure or SFR more than 20% • Minimum lot width or depth of more than 5 ft. • Variances for non-SFR of more than 2 feet in side and front and more than 5 ft in rear • Variance from the lot coverage or FAR of other than SFR • Building Height • Fence or wall requirements other than height • Other variances <p>City Manager will decide the class of variance and that decision is not appealable CM may require neighborhood meeting at their discretion for Class I and II they are required Both are classified as a Minor Development Classification and considered a Limited Land Use Decision</p>
<p style="text-align: center;">Newberg</p>	<ul style="list-style-type: none"> • Variances Type II and Adjustments • Variances are granted in order to prevent or lessen practical difficulties and unnecessary physical hardships • Listed regulations that could not be varied: uses, definitions restrictions and signs • Type II Variance Criteria: • Strict literal interpretation and enforcement of the specified regulation would result in practical difficulty • Exceptional or extraordinary circumstances or conditions applicable to the property involved • Strict or literal interpretation and enforcement of the specified reg. would deprive the applicant of privileges enjoyed by the owners of other properties classified in same zoning district. • Director may attach conditions and must begin within one year from the effective date of the decision <p>Adjustments</p> <ul style="list-style-type: none"> • Director may grant limited adjustments to terms when such adjustments are within the limitations and conditions contained in this section <p>Type I</p> <ul style="list-style-type: none"> • Yard Setback dimensions, lot area% of lot coverage, lot dimensions • Max of 25% of setbacks and street tree spacing • Max of 5% of the lot area required however no more dwelling units than otherwise allowed without adj. • Lot Dimensions: max of 10% of required lot dimensions or frontages • % of Lot coverage: max adjustment of 2% more than permitted for all land uses except the max parking area coverage may be increased up to 50% • Director makes findings that show more efficient use, preservation of natural features adequate provisions of light air and privacy, emergency access and consistent with neighborhood • Interior yard setback requirements in residential zones

<p>Newberg</p>	<ul style="list-style-type: none"> • Approval criteria: approval of an adjustment to interior yard setback based upon the following: • 3ft distance is maintained • Building limited to one story, adequate light and compatible with physical conditions of other property, consistent with neighboring property • Dimensional standards and minimum parking spaces approved so long as finding that adequate in relation to user demands, special characteristics of users, opportunities for joint use public transit, natural features of site, possible conversion of site to other use in future, and no adjustment shall be greater than 25% of requirement • Vision clearance requirements may be waived if traffic signal or stop sign present and topographic conditions extreme • Conditions may be attached to adjustment.
<p>Portland</p>	<ul style="list-style-type: none"> • Adjustment Criteria • Granting adjustment will equally or better meet the purpose of the regulation to be modified • In a res. Zone the proposal will not significantly detract from the livability or appearance of the residential area, or if in an OS C E or I zone the proposal will be consistent with the class of the adjacent streets and the desired character of the are; and • If more than one adjustment is being requested the cumulative effect of the adjustments results in a project which is still consistent with overall purpose of the zone and • City designated scenic resources an historic resources are preserved and • Any impacts resulting from adjustment are mitigated to the extent practical and • If in an environmental zone the proposal has few significant detrimental environmental impacts on the resource and resource values as is practicable or • Application of the regulation in question would preclude all reasonable economic use of the site and • Granting the adjustment is the minimum necessary to allow the use of the site and • Any impacts resulting from the adjustment are mitigated to the extent practical.
<p>Tigard</p>	<p>Variances and Adjustments</p> <ul style="list-style-type: none"> • Purpose: Owing to Special and unusual circumstances related to a Specific property, the literal interpretation of the provisions of the applicable zone would cause an undue or unnecessary hardship <p>Type II procedure: Director approval</p> <ul style="list-style-type: none"> • Not materially detrimental to the purposes of this title • Special circumstances that exist which are peculiar to lot size or shape topography or other circumstances over which applicant has no control, and which are not applicable to other properties in same zoning district. • Use proposed will be same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land.

Tigard	<ul style="list-style-type: none"> • Existing physical and natural systems such as but not limited to traffic drainage, dramatic land forms or parks will not be adversely affected any more than would occur if the development were developed as specified in the title; and • The hardship is not self imposed and the variance requested is the minimum variance which would alleviate the hardship <p>Adjustments: Type I: Clear and Objective Standards</p> <ul style="list-style-type: none"> • Development: allow modest variation from required development standards within prescribed limits: Granted under Clear and objective standards these are Type I procedure • Front yard setbacks: Up to 25 % reduction for front yard and include setback of garages • Interior setbacks: Up to 20% reduction for side and rear yard setbacks • Lot coverage: Up to 5 % increase in max zoning <p>Criteria</p> <ul style="list-style-type: none"> • Demonstration that the adjustment requested is the least required to achieve the desired effect • preservation of trees, • Not impede adequate emergency access to the site • Not a reasonable alternative to the adjustment which achieves the desired effect <p>Infill site:</p> <ul style="list-style-type: none"> • In R-25 zones, sites of .75 acre or smaller • In the R-40 zone, sites of .75 acre or smaller • For development on sites larger than those contained in 1 above, if the applicant can demonstrate by means of detailed site plan that the site is so constrained that the proportional share of the required min density cannot be provided and still meet all of the development standards in the underlying zone. <p>Type I or Type II</p> <ul style="list-style-type: none"> • Access and Egress standards: Type II • Landscaping requirements Type I • Street Tree Requirements Type I • Parking standards Type II • Sign Code Type II • Street Improvement: Type II
Tualatin	<ul style="list-style-type: none"> • Major and Minor Variances • Conditions: Owing to special and unusual circumstances related to a specific piece of property, the literal interpretation of the Code would cause an undue or unnecessary hardship: • CC may grant variances when part of a subdivision or partition or PLA that the City Engineer has forwarded to the CC for review, or that has been appealed to the CC • City Engineer may grant minor variances when they are part of a Subdivision, Partition or PLA application

Tualatin	<ul style="list-style-type: none"> • Planning Director may grant minor variances that are not part of subdivision, partition or PLA • Minor Variances may be requested to the lot area, width, building coverage, setbacks, projections into required yards and structure height development standards for permitted uses in the low density residential area and the small lot subdivision • Cannot be more than 10% of the lot area and for no more than 20% of the lot width, building coverage, setback projections into required yards, height • CC Criteria: (Must satisfy 3 of 4 criteria) • Hardship is created by exceptional or extraordinary conditions applying to the property that don't apply generally to other properties in same planning district or vicinity and conditions are a result of lot size or shape, topography, or other physical circumstances applying to the property over which the applicant or owner has no control. • Hardship does not result from actions of applicant, owner or personal circumstances or financial situation • Necessary for preservation of property right of the applicant or owner substantially the same as is possessed by owners of other property in same planning district • Variance shall not be detrimental to applicable objectives of the Tualatin Community Plan and shall not be injurious to property in planning district or vicinity in which property is located • Variance is minimum remedy necessary to alleviate the hardship <p>Minor Variance:</p> <ul style="list-style-type: none"> • Hardship s created by an unusual situation that is the result of lot size, shape, topography, development circumstances or being able to use the land or public infrastructure more efficiently • Hardship does not result from regional economic conditions • Not injurious to property abutting the subject property • Minimum remedy necessary to alleviate the hardship • CC holds public hearing for variance • Minor variance appealable to CC
West Linn	<p>Class I and II Variances</p> <ul style="list-style-type: none"> • Class I: small change from the zoning requirements and will have minor effect or no effect on adjacent property or occupants: Decision by Planning Director <ul style="list-style-type: none"> ○ Involve small change from zoning requirements and will have minor or no effect on adjacent property or occupants and includes the following ○ Setback encroachment of no more than 2 ft for front and side and rear by no more than 5 feet ○ Dimensional requirements of lot width, frontage of five feet; lot depth by 10 feet and lot are by 5 % • Class II: (Planning Commission) Significant change from the zoning requirements and may create adverse impacts on adjacent property or occupants <ul style="list-style-type: none"> ○ Front and side by more than 2 ft and rear by more than 5 feet ○ Dimensional requirements lot width, frontage of more than five feet; lot depth more than 10 feet

	<p>and lot area by more than 5 %</p> <ul style="list-style-type: none"> ○ Other zoning provisions but not permitted or conditional uses and not to density provisions ○ Pre-App required ○ Criteria for Class II are similar to those already listed
<p>Wilsonville</p>	<ul style="list-style-type: none"> ● Difficulties exist to make Compliance with Chapter 4 impractical and such compliance would create unnecessary hardship to the owner or user of land or buildings to the owner or user of land or buildings, Development Review Board may grant a variance after hearing and investigation with following conditions: Difficulty would apply to land or building regardless of ownership and other conditions similar to those stated above
<p>Washington Co.</p>	<ul style="list-style-type: none"> ● Remedy from the strict interpretation of this Code where it can be shown that literal interpretation would cause unnecessary hardship ● Variance from Dimensional standard and minimum required amount of parking ● Under Type III procedure, same criteria as those listed: not fault of applicant, satisfies objectives of Code and no adverse affect of the development or surrounding ● Hardship Relief: Type II procedure ● Planning Director may grant hardship relief of up to 20% from dimensional standards or lot area which shall be limited up to 5 % hardship relief

Variance Quick Reference Guide

	Language	Multiple Types	Notice Required	Hearing?	Decision Maker
Model Code	Not detrimental, hardship exists	Class A, B, C	A: no B & C Yes	For A: no B: No unless appeal C: Maybe if Type III	A: staff B: Staff C: Hearing PC or DB
Sherwood	Extraordinary circumstances Hard ship	General	Yes	General: yes	PC
		Administrative	Yes	Administrative: Yes if requested	Staff
Beaverton	Minor: numerical site development requirements less than 10 %	Type II-Planning staff	Minor: No		Minor: Staff
	Major: 10-50%	Type III-PC	Yes	Major: yes	Major: PC
Hillsboro	Exceptional and extraordinary Minimum to alleviate hardship	One Kind	Yes 200 ft.	Yes	Hearings Board Or PC for Mixed Use and Development review
Lake Oswego	Minor: not detrimental to public health or injurious to properties	Class I	Yes and may require a neighborhood mtg	No and not appeal	Planning staff
	Major: Prevents unnecessary hardship	Class II	Yes	Yes	Determined by City Manager
Newberg	Literal interpretation would result in practical difficulty	Type I: Adjustment	No	NO	Type I: Staff
		Type II: Variance	Type II: Yes	Type II: No	Type II: Staff
Tigard	Literal interpretation would cause undue hardship	Type II or I	Type I: NO	Type I NO	Staff
			Type II: Yes	Type II: If appealed	Or appeal to Hearings Officer for Type II
Tualatin	Owing to special and unusual circumstances related to specific piece	Major and Minor	Yes	Only if appealed	Staff
			Yes	Major Yes	CC
West Linn	Small change will have minor effect Significant Change and may create impact	Class I: Planning Director	No	No	Staff
		Class II: PC	Yes	Class II: Yes and a pre-application conf.	Planning Commission
Wilsonville	Difficulties exist unnecessary hardship	No	Yes	yes	Development Review Board
Washington County	Literal interpretation would cause unnecessary hardship	Type II or Type III	Yes: 500 feet Type III: yes	Type II: NO Type III: Yes	Type II: Staff Type III: Board of Commissioners