



City of Sherwood
PLANNING COMMISSION
Sherwood City Hall & Public Library
22560 SW Pine Street
October 24, 2006
Regular Meeting - 7:00 PM

A G E N D A

1. **Call to Order/Roll Call**
2. **Agenda Review**
3. **Consent Agenda: Minutes – September 26, 2006**
4. **Communications from Staff & Public**
5. **Community Comments** (*The public may provide comments on any non-agenda item*)
6. **Old Business: Public Hearing**
Goal 5 and Infill/Redevelopment Plan Amendments (PA 06-02/PA 06-03)
The City of Sherwood has been participating in two processes to update its zoning code to reduce barriers to habitat friendly development and encourage better design and transportation connectivity of “infill” projects. The Commission continued the hearing from September 26 and will take oral and written testimony on each proposal. A recommendation from the Commission will be forwarded to the City Council for consideration and a public hearing. (*Julia Hajduk, Senior Planner & Heather M. Austin, AICP, Associate Planner, Planning Department*)
7. **New Business: Economic Development Strategy**
The Planning Commission participated in a work session with the Sherwood Urban Renewal Planning Advisory Committee (SURPAC) on October 18, 2006. SURPAC will consider a recommendation of a new economic development strategy to encourage job creation and business opportunities. Staff requests a plan amendment initiation consistent with Section 4.201 of the Sherwood Zoning & Community Development Code. Authorization will allow staff to prepare an application to integrate the strategy with the existing Comprehensive Plan (1991) and schedule a public hearing for review on November 14, 2006. (*Kevin A. Cronin, AICP, Planning Supervisor, Planning Department*)
8. **Comments from Commission**
9. **Next Meeting: November 14, 2006 – Economic Development Strategy & Parks Master Plan**
10. **Adjournment**

City of Sherwood, Oregon
Planning Commission DRAFT Minutes
September 26, 2006

Commission Members Present:

Chair Adrian Emery
Jean Lafayette
Dan Balza
Matt Nolan
Russell Griffin
Todd Skelton

Staff:

Kevin Cronin – Planning Supervisor
Rob Dixon – Community Dev. Director
Julia Hajduk – Sr. Planner
Heather Austin – Associate Planner
Cynthia Butler – Admin. Assistant III

Commission Members Absent:

Vice Chair Patrick Allen

1. **Call to Order/Roll Call** – Cynthia called roll. Vice Chair Patrick Allen was absent.
2. **Agenda Review** - No changes to agenda.
3. **Consent Agenda** – Minutes from the September 12, 2006 session were approved with clarified language changes recommended by Commissioner Lafayette; Page 16 clarify that the buffer recommendations were approved, but not Staff's recommended fence standards – and Page 17 clarify that the Commission did not approved reduced parking in a transit corridor. A vote was taken:
Yes – 6 No – 0 Abstain - 0

3. **Brief Announcements** – Cynthia recapped last minute materials submitted to Commissioners: A letter from Carolyn Peterson regarding tree cutting on the Moser property, dated Sept.12, 2006 and received Sept. 14th; Executive Summary for the Parks Master Plan, dated September 2006; memo from Julia Hajduk regarding the OPI conference she attended in Eugene this month, dated Sept. 25, 2006; and an invitation to attend a “Homebuilding 101” seminar.

Kevin Cronin said that the City received a Measure 37 claim from the Moser family and stated that City Council will be the hearing authority. Julia Hajduk is the project manager. SURPAC has a work session scheduled on October 18th on the Economic Development Strategy. Kevin announced an Eco-Charrette regarding school designs for potential new schools in Area 59 and the existing high school that will be held at the YMCA on September 27th. Kevin will attend as representative of the City. Kevin said that the HBA mailed invitations to the City on commissioner's behalf to attend a Homebuilding 101 seminar, which were given to commissioners this evening. The City of Sherwood is adding an official Planning Commission web email address to its website: planningcommission@ci.sherwood.or.us. The next review of Area 59 was rescheduled from October 17th to Nov. 7th and pending City Council's decision, this session may be rescheduled to Nov. 8th due to Election Day activities on Nov. 7th. Rob reiterated this was a possibility. Planning Commission asked to be notified if the date was changed. Kevin confirmed.

Rob Dixon stated that a ribbon cutting ceremony will be held downtown at Railroad and Pine Streets to commemorate the opening of Pine St. at the railroad crossing, on October 19th from 5-6PM, with the ribbon cutting at 5:30 PM. Refreshments will be provided.

4. Community Comments – Chair Emery asked if there were any community comments for items not appearing on the agenda.

Jim Claus, 22211 SW Pacific Hwy., Sherwood, OR 97140 – Jim stated that he will be filing a Measure 37 claim. Jim stated that he was concerned over redesign decisions made regarding Meinecke Rd. and how it impacted his property, which Mr. Claus said after 5 months of work to evaluate damages, they could amount to over 4 million dollars. Mr. Claus said that the City of Sherwood has stated that the decisions made on Meinecke were from ODOT, but that he has written confirmation from Ron Croup, District Manager, that confirms decisions were by the City of Sherwood. Jim added that Terry Keyes has stated he is willing to testify that City statements were inaccurate. Mr. Claus said the City of Sherwood has the most expensive process for filing a Measure 37 claim in the Metro area and that he wasn't certain it was constitutional and may file suit also against this process.

Mr. Claus discussed a recent meeting held with attorneys present, in which he spoke to Ken Shannon, Mr. Claus' neighbor. Mr. Claus stated that Ken Shannon asked him, "how much will you pay to buy me?". Mr. Claus added that Ken Shannon told him Heather Austin, City planning staff, told Ken not to worry because Mr. Claus' road was temporary and that development could be blocked with purchase of land. Mr. Claus said that Heather Austin should not tell anyone "they can extort me when I am trying to develop". Mr. Claus stated, "If I have to go to federal court over people trade-libeling my property or slandering it I will. I'm not going to be extorted given Oregon law to buy somebody's property to develop my property." Mr. Claus concluded with further discussion about a possible Measure 37 claim he may file.

5. New Business - Goal 5 (PA 06-02) and Infill Standards (PA 06-03) Public Hearing: Commissioner Lafayette read the Public Hearings Disclosure Statement. Project Managers Julia Hajduk (Goal 5), and Heather Austin (Infill Standards) gave a PowerPoint presentation, and stated that due to the interrelated nature of Goal 5 and Infill Standards the material was being presented together. Julia added that in addition to the subject relatedness of the two plan amendments that any changes to the Code that are adopted will be easier and more clearly defined if reviewed together.

Heather opened the discussion on Infill Standards and recapped the process to date. Heather referred to the staff report that combines Infill Standards & Goal 5 recommendations, due to the nature of the relatedness and recommended Code changes. Heather identified recommended major changes for Infill Standards in Chapter 2 of the Code: addition of Infill Section that identifies criteria for infill development; references in all residential sections to infill standards; removal of the requirement that a minor land partition cannot create right-of-way; creation of an Established Neighborhoods Map in draft form to geographically show areas that infill development most affects; and an increased public notice requirement to include property owners within 250 feet due to the recommended reduction in overall requirements allowing for better notification. Heather provided a recap of verbal comments received from Mayor Keith Mays on Infill Standards:

1. The Established Neighborhoods Map should be changed to an Infill Standards Map or should not include lots that are currently under 5,000 sq. ft. Staff recommends changing the name to an Infill Standards Map or not including lots that are currently under 5,000 sq. ft.
2. Keep "stories" in the language of the height requirements to include both maximum height limit and number of stories limited. Commissioners asked for explanation. Heather said that the concern may be without the "stories" language, someone may try and include 3 stories within a limit designed to accommodate 2. Heather added that 40 feet accommodate 3 stories generally and that daylight basements, which are currently allowed, are not considered a story.
3. Side yard setbacks should remain 5 feet instead of 3 feet.
4. Recommends less lot size reduction allowed, possibly just a 10% reduction instead of 20% - making the overall minimum lot size 90% of the original size instead of 80%.

Heather concluded the 4 recommendations from the Mayor and asked if there were questions.

Chair Emery asked if there were any questions for Heather.

Jean Lafayette said that the combined material for Goal 5 & Infill appears disjointed and is hard to follow. Jean referred to Chapter 5, Page 11 of 40 regarding garage standards, that states the garage cannot be counted toward the parking, which has been marked for deletion and that she believed this was incorrect. Commissioners and staff packet materials showed this item on Page 12 of 40. It was determined that Jean was reviewing an earlier draft version of this page than of those distributed to remaining commissioners and staff. Jean opted to provide comments at the next session after she had opportunity to review a replacement packet.

Chair Emery asked if there were any further questions for Heather at this time. There were none.

Chair Emery recommended hearing staff comments and receiving public testimony before Commission questions. Commissioners agreed.

Julia Hajduk opened the discussion on Goal 5. Julia recapped the process to date. Julia added that Goal 5 recommendations do not impose any new regulation, but adds benefits and incentives to developers to encourage protection of natural resources that are not currently protected. Julia said the only new restriction recommended is for tree protection the would require site plan review for removal of healthy trees within a certain number that would substantially alter the site. Julia added that most jurisdictions already have these in place. Julia discussed the proposed inventory map and said that the map is a copy of the Metro inventory as it currently exists. Staff recommends adopting this inventory as a guide to identify resources and classes of riparian areas and wildlife habitat, rather than adopting it by reference. Julia added that adopting the inventory by reference allows any future changes made by Metro be required on maps adopted by reference, whereas adopting the inventory map as it exists gives the City more control in the future. Julia reiterated that the map is a guide and the actual delineation process would be followed to confirm information.

Jean Lafayette asked for clarification that Goal 5 does not apply new regulation, but offers incentives for the recommended protections shown on the map or in the Code. Julia confirmed that except for the new restriction recommended for tree protection requiring site plan review for

removal of healthy trees within a certain number that may substantially alter the site, this is correct.

Matt Nolan referenced the Moser property shown on the map as wildlife habitat, Class A & asked Julia how this would apply. Julia reiterated that the map is a guide and the actual delineation process at the time of development would identify specifically existing conditions.

Julia reiterated that the only new restriction recommended is for tree protection requiring site plan review for removal of healthy trees within a certain number that would substantially alter the site. Julia recapped that most jurisdictions currently have tree protection standards in place.

Chair Emery asked Julia about the county areas on the map outside the City, and whether they were also adopting the inventory map. Julia said that she believed the county was adopting the inventory map by reference, which would require county maps to automatically change when Metro maps were changed.

Chair Emery opened discussion for public testimony.

Scott Waller, 210 SE Norton St., Sherwood, OR 97140 – Scott said he has attended the past couple of meetings and does not believe there has been enough opportunity for public comments. Scott said he checked the newspaper for information on the Infill Standards and did not find it.

Chair Emery stated that there have been many opportunities to provide public comments. Adrian added that notice has been provided in the newspaper as well as posted in around town and on the City's website. Kevin Cronin added that newspaper articles have been in the Sherwood Gazette for the past 6 months as well as noticed prior to public hearings in the Tigard Times.

Heather Austin confirmed and added there have been 3 public work sessions on both Goal 5 & Infill Standards that Mr. Waller is also always welcome to contact her after the meeting to arrange a time to come to City Hall for more information.

Chair Emery asked Mr. Waller if he had further comments. There were none.

Susan Claus, 22211 SW Pacific Hwy., Sherwood, OR 97140 – Susan said that she would like have a property owner viewpoint represented by the City, and that planning staff proposes just one viewpoint. Susan reiterated that she would like to have a planner that speaks to fundamental property rights of property owners who pay taxes and support the community. Susan asked Julia to clarify if the proposed Goal 5 standards would mean stricter rights of entry, and to explain the inventory designations on the map. Susan expressed concern over designations on the map that covers their properties and said she was surprised to learn what was being proposed when she happened to discover the inventory map on the wall at the last meeting on another topic. Susan said that the public notices do not clearly state what the topics are that are covered at public meetings and hearings, which does not provide information to the average citizen to understand impacts being proposed. Susan added that a tree ordinance would be aggressive. Susan said that a gag-order or threat of a gag-order regarding the format that her family can request and retrieve information from the City, adds difficulty to their ability to keep informed and respond to recommendations made by the City. Susan recapped that there is difficulty in communicating with planning staff who have public resource interests over private property rights. Susan

requested that a public notice board be placed at the Safeway located at Roy Rogers Rd. & Hwy 99. to better inform citizens who live on the other side of Hwy. 99.

Chair Emery stated that public notice placement decisions are made by the City Council and recommended that Susan attend a Council session and make the recommendation. Currently, there are 5 approved posted notice locations and it would be up to City Council to add another.

Susan concluded by asking that the hearing for Goal 5 & Infill Standards be extended to a future date.

Jim Claus, 22211 SW Pacific Hwy., Sherwood, OR 97140 – Jim stated that he did not receive any of the postcard mail notifications on the Goal 5 public process. Jim said that protection of trees means inability to develop. Mr. Claus discussed Chicken Creek and said that it has previously been designated as polluted and should not be designated as a natural habitat area.

Matt Nolan asked Mr. Claus for the source of his testimony regarding Chicken Creek.

Jim Claus said that records for the Woodhaven development would support the information.

Julia Hajduk said that natural resource areas are identified by Metro based on scientific data, and that Metro can modify inventory based on proven changes.

Jean Lafayette asked Julia to confirm if the recommendation is to adopt the City's map or Metro's map. Julia clarified that the recommendation is to adopt Metro's map, which becomes the City's map with future flexibility for changes based on actual delineation outcomes. Future changes made by Metro would not automatically change the City's map.

Kevin Cronin confirmed that the recommended map is a policy map, not a regulatory map. Regulatory maps are in the Code, this is a policy map.

Julia reiterated that the goal is to protect natural resources over time. Julia said that in addition to the required Measure 56 notice that Metro sent to property owners, the City also sent informational mailers to properties in areas not already regulated, although this was not a requirement.

Russell Griffin asked what regulations were in place prior to Metro. Julia said that Clean Water Services standards served as a guide. Heather said that the blue areas on the map are currently regulated by Clean Water Services. Kevin added that the City was already in compliance with Goal 5 standards, but that the City is now implementing the agreements made by the Tualatin Basin last year. Russell asked for clarification on how a land use application would be treated differently after the adopted standards. Julia clarified that nothing changes, except that the applicant would then have the flexibility to use the new standards for development using the incentives if they choose. Heather added that the blue areas are already being regulated by Clean Water Services and must comply with their requirements, nothing new is added.

Jean Lafayette asked if developers had been contacted to review the recommended standards and given the opportunity to provide comments. Jean said that it is confusing for the Goal 5 & Infill Standards to be combined and suggested that changes be tracked separately, and also recommended adding clear information on the website.

Kevin Cronin said that emails have been sent to interested parties from the developer & interested parties database. Julia said that the Goal 5 & Infill Standards plan amendments have been combined largely because they parallel each other in Chapter 5 of the zoning code and would be more difficult to track if addressed separately. Julia added that there could be better communication on the website.

Russell Griffin agreed that the way public notices are worded can make it difficult to clearly understand what is being reviewed by the City, particularly the trees issue discussed earlier and recommended changes that will affect property owners in the future.

Jean Lafayette recommended continuing the hearing to the next session. There was continued discussion on public notices and the website. Julia recapped the many ways that public involvement has been solicited and added information for Goal 5 & Infill Standards has been also updated on the website throughout the process. Julia said staff will make changes to the website for a more user friendly approach. Kevin asked if the discussion on more public involvement could be postponed in order to continue with the current agenda items.

Chair Emery added that a continued hearing would allow time for Jean to review a current packet of materials and the public to further review materials. Commissioners considered the following points made in tonight's discussion and recommendations:

1. The Established Neighborhoods Map should be changed to an Infill Standards Map or should not include lots that are currently under 5,000 sq. ft. Staff recommends changing the name to an Infill Standards Map or not including lots that are currently under 5,000 sq. ft. *Commissioners recommended changing the name to Sherwood Infill Notification Map.* (No discussion was recorded regarding a recommendation not to include lots currently under 5,000 sq. ft.).
2. Keep "stories" in the language of the height requirements to include both maximum height limit and number of stories limited. Commissioners asked for explanation. Heather said that the concern may be without the "stories" language, someone may try and include 3 stories within a limit designed to accommodate 2. Heather added that 40 feet accommodate 3 stories generally and that daylight basements, which are currently allowed, are not considered a story. Heather also clarified the calculation of houses on a slope that does not apply. *Commissioners recommended keeping the current language, which states 30' or 2 stories.*
3. Side yard setbacks should remain 5 feet instead of 3 feet. *Commissioners recommended that side yard setbacks remain 5 feet.*
4. Reduce allowable lot size reduction percentage to 10% instead of 20% - making the overall minimum lot size 90% of the original size instead of 80%. *Commissioners recommended the maximum allowable lot size reduction be 15%, increasing the lot size requirement from 80% to 85% of original size.*
5. Garage and parking calculations - *Commissioners recommended that the garage should not be included in the parking count.*

Jean Lafayette asked how the Area 59 project would be affected by an inability to cut trees. Julia said that the school district would be allowed to cut the trees based on an approved site plan, but would have to mitigate the trees as with any site plan application.

Jean moved to continue the hearing to the 2nd meeting in October. Matt Nolan seconded.

Chair Emery asked if there was any further discussion on the motion. There was none. A vote was taken:

Yes – 6 No – 0 Abstain – 0

< 5-minute break was taken >

6. New Business – Parks Master Plan Review (PA 06-04) – Kevin Cronin recapped the process to date. Kevin introduced Parks Board member Mary Reid who was also present. Kevin said the 9/19/06 City Council work session resulted in a couple of changes, including changes to the Capital Improvement Plan to reflect better acquisition costs. The consultant originally used \$50,000 per acre as an acquisition cost, which was bumped up to \$100,000. Kevin added that the costs are without public facilities. The Council also wanted some general numbers of acres for each type of recreation area which was addressed, and replacement costs for the artificial turf at the high school. No other changes were recommended. Once the Commission makes final recommendations, staff plans to make final recommendations to the City Council on October 17th to approve the Parks Master Plan by resolution.

Chair Emery asked if Commissioners had any questions for Staff.

Russell Griffin asked for the status of the Field House. Kevin said that the consultant recommended a decision be made to either support it or sell, but that no alternatives have been decided.

Matt Nolan asked how funds would be available to support the new Parks Master Plan. Kevin said that Staff is recommending a special in-district tax. Matt said that the City made decisions 2-3 years ago that it was not possible to move ahead on a Parks Master Plan because revenue from SDC charges had been exhausted and borrowed against. Matt added at that time the Finance Director said it would likely be at least 8 years before the City could afford more parks, and that the new Parks Master Plan is inconsistent with information public received at that time. Kevin responded that the need for a Parks Master Plan still remains. Matt said that a master plan is good for 5 years, which may not be time enough for funding to be available. Matt added that the plan is an excellent one, but the concern is that the public will have expectations that are not possible to implement.

Matt discussed history of the YMCA and the services they were to provide. Kevin responded that there is an unmet market need that exists outside what the YMCA offers. Kevin added that the Parks Master Plan also identifies the need to utilize existing resources in addition to the plan.

Russell Griffin reiterated that the Parks Master Plan does not mean that funds are needed now, but provides for a plan for the City. Dan Balza agreed. Matt said that the goals for the next 5 years are high and may not be able to be met. Kevin added that the City Council will make determinations where funds are available and may include grants and donations.

Discussion on SDC charges continued. Kevin reiterated that Sherwood currently has the 2nd highest SDC charges in the state. Jean Lafayette asked Kevin if the Parks Master Plan includes the reinstatement of a Natural Resources Planner. Kevin confirmed that this is one of the recommendations made by the consultants.

Chair Emery asked if there were any further questions for Staff. Dan Balza said that he would have liked to see a skate park identified, and discussion concluded such a facility could still be easily constructed for reasonable cost. Matt commented that the cost for maintaining restrooms and parking lots is high.

Russell Griffin moved to forward the Parks Master Plan as presented to the City Council. Todd Skelton seconded.

Chair Emery asked if there was further discussion about the motion. There was none. A vote was taken:

Yes – 6 No – 0 Abstain – 0.

7. **Comments from Commission** - Russell discussed the training he attended at the Oregon Planner Institute conference in Eugene on September 15th & 16th. Russell discussed a procedural item discussed at the OPI conference regarding process for commission members who have missed one hearing session of a multiple hearing agenda item. Kevin said staff would consult with the City Attorney on the matter and get back to commissioners.

Chair Emery asked if there were further comments from commissioners. There was none.

8. **Next Meeting** - October 10, 2006 – High School Heights subdivision (SUB 06-03).

9. **Adjournment** – Chair Emery adjourned the session at 9:40 PM.

End of minutes.

**Summary of proposed changes to implement the Tualatin Basin Natural Resource Protection Program
and the Infill and Redevelopment recommendations – PA 06-02 (Revised 9-27-06)**

Comprehensive Plan Section changed	Reason for change
Chapter 4	
E.2 Policy 1	Adds a reference to the Established Neighborhoods Map
Map IV-1	Adopts Established Neighborhoods Map referred to in Section 2.309- Infill Standards
Chapter 5	
A. Introduction	Included reference and discussion about the Tualatin Basin Program and the Regionally Significant Fish and Wildlife Habitat Inventory.
B. Environmental Resources Policy Goals	Added the Tualatin Basin Program context and reference to the Regionally Significant Fish and Wildlife Habitat Inventory.
C.2 objectives	Added objectives “f” and “g” to state that habitat friendly development practices are encouraged and code and procedural barriers will be removed that discourage the use of habitat friendly development practices.
C.3. Policy (new numbering)	Added policy that habitat friendly development shall be encouraged where regionally significant fish and wildlife habitat areas exist. Added strategies to implement the policy. Renumbered remaining policies accordingly.
D.5. Policy 1	Added strategy to encourage use of habitat friendly development where appropriate and provided examples.
Map V-2	Adopts Regionally Significant Fish and Wildlife Habitat Inventory map into the Comprehensive Plan

Code Section changed (new numbers)	Reason for change (IR= infill, NRP = Natural Resource Protection, HK = housekeeping)	
Chapter 1		
1.202.01	HK	clarified definition of “abut”, terminology already used in the code
1.202.04	IR	Added definition of “adjacent”, a term used to define location of infill
1.202.21	HK	Housekeeping – reflected CWS name change from USA
1.202.37	NRP	Clarified that density is based on net BUILDABLE acre
1.202.48	IR	Added definition of “established neighborhood”, a term used in infill standards section
1.202.49	NRP	Added definition of environmentally constrained to specify what is already regulated (floodplain, wetland, Title 3 vegetated corridor areas)

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Code Section changed (new numbers)	Reason for change (IR= infill, NRP = Natural Resource Protection, HK = housekeeping)	
1.202.50	NRP	Added definition of environmentally sensitive land to include Metro inventoried resources not already regulated.
1.202.109	NRP	Modified definition of net buildable acre to reflect option to exclude environmentally sensitive areas from net buildable area.
1.202.137	NRP	Added Metro definition of regionally significant habitat areas
1.202.171	IR	Added definition of “surrounding”, a term used to define location of infill
1.202.175	HK	Housekeeping – reflects USA name change to CWS
1.202.181	NRP	Modified definition of wetland to include Metro inventory
Chapter 2		
2.101.04-2.105.04	NRP	Each zone will refer to the natural resources protection standards in Section 8.305.03.
2.101.04	IR	Refers dimensional standards for infill lots to Section 2.309.
2.102.04	IR	Refers dimensional standards for infill lots to Section 2.309.
2.103.04	IR	Refers dimensional standards for infill lots to Section 2.309.
2.104.04	IR	Refers dimensional standards for infill lots to Section 2.309. Specifies setbacks for multi-family development based on height of portions of building. Questions effectiveness of setbacks for open space.
2.105.04	IR	Refers dimensional standards for infill lots to Section 2.309. Specifies setbacks for multi-family development based on height of portions of building. Questions effectiveness of setbacks for open space.
2.302.01	HK	Changes additional setbacks to reflect required right-of-way dedication for particular road classifications (per adopted Transportation System Plan)
2.303.01.D.2	HK	Changes rear/side yard fence standards to be more pedestrian-oriented
2.303.01.D.3	IR	Requires landscaping separation between “pole” of “flag lot” and adjacent property
2.303.01.G	HK	Provides specifications for maintenance of fences
2.303.01.I	HK	Removes September 1, 2003 and the date of house sale as abatement dates for fences out of compliance
2.304.01	IR	Refers lot size and dimension of infill lots to Section 2.309
2.304.03	IR	Refers lot size and dimension of infill lots to Section 2.309
2.305.01	HK	Clarifies specifications for “through lots” based on access
2.305.02.A	HK	Clarifies that zoning district may allow less than 25’ front setback
2.305.04.B	IR	Adds infill standards (Section 2.309) as an exception to the yard requirements

Code Section changed (new numbers)	Reason for change (IR= infill, NRP = Natural Resource Protection, HK = housekeeping)	
2.309	IR	New section added for infill and redevelopment- defines infill, provides size and dimensional specifications for lots, buildings and yards
Chapter 3		
3.202.03.F	IR	Requires developers of infill projects to notify adjacent/surrounding area (based on Infill Notification Map) or all property owners within 250 feet of project
Chapter 5		
5.102.01.E	NRP	Added text stating that the removal of more than 5 healthy trees per acre required site plan review. This is to cross reference with the <u>proposed new standards in Chapter 8.304.08</u>
5.102.03.A	NRP	Added tree mitigation and habitat preservation as clarification that these must be maintained as approved after site plan approval.
5.102.04.D	NRP	Specified that environmentally sensitive lands (as newly defined in definition section) shall be preserved to the maximum extent feasible. While this is already considered during development review, putting it in writing makes it clear that this is important to the City.
5.201	NRP	Added text clarifying that maintenance of existing non-invasive native vegetation is acceptable landscaping within a development and is required beyond the areas of construction/development
5.202.01	NRP	Specified that required landscape areas shall include appropriate combination of NATIVE...to be consistent with other Code sections and the Natural Resources Protection Program
5.202.03	NRP	Limited amount of impervious area that can be included in the landscaped areas.
5.202.04	HK	Housekeeping – changed commission to review authority
5.203.01	NRP	Restricted screening within or adjacent to environmentally sensitive areas to vegetation only (as opposed to fences)
	HK	Housekeeping – changed Commission to review authority
5.203.02.A	HK	Housekeeping clarification to add back in the requirement that 10% of the area dedicated for parking be landscaped.
5.203.02.D	NRP	Added language that stormwater bioswales can be used in lieu of interior landscaping islands as a way to encourage their use.
5.203.02.F	NRP	Added exceptions to allow flexibility when needed to protect or preserve environmentally

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Code Section changed (new numbers)	Reason for change (IR= infill, NRP = Natural Resource Protection, HK = housekeeping)	
		sensitive areas.
5.203.03	NRP	Allows potential reduction of visual corridor if exceptions criteria are met per 5.203.02.F
5.204.01	HK	Housekeeping - added requirement that deferral of landscaping must be 125% of the costs
5.301.03	HK	Re-formatted/housekeeping to remove redundancies and clarify text
5.301.04	HK	Re-formatted/housekeeping to remove redundancies. Removed range of 10-25% reduction in parking for mixed uses and propose flat 25% in order to make standard more clear and objective.
5.301.06	HK	Re-formatted/housekeeping to remove redundancies and clarify text
5.301.08	NRP	Clarified that parking lots must be surfaced with a permanent hard surface such as asphalt, concrete or a durable pervious surface and specified that use of pervious surfaces are encouraged where appropriate.
	NRP	Added treatment facilities to engineering and/or Building Official approval review
5.302.01	HK	Housekeeping – changes Commission to review authority
5.302.03.C	NRP	Added language requiring wheel stops adjacent to landscaping, bioswales or water quality facilities be designed to allow stormwater run-off (for example, with small gaps or weep holes)
5.302.03.E (old)	HK	Moved bike parking to 5.302.04 to separate it from “Misc. standards”. Re-lettered accordingly
5.302.03.F	NRP	Added provision that allows a 10-25% reduction in the required parking spaces for sites depending on the amount of required parking spaces provided there are inventoried natural resources that will be protected as a result of the parking reductions.
5.302.04	HK	Re-formatted from 5.302.03.E
	HK	Housekeeping – clarified language in table the minimum number of bicycle parking spaces required
5.401	NRP	Removed requirement that all pathways/sidewalks must be 6 feet wide to avoid inconsistencies with other standards further in the section
5.402.01.B	NRP	Added encouragement that surfaces be pervious consistent with 5.402.01.A
5.402.02.B.3	NRP	Added word pervious to “other durable surfaces”
5.403.01.C	NRP	Added text encouraging pervious surfaces where appropriate.
5.403.02.C	NRP	Added word pervious to “other durable surfaces”
	NRP	Differentiated primary pathway from secondary to allow less pavement width for internal circulation

Code Section changed (new numbers)	Reason for change (IR= infill, NRP = Natural Resource Protection, HK = housekeeping)	
5.502	HK	Added clarification that recycling facilities shall be provided along with solid waste disposal. This is consistent with current practices and reinforces the requirement.
Chapter 6		<i>Status notes – Chapter 6 changes based on internal meeting with Engineering and Planning held July 2006 and the Planning Commission work session held 8/8/06</i>
6.101	NRP	Added text indicating that green street options are encouraged where appropriate and feasible.
6.303.04	HK	Housekeeping - Reflected current terminology used by Engineering for their Construction Standards
6.303.05.B.1	HK	Housekeeping - Reflected current terminology used by Engineering for their Construction Standards
6.303.05.C	NRP	Specify that a modification to the street design necessary to implement a green street design would not require a fee. This is a way to encourage the use of habitat friendly development in the street design while allowing Engineering the ability to thoroughly review the design.
6.304.02.B	HK	Clarifies requirement of connectivity map and how it affects development
6.305	HK	Housekeeping - Reflected current terminology used by Engineering for their Construction Standards
6.305.11	NRP	Specify that curbless streets may be allowed in other locations in the City with the City Engineers approval. A Curbless street with a bioswale is a green street element.
6.601	HK	Housekeeping – reflected CWS name change from USA and reflected most recently adopted R&O.
6.603.01	HK	Housekeeping – reflected CWS name change from USA and reflected most recently adopted R&O.
6.603.02	HK	Changed text to refer to CWS Design and Construction Standards
6.603.03	HK	Changed and added text to be more accurate and reflect current practices per the City and CWS standards.
Chapter 7		
7.401.B	HK	Added reference to street connectivity standards (6.304.02) which already makes allowances for habitat protection. Links block length to Local Street Network Map in Transportation System Plan.

Code Section changed (new numbers)	Reason for change (IR= infill, NRP = Natural Resource Protection, HK = housekeeping)	
7.404.02	IR	Removes requirement for infill lots in a subdivision, subject to Section 2.209, to have access to a public street
7.501.03	IR	Removes requirement that no new rights-of-way, roads or streets are created through the partition process
Chapter 8		
8.304.01	HK	Housekeeping – clarified reference
8.304.04.A	HK	Housekeeping – clarified reference
8.304.04.B	HK	Housekeeping – changed Commission to review authority
8.304.04.C	HK	Housekeeping – changed Commission to review authority
8.304.04.D	HK	Housekeeping – clarified that front porches on townhomes are allowed to extend into the visual corridor as it is currently permitted in the townhome section
8.304.05.A	HK	Housekeeping – When Ord. 91-927 was adopted moving the SIF out of the Development Code to be replaced by SDC in the Municipal code, this section should have been amended as the density transfer is only applicable to properties with a SIF waiver
8.304.05.B	HK	Housekeeping – corrected numbering and removed reference to 8.304.02.E which was deleted by Ord. 91-927.
8.304.06.A.1	HK	Housekeeping – modified tree location standards to reflect the requirement for landscape strips.
8.304.06.A.5	NRP	Added language requiring a variety of street trees to be installed to prevent spread of disease or infestation and loss of entire stand in the event of disease or infestation.
8.304.07.A	NRP	Removed word “certain” as we want to review all trees, not just certain ones
8.304.07.A.2	NRP/HK	Added text indicating that trees that are covered by a farm forest deferral are exempt from inventory and mitigation requirements.
8.304.07.A3	NRP/HK	Added text indicating that woodlands that are covered by a farm forest deferral are exempt from inventory and mitigation requirements.
8.304.07.B.1	NRP	Added standard that allows us to require mitigation for trees removed within one year prior to submittal of the application
8.304.07.C.1	HK	Housekeeping – changes Commission to review authority. Removed requirement that the Park Board review tree removals (not currently practiced and not realistic given land use processing time constraints) but maintained the ability for the review authority to seek the recommendation of the Park Board in instances that they felt it appropriate and beneficial.

Code Section changed (new numbers)	Reason for change (IR= infill, NRP = Natural Resource Protection, HK = housekeeping)	
8.304.07.C.4	NRP	Added standard/clarification that tree protection shall, at minimum include all area within the drip line of the tree.
8.304.07.D.2	HK	Clarified that mitigation is required on a 1:1 CALIPER INCH ratio
8.304.08	NRP	ADDED new section to restrict tree cutting on private property to 5 trees per acre per calendar year (except hazardous trees). Specified that removal of more may be permitted, but is subject to site plan review.
8.305.01	NRP	Added reference to Regionally Significant Fish and Wildlife Habitat Areas map
8.305.02.A.1	HK	Housekeeping – reflects USA name change to CWS
8.305.02.B.5	HK	Housekeeping – reflects USA name change to CWS
8.305.02.C	NRP	ADDED new section identifying how to determine location and value of resources identified on the Regionally Significant Fish and Wildlife Habitat Areas map
8.305.03	NRP	ADDED new section providing clear and objective exceptions to specific development standards including: lot size, setbacks, density, parking and landscaping. Where exception is discussed elsewhere in the code, provided the reference to that code section, otherwise, provided the specific exception criteria and defined the process for review. Based on input from the development community, it was clear that having the exceptions/incentives for habitat friendly development in one location would help to remove an existing barrier that currently exists when they have to hunt through codes for the standards.

7

1.200 DEFINITIONS

1.201 GENERALLY

All words used in this Code, except where specifically defined herein, shall carry their customary meanings. Words used in the present tense include the future tense; words used in the future tense include the present tense; the plural includes the singular, and the masculine includes the feminine and neuter. The word "building" includes the word "structure"; the word "shall" is mandatory; the word "will" or "may" are permissive; the words "occupied" and "uses" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings.

1.202 SPECIFICALLY

The following terms shall have specific meaning when used in this Code:

- 1.202.01 **Abut:** Contiguous to, in contact with, or adjoining with a common property line; two properties separated by another parcel, lot, tract or right-of-way measuring twenty (20) feet in width or less, shall be considered abutting for the purposes of interpreting the infill-related development standards. See also, Adjacent.
- .02 **Access:** The way or means by which pedestrians and vehicles enter and leave property.
- .03 **Accessory Building/Use:** A subordinate building or use which is customarily incidental to that of the principal use or building located on the same property.
- .04 **Adjacent:** A relative term meaning nearby; may or may not be in actual contact with each other, but are not separated by things of the same kind.
- .05 **Alteration:** Any change in construction or a change of occupancy. Where the term "alteration" is in reference to construction, it applies to a change, addition or modification in construction. When the term is used in connection with a change of

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B. An elevation ten (10) feet higher than the lowest grade, when the sidewalk or ground surface described in Section 1.202.12.A is more than ten (10) feet above lowest grade.

- 15 **Building Official:** The City employee or agent charged with the administration and enforcement of the Uniform Building Code and other applicable regulations. Deleted: 14
- 16 **Building Permit:** A permit issued under the terms of the Uniform Building Code. Deleted: 15
- 17 **Buffer:** A landscaped area, wall, berm or other structure or use established to separate and protect land uses. Deleted: 16
- 18 **Change in Use:** A change to a parcel of land, a premise or a building which creates a change in vehicular trip generation activities, which changes the minimum parking requirements of this Code, or which changes the use classification as defined by this Code or the Uniform Building Code. Deleted: 17
- 19 **Church:** Any bona-fide place of worship, including Sunday School buildings, parsonages, church halls, and other buildings customarily accessory to places of worship. Deleted: 18
- 20 **City:** The City of Sherwood, Oregon and its duly authorized officials, employees, consultants and agents. Deleted: 19
- 21 **Clean Water Services:** An agency of Washington County providing for sanitary sewer collection and treatment, and for storm water management. Deleted: 0
- 22 **Code:** The City of Sherwood, Oregon Zoning and Community Development Code, Part 3 of the City of Sherwood Comprehensive Plan. Deleted: 1
Deleted: 0
Deleted: 1
- 23 **Co-Location:** The placement of two or more antenna systems or platforms by separate FCC license holders on a structure such as a support structure, building, water tank or utility pole. Deleted: 1
Deleted: 2
- 24 **Commercial Trade School:** Any private school or institution operated for profit that is not included in the definitions of an educational institution or school. Deleted: 2
- 25 **Commission:** The City of Sherwood Planning Commission. Deleted: 3
- 26 **Common-Wall Dwelling:** Dwelling units with shared walls such as two-family, and multi-family dwellings. Deleted: 4

10

- .27
Community Development Plan: Part 2 of the City of Sherwood Comprehensive Plan.
Deleted: 5
- .28
Compatible: Any structures or uses capable of existing together in a harmonious, orderly, efficient, and integrated manner, considering building orientation, privacy, lot size, buffering, access and circulation.
Deleted: 6
- .29
Comprehensive Plan: The City of Sherwood Comprehensive Plan.
Deleted: 7
- .30
Conditional Use: A use permitted subject to special conditions or requirements as defined in any given zoning district and Section 4.300 of this Code.
Deleted: 29
- .31
Condominium: An individually-owned dwelling unit in a multi-family housing development with common areas and facilities.
Deleted: 29
- .32
Convalescent Homes: See Nursing Home in this Code.
Deleted: 0
- .33
Council: The City of Sherwood City Council.
Deleted: 1
- .34
Day-Care Facility: Any facility that provides day care to six (6) or more children, including a child day care center or group day care home, including those known under a descriptive name, such as nursery school, preschool, kindergarten, child playschool, child development center, except for those facilities excluded by law, and family day care providers as defined by this Code. This term applies to the total day care operation and it includes the physical setting, equipment, staff, provider, program, and care of children.
Deleted: 2
- .35
Deed Restriction: A covenant or contract constituting a burden on the use of private property for the benefit of property owners in the same subdivision, adjacent property owners, the public or the City of Sherwood, and designed to mitigate or protect against adverse impacts of a development or use to ensure compliance with a Comprehensive Plan.
Deleted: 3
- .36
Demolish: To raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of a structure or resource.
Deleted: 4
- .37
Density: The intensity of residential land uses per acre, stated as the number of dwelling units per net buildable acre. Net acre means an area measuring 43,560 square feet after excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses.
Deleted: 5
- .38
Development: Any man-made change to improved or unimproved real property or structures, including but not limited to construction, installation, or alteration of a
Deleted: 6

building or other structure; change in use of a building or structure; land division; establishment or termination of rights of access; storage on the land; tree cutting; drilling; and any site alteration such as land surface mining, dredging, grading, construction of earthen berms, paving, parking improvements, excavation or clearing.

- .39

Development Plan: Any plan adopted by the City for the guidance of growth and improvement in the City.
Deleted: 7
- .40

Drive-In Restaurant: Any establishment dispensing food and/or drink, that caters primarily to customers who remain, or leave and return, to their automobile for consumption of the food and/or drink, including any establishment designed for serving customers at a drive-up window or in automobiles.
Deleted: 8
- .41

Dwelling Unit: Any room, suite of rooms, enclosure, building or structure designed or used as a residence for one (1) family as defined by this Code, and containing sleeping, kitchen and bathroom facilities.
Deleted: 39
- .42

Dwelling, Single-Family: A structure containing one (1) dwelling unit.
Deleted: 0
- .43

Dwelling, Single-Family Attached: A single structure on two (2) lots, containing two (2) individual dwelling units, but with a common wall and a common property line. Otherwise identical to a two-family dwelling.
Deleted: 1
- .44

Dwelling, Two-Family: A single structure on one (1) lot containing two (2) individual dwelling units, sharing a common wall, but with separate entrances. Also referred to as a duplex.
Deleted: 2
- .45

Dwelling, Multi-Family: A single structure containing three (3) or more dwelling units.
Deleted: 3
- .46

Easement: The grant of the legal right to use of land for specified purposes.
Deleted: 4
- .47

Educational Institution: Any bona-fide place of education or instruction, including customary accessory buildings, uses, and activities, that is administered by a legally-organized school district; church or religious organization; the State of Oregon; or any agency, college, and university operated as an educational institution under charter or license from the State of Oregon. An educational institution is not a commercial trade school as defined by Section 1.202.
Deleted: 5
- .48

Established Neighborhood: An existing residential area that is taken into consideration when infill development is proposed. See Section 2.309, Infill Development Standards, intended to promote compatibility between existing

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residential areas and new development through controls on the type, height, size, scale, or character of new buildings.

.49 Environmentally constrained land: Any portion of land located within the floodway, 100 year floodplain, wetlands and/or vegetated corridor as defined by Clean Water Services. Deleted: 7

.50 Environmentally sensitive land: Land that does not meet the definition of environmentally constrained, but which is identified on the inventory of Regionally Significant Riparian and Wildlife Habitat Map adopted as Map V-2 of the Sherwood Comprehensive Plan, Part 2. Deleted: 48

.51 Expedited Land Division: A residential land division process which must be expedited within 63 days of receiving a complete application in accordance with ORS 197.360. The decision is rendered without a public hearing and must meet applicable land use regulation requirements. All appeals of expedited land divisions must be decided by a hearings officer. Deleted: 49

.52 Evergreen: A plant which maintains year-round foliage. Deleted: 47

.53 Ex-parte Contact: Contact or information passed between a party with an interest in a quasi-judicial land use decision and a member of the Council or Commission, when such information is not generally available to other members of the Council or Commission, or other interested persons. The member shall disclose any pre-hearing or ex-parte contacts with applicants, officers, agents, employees, or other parties to an application before the Council or Commission. Ex-parte contacts with a member of the Commission or Council shall not invalidate a final decision or action of the Commission or Council, provided that the member receiving the contact indicates the substance of the content of the ex-parte communication and of the right of parties to rebut said content at the first hearing where action will be considered or taken. Deleted: 48

.54 Extra Capacity Improvements: Improvements that are defined as necessary in the interest of public health, safety and welfare by Chapter 5, 6, and 8 of this Code, and the Community Development Plan, to increase the capacities of collector or arterial streets; water, sewer, storm drainage or other utility facilities; and parks and open space. Deleted: 49

.55 Family: One (1) person living alone or two (2) or more persons related by blood, marriage, or adoption; or a group not exceeding five (5) persons living together as a single housekeeping unit, excluding occupants of a boardinghouse, fraternity, hotel, or similar use. Deleted: 0

- .99
Deleted: 94

Lot Line, Front: The line separating a lot from any street, provided that for corner lots, there shall be as many front lines as there are street frontages.
- .100
Deleted: 95
Deleted: 98

Lot Line, Rear: A lot line which is opposite and most distant from the front lot line, provided that for irregular and triangular lots, the rear lot line shall be deemed a line ten (10) feet in length within the lot, parallel to and at a maximum distance from the front lot line. On a corner lot, the shortest lot line abutting adjacent property that is not a street shall be considered a rear lot line.
- .101
Deleted: 99

Lot Line, Side: Any lot line not a front or rear lot line.
- .102
Deleted: 97

Lot Width: The horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line, at the center of the lot, or, in the case of a corner lot, the horizontal distance between the front lot line and a side lot line.
- .103
Deleted: 98

Manufactured Home: A structure transportable in one or more sections, intended for permanent occupancy as a dwelling. All manufactured homes located in the City after the effective date of this Code shall meet or exceed the standards of the U.S. Department of Housing and Urban Development and shall have been constructed after June 15, 1976.
- .104
Deleted: 99

Manufactured Home Park: A lot, tract, or parcel with four (4) or more spaces within five-hundred (500) feet of one another available for rent or lease for the siting of manufactured homes.
- .105
Deleted: 100

Manufactured Home Space: A plot of land within a manufactured home park designed to accommodate one (1) manufactured home, on a rental or lease basis.
- .106
Deleted: 1

Mixed Solid Waste: Solid waste that contains recoverable or recyclable materials, and materials that are not capable of being recycled or recovered for future use.
- .107
Deleted: 2

Motel: See Hotel.
- .108
Deleted: 3

Municipal Solid Waste: Solid waste primarily from residential, business, and institutional uses.
- .109
Deleted: 7
Deleted: sensitive areas

Net Buildable Acre: Means an area measuring 43,560 square feet after excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses. When environmentally sensitive areas also exist on a property and said property is within the Metro urban growth boundary on or before January 1, 2002, these areas may also be removed from the net buildable area

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provided the sensitive areas are clearly delineated in accordance with this Code and the environmentally sensitive areas are protected via tract or restrictive easement.

- .110
Non-Attainment Area: A geographical area of the State which exceeds any state or federal primary or secondary ambient air quality standard as designated by the Oregon Environmental Quality Commission and approved by the U.S. Environmental Protection Agency. Deleted: 08
- .111
Non-Conforming Structure or Use: A lawful structure or use, existing as of the effective date of this Code, or any applicable amendments, which does not conform to the minimum requirements of the zoning district in which it is located. Deleted: 09
- .112
Nursing Home: An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care, or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction. Deleted: 07
- .113
Occupancy Permit: The permit provided in the Uniform Building Code which must be issued prior to occupying a building or structure or portion thereof. For the purposes of this Code, "occupancy permit" includes the final inspection approval for those buildings or structures not required to obtain an occupancy permit by the Uniform Building Code. Deleted: 108
- .114
Occupy: To take or enter upon possession of. Deleted: 109
- .115
Office: A room or building for the transaction of business, a profession or similar activities, including but not limited to administration, bookkeeping, record keeping, business meetings, and correspondence. Products may not be stored or manufactured in an office, except to accommodate incidental sales, display and demonstration. Deleted: 110
- .116
Off-Street Parking: Parking spaces provided for motor vehicles on individual lots and not located on public street right-of-way. Deleted: 111
- .117
Open Space: Open ground area which is not obstructed from the ground surface to the sky by any structure, except those associated with landscaping, or recreational facilities. Parking lots and storage areas for vehicles and materials shall not be considered open space. Deleted: 112
- .118
Parks Board: The City of Sherwood Parks Advisory Board. Deleted: 113
- .119
Partition: The dividing of an area or tract of land into two (2) or three (3) parcels within a calendar year when such area exists as a unit or contiguous units of land Deleted: 114

15

130 **Public Hearing:** Hearings held by the Commission or the Council for which a form of prescribed public notice is given.

Deleted: 124

131 **Public Park:** A park, playground, swimming pool, reservoir, athletic field, or other recreational facility which is under the control, operation or management of the City or other government agency.

Deleted: 125

132 **Public Place:** Any premise whether, privately or publicly owned, which by physical nature, function, custom, or usage, is open to the public at times without permission being required to enter or remain.

Deleted: 126

133 **Public Use Building:** Any building or structure owned and operated by a government agency for the convenience and use of the general public.

Deleted: 127

134 **Public Utility Facilities:** Structures or uses necessary to provide the public with water, sewer, gas, telephone or other similar services.

Deleted: 128

135 **Recycled Materials:** Solid waste that is transformed into new products in such a manner that the original products may lose their identity.

Deleted: 129

136 **Recycling:** The use of secondary materials in the production of new items. As used here, recycling includes materials reuse.

137 ~~**“Regionally significant fish and wildlife habitat”:** Those areas identified on the Metro Regionally Significant Fish and Wildlife Habitat Inventory Map, adopted as Map V-2 of the Sherwood Comprehensive Plan, Part 2, as significant natural resource sites.~~

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138 **Residential Care Facility:** A facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six (6) to fifteen (15) individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

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139 **Residential Care Home:** A residence for five (5) or fewer unrelated physically or mentally handicapped persons and for the staff persons who need not be related to each other or any other home resident.

Deleted: 132

140 **Residential Structure:** Any building or part of a building, used or constructed as a sleeping or other housekeeping accommodation, for a person or group of persons.

Deleted: 133

regional, citywide or district level. [Figures 8-5a & 8-5b of the Transportation System Plan illustrate local street cross-sections.]

H. Marginal Access Street (frontage or backage road): A minor street parallel and adjacent to a -principal arterial or arterial street providing access to abutting properties, but protected from through traffic. [Figure 8-5a of the Transportation System Plan illustrates the cross-sections of a frontage or backage road.]

I. Neighborhood Route : Neighborhood routes are streets that provide connections within or between neighborhoods, but not citywide. Neighborhood routes are primarily used or planned to move traffic between the local street system, and onto collectors and arterials. [Figure 8-5a of the Transportation System Plan illustrates the neighborhood route cross-section.]

J. Principal Arterial: Principal arterials are streets that provide connectivity at a regional level, and are typically State routes. [Figures 8-2 and 8-3b in the Transportation System Plan illustrates the principal arterial cross-section].

- 165 **Street Line:** A dividing line between a lot and a street right-of-way. Deleted: 158
- 166 **Street Plug:** A narrow strip of land located between a subdivision and other property, that is conveyed to the City for the purpose of giving the City control over development on the adjacent property. Deleted: 159
- 167 **Structure:** That which is built or constructed, an edifice or building or any kind, or any piece of work artificially built up or composed of parts joined together in some manner. Deleted: 160
- 168 **Structural Alterations:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders. Deleted: 161
- 169 **Subdivision:** The division of an area or tract of land into four (4) or more lots within a calendar year, when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. Deleted: 162
- 170 **Subdivision Improvements:** Construction of facilities such as streets; water, sewer, gas and telephone lines; storm drainage; and landscaping. Deleted: 163
- 171 **Surrounding:** To be encircled on all or nearly all sides; as interpreted for property lines and land uses, a use is surrounded by another use when the other use is abutting on most of its perimeter.

172 Temporary Use: A use of land, buildings or structures not intended to exceed twelve (12) months, unless otherwise permitted by this Code.

Deleted: 164

173 Townhomes: A single-family dwelling unit which is attached on one or both sides to a similar adjacent unit(s) on similar lot(s). The attachment is made along one or more common walls which are jointly owned. The units may either be on individual platted lots or may be located on a single lot as individual condominium units.

Deleted: 165

174 Transportation facilities and improvements: The physical improvements used to move people and goods from one place to another; i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.). Transportation improvements include the following:

Deleted: 166

1. Normal operation, maintenance repair, and preservation activities of existing transportation facilities.
2. Design and installation of culverts, pathways, multi-use paths or trails, sidewalks, bike lanes, medians, fencing, guardrails, lighting, curbs, gutters, shoulders, parking areas, and similar types of improvements within the existing right-of-way;
3. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval;
4. Landscaping as part of a transportation facility;
5. Emergency measures necessary for the safety and protection of property.
6. Street or road construction as part of an approved land use application;
7. Transportation projects that are not designated improvements in the Transportation System Plan requires a site plan review and conditional use permit; and
8. Transportation projects that are not planned, designed, and constructed as part of an approved land use application requires a site plan review and conditional use permit.

175 Unified Sewerage Agency: ~~The former name of Clean Water Services;~~ An agency of Washington County providing for sanitary sewer collection and treatment, and for storm water management.

Deleted: 167

176 Urban Growth Boundary: The Metropolitan Portland Urban Growth Boundary (UGB) as acknowledged by the State Land Conservation and Development Commission.

Deleted: 1

Deleted: 168

177 Urban Zone: A land use zone adopted by a unit of local government that applies to land inside a regional urban growth boundary.

Deleted: 169

18

178 **Use:** Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Deleted: 170

179 **Use by Right:** A use which is a "use permitted outright" in any given zoning district established by this Code.

Deleted: 171

180 **Warehouse:** A structure or part of a structure used for storing and securing goods, wares or merchandise.

Deleted: 172

181 **Wetlands:** Those land areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are generally identified in the City's 1992 Local Wetland inventory, and the Metro 2004 Natural Resources Inventory, or in the absence of such identification, are based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989).

Deleted: 173

182 **Wholesale Trade:** The sale of goods and products to an intermediary generally for resale.

Deleted: 174

183 **Wireless Communication Facility:** An unmanned facility for the transmission or reception of radio frequency (RF) signals usually consisting of an equipment shelter, cabinet or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.

Deleted: 175

184 **Yard:** The existing or required space on a parcel which shall remain open, unoccupied, and unobstructed from the ground surface to the sky, except as otherwise provided by this Code. Categories of yards include:

Deleted: 176

- A. **Front Yard:** A yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.
- B. **Rear Yard:** A yard, unoccupied except by a building or structure of an accessory type as provided by this Code, extending the full width of the lot between the rear lot line and the extreme rear line of a building.
- C. **Side Yard:** The yard along the side line of a lot and extending from the setback line to the rear yard.

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- J. 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.
- K. 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.
- L. Radio, television, and similar communications stations, on lots with a minimum width and depth equal to the height of any tower, and in conformance with Section 2.306. (Ord. 1997-1'019 § 1; 86-851)
- M. Raising of animals other than household pets.
- N. Public golf courses.

(Ord. 86-851 §3)

2.101.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, or as otherwise provided, required minimum lot areas and dimensions shall be:

- | | | |
|----|-----------------------------------|--------------------|
| 1. | Lot area (conventional): | 40,000 square feet |
| | Lot area (under PUD): | 10,000 square feet |
| 2. | Lot width at front property line: | 25 feet |
| 3. | Lot width at building line: | No minimum |
| 4. | Lot depth: | No minimum |

(Ord. 90-927 § 2; 86-851)

B. Setbacks

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, or as otherwise provided, required minimum setbacks shall be:

1. Front yard: 20 feet
2. Side yard:
 - a. Single-Family Detached: 5 feet
 - b. Corner Lots (street side): 20 feet
 - c. Single-Family Attached (one side): 20 feet
3. Rear yard: 20 feet

(Ord. 86-851 § 3)

4. Accessory buildings see Section 2.207 – Accessory Uses.

(Ord. 2003-1153 § 1)

C. Height

Except as otherwise provided for accessory structures, and for infill development under Section 2.309, the maximum height of structures shall be two (2) stories or thirty (30) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings or to accessory buildings, may exceed this height limitation by up to twenty (20) feet. (Ord. 86-851 § 3)

2.101.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9. (Ord. 91-922 § 2; 86-851)

2.101.06 Flood Plain

Except as otherwise provided, Section 8.202 shall apply. (Ord. 2000-1092 § 3; 88-979; 87-867; 86-851)

2.101.07 Special Density Allowances

Housing densities up to two (2) units to the acre, and lot sizes down to 10,000 square feet, may be allowed in the VLDR zone when:

- A. The housing development is approved as a PUD, as per Section 2.202; and

2.102.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400.

A. Lot Dimensions

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, or as otherwise provided, required minimum lot areas and dimensions shall be:

- 1. Lot area: 7,000 square feet
- 2. Lot width at front property line: 25 feet
- 3. Lot width at building line: 60 feet
- 4. Lot depth: 80 feet

(Ord. 91-922 § 2; 86-851)

B. Setbacks

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, or as otherwise provided, required minimum setbacks shall be:

- 1. Front yard: 20 feet
- 2. Side yard:
 - a. Single-Family Detached: 5 feet
 - b. Corner Lots (street side): 20 feet
 - c. Single-Family Attached (one side): 20 feet
- 3. Rear yard: 20 feet

(Ord. 86-851 § 3)

- 4. Accessory buildings see Section 2.207 – Accessory Uses.

(Ord. 2003-1153 § 1)

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C. Height

Except as otherwise provided for accessory structures, and for infill development under Section 2.309, the maximum height of structures shall be two (2) stories or thirty (30) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet. (Ord. 86-851 § 3)

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2.102.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and design, see Chapters 5, 8 and 9. (Ord. 86-851 § 3)

2.102.06 Flood Plain

Except as otherwise provided, Section 8.202 shall apply. (Ord. 2000-1092 § 3; 88-979; 87-867; 86-851)

2.103.03 Conditional Uses

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Section 4.300:

- 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)

2.103.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code

shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400. (Ord. 91-922 § 2; 86-851)

A. Lot Dimensions

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, or as otherwise provided, required minimum lot areas and dimensions shall be:

1. Lot areas:
 - a. Single-Family Detached or Attached: 5,000 sq ft
 - b. Two-Family: 10,000 sq ft
 - c. Manufactured Homes: 5,000 sq ft
(Ord. 89-898 § 1)
2. Lot width at front property line: 25 feet
3. Lot width at building line:
 - a. Single-Family: 50 feet
 - b. Two-Family: 60 feet
 - c. Manufactured Homes: 50 feet
4. Lot depth: 80 feet
(Ord. 86-851 § 3)

B. Setbacks

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, or as otherwise provided, required minimum setbacks shall be:

1. Front yard: 20 feet
2. Side yard:
 - a. Single-Family Detached: 5 feet
 - Corner Lots (street side): 15 feet
 - b. Single-Family Attached (one side): 10 feet
 - c. Two-Family: 5 feet
 - Corner Lot (street side): 15 feet
 - d. Manufactured Home: 5 feet

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2.104.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400. (Ord. 91-922 § 2; 86-851)

A. Lot Dimensions

Except as modified under Section 2.309 (Infill Development), Section 8.305, Section 2.204 (Townhomes), or as otherwise provided, required minimum lot areas and dimensions shall be:

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1. Lot areas:
 - a. Single-Family Detached: 5,000 sq ft
 - b. Single-Family Attached: 4,000 sq ft
 - c. Two-Family: 8,000 sq ft
 - d. Manufactured Homes: 5,000 sq ft
 - e. Multi-Family: 8,000 sq ft
(for the first two (2) units & 3,200 sq ft for each additional unit)
2. Lot width at front property line: 25 feet
3. Lot width at building line:
 - a. Single-Family: 50 feet
 - b. Two-Family & Multi-Family: 60 feet
 - c. Manufactured Homes: 50 feet
4. Lot depth: 80 feet
5. Townhome lots are subject to Section 2.204. (Ord. 2002-1126 § 2; 2001-1123; 86-851 § 3)

B. Setbacks

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, Section 2.204 (Townhomes), or as otherwise provided, required minimum setbacks shall be:

Deleted: or

1. Front yard: 20 feet

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2. Side yard:
 - a. Single-Family Detached: 5 feet
Corner Lot (street side): 15 feet
 - b. Single-Family Attached (one side): 5 feet
 - c. Two-Family: 5 feet
Corner Lot (street side): 15 feet
 - d. Manufactured Home: 5 feet
Corner Lot (street side): 15 feet
 - e. Multi-Family, for portions of elevations that are:

<u>24 feet or less in height:</u>	5 feet
<u>Greater than 24 feet in height</u>	See Section 2.309
<u>Corner Lot (street side)</u>	20 feet
3. Rear yard: 20 feet
4. Accessory buildings see Section 2.207 – Accessory Uses. (Ord. 2003-1153 § 1)
5. Buildings which are grouped together in one project on one (1) tract of land shall be separated by a distance equal to the sum of the required side yards for each building (i.e. as though an imaginary lot line is placed between the buildings). (Ord. 91-922 § 2; 86-851)
6. Townhomes, subject to Section 2.204 (Ord. 2002-1126 § 2; 2001-1123; 86-851 § 3)

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Deleted: 2 Stories
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C. Height

Except as otherwise provided for accessory structures, or for townhomes under Section 2.204, or for infill development under Section 2.309, the maximum height of structures shall be two and one-half (2-1/2) stories or thirty-five (35) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet. Height of townhomes may be three (3) stories, subject to Section 2.204. (Ord. 2002-1126 § 2; 2001-1123; 86-851)

2.104.05 Community Design

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2.105.04 Dimensional Standards

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Section 4.400. (Ord. 91-922 § 2; 86-851)

A. Lot Dimensions

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, under Section 2.204 (Townhomes), or as otherwise provided, required minimum lot areas and dimensions shall be:

Deleted: or

1. Lot areas:
 - a. Single-Family Detached: 5,000 sq ft
 - b. Single-Family Attached: 4,000 sq ft
 - c. Two-Family: 8,000 sq ft
 - e. Multi-Family: 8,000 sq ft
(for the first two (2) units & 1,500 sq ft for each additional unit)
2. Lot width at front property line: 25 feet
3. Lot width at building line:
 - a. Single-Family: 50 feet
 - b. Two-Family & Multi-Family: 60 feet
4. Lot depth: 80 feet
5. Townhome lots are subject to Section 2.204. (Ord. 2002-1126 § 2; 2001-1123; 86-851 § 3)

B. Setbacks

Except as modified under Section 2.309 (Infill Development), Section 8.305.03, Section 2.204 (Townhomes), or as otherwise provided, required minimum setbacks shall be:

Deleted: or under

1. Front yard: 20 feet
2. Side yard:
 - a. Single-Family Detached: 5 feet
Corner Lot (street side): 15 feet
 - b. Single-Family Attached (one side): 5 feet
 - c. Two-Family: 5 feet
Corner Lot (street side): 15 feet
 - d. Multi-Family, for portion(s) of elevations that are:

<u>18 feet or less in height:</u>	5 feet
<u>18-24 feet in height</u>	7 feet
<u>greater than 24 feet in height</u>	See Section 2.309
Corner Lot (street side)	30 feet
3. Rear yard: 20 feet
4. Accessory buildings see Section 2.207 – Accessory Uses. (Ord. 2003-1153 § 1)
5. Buildings which are grouped together in one project on one (1) tract of land shall be separated by a distance equal to the sum of the required side yards for each building (i.e. as though an imaginary lot line is placed between the buildings). (Ord. 91-922 § 2; 86-851)
6. Townhomes, subject to Section 2.204 (Ord. 2002-1126 § 2; 2001-1123; 86-851 § 3)

Deleted: 1 Story
 Deleted: 2 Stories
 Deleted: 2-1/2 Stories
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Deleted: Buildings which are grouped together in one project on one (1) tract of land shall be separated by a distance equal to the sum of the required yards for each building. (Ord. 91-922 § 2; 86-851)

C. Height

Except as otherwise provided for accessory structures, or for townhomes under Section 2.204, or for infill development under Section 2.309, the maximum height of structures shall be three (3) stories or forty (40) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet. (Ord. 91-922 § 2)

2.105.05 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Chapters 5, 8 and 9. (Ord. 86-851 § 3)

2.302 ADDITIONAL SETBACKS

2.302.01 Generally

Additional setbacks apply when the width of a street right-of-way abutting a development is less than the standard width under the functional classifications in Section VI of the Community Development Plan. Additional setbacks are intended to provide unobstructed area for future street right-of-way dedication and improvements, in conformance with Section VI. Additional setbacks shall be measured at right angles from the centerline of the street.

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Classification	Additional Setback
Major Arterial	61 feet
Minor Arterial	37 feet
Collector	29 feet
Local	26 feet

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(Ord. 86-851 § 3)

2.303 FENCES, WALLS AND HEDGES

2.303.01 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 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 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 2.301.

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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 Section E.

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

- 1. The clear vision standards of Section 2.301 apply and take precedence over these provisions in the event of conflict between this Section and Section 2.303.
- 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.~~

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

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 c. A fence permit from the City is required for all fences.¶

I. Abatement of Fences in Non-Compliance

1. Fences that do not conform to Section E of this Code must come into compliance when building permits are issued for the property. Fences constructed affecting cul-de-sacs or fences creating inadequate site distances pursuant to Section 2.301 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 Sherwood Code of Ordinances effective at that time, are exempt from Section 1.

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J. Penalties: Violations of Section 2.303.01 shall be subject to the penalties defined by Section 1.101.04.

(Ord. 96-1014 § 1; 93-964; 86-851)

2.304 LOT SIZES AND DIMENSIONS

2.304.01 Generally

If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot of aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet, except as provided in Section 2.309, Infill Development. (Ord. 86-851 § 3)

2.304.02 Cul-de-Sacs

Minimum lot width at the building line on cul-de-sac lots may be less than that required in this Code if a lesser width is necessary to provide for a minimum rear yard. (Ord. 86-851 § 3)

2.304.03 Infill Development

Lot sizes and dimensions shall conform to the underlying zone district except as modified under Section 2.309, Infill Development.

2.305 YARD REQUIREMENTS

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2.305.01 Through Lots

On a through lot the front yard requirements of the zone in which such a lot is located shall apply to the street frontage where the lot receives vehicle access; except where access is from an alley, the front yard requirements shall apply to the street opposite the alley. (Ord. 86-851 § 3)

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2.305.02 Corner Lots

On a corner lot, or a reversed corner lot of a block oblong in shape, the short street side may be used as the front of the lot provided:

- A. The front yard setback shall not be less than twenty-five (25) feet; except where otherwise allowed by the applicable zoning district and subject to vision clearance requirements.
- B. The side yard requirements on the long street side shall conform to the front yard requirement of the zone in which the building is located.

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(Ord. 86-851 § 3)

2.305.03 Yards

- A. Except for landscaping, every part of a required yard shall be open and unobstructed from its lowest point to the sky, except that awnings, fire escapes, open stairways, and chimneys may be permitted when so placed as not to obstruct light and ventilation.
- B. Where a side or rear yard is not required, and a structure is not erected directly on the property line, it shall be set back at least three (3) feet. (Ord. 86-851 § 3)

2.305.04 Exceptions

- ~~A. Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to two and one-half (2-1/2) feet into a required yard. (Ord. 86-851 § 3)~~
- ~~B. Yard requirements of the underlying zone may be modified for infill developments, as provided in Section 2.309.~~

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2.305.05 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. (Ord. 2004-002 § 3; 97-1022)

2.308 Transportation Facilities and Improvements

Except as otherwise noted, transportation facilities and improvements as defined in Section 1.202.166 will be a permitted use in all zoning districts.

2.309 INFILL DEVELOPMENT STANDARDS

2.309.01 Purpose and Intent

Section 2.309 provides standards for infill development, or the development of properties that have been skipped over by larger subdivisions and, due to their proximity to established residential neighborhoods, require special design controls and flexibility in the City's zoning and land division standards. Section 2.309 is intended to:

- A. Promote housing choice, transportation efficiency and compatibility between existing residential areas and new development;
- B. Allow for greater flexibility in lot size, dimensions and setbacks; and
- C. Control the type, height, size, and scale of new buildings on infill properties.

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2.309.02 Lot Sizes and Dimensions for Infill Lots

The Approval Authority may approve modifications to the minimum lot size and/or lot dimensions of this Code for residential developments containing less than five (5) acres (i.e., is not otherwise eligible for a Planned Unit Development), subject to all of the following requirements:

- A. Lot area may be reduced below the minimum standard of the applicable zoning district through the land division or lot line adjustment process when the Approval Authority finds:
 - 1. The resulting lot size(s) and dimensions are not less than eighty-five percent (85%) of the standard minimum lot area of the zone; and
 - 2. The resulting average lot size of the development (partition or subdivision) shall be no less than the minimum lot size of the zone in which it is located; the resulting density shall be no more than the allowable density of the zone. Areas reserved as open space, such as central greens, plazas, and other common open space may be counted toward the average lot size and density of the development when such areas are centrally located and accessible to every lot in the development; and

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3. The reduction in lot size and/or dimensions shall not be detrimental to any designated natural feature; the Approval Authority may require mitigation to protect and enhance such features, as applicable; and
 4. All required local street connections, pedestrian access ways, utility easements, emergency access, and other Code requirements are met; the Approval Authority may require shared driveways (i.e., for two dwellings) for paired lots that individually have less than 40 feet of street frontage, except where driveway access is provided from an alley; and
 5. The land division shall be conditioned, and a deed restriction recorded on each lot that contains less than the minimum lot size of the zone, requiring that building elevations and floor plans be submitted to the Planning Department for review and approval prior to issuance of a building permit on such lot, and such plans be binding on future building. Building plans required under this section shall meet the following standards as provided in Section 2-309.04:
 - a. Floor area ratio;
 - b. Side setback plane; and
 - d. Garage orientation and design standards.
 6. The land division shall be conditioned, and a deed restriction shall be recorded on each lot that contains less than the minimum lot size of the zone, requiring that a landscape plan be submitted to the Planning Department for review and approval prior to issuance of a building permit on such lot. Landscape plans required under this section shall provide plant materials and irrigation that are equal to or better than those existing residential landscapes in the vicinity. The Approval Authority may consider plant species, quantity/volume of plant material, irrigation, slope, aspect, soil, and other relevant factors in determining the adequacy of landscape plans and in requiring additional landscaping;
- B. Lot dimension(s) may be reduced below the minimum standards of the applicable zoning district through the land division or lot line adjustment process provided that the development conforms to Section 2.309.03A, above, and all other applicable Code requirements are met.
- C. Lot width and frontage standards may be waived for rear lots created through partitioning where an access easement or tract of not less than twenty (20) feet in width connects the subject lot to a public street with a driveway meeting City

standards and the yard requirements for rear lots, as provided in Section 2.309.05, are met. The Approval Authority may require that such driveway be dedicated as a public alley and extended in accordance with local street network plans and connectivity requirements.

2.309.03 Building Design on Infill Lots

Structures exceeding twenty four (24) feet in height shall conform to the following standards:

- A. Floor Area. Floor area in any dwelling with a height greater than twenty four (24) feet shall not exceed the following floor area ratios, except that the first 200 square feet of floor area in a detached garage or other accessory structure shall be exempt when the accessory structure is located behind a single family dwelling (dwelling is between accessory structure and abutting street), the lot is not a through lot, and the accessory structure does not exceed a height of eighteen (18) feet. Floor area shall not exceed:
1. Low Density Residential (LDR): 50% of lot area
 2. Medium Density Residential Low (MDRL): 55% of lot area
 3. Medium Density Residential High (MDRH): 60%
 4. High Density Residential (HDR): 65%
- B. Interior Side Setback and Side Yard Plane. When a structure exceeds twenty four (24) feet in height:
1. The minimum interior side setback is five (5) feet, provided that elevations or portions of elevations exceeding twenty (24) feet in height shall be setback from interior property line(s) an additional one-half (½) foot for every one (1) foot in height over twenty four (24) feet; and
 2. All interior side elevations exceeding twenty four (24) feet in height shall be divided into smaller areas or planes to minimize the appearance of bulk to properties abutting the side elevation: When the side elevation of such a structure is more than 750 square feet in area, the elevation shall be divided into distinct planes of 750 square feet or less. For the purposes of this standard, a distinct plane is an elevation or a portion of an elevation that is separated from other wall planes resulting in a recessed or projecting section of the structure that projects or recedes at least two (2) feet from the adjacent plane, for a length of at least six (6) feet. The maximum side yard plane may be increased by ten percent (10%) for every additional five (5) feet of side yard setback provided beyond the five (5) foot minimum.

C. Garage Orientation. On lots with a minimum width of sixty (60) feet or less, the garage shall meet the following orientation and design standards:

1. The garage shall not be located closer to the street than the dwelling, unless the combined width of garage opening(s) does not exceed fifty percent (50%) of the total width of the front (street-facing) elevation. For the purpose of meeting this standard, the exterior wall of at least one room of habitable space, which may include habitable space above the garage, shall be located closer to the street than the garage door. Any garage opening width beyond fifty percent (50%) standard shall be set back at least (2) feet further from the front property line than the façade of the other garage volume. Alternatively, and subject to the Approval Authority's approval, the front elevation may incorporate a decorative trellis, pergola or other architectural feature that provides a shadow line giving the perception that the garage opening is recessed;
2. The standard in subsection c.1. above, does not apply where the average slope of a parcel or lot exceeds twenty percent (20%) where the garage is proposed to be set back at least forty (40) feet from the public right-of-way, or where the garage is to be accessed from an alley;
3. When the side or rear elevation of a front-loading garage is exposed to the street or an abutting property, such elevation(s) shall have more than one plane (offset or projection of 2 feet or more) or shall have window area equal to at least ten percent (10%) of the exposed garage wall.

[Note: The intent of the above code changes is to avoid the appearance of large houses on small lots and to provide compatibility within existing neighborhood without reducing property rights or allowable density. The specific standards should allow floor area similar to existing houses, but require massing, scale, and orientation that does not overwhelm the site, assuming the lots will get smaller with the changes proposed elsewhere in the code.]

2.309.05 Yard Requirements for Infill Development

The Approval Authority may approve modifications to the minimum yard dimensions of this Code for residential developments containing less than five (5) acres (i.e., is not otherwise eligible for a Planned Unit Development), subject to all of the following requirements:

- A. Side and/or rear yard(s) may be reduced below the minimum standard of the applicable zoning district when the Approval Authority finds:

1. The resulting yard(s) is/are not less than seventy-five percent (75%) of the standard of the zone; and
 2. Where a side or rear yard abuts another residential property outside the subject development, it shall not be reduced to less than seventy five percent (75%) of the abutting yard dimension, except where the yard of the abutting property is less than the minimum standard of the zone, in which case a reduction equal to the yard of the abutting property may be permitted. In no case shall a yard of less than three (3) feet be permitted, unless the structure is approved as a zero-lot line or common wall dwelling; and
 3. The reduction in yard dimension shall not be detrimental to any designated natural feature; the Approval Authority may require mitigation to protect and enhance such features, as applicable; and
 4. All required local street connections, pedestrian access ways, utility easements, emergency access, and other Code requirements are met.
- B. Front yards may be reduced below the minimum standard of the applicable zoning district when the Approval Authority finds:
1. The front yard is reduced by no more than six (6) feet; and
 2. All garage openings are setback twenty (20) feet or more from all street rights-of-way.
 3. The reduction is to accommodate an unenclosed front porch; or
 4. The reduction is necessary to protect natural features on or adjacent to the subject lot; or
 5. The reduction allows for greater separation or buffering between infill development and existing residential use(s) at lower densities (or larger lot sizes).
- C. Rear lots, also known as flag lots, are those that have less than twenty (25) feet of street frontage, are oriented with their buildable area (flag) behind another lot that has standard street frontage, and receive access from a narrow strip of land (flag pole). The Approval Authority may approve a rear lot only upon finding that it has sufficient lot area after excluding the access drive (easement, tract, or flag pole), it meets emergency access and circulation requirements, and side lot lines adjacent to the access drive have adequate landscape buffering in accordance with Section 2.303.01D. Where two rear lots are proposed contiguous to one another, the Approval Authority may require the two lots share a common access and driveway

to reduce the number of curb cuts and turning movement conflicts and to minimize impervious surfaces.

D. In approving reductions to yard dimensions, the Approval Authority must find that the provisions of Section 2.309.03 through 2.309.05, and all other applicable Code requirements, are met.

2.309.05 Public Notice

The public shall be notified of pending land use applications for projects that are subject to Section 2.309, consistent with the provisions of Section 3.202.03, Mailed Notice.

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homeowners associations when the homeowners association owns common property within the notification area and is listed in the County Assessor's records.

D. For written notices required by this Code, other than written notices to property owners of record, the City shall rely on the address provided by the persons so notified. The City shall not be responsible for verifying addresses so provided.

E. If a zone change application proposes to change the zone of property which includes all or part of a manufactured home park, the City shall give written notice by first class mail to each existing mailing address for tenants of the manufactured home park at least twenty (20) days but not more than forty (40) days before the date of the first hearing on the application. Such notice costs are the responsibility of the applicant.

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F. If a project is proposed for review under the Infill Development Standards (Section 2.309), the developer shall send public notice to all owners of property within the same area indicated on the Sherwood Infill Notification Map in which the development is to occur. Alternatively, the developer may send notice to all property owners within 250-feet of the subject site. The Planning Department shall maintain a map of the Established Neighborhoods.

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(Ord. 2003-1148 § 3; 99-1079; 98-1053; 91-922; 86-851)

3.202.04 Failure to Receive Notice

A. The failure of a property owner or other party to an application to receive notice of a public hearing as provided in Code Section 3.202.03 or to receive notice of continuances and appeals as provided by this Code due to circumstances beyond the control of the City, including but not limited to recent changes in ownership not reflected in County Assessors records, loss of the notice by the postal service, or an inaccurate address provided by the County Assessor or the party to the application, shall not invalidate the applicable public hearing or land use action. The City shall prepare and maintain affidavits demonstrating that public notices were mailed, published, and posted pursuant to this Code.

B. Persons who should have received notice of a proposed land use action but can prove, to the City's satisfaction that notice was not received due to circumstances beyond their control, may be permitted, at the City's discretion, to exercise the right to appeal the action as per Section 3.400. All appeals filed under such conditions shall cite the circumstances resulting in the non-receipt of the notice.

or construction of a sign relating to such building or structure until the proposed development has been reviewed in accordance with Section 3.200. For the purposes of Section 5.102, the term "substantial alteration" shall mean any development activity as defined by this Code that generally requires a building permit and may exhibit one or more of the following characteristics:

- A. The activity alters the exterior appearance of a structure, building or property.
- B. The activity involves changes in the use of a structure, building, or property from residential to commercial or industrial.
- C. The activity involves non-conforming uses as defined in Section 2.206.
- D. The activity constitutes a change in a City approved plan, as per Section 5.102.03.
- E. The activity involves the cutting of more than five (5) existing mature trees per acre per calendar year.
- F. The activity is subject to site plan review by other requirements of this Code. Deleted: E.
- G. Review of any proposed activity indicates that the project does not meet the standards of Section 5.102.04. Deleted: F.

5.102.02 Exemptions

The City shall make an initial determination whether a proposed project requires a site plan review or whether the project is exempt. The City Manager or his or her designee is authorized to waive site plan review when a proposed development activity clearly does not represent a substantial alteration to the building or site involved. The findings of the City Manager or his or her designee shall be made in writing to the applicant. The action of the City Manager or his or her designee may be appealed as per Section 3.400.

5.102.03 Plan Changes and Revocation

A. Changes

Construction, site development, landscaping, tree mitigation, habitat preservation and other development activities shall be carried out in accordance with the site development plans per section 3.200. Any proposed changes to approved plans shall be submitted for review to the City. Changes that are found to be substantial, as defined by Section 5.102.01, that conflict with original approvals, or that otherwise may conflict with the standards of Section 5.102.04, shall be submitted

for supplemental review together with a fee equal to one-half (1/2) the original site plan review fee.

B. Revocation

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

5.102.04 Required Findings

No site plan approval shall be granted unless each of the following is found:

- A. The proposed development meets applicable zoning district standards and all provisions of Chapters 5, 6, 8 and 9.
- B. The proposed development can be adequately served by services conforming to the Community Development Plan, including but not limited to water, sanitary facilities, storm water, solid waste, parks and open space, public safety, electric power, and communications.
- C. Covenants, agreements, and other specific documents are adequate, in the City's determination, to assure an acceptable method of ownership, management, and maintenance of structures, landscaping, and other on-site features.
- D. The proposed development preserves significant natural features to the maximum extent ~~feasible~~, including but not limited to natural drainageways, wetlands, trees, vegetation (including but not limited to environmentally sensitive lands), scenic views, and topographical features, and conforms to the applicable provisions of Chapter 8 of this Code and Chapter 5 of the Community Development Code.
- E. For a proposed site plan in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC), Light Industrial (LI), and General Industrial (GI) zones, except in the Old Town Overlay Zone, the proposed use shall satisfy the requirements of Section 6.307 Highway 99W Capacity Allocation Program, unless excluded herein.
- F. For developments that are likely to generate more than 400 average daily trips (ADTs), or at the discretion of the City Engineer, the applicant shall provide adequate information, such as a traffic impact analysis or traffic counts, to demonstrate the level of impact to the surrounding street system. The developer shall be required to mitigate for impacts attributable to the project. The

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5.200 LANDSCAPING

5.201 LANDSCAPING PLAN

All proposed developments for which a site plan is required pursuant to Section 5.102 shall submit a landscaping plan which meets the standards of Section 5.200. All areas not occupied by structures, paved roadways, walkways, or patios shall be landscaped or maintained according to an approved site plan. Maintenance of existing non-invasive native vegetation is encouraged within a development and required for portions of the property not being developed.

5.202 LANDSCAPING MATERIALS

5.202.01 Varieties

Required landscaped areas shall include an appropriate combination of native evergreen or deciduous trees and shrubs, evergreen ground cover, and perennial plantings. Trees to be planted in or adjacent to public rights-of-way shall meet the requirements of Section 5.200.

5.202.02 Establishment of Healthy Growth and Size

Required landscaping materials shall be established and maintained in a healthy condition and of a size sufficient to meet the intent of the approved landscaping plan. Specifications shall be submitted showing that adequate preparation of the topsoil and subsoil will be undertaken.

5.202.03 Non-Vegetative Features

Landscaped areas as required by Section 5.200 may include architectural features interspersed with planted areas, such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, semi-pervious decorative paving, and graveled areas. Impervious paving shall not be counted as landscaping. Artificial plants are prohibited in any required landscaped area.

5.202.04 Existing Vegetation

All developments subject to site plan review as per Section 5.102.01 and required to submit landscaping plans as per Section 5.202 shall preserve existing trees, woodlands and vegetation on the site to the maximum extent possible, as determined by the review authority, in addition to complying with the provisions of Section 8.304.07 and 8.305.

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5.203 LANDSCAPING STANDARDS

5.203.01 Perimeter Screening and Buffering

A minimum six (6) foot high sight-obscuring wooden fence, decorative masonry wall, or evergreen screen shall be required along property lines separating single and two-family uses from multi-family uses, and along property lines separating residential zones from commercial or industrial uses. For new uses adjacent to inventoried environmentally sensitive areas, screening requirements shall be limited to vegetation only so as to preserve wildlife mobility. In addition, plants and other landscaping features may be required by the review authority in locations and sizes necessary to protect the privacy of residences and buffer any adverse effects of adjoining uses.

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5.203.02 Parking and Loading Areas

A. Total Landscaped Area

A minimum of ten percent (10%) of the lot area used for the display or parking of vehicles shall be landscaped in accordance with Section 5.200. In addition, all areas not covered by buildings, required parking, and/or circulation drives shall be landscaped or maintained with plants native to the Pacific Northwest in accordance with Section 5.200.

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B. Adjacent to Public Rights-of-Way

A landscaped strip at least ten (10) feet in width shall be provided between rights-of-way and any abutting off-street parking, loading, or vehicle use areas. Landscaping shall include any combination of evergreen hedges, dense vegetation, earth berm, grade, change in grade, wall or fence, forming a permanent year-round screen, except in clear vision areas as per Section 2.303.

C. Perimeter Landscaping

A ten (10) foot wide landscaped strip shall be provided between off-street parking, loading, or vehicular use areas on separate abutting properties or developments. A minimum six (6) foot high sight-obscuring fence or plantings shall also be provided, except where equivalent screening is provided by intervening buildings or structures.

D. Interior Landscaping

A minimum of fifty percent (50%) of required parking area landscaping shall be placed in the interior of the parking area. Landscaped areas shall be distributed so

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as to divide large expanses of pavement, improve site appearance, improve safety, and delineate pedestrian walkways and traffic lanes. Individual landscaped areas shall be no less than sixty-four (64) square feet in area and shall be provided after every fifteen (15) parking stalls in a row. Storm water bio-swales may be used in lieu of the interior landscaping standard.

E. Landscaping at Points of Access

When a private access-way intersects a public right-of-way or when a property abuts the intersection of two (2) or more public rights-of-way, landscaping shall be planted and maintained so that minimum sight distances shall be preserved pursuant to Section 2.301.

F. Exceptions

For properties with an environmentally sensitive area and/or trees or woodlands that merit protection per Sections 8.304 and 8.305, the landscaping standards may be reduced, modified or "shifted" on-site where necessary in order to retain existing vegetation that would otherwise be removed to meet the above referenced landscaping requirements. The maximum reduction in required landscaping permitted through this exception process shall be no more than 50%. Exceptions to required landscaping may only be permitted when reviewed as part of a land use action application.

5.203.03 Visual Corridors

Except as allowed by 5.203.02.F, new developments shall be required to establish landscaped visual corridors along Highway 99W and other arterial and collector streets, consistent with the Natural Resources and Recreation Plan Map, Appendix C of the of the Community Development Plan, Part II, and the provisions of Section 8.304.

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5.204 INSTALLATION AND MAINTENANCE

5.204.01 Deferral of Improvements

Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to 125% of the cost of the landscaping is filed with the City. "Security" may consist of a performance bond payable to the City, cash, certified check, or other assurance of completion approved by the City. If the installation of the landscaping is not completed within six (6) months, the security may be used by the City to complete the installation.

5.204.02 Maintenance of Landscaped Areas

All landscaping shall be maintained in a manner consistent with the intent of the approved landscaping plan. Failure to maintain landscaped areas shall result in the revocation of applicable occupancy permits and business licenses.

5.300 OFF-STREET PARKING AND LOADING

5.301 GENERALLY

5.301.01 Off-Street Parking Required

No building permit shall be issued until plans are approved providing for off-street parking and loading space as required by this Code. Any change in uses or structures that reduces the current off-street parking and loading spaces provided on site, or that increases off-street parking or loading requirements shall be unlawful and a violation of this Code, unless additional off-street parking or loading areas are provided in accordance with Section 5.302, or unless a variance from the minimum or maximum parking standards is approved in accordance with Section 4.400 Variances.

5.301.02 Deferral of Improvements

Off-street parking and loading spaces shall be completed prior to the issuance of occupancy permits, unless the City determines that weather conditions, lack of available surfacing materials, or other circumstances beyond the control of the applicant make completion impossible. In such circumstances, security equal to one hundred and twenty five percent (125%) of the cost of the parking and loading area is provided the City. "Security" may consist of a performance bond payable to the City, cash, certified check, or other assurance of completion approved by the City. If the installation of the parking or loading area is not completed within six (6) months, the security may be used by the City to complete the installation.

5.301.03 Joint Use

Two (2) or more uses ~~or structures on multiple~~ parcels of land may utilize jointly the same parking and loading spaces when the peak hours of operation do not substantially overlap, provided that satisfactory evidence is presented to the City, in the form of deeds, leases, or contracts, clearly establishing the joint use.

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5.301.04 Multiple/Mixed Uses

When several uses occupy a single structure or parcel of land, the total requirements for off-street parking and loading shall be the sum of the requirements of the several uses

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computed separately, with a reduction of up to 25% to account for cross-patronage of adjacent businesses or services. If the applicant can demonstrate that the peak parking demands for the combined uses are less than 25%, (i.e., the uses operate on different days or at different times of the day) the total requirements may be reduced accordingly.

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5.301.05 Prohibited Uses

Required parking, loading and maneuvering areas shall not be used for long-term storage or sale of vehicles or other materials, and shall not be rented, leased or assigned to any person or organization not using or occupying the building or use served.

5.301.06 Location

a. Residential off-street parking spaces shall be located on the same lot as the residential use.

b. For other uses, required off-street parking spaces may include adjacent on-street parking spaces, nearby public parking and shared parking located within 500 feet of the use. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written notarized letter or instrument.

Vehicle parking is allowed only on improved parking shoulders that meet City standards for public streets, within garages, carports and other structures, or on driveways or parking lots that have been developed in conformance with this code. Specific locations and types of spaces (car pool, compact, etc.) for parking shall be indicated on submitted plans and located to side or rear of buildings where feasible. All new development shall include preferential spaces for car pool and van pools, if business employs 20 employees or more. Existing development may redevelop portions of designated parking areas for multi-modal facilities (transit shelters, park and ride, and bicycle parking), subject to meeting all other applicable standards, including minimum space standards.

5.301.07 Marking

All parking, loading or maneuvering areas shall be clearly marked and painted. All interior drives and access aisles shall be clearly marked and signed to show the direction of flow and maintain vehicular and pedestrian safety.

5.301.08 Surface and Drainage

a. All parking and loading areas shall be improved with a permanent hard surface such as asphalt, concrete or a durable pervious surface. Use of pervious paving material is encouraged and preferred where appropriate considering soils, location, anticipated vehicle usage and other pertinent factors.

b. Parking and loading areas shall include storm water drainage facilities approved by the City Engineer or Building Official.

5.301.09 Repairs

Parking and loading areas shall be kept clean and in good repair. Breaks in paved surfaces shall be repaired, broken or splintered wheel stops shall be replaced and painted parking space boundaries and directional symbols shall be maintained in a readable condition.

5.301.10 Parking and Loading Plan

An off-street parking and loading plan, drawn to scale, shall accompany requests for building permits or site plan approvals, except for single and two-family dwellings, and manufactured homes on residential lots. The plan shall show but not be limited to:

- A. Delineation of individual parking and loading spaces and dimensions;
- B. Circulation areas necessary to serve parking and loading spaces;
- C. Location of accesses to streets, alleys and properties to be served, and any curb cuts;
- D. Landscaping as required by Section 5.200;
- E. Grading and drainage facilities;
- F. Signing and bumper guard specifications.
- G. Bicycle parking facilities as specified in Section 5.302.04,
- H. Parking lots more than three (3) acres in size shall provide street-like features along major driveways including curbs, sidewalks, and street trees or planting strips.

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5.301.11 Parking Districts

The City may establish a parking district (i.e., permits or signage) in residential areas in order to protect residential areas from spillover parking generated by adjacent commercial, employment or mixed-use areas, or other uses that generate a high demand for parking. The district request shall be made to the City Manager, who will forward a recommendation to the City Council for a decision.

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5.302 OFF-STREET PARKING STANDARDS

5.302.01 Generally

Where square feet are specified, the area measured shall be the gross building floor area primary to the functioning of the proposed use. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space. Off-street parking and loading requirements for a use not specifically listed in Section 5.302.02 shall be determined by the review authority based upon the requirements of comparable uses.

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**5.302.02 Minimum and Maximum Parking Standards
(Metro spaces are based on 1 per 1,000 sq ft of gross leasable area)**

	Minimum	Maximum A	Maximum B
Single, two-family & Manufactured Home on lot*	1 per du	None	None
Multi-Family	1 under 500 sf 1.25 per 1 bdr 1.5 per 2 bdr 1.75 per 3 bdr	None	None
Hotel or Motel	1 per room	None	None
Boarding House	None	None	None
General Retail or Personal Service	4.1 (244 sf)	5.1	6.2
Vehicle Sales, Nursery	4.1	5.1	6.2
Furniture/Appliance Store	4.1	5.1	6.2
Tennis Racquetball Court	1.0	1.3	1.5
Golf Course	None	None	None
Sports Club/Recreation Facility	4.3 (233 sf)	5.4	6.5
General Office	2.7 (370 sf)	3.4	4.1
Bank with Drive-thru	4.3 (233 sf)	5.4	6.5
Medical or Dental Office	3.9 (256 sf)	4.9	5.9
Eating or Drinking Establishment	15.3 (65 sf)	19.1	23.0
Fast Food Drive-thru	9.9 (101 sf)	12.4	14.9
Movie Theater	0.3 per seat	0.4	0.5
Day Care	None	None	None
Elementary & Jr High	None	None	None
High School & College	0.2 per student + teacher	0.3	0.3
Church	0.4 per seat	0.6	0.8
Nursing Home	None	None	None
Library	None	None	None

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Industrial	1.6	None	None
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*An enclosed building or garage associated with any residential dwelling type cannot be counted towards the parking space requirement for that unit. Further, if the street on which the house has access is less than 28 feet wide, 2 off-street parking spaces are required per single-family residential unit (includes single-family detached or attached, two-family dwelling or a manufactured home on an individual lot). If the abutting street is 28-feet or wider, one standard (9 ft x 18 ft) parking space is required.

5.302.03 Miscellaneous Standards

A. Dimensions

For the purpose of Section 5.300, a "parking space" generally means a minimum stall nine (9) feet in width and twenty (20) feet in length. Up to twenty five percent (25%) of required parking spaces may have a minimum dimension of eight (8) feet in width and eighteen (18) feet in length so long as they are signed as compact car stalls.

B. Layout

Parking space configuration, stall and access aisle size shall be of sufficient width for all vehicle turning and maneuvering. Groups of more than four (4) parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required. All parking areas shall meet the minimum standards shown in Appendix G.

C. Wheel Stops

Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four (4) inches high, located three (3) feet back from the front of the parking stall as shown in Appendix G. Wheel stops adjacent to landscaping, bio-swales or water quality facilities shall be designed to allow storm water to run off towards.

D. Service Drives

Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers, and shall have minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points fifteen (15) feet from their intersection.

E. Credit for On-Street Parking

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¶

1. Location and Design. Bicycle parking shall be conveniently located with respect to both the street right-of-way and at least one building entrance (e.g., no farther away than the closest parking space). Bike parking may be located inside the main building or protected or otherwise covered near the main entrance. If the first two options are unavailable, a separate shelter provided on-site is appropriate as long as it is coordinated with other street furniture. Street furniture includes benches, street lights, planters and other pedestrian amenities. Bicycle parking in the Old Town Overlay District can be located on the sidewalk within the right-of-way. A standard inverted "U shaped" design is appropriate. Alternative, creative designs are strongly encouraged.¶

¶

2. Visibility and Security. Bicycle parking shall be visible to cyclists from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.¶

¶

3. Options for Storage. Bicycle parking requirements for long-term and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building.¶

4. Lighting. Bicycle parking shall be least as well lit as vehicle parking for security.¶

¶

5. Reserved Areas. Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.¶

¶

6. Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards.¶

MINIMUM RECOMMENDED BICYCLE PARKING SPACES

USE CATEGORIES [1]

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1. On-Street Parking Credit. The amount of off-street parking required shall be reduced by one off-street parking space for every on-street parking space adjacent to the development. On-street parking shall follow the established configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by City standards. The following constitutes an on-street parking space:

- a. Parallel parking, each 24 feet of uninterrupted curb;
- b. 45/60 degree diagonal, each with 10 feet of curb;
- c. 90 degree (perpendicular) parking, each with 8 feet of curb;
- d. Curb space must be connected to the lot which contains the use;
- e. Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and
- f. On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces is permitted.

E. Reduction in required parking spaces

Developments utilizing engineered storm water bio-swaales or those adjacent to environmentally constrained or environmentally sensitive areas may reduce the amount of required parking by 10% when 25-49 parking spaces are required, 15% when 50-74 parking spaces are required and 20% when more than 75 parking spaces are required, provided the area that would have been used for parking is maintained as a habitat area or is generally adjacent to an environmentally sensitive or constrained area.

1. Parking Location and Shared Parking.

Availability of facilities. Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customers and/or employees, as applicable.

5.302.04 Bicycle Parking Facilities

1. Location and Design. Bicycle parking shall be conveniently located with respect to both the street right-of-way and at least one building entrance (e.g., no farther away than the closest parking space). Bike parking may be located inside the main building or protected or otherwise covered near the main entrance. If the first two options are unavailable, a separate shelter provided on-site is appropriate

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Deleted: b. Off-site Parking. Except for single family dwellings, the vehicle parking spaces required by this Chapter may be located on another parcel of land, provided the parcel is within 500 feet of the use it serves. The distance from the parking area to the use shall be measured from the nearest parking space to a building entrance, following a sidewalk or other pedestrian route. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement, or similar written notat ... [2]
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as long as it is coordinated with other street furniture. Street furniture includes benches, street lights, planters and other pedestrian amenities. Bicycle parking in the Old Town Overlay District can be located on the sidewalk within the right-of-way. A standard inverted "U shaped" design is appropriate. Alternative, creative designs are strongly encouraged.

2. Visibility and Security. Bicycle parking shall be visible to cyclists from street sidewalks or building entrances, so that it provides sufficient security from theft and damage.

3. Options for Storage. Bicycle parking requirements for long-term and employee parking can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building.

4. Lighting. Bicycle parking shall be least as well lit as vehicle parking for security.

5. Reserved Areas. Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.

6. Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards.

MINIMUM RECOMMENDED BICYCLE PARKING SPACES

USE CATEGORIES	MINIMUM RECOMMENDED SPACES
Residential Categories	
Household Living	Multi-dwelling - 2 or 1 per 10 auto spaces, whichever is greater. All other residential structure type - None.
Group Living	1 per 20 auto spaces
Commercial Categories	
Retail Sales/Service Office	2 or 1 per 20 auto spaces, whichever is greater.
Drive-Up Vehicle Servicing	None
Vehicle Repair	None
Commercial Parking Facilities Commercial Outdoor Recreation Major Event Entertainment	4 or 1 per 20 auto spaces, whichever is greater.
Self-Service Storage	None
Industrial Categories/Service Categories	
Basic Utilities	2 or 1 per 40 spaces, whichever is greater.
Park and Ride Facilities	2 or 1 per 20 auto spaces, whichever is greater.

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Community Service Essential Service Providers Parks and Open Areas	2 or 1 per 20 auto spaces, whichever is greater.
Schools	High Schools -- 4 per classroom Middle Schools -- 2 per classroom Grade Schools -- 2 per 4 th & 5 th grade classroom
Colleges Medical Centers Religious Institutions Daycare Uses	2 or 1 per 20 auto spaces whichever is greater.
Other Categories	
Agriculture	None
Aviation Facilities Detention Facilities	Per CU review
Mining, Radio and TV Towers	None
Utility Corridors	None

5.303 OFF-STREET LOADING STANDARDS

5.303.01 Minimum Standards

- A. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school, or other public meeting place, which is designed to accommodate more than twenty five (25) persons at one time.

- B. The minimum loading area for non-residential uses shall not be less than ten (10) feet in width by twenty-five (25) feet in length and shall have an unobstructed height of fourteen (14) feet. The following additional minimum loading space is required for buildings in excess of twenty thousand (20,000) square feet of gross floor area:
 - 1. 20,000 to 50,000 sq. ft. - 500 sq. ft.
 - 2. 50,000 sq. ft. or more - 750 sq. ft.

5.303.02 Separation of Areas

Any area to be used for the maneuvering of delivery vehicles and the unloading or loading of materials shall be separated from designated off-street parking areas and designed to prevent the encroachment of delivery vehicles onto off-street parking areas or public streets. Off-street parking areas used to fulfill the requirements of Section 5.302 shall not be used for loading and unloading operations.

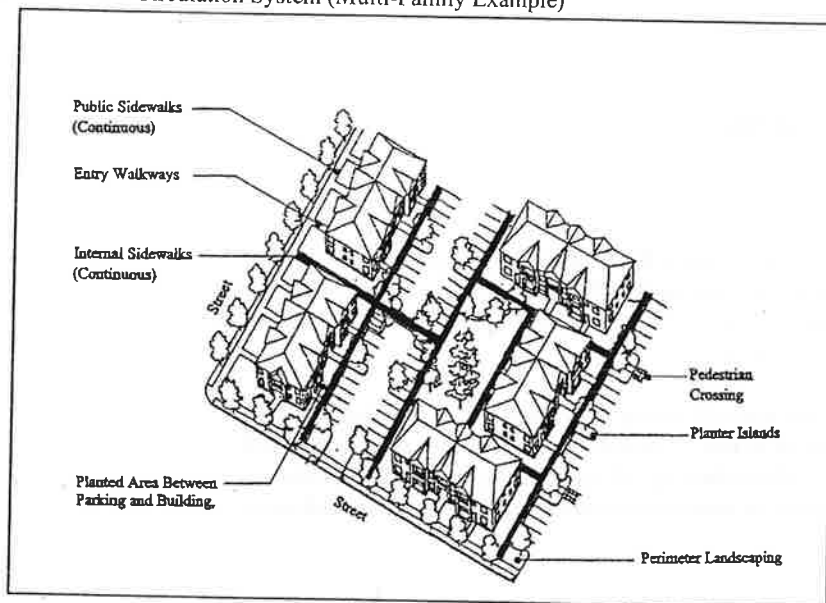
5.400 ON-SITE CIRCULATION

5.401 On-Site Pedestrian and Bicycle Circulation

On-site facilities shall be provided that accommodate safe and convenient pedestrian access within new subdivisions, multi-family developments, planned unit developments, shopping centers and commercial districts, and connecting to adjacent residential areas and neighborhood activity centers within one half mile of the development. Neighborhood activity centers include but are not limited to existing or planned schools, parks, shopping areas, transit stops or employment centers. All new development, (except single family detached housing), shall provide a continuous system of private pathways/sidewalks.

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Figure. 5.401. On-Site Circulation System (Multi-Family Example)



5.401.01 Maintenance

No building permit or other City permit shall be issued until plans for ingress, egress and circulation have been approved by the City. Any change increasing any ingress, egress or

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circulation requirements, shall be a violation of this Code unless additional facilities are provided in accordance with Section 5.400.

5.401.02 Joint Access

Two (2) or more uses, structures, or parcels of land may utilize jointly the same ingress and egress when the combined ingress and egress of all uses, structures, or parcels of land satisfied the other requirements of this Code, provided that satisfactory legal evidence is presented to the City in the form of deeds, easements, leases, or contracts to clearly establish the joint use.

5.401.03 Connection to Streets

- A. Except for joint access as per Section 5.401.02, all ingress and egress to a use or parcel shall connect directly to a public street, excepting alleyways.
- B. Required private sidewalks shall extend from the ground floor entrances or the ground floor landing of stairs, ramps or elevators to the public sidewalk or curb of the public street which provides required ingress and egress.

5.401.04 Maintenance of Required Improvements

Required ingress, egress and circulation improvements shall be kept clean and in good repair.

5.401.05 Access to Major Roadways

Points of ingress or egress to and from Highway 99W and arterials designated on the Transportation Plan Map, attached as Appendix C of the Community Development Plan, Part II, shall be limited as follows:

- A. Single and two-family uses and manufactured homes on individual residential lots developed after the effective date of this Code shall not be granted permanent driveway ingress or egress from Highway 99W and arterial roadways. If alternative public access is not available at the time of development, provisions shall be made for temporary access which shall be discontinued upon the availability of alternative access.
- B. Other private ingress or egress from Highway 99W and arterial roadways shall be minimized. Where alternatives to Highway 99W or arterials exist or are proposed, any new or altered uses developed after the effective date of this Code shall be required to use the alternative ingress and egress.

- C. All site plans for new development submitted to the City for approval after the effective date of this Code shall show ingress and egress from existing or planned local or collector streets, consistent with the Transportation Plan Map and Section VI of the Community Development Plan.

5.401.06 Service Drives

Service drives shall be provided pursuant to Section 5.303.

5.402 MINIMUM RESIDENTIAL STANDARDS

Minimum standards for private, on-site circulation improvements in residential developments:

5.402.01 Driveways

- A. **Single-Family:** One (1) driveway improved with hard surface pavement with a minimum width of ten (10) feet, not to exceed a grade of 14%. Permeable surfaces and planting strips between driveway ramps are encouraged in order to reduce stormwater runoff.
- B. **Two-Family:** One (1) shared driveway improved with hard surface pavement with a minimum width of twenty (20) feet; or two (2) driveways improved with hard surface pavement with a minimum width of ten (10) feet each. Permeable surfaces and planting strips between driveway ramps are encouraged in order to reduce stormwater runoff.
- C. **Multi-Family:** Improved hard surface driveways are required as follows:

Units	# Driveways	Minimum Width	
		One-Way Pair	Two-Way
3 - 49	1	15 feet	24 feet
50 & above	2	15 feet	24 feet

5.402.02 Sidewalks and Curbs

- A. **Single, Two-Family, and Manufactured Home on Individual Residential Lot:** No on-site sidewalks and curbs are required.

B. Multi-family:

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1. A system of private pedestrian sidewalks/pathways extending throughout the development site, shall connect each dwelling unit to vehicular parking areas, common open space, storage areas, recreation facilities, to adjacent developments, to transit facilities within 500 feet of the site, and future phases of development. Main building entrances shall also be connected to one another.
2. Required private pathways/sidewalks shall extend from the ground floor entrances or the ground floor landing of stairs, ramps or elevators, on one side of approved driveways connecting to the public sidewalk or curb of the public street which provides required ingress and egress. Curbs shall also be required at a standard approved by the Commission.
3. Private Pathway/Sidewalk Design. Private pathway surfaces shall be concrete, brick,/masonry pavers, or other pervious durable surface, at least 5 feet wide and conform to ADA standards. Where the system crosses a parking area, driveway or street, it shall be clearly marked with contrasting paving materials or raised crosswalk (hump).
4. Exceptions. Private pathways/sidewalks shall not be required where physical or topographic conditions make a connection impracticable, where buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or pathways would violate provisions of leases, restrictions or other agreements.

5.403 MINIMUM NON-RESIDENTIAL STANDARDS

Minimum standards for private, on-site circulation improvements in non-residential developments:

5.403.01 Driveways

A. Commercial: Improved hard surface driveways are required as follows:

Required Parking Spaces	# Driveways	Minimum Width	
		One-Way Pair	Two-Way
1 - 49	1	15 feet	24 feet
50 & above	2	15 feet	24 feet

- B. Industrial: Improved hard surfaced driveways are required as follows:

Required Parking Spaces	# Driveways	Minimum Width	
		One-Way Pair	Two-Way
1 - 249	1	15 feet	24 feet
250 & above	2	15 feet	24 feet

C. Surface materials are encouraged to be pervious when appropriate considering soils, anticipated vehicle usage and other pertinent factors.

5.403.02 Sidewalks and Curbs

- A. Industrial and Commercial: A private pathway/sidewalk system extending throughout the development site shall be required to connect to existing development, to public rights-of-way with or without improvements, to parking and storage areas, and to connect all building entrances to one another. The system shall also connect to transit facilities within 500 feet of the site, future phases of development, and whenever possible to parks and open spaces.
- B. Curbs shall also be required at a standard approved by the Hearing Authority. Private pathways/sidewalks shall be connected to public rights-of-way along driveways but may be allowed other than along driveways if approved by the Hearing Authority.
- C. Private Pathway/Sidewalk Design. Private pathway surfaces shall be concrete, asphalt, brick/masonry pavers, or other pervious durable surface. Primary pathways connecting front entrances to the right of way shall be at least 6 feet wide and conform to ADA standards. Secondary pathways between buildings and within parking areas shall be a minimum of four (4) feet wide and/or conform to ADA standards. Where the system crosses a parking area, driveway or street, it shall be clearly marked with contrasting paving materials or raised crosswalk (hump). At a minimum all crosswalks shall include painted striping.
- D. Exceptions. Private pathways/sidewalks shall not be required where physical or topographic conditions make a connection impracticable, where buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or pathways would violate provisions of leases, restrictions or other agreements.

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Recreational vehicles and equipment may be stored only within designated and improved off-street parking areas. Such areas shall meet the screening and landscaping requirements of Section 5.203.

5.502 SOLID WASTE AND RECYCLING STORAGE

All uses shall provide solid waste and recycling storage receptacles which are adequately sized to accommodate all solid waste generated on site. All solid waste and recycling storage areas and receptacles shall be located out of public view. Solid waste and recycling receptacles for multi-family, commercial and industrial uses shall be screened by six (6) foot high sight-obscuring fence or masonry wall and shall be easily accessible to collection vehicles.

5.503 MATERIAL STORAGE

5.503.01 Generally

Except as otherwise provided herein, external material storage is prohibited, except in commercial and industrial zones where storage areas are approved by the Commission as part of a site plan or as per Section 5.504.

5.503.02 Standards

Except as per Section 5.504, all service, repair, storage, and merchandise display activities carried on in connection with any commercial or industrial activity, and not conducted within an enclosed building, shall be screened from the view of all adjacent properties and adjacent streets by a six (6) foot high, sight obscuring fence. In addition, unless adjacent parcels to the side and rear of the storage area have existing solid evergreen screening or sight-obscuring fencing in place, new evergreen screening no less than three (3) feet in height shall be planted along side and rear property lines. Where other provisions of this Code require evergreen screening, fencing, or a landscaped berm along side and rear property lines, the additional screening stipulated by this Section shall not be required.

5.503.03 Hazardous Materials

Storage of hazardous, corrosive, flammable, or explosive materials, if such storage is otherwise permitted by this Code, shall comply with all local fire codes, and Federal and State regulations.

5.504 OUTDOOR SALES AND MERCHANDISE DISPLAY

5.504.01 Sales Permitted

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CHAPTER 6

PUBLIC IMPROVEMENTS

6.100 GENERALLY

6.101 STANDARDS

To ensure the health, safety, and the economic stability of the community, and to establish a quality system of public improvements, the City shall require proposed buildings and development for which public facilities and public rights-of-way are not fully provided or improved to current City standards, to install said improvements. The Council may establish specifications to supplement the standards of this Code and other applicable ordinances. Except as otherwise provided or authorized, private improvements serving substantially the same function as equivalent public facilities, shall generally be provided and improved at the standards established by this Code and other City regulations.

Green Street elements such as bioswales and porous pavement are encouraged where appropriate and feasible. Where a specific design standard supporting a green street concept is not included in the Construction Standard Drawings, the design will be considered by the Engineering Department provided additional documentation is provided to the Engineering Department that documents the design is appropriate, has a design life equal to a traditional paved street and can be maintained easily in that location.

6.102 FUTURE IMPROVEMENTS

The location of future public improvements including water, sanitary sewer, storm water, streets, bicycle and pedestrian paths, and other public facilities and rights-of-way, as depicted in Chapters 4, 5, 6 and 7 of the Community Development Plan, are intended as general locations only. The precise alignments and locations of public improvements shall be established during the actual development process and shall be depicted on public improvement plans submitted and approved pursuant to Section 6.200 and other applicable sections of this Code.

6.103 IMPROVEMENT PROCEDURES

Except as otherwise provided, all public improvements shall conform to City standards and specifications and shall be installed in accordance with Section 6.200. No public improvements shall be undertaken until an improvement plan review fee has been paid,

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construction; for alterations or additions to buildings that increase the number of residential dwelling units; or for commercial, industrial, or institutional construction requiring new or additional off-street parking as per Section 5.302.

6.302.04 Deferral

Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the full SIF is paid in full.

6.303 REQUIRED IMPROVEMENTS

6.303.01 Generally

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits.

6.303.02 Existing Streets

Except as otherwise provided, when a development abuts an existing street, the improvements requirement shall apply to that portion of the street right-of-way located between the centerline of the right-of-way and the property line of the lot proposed for development. In no event shall a required street improvement for an existing street exceed a pavement width of thirty (30) feet.

6.303.03 Proposed Streets

1. Except as otherwise provided, when a development includes or abuts a proposed street, in no event shall the required street improvement exceed a pavement width of forty (40) feet.
2. Half Streets: When a half street is created, a minimum of 22 feet of driving surface shall be provided by the developer.

6.303.04 Extent of Improvements

Streets required pursuant to Section 6.300 shall be dedicated and improved consistent with Chapter 6 of the Community Development Plan, the Transportation System Plan and applicable City standards and specifications included in the City of Sherwood Construction Standards, and shall include curbs, sidewalks, catch basins, street lights, and street trees. Improvements shall also include any bikeways designated on the Transportation System Plan map.

Deleted: Transportation Drawings

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Catch basins shall be installed and connected to storm sewers and drainage ways. Upon completion of the improvements, monuments shall be re-established and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their center lines. Street signs shall be installed at all street intersections and street lights shall be installed and served from an underground source of supply unless other electrical lines in the development are not underground.

6.303.05 Street Modifications

A. Modifications to standards contained within Sections 6.300, 2.301 and the standard cross sections contained in Chapter 8 of the adopted Sherwood Transportation System Plan (TSP), may be granted in accordance with the procedures and criteria set out in this section.

B. Types of Modifications. Requests fall within the following two categories:

1. Administrative Modifications. Administrative modification requests concern the construction of facilities, rather than their general design, and are limited to the following when deviating from standards in Sections 6.300, 2.301 City of Sherwood Construction Standards or Chapter 8 contained in the adopted Transportation System Plan:

- a. Surfacing materials for roads or pedestrian facilities;
- b. Asphalt and/or base rock thickness less than required;
- c. Pavement marking layout;
- d. Exceeding the maximum street grade;
- e. Type and/or location of signage;
- f. Channelization;
- g. Intersection interior angles and curb radii less than required;
- h. Utilizing the current set of standards in lieu of the standards that were in place when the applicant's proposed project was vested;
- i. Access-related modifications onto collectors, arterials, and state routes; provided other substantive criteria such as sight distance and limited access points are met; and provided further that access to a lesser classification of road is not available.
- j. Needed changes as a result of a field investigation during construction; and
- k. Similar revisions to the standards.

2. Design Modifications. Design modifications deal with the vertical and horizontal geometrics and safety related issues and include the following when deviating from Section 6.300, 2.301 or Chapter 8 cross sections in the adopted Transportation System Plan.

- a. Reduced sight distances;
- b. Vertical alignment;
- c. Horizontal alignment;
- d. Geometric design (length, width, bulb radius, etc.);
- e. Design speed;
- f. Crossroads;
- g. Access policy;
- h. A proposed alternative design which provides a plan superior to these standards; and

i. All other standards.

C. Procedure. A modification request shall be classified as an administrative decision by the City Engineer. When a modification is requested to provide a greenstreet element that is not included in the Construction Standards, the below process shall be followed, however no fee shall be required.

1. Administrative Modification. Administrative modifications may be requested at any time and are processed as Type II applications, unless defined under (C)(2) below. The application shall include sufficient technical analysis to enable a reasoned decision and shall include a letter of concurrency from the City Engineer.
2. Design Modification. Design modifications shall be proposed in conjunction with the application for the underlying development proposal and processed as a Type III application. Design modification requests shall be processed in conjunction with the underlying development proposal unless it is submitted subsequent to the decision for the underlying development proposal. The design modification application shall:
 - a. Include a written request stating the reasons for the request and the factors which would make approval of the request reasonable;
 - b. Include a letter of Concurrency from the City Engineer.
 - c. Be accompanied by a map showing the applicable existing conditions and proposed construction such as contours, wetlands, significant trees, lakes, streams and rivers, utilities, property lines, existing and proposed roads and driveways, existing and projected traffic patterns, and any unusual or unique conditions not generally found in other developments;
 - d. In the case of modification requests based upon alleged disproportionality, include an engineering analysis of the standard sought to be modified which contrasts relevant traffic impacts from the development with the cost of complying with the standard; and
 - e. For crossroad and frontage construction and right-of-way dedication, the application shall include information indicating whether there are geographic or other factors which render connection/completion of the road unfeasible.

D. Street modifications may be granted when criterion D.1 and any one of criteria D.2 through D.6 are met:

1. A letter of concurrency is obtained from the City Engineer or designee.
2. Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the applicant, and an equivalent alternative which can accomplish the same design purpose is available.
3. A minor change to a specification or standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship. Self-imposed hardships shall not be used as a reason to grant a modification request.
4. An alternative design is proposed which will provide a plan equal to or superior to the existing street standards.
5. Application of the standards of this chapter to the development would be grossly disproportional to the impacts created.

6. In reviewing a modification request, consideration shall be given to public safety, durability, cost of maintenance, function, appearance, and other appropriate factors, such as to advance the goals of the adopted Sherwood Comprehensive Plan and Transportation System Plan as a whole. Any modification shall be the minimum necessary to alleviate the hardship or disproportional impact.

6.304 LOCATION AND DESIGN

6.304.01 Generally

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, and proposed land uses. The proposed street system shall provide adequate, convenient and safe traffic and pedestrian circulation, and intersection angles, grades, tangents, and curves shall be adequate for expected traffic volumes. Street alignments shall be consistent with solar access requirements as per Section 8.311, and topographical considerations.

6.304.02 Street Connectivity and Future Street Systems

- A. Future Street Systems. The arrangement of public streets shall provide for the continuation and establishment of future street systems as shown on the Local Street Connectivity Map contained in the adopted Transportation System Plan (Figure 8-8).
- B. Connectivity Map Required. New residential, commercial, and mixed use development involving the construction of new streets shall be submitted with a site plan that implements, responds to and expands on the Local Street Connectivity map contained in the TSP. A project is deemed to be consistent with the Local Street Connectivity map when it provides a street connection in the general vicinity of the connection(s) shown on the map, or where such connection is not practicable due to topography or other physical constraints, it shall provide an alternate connection approved by the Planning Commission. Where a developer does not control all of the land that is necessary to complete a planned street connection, the development shall provide for as much of the designated connection as practicable and not prevent the street from continuing in the future. Where a development is disproportionately impacted by a required street connection, or it provides more than its proportionate share of street improvements along property lines (i.e., by building more than a ¼-width street), the developer shall be entitled to System Development Charge credits, as determined by the City Engineer.
- C. Block Length. For new streets except arterials and principal arterials, block length shall not exceed 530 feet. The length of blocks adjacent to principal arterials shall not exceed 1,800 feet.
- D. Where streets must cross water features identified in Title 3 of the Urban Growth Management Functional Plan (UGMFP), provide crossings at an average spacing of 800 to 1,200 feet, unless habitat quality or length of crossing prevents a full street connection.

- E. Where full street connections over water features identified in Title 3 of the UGMFP cannot be constructed in centers, main streets and station communities (including direct connections from adjacent neighborhoods), or spacing of full street crossings exceeds 1,200 feet, provide bicycle and pedestrian crossings at an average spacing of 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.
- F. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways at least 8 feet wide, or consistent with cross section standards in Figure 8-6 of the TSP, shall be provided on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 300 feet. Multi-use paths shall be built according to the Pedestrian and Bike Master Plans in the adopted Transportation System Plan.
- G. Exceptions. Streets, bike, and pedestrian connections need not be constructed when any of the following conditions exists:
 - 1. Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided;
 - 2. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
 - 3. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

6.304.03 Underground Utilities

All public and private underground utilities, including sanitary sewers and storm water drains, shall be constructed prior to the surfacing of streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

6.305 STREET DESIGN

Standard cross sections showing street design and pavement dimensions are located in the City of Sherwood Transportation System Plan, and City of Sherwood Construction Standards.

Deleted: Technical Standards, and the City of Sherwood Public Works Standards, or whichever is most current

6.305.02 Reserve Strips

Reserve strips or street plugs controlling access or extensions to streets shall not be allowed unless necessary for the protection of the public welfare or of substantial property rights. All reserve strips shall be dedicated to the City.

6.305.03 Alignment

All proposed streets shall, as far as practicable, be in alignment with existing streets. In no case shall the staggering of streets create a "T" intersection or a dangerous condition. Street offsets of less than one hundred (100) feet will not be allowed.

4. Public easements, tracts, or right-of-way shall provide paved pedestrian and bicycle accessways at least 6 feet wide where cul-de-sacs or dead-end streets are planned, to connect the ends of the streets together, connect to other streets, and/or connect to other existing or planned developments in accordance with the standards of 6.303.04 and other City standards.

6.305.07 Grades and Curves

Grades shall not exceed six percent (6%) for principal arterials or arterials, ten percent (10%) for collector streets or neighborhood routes, and twelve percent (12%) for other streets. Center line radii of curves shall not be less than three hundred (300) feet for principal arterials, two hundred (200) feet for arterials or one hundred (100) feet for other streets. Where existing conditions, such as topography, make buildable sites impractical, steeper grades and sharper curves may be approved. Finished street grades shall have a minimum slope of one-half percent (1/2%).

6.305.08 Streets Adjacent to Railroads

Streets adjacent to railroads shall run approximately parallel to the railroad and be separated by a distance suitable to allow landscaping and buffering between the street and railroad. Due consideration shall be given at cross streets for the minimum distance required for future grade separations and to provide sufficient depth to allow screening of the railroad.

6.305.09 Buffering of Major Streets

Where a development abuts Highway 99W, or an existing or proposed principal arterial, arterial or collector street, or neighborhood route, adequate protection for residential properties shall be provided and through and local traffic shall be separated and traffic conflicts minimized. In addition, visual corridors pursuant to Section 8.304.04, and all applicable access provisions of Section 5.400, shall be met. Buffering may be achieved by: parallel access streets, lots of extra depth abutting the major street with frontage along another street, or other treatment suitable to meet the objectives of this Code.

6.305.10 Median Islands

As illustrated in Chapter 8 of the adopted Transportation System Plan, median islands may be used on principal arterial, arterial or collector streets for the purpose of controlling access, or for aesthetic purposes.

6.305.11 Curbs

Except in the Old Town Overlay District where curbless (*woonerf*) streets are permitted or as otherwise approved by the City Engineer, curbs shall be installed on both sides of public streets and shall be at least six (6) inches in height.

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standards and specifications, in order to adequately serve the proposed development and allow for future extensions.

6.502.02 Fire Protection

All new development shall comply with the fire protection requirements of Section 6.700, the applicable portions of Chapter 7 of the Community Development Plan, and the Fire District.

6.502.03 Over-Sizing

- A. When water mains will, without further construction, directly serve property outside a proposed development, gradual reimbursement may be used to equitably distribute the cost of that over-sized system.
- B. Reimbursement shall be in an amount estimated by the City to be the proportionate share of the cost of each connection made to the water mains by property owners outside the development, for a period of ten (10) years from the time of installation of the mains. The boundary of the reimbursement area and the method of determining proportionate shares shall be determined by the City. Reimbursement shall only be made as additional connections are made and shall be collected as a surcharge in addition to normal connection charges.

6.503 SERVICE AVAILABILITY

Approval of construction plans for new water facilities pursuant to Section 6.200, and the issuance of building permits for new development to be served by existing water systems shall include certification by the City that existing or proposed water systems are adequate to serve the development.

6.600 STORM WATER

6.601 REQUIRED IMPROVEMENTS

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage systems consistent with the Comprehensive Plan and the requirements of the Clean Water Services water quality regulations contained in their Design and Construction Standards R&O 04-9, or its replacement.

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6.602 STORM WATER SYSTEM IMPROVEMENT FEES (SIF)

6.602.01 Purpose

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The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development or redevelopment of public storm water conveyance systems, specific street improvements designed to direct and control storm water flows, storm water treatment facilities, storm water detention or retention ponds, or other storm water facilities, designed to provide extra system capacity, and as designated on the Storm Drainage Plan Map, attached as Appendix E, in Chapter 7 of the Community Development Plan, or in the plans of Washington County's storm water management authority. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for storm water system preservation improvements or for routine storm water system maintenance and operations.

6.602.02 Schedule of Charges

SIF's shall be assessed against new development in the City to support extra-capacity storm water improvements. The SIF for storm water shall be set by the "Schedule of Development Fees" adopted by Resolution of the Council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this Code.

6.602.03 Assessment

Except as otherwise provided, the SIF is immediately due and payable and shall be collected prior to the issuance of any building permits for new construction, or for alterations or additions to buildings or sites that increase the area of impermeable surface.

6.602.04 Deferral

Where the SIF due and payable from a single building permit exceeds \$3,000.00, an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the SIF is paid in full.

6.603 DESIGN STANDARDS

6.603.01 Capacity

Storm water drainage systems shall be sized, constructed, located, and installed at standards consistent with this Code, the Storm Drainage Master Plan Map, attached as Exhibit E, Chapter 7 of the Community Development Plan, other applicable City standards, the Clean Water Services Design and Construction standards R&O 04-9 or its replacement, and hydrologic data and improvement plans submitted by the developer.

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6.603.02 On-Site Source Control

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Storm water detention and groundwater recharge improvements, including but not limited to such facilities as dry wells, detention ponds, and roof top ponds shall be constructed according to Clean Water Services Design and Construction Standards.

Deleted: to limit the site discharge of storm water from a development to a level below that produced by a twenty-five (25) year storm on the undeveloped site

6.603.03 Conveyance System

The size, capacity and location of storm water sewers and other storm water conveyance improvements shall be adequate to serve the development and accommodate upstream and downstream flow. If an upstream area discharges through the property proposed for development, the drainage system shall provide capacity to receive the storm water discharge from the upstream area. If downstream drainage systems are not sufficient to receive an increase in storm water caused by new development, provisions shall be made by the developer to increase the downstream capacity or to provide detention such that the new development will not increase the storm water caused by the new development.

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6.604 SERVICE AVAILABILITY

Approval of construction plans for new storm water drainage facilities pursuant to Section 6.200, and the issuance of building permits for new development to be served by existing storm water drainage systems shall include certification by the City that existing or proposed drainage facilities are adequate to serve the development.

6.700 FIRE PROTECTION

6.701 REQUIRED IMPROVEMENTS

When land is developed so that any commercial or industrial structure is further than two hundred and fifty (250) feet or any residential structure is further than five hundred (500) feet from an adequate water supply for fire protection, as determined by the Fire District, the developer shall provide fire protection facilities necessary to provide adequate water supply and fire safety.

6.702 STANDARDS

6.702.01 Capacity

All fire protection facilities shall be approved by and meet the specifications of the Fire District, and shall be sized, constructed, located, and installed consistent with this Code, Chapter 7 of the Community Development Plan, and other applicable City standards, in order to adequately protect life and property in the proposed development.

6.702.02 Fire Flow

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7.400 DESIGN STANDARDS

7.401 BLOCKS

7.401 Connectivity (2005-006 § 5)

A. **Block Size.** The length, width, and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety. (Ord. 86-851 § 3)

B. **Block Length.** Block length standards shall be in accordance with Section 6.304.02. Generally, blocks shall not exceed five-hundred thirty (530) feet in length, except blocks adjacent to principal arterial, which shall not exceed one thousand eight hundred (1,800) feet. The extension of streets and the formation of blocks shall conform to the Local Street Network map contained in the Transportation System Plan, (2005-009 § 5; 2000-1103 § 3)

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C. **Pedestrian and Bicycle Connectivity.** Paved bike and pedestrian accessways shall be provided on public easements or right-of-way consistent with Figure 7.401. (Ord. 2005-009 § 5)

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7.402 EASEMENTS

7.402.01 Utilities

Easements for sewers, drainage, water mains, electric lines, or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten (10) feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six (6) feet wide by twenty (20) feet long on side lot lines at the change of direction.
(Ord. 86-851 § 3)

7.402.02 Drainages

Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to the alignment and size of the drainage. (Ord. 86-851 § 3)

7.403 PEDESTRIAN AND BICYCLE WAYS

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation.

(Ord. 86-851 § 3)

7.404 LOTS

7.404.01 Size and Shape

Lot size, width, shape, and orientation shall be appropriate for the location and topography of the subdivision, and shall comply with applicable zoning district requirements, with the following exceptions:

- A. Lots in areas not served by public sewer or water supply, shall conform to any special Washington County Health Department standards.

(Ord. 86-851 § 3)

7.404.02 Access

All lots in a subdivision shall abut a public street, except as allowed for infill development under Section 2.309. (Ord. 86-851 § 3)

7.404.03 Double Frontage

7.501.03 Required Findings

Minor partitions shall not be approved unless:

- A. The partition complies with the standards of the underlying zoning district and other applicable standards of this Code.
- B. The partition dedicates to the public all required common improvements and areas including but not limited to streets, parks, floodplains, and sanitary sewer, storm water, and water supply systems.
- C. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the partitioned land, as determined by the City and are in compliance with City standards. For the purposes of this section:
 1. Adequate water service shall be deemed to be connection to the City water supply system.
 2. Adequate sanitary sewer service shall be deemed to be connection to the City sewer system if sewer lines are within one-hundred fifty (150) feet of the partition or if the lots created are less than 15,000 square feet in area. Installation of private sewage disposal facilities shall be deemed adequate on lots of 15,000 square feet or more if the private system is permitted by County Health and City sewer lines are not within one hundred fifty (150) feet.
 3. The adequacy of other public facilities such as storm water and streets shall be determined by the City Manager or his/her designee based on applicable City policies, plans and standards for said facilities.
- D. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this Code.

Deleted: A. No new rights-of-way, roads, or streets are created, except for widening of existing rights-of-way. Partitions creating such new streets shall be processed as subdivisions.¶

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(Ord. 91-922 § 3)

7.501.04 Future Developability

In addition to the findings required by Section 7.501.03, the City Manager or his/her designee must find, for any partition creating lots averaging one (1) acre or more, that the lots may be re-partitioned or resubdivided in the future in full compliance with the standards of this Code. The City Manager or his/her designee may require the applicant to submit partition drawings or other data confirming that the property can be resubdivided. If re-partitioning or resubdividing in full compliance with this Code is determined not to be

- b. The gas shall be collected and vented, incinerated, or put to or prepared for a productive use; and
- c. Methane will be measured in structures and at the facility boundary, consistent with applicable DEQ standards.

L. Air Quality Impacts

A facility shall not cause detrimental air quality impacts. A facility complies with this standard if the applicant obtains all required Air Contaminant Discharge Permits and the facility is operated in conformance with Section 8.306 and all applicable DEQ air quality standards and requirements.

M. Treatment and Storage Facilities (Hazardous Waste)

The applicant for a proposed treatment and storage facility shall comply with Oregon Administrative Rules Chapter 340, Division 340, Division 120, and any other applicable state or federal law, by obtaining all state and federal permits necessary for operation of the facility.

(Ord. 93-966 § 3)

8.304 PARKS AND OPEN SPACE

8.304.01 Purpose

Section 8.304 is intended to assure the provision of a system of public and private recreation and open space areas and facilities consistent with this Code and applicable portions of Chapter 5 of the Community Development Plan Part 2. (Ord. 91-922 § 3)

8.304.03 Multi-Family Developments

A. Standards

Except as otherwise provided, recreation and open space areas shall be provided in new multi-family residential developments to the following standards:

1. Open Space

A minimum of twenty percent (20%) of the site area shall be retained in common open space. Required yard parking or maneuvering areas may not be substituted for open space.

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2. Recreation Facilities

A minimum of fifty percent (50%) of the required common open space shall be suitable for active recreational use. Recreational spaces shall be planted in grass otherwise suitably improved. A minimum area of eight-hundred (800) square feet and a minimum width of fifteen (15) feet shall be provided.

3. Minimum Standards

Common open space and recreation areas and facilities shall be clearly shown on site development plans and shall be physically situated so as to be readily accessible to and usable by all residents of the development.

4. Terms of Conveyance

Rights and responsibilities attached to common open space and recreation areas and facilities shall be clearly specified in a legally binding document which leases or conveys title, including beneficial ownership to a home association, or other legal entity. The terms of such lease or other instrument of conveyance must include provisions suitable to the City for guaranteeing the continued use of such land and facilities for its intended purpose; continuity of property maintenance; and, when appropriate, the availability of funds required for such maintenance and adequate insurance protection.

(Ord. 91-922 § 3)

8.304.04 Visual Corridors

A. Corridors Required

New developments with frontage on Highway 99W, or arterial or collector streets designated on the Transportation Plan Map, attached as Appendix C, or in Section 5 of the Community Development Plan Part 2, shall be required to establish a landscaped visual corridor according to the following standards:

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Category	Width
Highway 99W	25 feet
Arterial	15 feet
Collector	10 feet

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In residential developments where fences are typically desired adjoining the above described major street the corridor may be placed in the road right-of-way between the property line and the sidewalk.

B. Landscape Materials

The required visual corridor areas shall be planted as specified by the review authority to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section 8.304.06, shall be planted in the corridor by the developer. The improvements shall be included in the subdivision compliance agreement.

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C. Establishment and Maintenance

Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Section 5.200. To assure continuous maintenance of the visual corridors, the review authority may require that the development rights to the corridor areas be dedicated to the City or that restrictive covenants be recorded prior to the issuance of a building permit.

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D. Required Yard

Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited or trees be removed from within the required visual corridor, with the exception of front porches on townhomes, as permitted in Section 2.204.01(E)(4)(c).

E. Pacific Highway 99W Visual Corridor

1. Provide a landscape plan for the highway median paralleling the subject frontage. In order to assure continuity, appropriate plant materials and spacing, the plan shall be coordinated with the City Planning Department and ODOT.
2. Provide a visual corridor landscape plan with a variety of trees and shrubs. Fifty percent (50%) of the visual corridor plant materials shall consist of groupings of at least five (5) native evergreen trees a minimum of ten (10) feet in height each, spaced no less than fifty (50) feet apart, if feasible. Deciduous trees shall be a minimum of four (4) inches DBH and twelve (12) feet high, spaced no less than twenty-five (25) feet apart, if feasible.

8.304.05 Park Reservation

△ Park Reservations

Areas designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan, which have not been dedicated pursuant to Section 8.304.02E or 8.202.02, may be required to be reserved upon the recommendation of the City Parks Board, for purchase by the City within a period of time not to exceed three (3) years.

(Ord. 91-922 § 3)

8.304.06 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: ~~Tress 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.~~
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 Section 8.304.06A.

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Deleted: A. Density Transfer¶

¶ 1. When a proposed development includes lands designated on the Natural Resources and Recreation Plan Map, attached as Appendix C, or in Chapter 5 of the Community Development Plan, for the uses specified in Section 8.304.02E, density transfers may be authorized to other portions of the site in exchange for the dedication of those lands.¶

¶ 2. Residential densities as a result of density transfers shall not exceed the maximum allowed for the zone in which the development is proposed, as measured against the area of the site prior to dedication.¶

¶ 3. Non-residential densities shall as a result of density transfers not exceed eighty percent (80%) building coverage on buildable portions of the site.¶

¶ 4. Density transfers shall be allowed only when the portion of the site to which density is transferred can accommodate the additional density without causing undue adverse effects on the surrounding area, including public facilities and services, and is otherwise compatible with the applicable zoning district, as determined by the City.

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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.

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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 Section 8.304.06C shall not apply to any removal or cutting associated with development activities authorized by the land use approvals contemplated by Section 8.304.07. Section 8.304.06C 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

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 1.101.04, 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)

8.304.07 Trees on Property Subject to Certain Land Use Applications

A. Generally

The purpose of Section 8.304.07 is to establish processes and standards which will minimize cutting or destruction of trees and woodlands within the City. This Section is intended to help protect the scenic beauty of the City; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

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1. All Planned Unit Developments subject to Section 2.202, site developments subject to Section 5.202, and subdivisions subject to Section 7.200, shall be required to preserve trees or woodlands, as defined by this Section to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. Section 8.304.07 shall not apply to any PUD, site development or subdivision, or any subdivision phase of any PUD, having received an approval by the Commission prior to the effective date of Ordinance No. 94-991, except for Subsection 8.304.07C5, which shall apply to all building permits issued after the effective date to that Ordinance.
2. For the inventory purposes of Section 8.304.07, a tree is a living woody plant having a trunk diameter as specified below at four and one-half (4-1/2) feet above mean ground level at the base of the trunk, also known as Diameter Breast Height (DBH). Trees planted for commercial agricultural purposes and/or those subject to farm forest deferral, such as nut and fruit

orchards and Christmas tree farms, are excluded from this definition, and from regulation under Section 8.304.07, as are any living woody plants under five (5) inches DBH.

- a. Douglas fir, ponderosa pine, western red cedar, white oak, big leaf maple, American chestnut.....Ten (10) inches or greater.
- b. All other tree species.....Five (5) inches or greater.

In addition, any trees of any species of five (5) inches or greater DBH that are proposed for removal as per the minimally necessary development activities defined in Section 8.304.07C3 shall be inventoried.

3. For the inventory purposes of Section 8.304.07, a woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a five (5) inches or greater DBH. Woodlands planted for commercial agricultural purposes and/or subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under Section 8.304.07.

B. Tree and Woodland Inventory

1. To assist the City in making its determinations on the retention of trees and woodlands, the land use applications referenced in Section 8.304.07A shall include a tree and woodland inventory and report, in both map and narrative form, addressing the standards in Section 8.304.07C, and a written report by an arborist, forester, landscape architect, botanist, or other qualified professional, as determined by the City, that generally evaluates the nature and quality of the existing trees and woodlands on the site and also provides information as to the extent and methods by which trees and woodlands will be retained. The inventory shall include a resume detailing the qualified professional's applicable background and experience. The City may also require the submission of additional information as per Section 8.301.03.

Trees removed on the property within one year prior to the submittal of the development application shall also be included in the inventory. In the event that adequate data is not available to address the specific inventory requirements below, an aerial photo may be utilized to determine the approximate number, size and type of trees on the property.

2. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and reports shall include, but are not limited to, the following specific information. Mapping shall include a composite map, illustrating as much required information as possible while retaining map readability.
 - a. The location of the property subject to the land use application and tree and woodland inventory, including street addresses, assessors' map and tax lot numbers, and a vicinity map.
 - b. Mapping indicating the location of trees and woodlands, as defined by Section 8.304.07A2-3. Mapping shall include typical tree root zones, given tree species, size, condition and location. For any woodland, inventory data and mapping is required only for the group, rather than on a tree by tree basis.
 - c. Mapping and other inventory data shall include, but is not limited to, the boundaries and/or types of soils, wetlands, and floodplains underlying the tree or woodland; site hydrology, drainage, and slope characteristics; the condition, density, form, root zone and aspect of the tree or woodland, including in the case of a woodland, associated understory.
 - d. Mapping and other inventory data shall be of sufficient detail and specificity to allow for field location of trees and woodlands by the City, and shall include but is not limited to, existing and proposed property lines, topography at the intervals otherwise specified for the type of land use application being considered, and any significant man-made or natural features that would tend to aid in such field location.
 - e. The number, size, species, condition, and location of trees and woodlands proposed for removal, the timing and method of such removal, and the reason(s) for removal.
 - f. The number, size, species, condition, and location of trees and woodlands proposed for retention, and the methods by which such trees and woodlands shall be maintained in a healthy condition both during and subsequent to development activity.
 - g. Proposed mitigation and replacement efforts as per Section 8.304.07D, including a description of how proposed replacement trees will be successfully replanted and maintained on the site.
- C. Tree and Woodland Retention

1. The applicable review authority, shall make findings identifying all trees and woodlands, or additional trees not inventoried, that merit retention. Alternatively, the City may require planting of new trees in lieu of retention as per Section 8.304.07D1-3, or acquire said trees and woodlands as per Section 8.304.07D4. Prior to making any such determinations or recommendations, the review authority may seek the recommendations of the City Parks Advisory Board. Special consideration shall be given in making these determinations to the retention or replanting of trees native to the Willamette Valley and Western Oregon, except in areas where such trees are prohibited as per Section 8.304.06B.

2. To require retention of trees or woodlands as per Section 8.304.07B, the Commission or Council must make specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:
 - a. Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
 - b. A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
 - c. Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Unified Sewerage Agency stormwater management plans and standards or the City Comprehensive Plan, or
 - d. Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
 - e. Otherwise merit retention because of unusual size, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

3. In general, the City shall permit only the removal of trees, woodlands, and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the

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land use application under consideration. For the development of PUDs and subdivisions, minimally necessary activities will typically entail tree removal for the purposes of constructing City and private utilities, streets, and other infrastructure, and minimally required site grading necessary to construct the development as approved. For site developments, minimally necessary activities will typically entail tree removal for the purposes of constructing City and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and City required site improvements such as driveways and parking lots.

4. The Notice of Decision issued for the land use applications subject to this Section shall indicate which trees and woodlands will be retained as per Section 8.304.07C2, which may be removed or shall be retained as per Section 8.304.07B, and which shall be mitigated as per Section 8.304.07D, and any limitations or conditions attached thereto. The applicant shall prepare and submit a Final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or mitigated as per the Notice of Decision. Such Plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling and all other construction related activity unless specifically reviewed and recommended by a certified arborist.
5. At the time of building permit issuance for any development of a site containing trees or woodlands identified as per Section 8.304.07C, the Building Official shall permit only the removal of trees, woodlands and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the building permit application under consideration. The permit shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. Minimally necessary activities will typically entail tree removal for the purposes of construction of City and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and City required site improvements such as driveways and parking lots. A fee for this inspection shall be established as per Section 3.301, provided however that said inspection is not deemed to be a land use action.

6. When a tree or woodland within an approved site plan, subdivision or Planned Unit Development subsequently proves to be so located as to prohibit the otherwise lawful siting of a building or use, retention of said trees or woodlands may be deemed sufficient cause for the granting of a variance as per Section 4.400, subject to the satisfaction of all other applicable criteria in Section 4.400.
7. All trees, woodlands, and vegetation located on any private property accepted for dedication to the City for public parks and open space, greenways, Significant Natural Areas, wetlands, floodplains, or for storm water management or for other purposes, as a condition of a land use approval, shall be retained outright, irrespective of size, species, condition or other factors. Removal of any such trees, woodlands, and vegetation prior to actual dedication of the property to the City shall be cause for reconsideration of the land use plan approval.

D. Mitigation

1. The City may require mitigation for the removal of any trees and woodlands identified as per Section 8.304.07C if, in the City's determination, retention is not feasible or practical within the context of the proposed land use plan or relative to other policies and standards of the City Comprehensive Plan. Such mitigation shall not be required of the applicant when removal is necessitated by the installation of City utilities, streets and other infrastructure in accordance with adopted City standards and plans. Provided, however, that the City may grant exceptions to established City street utility and other infrastructure standards in order to retain trees or woodlands, if, in the City's determination, such exceptions will not significantly compromise the functioning of the street, utility or other infrastructure being considered. Mitigation shall be in the form of replacement by the planting of new trees.
2. Replacement trees required as part of mitigation as per this Section shall, as determined by the City, be generally of a substantially similar species, size and quantity to those trees proposed for removal, taking into account soils, slopes, hydrology, site area, and other relevant characteristics of the site on which the mitigation is proposed. In consideration of the foregoing factors the City may require replacement trees to be replanted at greater than a 1:1 caliper inch ratio. Exotic or non-native trees shall generally be replaced with species native to the Willamette Valley or Western Oregon, except where such native trees are prohibited by Section 8.304.06B2. Said replacement trees shall be in addition to trees along public streets required by Section 8.304.06A. Standards for trees along public streets may be different than those for trees required for retention or replacement under this Section.

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.)

8.304.08 Trees on Private Property - not subject to a land use action

A. Generally

In general existing mature trees on private property shall be retained unless determined to be a hazard to life or property. For the purposes of this section only, existing mature trees shall be considered any deciduous tree greater than ten (10) inches diameter at breast height (dbh) or any coniferous tree greater than twenty (20) inches dbh.

B. Standards

In the event a property owner determines it necessary to remove existing mature trees on their property that are not a hazard, they may remove up to 5 trees per acre per calendar year by right, not to exceed 100 inches total dbh. The property owner shall document the number of trees and the date removed for their records and shall notify the City Planning Department 48 hours prior to tree removal. Failure to notify the planning department shall not result in a violation of this code unless it is determined that the tree removal is in excess of that permitted outright.

If the property owner determines that it is necessary to remove more trees than that permitted by right, the act is considered to be an alteration of the exterior appearance of the property and site

~~plan review is required. In that instance, the requirements of 8.304.07 shall apply. The review authority shall be determined by the square footage of the area to be disturbed.~~

8.305 WETLAND, HABITAT AND NATURAL AREAS

8.305.01 Generally

Unless otherwise permitted, residential, commercial, industrial, and institutional uses in the City shall comply with the following wetland, habitat and natural area standards if applicable to the site as identified on the City's Wetland Inventory, the Comprehensive Plan Natural Resource Inventory ~~and the Regionally Significant Fish and Wildlife Habitat Area map adopted by Metro and by reference into this Code and the Comprehensive Plan. Where the applicability of a standard overlaps, the more stringent regulation shall apply.~~

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(Ord. 2001-1119 § 1; 91-922)

8.305.02 Standards

A. The applicant shall identify and describe the significance and functional value of wetlands on the site and protect those wetlands from adverse effects of the development. A facility complies with this standard if it complies with the criteria of Section 8.305A.1.a and 8.305A.1.b, below::

1. The facility will not reduce the area of wetlands on the site, and development will be separated from such wetlands by an area determined by the Clean Water Services Design and Construction Standards R&O 00-7 or its replacement provided Section 8.303.09 does not require more than the requested setback.
 - a. A natural condition such as topography, soil, vegetation or other feature isolates the area of development from the wetland.
 - b. Impact mitigation measures will be designed, implemented, and monitored to provide effective protection against harm to the wetland from sedimentation, erosion, loss of surface or ground water supply, or physical trespass.
 - c. A lesser setback complies with federal and state permits, or standards that will apply to state and federal permits, if required.
2. If existing wetlands are proposed to be eliminated by the facility, the applicant shall demonstrate that the project can, and will develop or enhance an area of wetland on the site or in the same drainage basin that is at least equal to the area and functional value of wetlands eliminated.

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- B. The applicant shall provide appropriate plans and text that identify and describe the significance and functional value of natural features on the site (if identified in the Community Development Plan, Part 2) and protect those features from impacts of the development or mitigate adverse effects that will occur. A facility complies with this standard if:
1. The site does not contain an endangered or threatened plant or animal species or a critical habitat for such species identified by Federal or State government (and does not contain significant natural features identified in the Community Development Plan, Part 2, Natural Resources and Recreation Plan).
 2. The facility will comply with applicable requirements of the zone.
 3. The applicant will excavate and store topsoil separate from subsurface soil, and shall replace the topsoil over disturbed areas of the site not covered by buildings or pavement or provide other appropriate medium for re-vegetation of those areas, such as yard debris compost.
 4. The applicant will retain significant vegetation in areas that will not be covered by buildings or pavement or disturbed by excavation for the facility; will replant areas disturbed by the development and not covered by buildings or pavement with native species vegetation unless other vegetation is needed to buffer the facility; will protect disturbed areas and adjoining habitat from potential erosion until replanted vegetation is established; and will provide a plan or plans identifying each area and its proposed use.
 5. Development associated with the facility will be set back from the edge of a significant natural area by an area determined by the Clean Water Services Design and Construction standards R&O 00-7 or its replacement, provided Section 8.303.09A does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the same sort of evidence as in Section 8.305.02A.1 above.

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(Ord. 2001-1119 § 1; 91-922)

- C. When the Regionally Significant Fish and Wildlife Habitat Map indicates there are resources on the site or within 50 feet of the site, the applicant shall provide plans that show the location of resources on the property. If resources are determined to be located on the property, the plans shall show the value of environmentally sensitive areas using the methodologies described in Sections 1 and 2 below.

The Metro Regionally Significant Fish and Wildlife Habitat map shall be the basis for determining the location and value of environmentally sensitive habitat areas. In order to specify the exact locations on site, the following methodology shall be used to determine the appropriate boundaries and habitat values:

1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a four-step process:

- a. Locate the Water Feature that is the basis for identifying riparian habitat.
 1. Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.
 2. Locate all flood areas within 100 feet of the property.
 3. Locate all wetlands within 150 feet of the property based on the Local Wetland Inventory map and on the Metro 2002 Wetland Inventory Map (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232). Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.

- b. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood areas. Vegetative cover status shall be as identified on the Metro Vegetative Cover Map. In the event of a discrepancy between the Metro Vegetative Cover Map and the existing site conditions, document the actual vegetative cover based on the following definitions along with a 2002 aerial photograph of the property:
 1. Low structure vegetation or open soils - Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas

of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).

2. Woody vegetation - Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream.
 3. Forest canopy - Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.
- c. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25% (using the Clean Water Services Vegetated Corridor methodology); and
- d. Identify the riparian habitat classes applicable to all areas on the property using Table 8-1.

Table 8-1

Distance in feet from Water Feature	Development/Vegetation Status			
	Developed areas not providing vegetative cover	Low structure vegetation or open soils	Woody vegetation (shrub and scatted forest canopy)	Forest Canopy (closed to open forest canopy)
Surface Streams				
0-50	Class II	Class I	Class I	Class I
50-100		Class II	Class I	Class I
100-150		Class II if slope >25%	Class II if slope >25%	Class II
150-200		Class II if slope >25%	Class II if slope >25%	Class II if slope >25%
Wetlands (Wetland feature itself is a Class I Riparian Area)				
0-100			Class I	Class I
100-150				Class II
Flood Areas (undeveloped portion of a flood area is a Class I Riparian area)				
0-100			Class II	Class II

2. Verifying boundaries of inventoried upland habitat. Upland habitat was identified based on the existence of contiguous patches of forest canopy, with limited canopy openings. The "forest canopy" designation is made based on analysis of aerial photographs, as part of determining the vegetative cover status of land within the region. Upland habitat shall be as identified on the HCA map. The perimeter of an area delineated as "forest canopy" on the Metro Vegetative Cover Map may be adjusted to more precisely indicate the dripline of the trees within the canopied area.

8.305.03 Exceptions to standards

In order to protect environmentally sensitive areas that are not also governed by floodplain, wetland and Clean Water Services vegetated corridor regulations, the City allows flexibility of the specific standards in exchange for the specified amount of protection inventoried environmentally sensitive areas as defined in this code.

A. Process

The flexibility of standards is only applicable when reviewed and approved as part of a land use application and shall require no additional fee or permit provided the criteria are addressed. In the absence of a land use application, review may be processed as a Type I administrative interpretation.

B. Standards modified

1. Lot size -- Notwithstanding density transfers permitted through 2.202, when a development contains inventoried regionally significant fish and wildlife habitats as defined in Section 8.305.02 above, lot sizes may be reduced up to ten percent (10%) below the minimum lot size of the zone when an equal amount of inventoried resource above and beyond that already required to be protected is held in a public or private open space tract or otherwise protected from further development.
2. Setbacks -- For residential zones, the setback may be reduced up to thirty percent (30%) for all setbacks except the garage setback provided the following criteria are satisfied:
 - a. The setback reduction must result in an equal or greater amount of significant fish and/or wildlife habitat protection. Protection shall be guaranteed with deed restrictions or public or private tracts.
 - b. In no case shall the setback reduction supersede building code and/or Tuatatin Valley Fire and Rescue separation requirements.
3. Density -- per Section 1.202.109 (Net Buildable Acre definition), properties with environmentally sensitive areas on site may opt to exclude the environmentally sensitive areas from the minimum density requirements provided the sensitive areas are protected via tract or restrictive easement. A proposal to remove said area from the density

calculation must include: a delineation of the resource in accordance with 8.305.02.C, the acreage being protected and the net reduction below the normally required minimum for accurate reporting to Metro.

4. Parking - Per section 5.302.03.F, 10-25% of the required parking spaces may be reduced in order to protect inventoried regionally significant fish and wildlife habitat areas provided these resources are protected via deed restrictions or held in public or private tracts.
5. Landscaping - Per section 5.203.02.F exceptions may be granted to the landscaping standards in certain circumstances as outlined in that section.

2. RESIDENTIAL PLANNING DESIGNATIONS

a. GENERAL OBJECTIVES:

1. Encourage the formation of balanced neighborhoods with a mix of residential, commercial, institutional and recreational uses appropriate to local resident needs.
2. See to provide housing which meets local needs with regard to style, price, density, quality and energy efficiency.
3. Specify the purpose and density requirements for residential land use classifications used in the Comprehensive Plan.

b. POLICIES AND STRATEGIES

To meet the above objectives the following policies shall be established.

Policy 1

Residential areas will be developed in a manner which will insure that the integrity of the community is preserved and strengthened.

Strategy:

- Higher density residential development will be located so as to take advantage of arterial and major collector streets; nearby shopping, parks, mass transit and other major public facilities and services.
- All residential development will be located so as to minimize the impact of nonresidential uses and traffic.
- New housing will be located so as to be compatible with existing housing. Infill and redevelopment projects will not adversely affect established neighborhoods, and additional public notice will be required for infill projects, as depicted on the "Infill Notification Area" map, Map IV-1.
- Buffering techniques shall be used to prevent the adverse effects of one use upon another. These techniques may include varying densities and types of residential use, design features and special construction standards.
- The City will encourage the use of the Planned Unit Development (PUD) on parcels of five acres or more in all residential land use categories in order to allow flexibility and innovation in site development and land use compatibility.

INSERT INFILL NOTIFICATION AREA MAP HERE

ENVIRONMENTAL RESOURCES

A. INTRODUCTION

The growth of Sherwood will bring with it increasing demands on its environmental resources creating conflicts between the competing values of conservation and development. Environmental resources planning in Sherwood must include recognition of the limits to the natural resource base, the carrying capacity of the environment and the availability of non-renewable energy resources. The Environmental Resources Element of the Plan includes a 1990 inventory of Sherwood's environmental resources and planning goals, policies and strategies for their management. It also includes the Regionally Significant Fish and Wildlife inventory completed by Metro in 2002 and adopted as Map V-2 of this Plan.

In 2002 Metro completed an inventory of regionally significant fish and wildlife habitats and in 2005, the Tualatin Basin Natural Resources Coordinating Committee, on which the City of Sherwood participated, forwarded a program to protect much of the inventoried resources after conducting a detailed ESEE analysis. The program and supporting documents is adopted by reference and maintained by Washington County Department of Land Use and Transportation staff. The goals and policies of this plan provide the foundation for implementation of the Basin Program. For the purposes of this element, environmental resource management shall be addressed under the categories of natural resources and hazards, environmental quality, recreational resources and energy resources. The following briefly describes the value of open spaces, and natural resources to the community of Sherwood. Goals and policies for the protection of designated historic resources are also included in this chapter.

Wetlands

Wetlands are defined as follows: Areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Among the useful functions served by wetlands are the following:

- Wetlands provide important habitat for warm water fishes, numerous waterfowl, non-game birds, beaver, muskrat, nutria, otter, mink and raccoon. Other important non-game species such as mammals, reptiles, and amphibians are also found in wetland areas.
- Wetlands serve as temporary storage areas for flood waters, reducing floodpeaks and the frequency of flooding in downstream areas.

Open space and recreation lands serve a number of functions. Open space conserves natural and scenic resources, protects water supply and quality, minimizes erosion and runoff, enhances the value of neighboring property, serves aesthetic and recreation needs, buffers incompatible land uses, promotes orderly urban development and enhances city design. Open space and recreation lands may be designed to serve a variety of recreational needs ranging from hiking to active team sports. Both private and public lands may provide open space benefits. Privately owned land reduces recreational use pressure on public land. Certain uses of open space land such as the minimization of landslide potential on steep hillsides requires joint efforts by the city and private developer. A city's open space and recreation land resource is composed of both private and public lands which simultaneously serve a number of individual and community objectives.

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Energy Sources

There are no developed energy sources within the Sherwood UGB. All fossil and wood fuels, and electricity generated by hydro and nuclear power, come from sources outside the city. There are however, unconventional energy sources available within Sherwood. These include solar and wind energy. Solar energy, in particular, holds promise as an alternative form of energy which could meet a significant amount of the energy demand for domestic space heating and water heating. The technology exists to take advantage of solar energy and wind energy for these purposes, and such use should be encouraged.

The following Table V-I is an inventory of the areas natural resources and open space, wetlands, parks and schools, historic and scenic resources. These areas are also identified on the Natural Resources and Recreation Plan Map, updated in 1990, (Map V-I).

B. ENVIRONMENTAL RESOURCES POLICY GOALS

The following policy goals were the result of work by several Sherwood Citizen Planning Advisory Committee (SCPAC) subcommittees. The goals were reviewed and updated in 1989-1990. The goals and policies were further reviewed and updated in 2006 to implement the Tualatin Basin Program, a three year project undertaken by all the jurisdictions on urban Washington County to develop a basin wide approach to natural resource protection. The goals define the direction that resource management should take in the Sherwood Urban Area. The Goals, Policies and Strategies that follow relate to the resources identified on the Natural Resources and Recreation Plan Map and the inventory listed in Table V-1 and the Regionally Significant Fish and Wildlife Habitat Inventory (Map V-2) for properties located inside the Metro Urban Growth Boundary on or before December 28, 2005.

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The following are the adopted planning goals for the Environmental Resources of Sherwood.

Planning Goals: Natural Resources and Hazards

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4. Encourage energy efficiency in the design and use of sites, structures, transportation systems and utilities.

C. NATURAL RESOURCES AND HAZARDS

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1. EXISTING CONDITIONS (See Section V - Background Data and Analysis)

The Sherwood UGB has three major natural resource categories:

- a. Rock and Cedar Creeks and their associated tributaries, flood plains, wetlands and ponds.
- b. The Tonquin Scabland Geologic Area (TSGA) and the Ponderosa Pine Forest natural areas.
- c. Miscellaneous open spaces and scenic views.

The following natural resources are not present within the City:

- a. Energy sources
- b. Wilderness
- c. Oregon Recreation Trails
- d. Wild and Scenic Waterways
- e. Mineral and Aggregate sites

2. OBJECTIVES

The planning objectives for the City of Sherwood's natural resources are to:

- a. Encourage preservation of important natural habitat associated with Rock and Cedar Creeks and, at the same time, prohibit development in flood hazard areas.
- b. Protect the Tonquin Scabland Geologic Area, especially the identified critical natural features in the TSGA.
- c. Phased land-use changes to maintain agricultural production until land is needed for development.
- d. Discourage incompatible development on steep slopes.

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- e. Protect the identified Ponderosa Pine forest.
- f. For properties with regionally significant fish and wildlife habitats that are not protected under stricter regulations, encourage use of habitat friendly development practices during development review.
- g. Remove code and procedural barriers that discourage the use of habitat friendly development practices.

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3. POLICIES AND STRATEGIES

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To achieve the above objectives the following policies and strategies are established:

Policy 1 **Flood plain shall be prohibited from development in order to reduce the risk of flooding, prevent or reduce risk of human life and property, and maintain functions and values of floodplains such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.**

Strategy:

- A flood plain ordinance has been adopted and will be periodically updated, that regulates development or fill in designated flood plains.
- Greenway areas along Rock and Cedar Creeks will be acquired through dedication at the time of development, or by purchase, to preserve drainageways, open space, wetlands, and wildlife habitat.
- Greenway parcels will be obtained as dedicated portions of PUD's, subdivisions and partitions, or any other residential, commercial or industrial developments.
- Adopt ordinance provisions regulating construction practices in identified shallow groundwater areas (see Figure V-6 Background Data and Analysis.)
- Density transfers may be allowed on land adjacent to or included in designated greenways.

Policy 2 **Habitat friendly development shall be encouraged for developments with Regionally Significant Fish and Wildlife Habitats identified as Map V-2**

Strategy:

- Allow minor modification to some standards for developments with identified Regionally Significant Fish and Wildlife habitats subject to clear objective standards.

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and psychological stress which has been directly attributed to numerous health problems. Broad reductions in harmful noises have not occurred, however, probably due to a lack of education as to the negative effects of noise. It is possible to limit further increases in noise that result from urban growth, however, and this may be a more practical approach to controlling noise levels.

b. Noise Sources in Sherwood

In Sherwood, noise sources fall roughly into two categories; noises that occur intermittently, such as construction projects, and those which occur on a continuous basis, such as traffic.

The first group includes unusual, occasional noises, which often prompt police complaints when they reach a disruptive level. The second group includes noises which are continuous contributors to the ambient noise levels that are present throughout the city. These noises are nearly always present, and specifically include motor vehicle traffic on Hwy. 99W, industrial and commercial noises. Sherwood has no commercial or industrial businesses in violation of state noise standards.

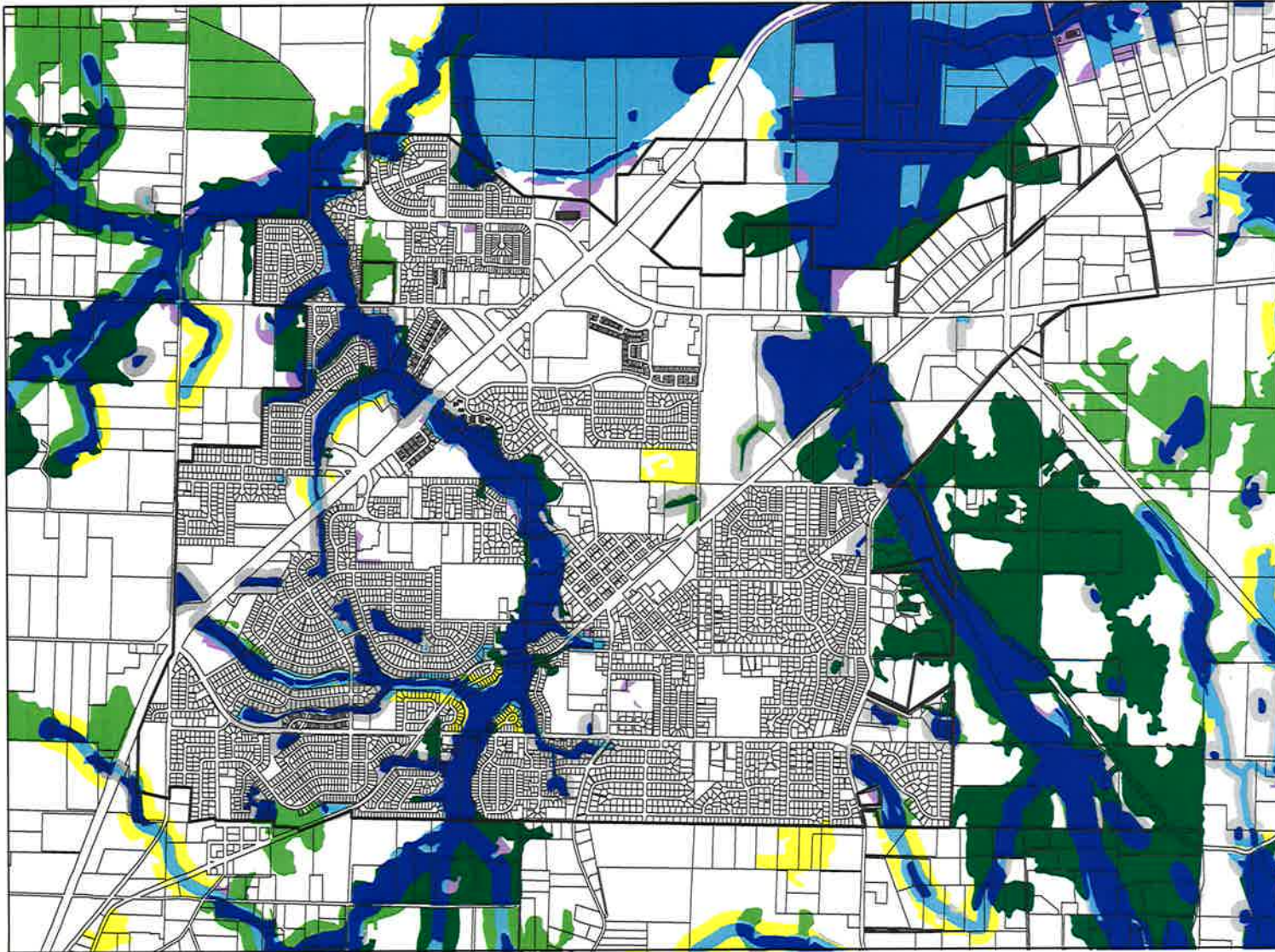
c. State and Federal Noise Control

The Federal Noise Control Act of 1972 placed a number of noise related programs under the authority of the environmental Protection Agency (EPA). The EPA's authority extends to aircraft noise (with Federal Aviation Administration), interstate railroads and motor carriers and other noise sources of national concern.








The State Noise Control Act of 1971 gives the DEQ authority to adopt standards for motor vehicles, industry and commerce. The standards establish motor vehicle noise emission limits and set ambient noise limits for commercial and industrial operations. The standards vary according to time of day and proximity to "noise sensitive properties". The DEQ is normally involved in local noise problems when it receives a citizen complaint and the noise source falls under DEQ authority. The DEQ investigates these complaints and works with the owner or operator to resolve the problem. DEQ's role in noise prevention, because of the absence of permit authority, is confined to technical assistance.


4. **OBJECTIVES**

The planning objectives for the City of Sherwood are to maintain the high environmental quality of the City and to minimize degradation from growth.



Regionally Significant Fish and Wildlife Habitat Inventory Map

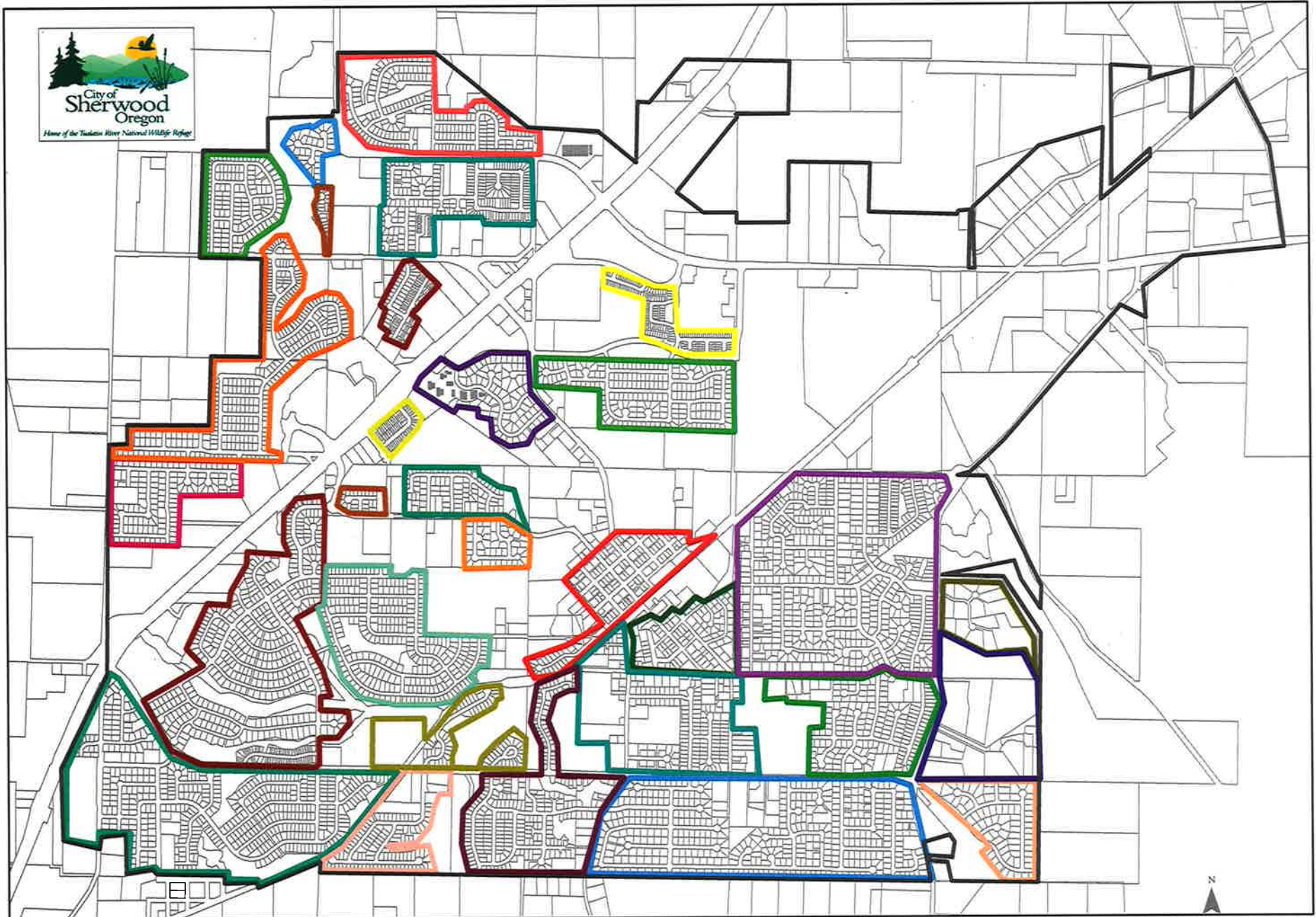
Resource Classes*	
	Riparian Corridors/Wildlife Habitat Class I
	Riparian Corridors/Wildlife Habitat Class II
	Riparian Corridors Class III
	Upland Wildlife Habitat Class A
	Upland Wildlife Habitat Class B
	Upland Wildlife Habitat Class C
	Impact Areas


 Map Created August 30, 2006
 Map Updated October 16, 2006
 Source: Metro RLIS Lite 2006 Data
 and Metro Resource Inventory Data

*Data from this map obtained directly from Metro inventory (adopted 2002) based on specific criteria evaluated at broadbrush level. This map is not intended to indicate any additional regulation on any property. Actual resource value to be determined on a site-by-site basis using methodology established by Metro.

Sherwood Infill Notification Areas

September 27, 2006



Note: Color coding not significant.
1 to visually distinguish notification areas.

Kurt Kristensen
22520 SW Fair Oaks Ct.
Sherwood, OR 97140-9720

503-625-2340

kurtk@poetspeak.com

October 15, 2006

Julia Hajduk
Senior Planner
Planning Department
City of Sherwood
22560 SW Pine Street
Sherwood, OR 97140
503-625-4204

RE: Implementation of Goal 5 and Natural Resource Management for the City of Sherwood

Ms. Hajduc, Mr. Chairman and Members of the Planning Commission:

While I applaud yours and the city's desire to implement a comprehensive regulatory system for managing our ecological resources in the midst of unprecedented development practices, I am concerned that, in the accelerated schedule we are missing an opportunity to put in place a system that is logical as well as science based.

My preliminary review indicate that, with regard to, for example, tree removal, the City of Sherwood is NOT proposing a science-based system, but rather a political system that is expedient to developers' needs to maximize the profit potential.

A researcher from The Oregonian have pointed out to me that,

"Allowing developers and owners to remove any five (5) trees from anyone acre per calendar year"

may be a questionable practice, and I agree. Over a two year period, for example, the Moser family who just erased 12 acres of very old trees in one weekend could have accomplished the same by simply removing 70 trees per year under the new rules. Same result: A complete eco-system devastated forever!

I suggest that the Planning Commission hold the processing of Goal 5 and look at the proven set of science based tree management regulations that have been in place in Lake Oswego for years, and have resulted in some of the region's highest property values, as well as preservation of an eco-system that is exemplary. See enclosure of Chapter 55 from the City of Lake Oswego's regulations (Updated April, 2006).

I also suggest that, in order to avoid overlapping jurisdictions and to prevent future forestry permit conflicts, that you contact Mr. Bradley Knots of the State of Oregon

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Sherwood, OR 97140-9720

503-625-2340

kurtk@poetspeak.com

Forestry Program to investigate how the City of Sherwood can take over all management and permitting of trees and forests within its boundaries and in areas abutting the UGB division line. See address below.

Bradley A. Knotts
Private Forests Program
Oregon Department of Forestry
2600 State Street
Salem, Oregon 97310
503-945-7484
bknotts@odf.state.or.us

Mr. Knotts indicate that most of the program components can be transferred to the City of Sherwood with the state's blessings. You will find additional information by reviewing ORS 527.722 and the publication titled *Guidelines for Developing Urban Forest Practice Ordinances*, available at http://eqov.oregon.gov/ODF/URBAN_FORESTS/docs/Other_Publications/UrbanFP.pdf.

There is no need for anyone in the City of Sherwood to reinvent a system that is science-based and has proven to provide the kind of economically and ecologically optimal system that will bring future residents and property owners in Sherwood maximum benefits: You can adopt Chapter 55 of the City of Lake Oswego's regulations and collaborate with the State of Oregon Forestry Department.

I urge you to resist adopting the current non-scientific basis of allowing owners and developers to remove trees of any kind in an arbitrary fashion for short-term convenience; with a little collaboration developers and the city planning department can create neighborhoods that maintain and respect the heritage of Sherwood implied by its name.

Respectfully,


Kurt Kristensen

Enclosures:

1. Chapter 55-City of Lake Oswego Tree Code
2. 527.722 Restrictions on local government adoption of rules regulating forest operations

527.722 Restrictions on local government adoption of rules regulating forest operations;

exceptions. (1) Notwithstanding any provisions of ORS chapters 195, 196, 197, 215 and 227, and except as provided in subsections (2), (3) and (4) of this section, no unit of local government shall adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate, subject to approval or in any other way affect forest practices on forestlands located outside of an acknowledged urban growth boundary.

(2) Nothing in subsection (1) of this section prohibits local governments from adopting and applying a comprehensive plan or land use regulation to forestland to allow, prohibit or regulate:

- (a) Forest practices on lands located within an acknowledged urban growth boundary;
- (b) Forest practices on lands located outside of an acknowledged urban growth boundary, and within the city limits as they exist on July 1, 1991, of a city with a population of 100,000 or more, for which an acknowledged exception to an agriculture or forestland goal has been taken;
- (c) The establishment or alteration of structures other than temporary on-site structures which are auxiliary to and used during the term of a particular forest operation;
- (d) The siting or alteration of dwellings;
- (e) Physical alterations of the land, including but not limited to those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities, when such uses are not auxiliary to forest practices; or
- (f) Partitions and subdivisions of the land.

(3) Nothing in subsection (2) of this section shall prohibit a local government from enforcing the provisions of ORS 455.310 to 455.715 and the rules adopted thereunder.

(4) Counties may prohibit, but in no other manner regulate, forest practices on forestlands:

- (a) Located outside an acknowledged urban growth boundary; and
- (b) For which an acknowledged exception to an agricultural or forest land goal has been taken.

(5) To ensure that all forest operations in this state are regulated to achieve protection of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon Forest Practices Act applies to forest operations inside any urban growth boundary except in areas where a local government has adopted land use regulations for forest practices. For purposes of this subsection, "land use regulations for forest practices" means local government regulations that are adopted for the specific purpose of directing how forest operations and practices may be conducted. These local regulations shall:

- (a) Protect soil, air, water, fish and wildlife resources;
- (b) Be acknowledged as in compliance with land use planning goals;
- (c) Be developed through a public process;
- (d) Be developed for the specific purpose of regulating forest practices; and
- (e) Be developed in coordination with the State Forestry Department and with notice to the Department of Land Conservation and Development.

(6) To coordinate with local governments in the protection of soil, air, water, fish and wildlife resources, the State Forester shall provide local governments with a copy of the notice or written plan for a forest operation within any urban growth boundary. Local governments may review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

(7) The existence or adoption by local governments of a comprehensive plan policy or land use regulation regulating forest practices consistent with subsections (1) to (5) of this section shall relieve the State Forester of responsibility to administer the Oregon Forest Practices Act within the affected area.

(8) The Director of the Department of Land Conservation and Development shall provide the State Forester copies of notices submitted pursuant to ORS 197.615, whenever such notices concern the adoption, amendment or repeal of a comprehensive land use regulation allowing, prohibiting or regulating forest practices. [1979 c.400 §2; 1987 c.919 §17; 1991 c.919 §29; 2001 c.268 §1]

634.057 State preemption of local pesticide regulation. No city, town, county or other political subdivision of this state shall adopt or enforce any ordinance, rule or regulation regarding pesticide sale or use, including but not limited to:

- (1) Labeling;
- (2) Registration;
- (3) Notification of use;
- (4) Advertising and marketing;
- (5) Distribution;
- (6) Applicator training and certification;
- (7) Licensing;
- (8) Transportation;
- (9) Packaging;
- (10) Storage;
- (11) Disclosure of confidential information; or
- (12) Product composition. [1996 c.10 §6 (enacted in lieu of 634.009)]

City of Lake Oswego

CHAPTER 55

TREE CODE



April, 2006

**CITY OF LAKE OSWEGO
TREES**

55.02.010

Article 55.02

Tree Removal.

Sections:

- 55.02.010 Purpose.**
- 55.02.020 Definitions.**
- 55.02.030 Prohibited Activities.**
- 55.02.035 Tree Removal in Conjunction with Major or Minor Development Permit.**
- 55.02.040 Repealed. Ord. No. 2059, 06-16-92.**
- 55.02.041 Repealed. Ord. No. 2221, 01-18-00.**
- 55.02.042 Permit Classifications and Review Procedures.**
- 55.02.045 Repealed. Ord. No. 2221, 01-18-00.**
- 55.02.050 Application for Permits.**
- 55.02.060 Fees.**
- 55.02.061 Repealed. Ord. No. 2097, 12-20-94.**
- 55.02.065 Repealed. Ord. No. 2221, 01-18-00.**
- 55.02.067 Repealed. Ord. No. 2097, 12-20-94.**
- 55.02.070 Repealed. Ord. No. 2059, 06-16-92.**
- 55.02.071 Repealed. Ord. No. 2097, 12-20-94.**
- 55.02.075 Repealed. Ord. No. 2221, 01-18-00.**
- 55.02.080 Criteria for Issuance of Type II Tree Cutting Permits.**
- 55.02.082 Staff Decision and Notice Requirements for Type II Permits.**
- 55.02.084 Mitigation Required.**
- 55.02.085 Request for Public Hearing on a Type II Tree Cutting Permit.**
- 55.02.090 Repealed. Ord. No. 1807; 09-15-81.**
- 55.02.092 Expiration of Tree Cutting Permits.**
- 55.02.094 Conditions of Approval for Tree Cutting Permits.**
- 55.02.100 Repealed. Ord. No. 1807, 09-15-81.**
- 55.02.110 Repealed. Ord. No. 1807, 09-15-81.**
- 55.02.120 Repealed. Ord. No. 1807, 09-15-81.**
- 55.02.125 Evidence of Violation.**
- 55.02.130 Penalties.**
- 55.02.135 Repealed. Ord. No. 2221, 01-18-00.**

55.02.010 Purpose.

The purpose of this chapter is to regulate the removal of trees and prescribe preventative protection measures to avoid damage to trees during site development in order to preserve the wooded character of the City of Lake Oswego and to protect trees as a natural resource of the City.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12-20-94) (Ord. 2221, Amended, 01/18/2000)

**CITY OF LAKE OSWEGO
TREES**

55.02.020

55.02.020 Definitions.

Arborist means a person who has met the criteria for certification from the International Society of Arboriculture and maintains his or her accreditation.

Caliper Inch refers to a manner of expressing the diameter inches of a tree as calculated by measuring the tree's circumference and dividing by Pi (approximately 3.14159). Specially calibrated "diameter tapes" or "calipers" are used to determine caliper inches.

City Manager means the City Manager or the City Manager's designee.

Dead Tree means a tree is lifeless. Such evidence of lifelessness may include unseasonable lack of foliage, brittle dry branches, or lack of any growth during the growing season.

Diameter at breast height or DBH means the diameter of the trunk, at its maximum cross section, measured 54 inches (4 1/2 feet) above mean ground level at the base of the trunk.

Dripline means an imaginary vertical line extending downward from the outermost tips of a tree's branches to the ground.

Person means any individual or legal entity.

Removal means to cut down a tree or remove all or 50% or more of the crown, trunk, or root system of a tree; or to damage a tree so as to cause the tree to decline and/or die. "Removal" includes but is not limited to topping, damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. "Removal" does not include normal trimming or pruning of trees.

Single family dwelling for the purpose of this chapter means any of the following: a detached home, a townhouse or rowhouse, a zero-lot line dwelling, duplex, or a condominium unit where the tree cutting permit relates to a tree located in the private yard of such a unit.

Topping means the severe cutting back of a tree's limbs to stubs 3 inches or larger in diameter within the tree's crown to such a degree so as to remove the natural canopy and disfigure the tree.

Tree means any woody plant having a trunk 5 caliper inches or larger in diameter at breast height (DBH). If a tree splits into multiple trunks above ground, but below 4.5 feet, the trunk is measured at its most narrow point beneath the split, and is considered one tree. If the tree splits into multiple trunks below ground, each trunk shall be considered one tree. For the purposes of this Chapter, English laurel, photinia, arborvitae, poison oak, and English ivy shall not be considered a "tree".

Tree Cutting Permit means written authorization from the City for a tree removal to proceed as described in an application, such authorization having been given in accordance with this chapter.

Tree Protection Zone means the area reserved around a tree or group of trees in which no grading, access, stockpiling or other construction activity shall occur as determined by the City manager to be appropriate based on review of the tree and site conditions.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 1631, Sec. 1; 07-20-76. Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12-20-94)
(Ord. 2221, Amended, 01/18/2000)

55.02.030 Prohibited Activities.

1. No person shall remove a tree without first obtaining a tree cutting permit from the City pursuant to this Chapter.
2. No person shall top a tree without first obtaining a topping permit from the City pursuant to this Chapter.
3. No person who is required to install or maintain tree protection measures per LOC Article 55.08 shall do any development activities including, but not limited to clearing, grading, excavation or

**CITY OF LAKE OSWEGO
TREES**

55.02.035

demolition work on a property or site which requires ministerial, minor or major development approval without approved tree protection measures properly installed and maintained pursuant to this Chapter.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12-20-94) (Ord. 2221, Amended, 01/18/2000)

55.02.035 Tree Removal in Conjunction with Major or Minor Development Permit.

1. If a Major or Minor Development Permit applied for pursuant to LOC Article 50.79 would require or result in tree removal and/or a tree cutting permit as defined in this Chapter, compliance with LOC 55.02.080 shall be a criterion of approval of such development permit. Tree removals in conjunction with a Major or Minor Development Permit shall be considered in conjunction with such permit and shall be subject to the application, notice, hearing and appeal procedures applicable to the proposed Major or Minor Development pursuant to LOC Articles 50.82 and 50.84. The required Notice for Major or Minor Developments that would require or result in tree removals shall include a site plan indicating the location of any trees proposed for removal on the subject site. The proposed trees shall also be flagged with yellow flagging tape on site. Such flagging shall be maintained until a final decision on the proposal is rendered. The remaining, notice, hearing and appeal procedures in LOC Chapter 55 shall not apply to tree removals considered in conjunction with a Major or Minor Development request. Subsequent tree removals that have not been reviewed through either Major or Minor Development procedures shall be reviewed as provided in this Chapter.

2. Once a final decision has been rendered on the Major or Minor Development Permit, trees that have been approved for removal as part of that decision shall be subject to the verification permit process. Applications for verifications shall be made on the application forms as prescribed by the City Manager and be accompanied by an application fee as established by resolution of the City Council. The purpose of the verification process is to ensure that the trees approved for removal are properly identified for removal in the field and that the trees that were not approved for removal are not inadvertently removed. Removal of trees in violation of such land use approval will be considered a violation of this Chapter. The criteria contained in LOC 55.02.080 shall not apply to verification applications for tree cutting permits.

3. If a tree proposed to be removed has been specifically required to be preserved or protected as a condition of approval of a land use action pursuant to the Lake Oswego Community Development Code, the tree removal application shall be processed as a modification to that land use action and shall be reviewed subject to the criteria of LOC 55.02.080 by the body responsible for reviewing such land use actions. Such modification procedure shall not be required in cases of an emergency as provided in LOC 55.02.042(3), or when the tree is dead as provided in LOC 55.02.080(1) or is a hazard as provided in LOC 55.02.080(2).

(Ord. No. 2097, Enacted, 12-20-94) (Ord. 2316, Amended, 03/05/2002; Ord. 2221, Amended, 01/18/2000)

55.02.040 Repealed. Ord. No. 2059, 06-16-92.

55.02.041 Repealed. Ord. No. 2221, 01-18-00.

55.02.042 Permit Classifications and Review Procedures.

A person who desires to remove a tree shall first apply for and receive one of the following tree cutting permits before tree removal occurs:

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1. Type I Permit is required for:
 - a. A property that is located in a residential zone and is occupied by a single family dwelling;
 - b. Removal of up to two trees, 10 inch caliper or less per tree at DBH within a calendar year;and
 - c. A tree that is not:
 - i. Protected by a condition of approval of a development permit pursuant to the Lake Oswego Community Development Code;
 - ii. Located within an area or parcel that has been placed on the Historic Landmark Designation List pursuant to LOC Chapter 58;
 - iii. A Heritage Tree per LOC Article 55.06;
 - iv. Located within an RC or RP sensitive land overlay district;
 - v. Located within the Willamette River Greenway (WRG) overlay district;
 - vi. Located within the 25 foot Oswego Lake Special Setback;
 - vii. Located on property owned by the City of Lake Oswego or dedicated to the public, including parks, open space and public rights-of-way.

Type I permits shall be issued without further review upon application and demonstration by the applicant that the request qualifies as a Type I permit pursuant to this subsection.

2. Type II Permit:

a. A Type II permit is required prior to any tree removal application that does not qualify in issuance as a Type I permit, Dead Tree Removal Permit, Hazard Tree Removal Permit, Emergency Permit, Verification Permit, or Topping Permit as described in this section.

b. Type II permits shall be reviewed and approved by the City Manager pursuant to LOC 55.02.080 (Approval Criteria) and 55.02.082 (Notice Requirements).

3. Dead Tree Removal Permit:

a. The City shall issue a tree cutting permit for a dead tree, except as provided by subsection (3)(b) of this section, if the applicant demonstrates that a tree is dead and warrants removal.

b. In order to provide for wildlife habitat and natural processes, the City Manager may require the retention of a dead tree. Dead trees shall not be removed if located in wetlands, RC Protection Areas (LOC 50.16.055), stream corridors, parks or open space areas required to be preserved as a condition of development approval, unless the tree presents a potential hazard to persons or property.

4. Hazard Tree Removal Permit: The City shall issue a tree cutting permit for a hazard tree if the applicant demonstrates that a tree is a hazard and warrants removal.

a. A hazard tree is a tree that is cracked, split, leaning or physically damaged to the degree that it is clear that it is likely to fall and injure persons or property. A hazard tree may also include a tree that is located within a public right of way and is causing damage to existing public or private facilities or services and such facilities or services cannot be relocated. The applicant must demonstrate that the condition or location of the tree presents a clear public safety hazard or a foreseeable danger of property damage to an existing structure and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

b. The City may require the applicant to submit an arborist's report confirming the hazard potential of the tree along with an analysis of alternative methods to alleviate the hazard without removal, and submit a completed hazard evaluation form as provided by the City.

5. Emergency Permit:

a. If the condition of a tree presents an immediate danger of collapse, and represents a clear and present hazard to persons or property, an emergency tree cutting permit may be issued and the payment of

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a fee may be waived. For the purposes of this subsection, "immediate danger of collapse" means that the tree is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree cutting permit could be obtained through the non-emergency process. "Immediate danger of collapse" does not include hazardous conditions that can be alleviated by pruning or treatment.

b. Emergency tree cutting permits must be approved by the City Manager. If an emergency situation arises at a time when the City Manager is unavailable, and such emergency creates a significant likelihood that the tree will topple or otherwise fail before such official becomes available, the owner of the tree shall, if practical and reasonable, first notify the City Tree Hotline phone number and state the address where the tree is being removed, the company performing the removal, along with the property owner's name, address, and telephone number. The owner shall photograph the tree showing emergency conditions and then may proceed with removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days of such removal, the owner of the tree shall apply for a retroactive emergency tree cutting permit and shall submit with the application, evidence to demonstrate the emergency nature of the tree.

c. The city may require the application to hire an arborist to review the evidence to ascertain whether the tree presented an immediate danger of collapse. The person or entity performing the removal shall not be eligible to provide this review. If the evidence shows that the tree did not satisfy the emergency tree removal standards set forth in this chapter, the application shall be denied and the owner of the tree shall be subject to penalties pursuant to LOC 55.02.130 and the mitigation requirements of LOC 55.02.084.

6. Verification Permit:

a. If a site has received development approval through a Major or Minor Development Process, then a Verification Permit shall be issued for those trees approved for removal through that process. To obtain a verification permit, an applicant must clearly identify in the field the trees to be removed by tying yellow tagging tape around each tree and submitting a site plan indicating the location of the requested trees. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application. The City Manager will then verify that the requested trees match the site plan approved through the Major or Minor Development Process. The City shall require the applicant to mitigate for the removal of each tree pursuant to LOC 55.02.084. Such mitigation requirements shall be a condition of approval of the original development permit.

b. Any tree not approved for removal through the original Major or Minor Development review process shall not be approved as part of the verification permit process, unless the subject tree is located within an approved building footprint, public/private utility or improvement area, and no feasible alternative exists to preserve the tree. In such cases, the City may allow the tree to be removed without a Type II tree cutting permit process; however, the mitigation requirements of LOC 55.02.084 shall still apply.

c. Verification permits shall be issued upon application and demonstration by the applicant that the request complies with this section. Verification permits shall not be issued prior to the issuance of a building permit for the subject property without prior authorization by the City Manager.

7. Topping Permit:

a. A topping permit may be issued only if the following apply:

i. A utility, public agency, or other person who routinely tops trees in furtherance of public safety, may apply for a topping permit pursuant to this section based upon an arborist or forester report establishing a methodology for topping in compliance with this subsection.

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ii. Trees under utility wires may be topped only where other pruning practices are impractical.

b. The City, in granting approval for tree removal in an open space or undeveloped area, may allow a tree to be topped to a designated height in order to maintain a "snag" for wildlife habitat.

c. A tree cutting permit obtained for tree removal shall not authorize topping unless said tree cutting permit specifically authorizes such action.

(Ord. No. 2097, Enacted, 12/20/94) (Ord. 2316, Amended, 03/05/2002; Ord. 2260, Amended, 09/05/2000; Ord. 2221, Amended, 01/18/2000)

55.02.045 Repealed. Ord. No. 2221, 01-18-00.

55.02.050 Application for Permits.

1. An application for a tree cutting permit shall be made upon forms prescribed by the City. The application for a tree cutting permit shall contain:

a. The number, size, species and location of the trees proposed to be cut on a site plan of the property;

b. The anticipated date of removal;

c. A statement of the reason for removal;

d. Information concerning any proposed landscaping or planting of any new trees to replace the trees to be removed; and

e. Any other information reasonably required by the City.

2. The applicant shall have the burden of proving that his or her application complies with the criteria for approval of the applicable class of permit.

3. Misrepresentation of any fact necessary for the City's determination for granting a tree cutting permit shall invalidate the permit. The City may at any time, including after a removal has occurred, independently verify facts related to a tree removal request and, if found to be false or misleading, may invalidate the permit and process the removal as a violation. Such misrepresentation may relate to matters including, without limitation, tree size, location, health or hazard condition, and owner's authorized signature.

(Ord. No. 1429, Sec. 1, 05-18-71. Ord. No. 1631, Sec. 2; 07-20-76. Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12/20/94) (Ord. 2221, Amended, 01/18/2000)

55.02.060 Fees.

An application for a tree cutting permit shall be accompanied by a filing fee as established by resolution of the City Council.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 2059, Sec. 1; 06-16-92.)
(Ord. 2221, Amended, 01/18/2000)

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55.02.061 Repealed. Ord. No. 2097, 12-20-94.

55.02.065 Repealed. Ord. No. 2221, 01-18-00.

55.02.067 Repealed. Ord. No. 2097, 12-20-94.

55.02.070 Repealed. Ord. No. 2059, 06-16-92.

55.02.071 Repealed. Ord. No. 2097, 12-20-94.

55.02.075 Repealed. Ord. No. 2221, 01-18-00.

55.02.080 Criteria for Issuance of Type II Tree Cutting Permits.

An applicant for a Type II tree cutting permit shall demonstrate that the following criteria are satisfied. The City Manager may require an arborist's report to substantiate the criteria for a permit.

1. The tree is proposed for removal for landscaping purposes or in order to construct development approved or allowed pursuant to the Lake Oswego Code or other applicable development regulations. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application;

2. Removal of the tree will not have a significant negative impact on erosion, soil stability, flow of surface waters, protection of adjacent trees, or existing windbreaks; and

3. Removal of the tree will not have a significant negative impact on the character, aesthetics, or property values of the neighborhood. The City may grant an exception to this criterion when alternatives to the tree removal have been considered and no reasonable alternative exists to allow the property to be used as permitted in the zone. In making this determination, the City may consider alternative site plans or placement of structures or alternate landscaping designs that would lessen the impact on trees, so long as the alternatives continue to comply with other provisions of the Lake Oswego Code.

4. Removal of the tree is not for the sole purpose of providing or enhancing views.

5. The City shall require the applicant to mitigate for the removal of each tree pursuant to LOC 55.02.084. Such mitigation requirements shall be a condition of approval of the permit.

(Ord. No. 2097, Amended, 12/20/94) (Ord. 2260, Amended, 09/05/2000; Ord. 2221, Amended, 01/18/2000)

55.02.082 Staff Decision and Notice Requirements for Type II Permits.

1. An applicant for a Type II tree cutting permit shall:
 - a. Complete a written notice form to be mailed by the City via regular mail to the neighborhood association whose boundaries include the proposed tree removal site;
 - b. Complete a written certification that the property will be posted and the trees will be marked pursuant to this section;
 - c. Within 24 hours of applying for a tree cutting permit, post a public notice sign of a pending tree cutting permit as provided by the City on the subject property in a location which is clearly visible and readable to vehicles traveling on a public street and to pedestrians walking or biking by the property. The public notice sign shall state that a tree cutting permit is pending for trees on the property marked by yellow plastic tagging tape, include the date of posting and the pending permit number as assigned by the

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City Manager, and state that city staff will consider any comments on the pending permit that are received within fourteen days of the date of posting;

d. Mark each tree proposed to be removed by tying or attaching a yellow plastic tagging tape to the tree at 4.5 feet above mean ground level at the base of the trunk, on the same day that the property is posted; and

e. Maintain the posting and marking for fourteen consecutive days.

2. Within two business days of the close of the fourteen day comment period, city staff shall make a tentative decision approving the permit or shall deny the permit.

3. If a permit is tentatively approved, staff shall immediately post a yellow sign stating the tentative approval and also stating the method and deadline for requesting the hearing pursuant to LOC 55.02.085. The applicant shall maintain the posting of this sign, together with the tree marking, for at least 14 consecutive days. If no request for a hearing is received meeting the requirements of LOC 55.02.085, the approval of the permit shall be final.

4. If the applicant appeals the denial of a permit, or appeals conditions imposed on a tentatively approved permit, city staff shall immediately post a red sign stating the appeal, and the time and date of the appeal hearing. The applicant shall maintain the posting of this sign and the tree marking, until the date of the hearing.

5. Failure to install or maintain the required notice and marking may result in denial or delay in issuance of the permit or revocation of an approved permit.

(Ord. 2260, Amended, 09/05/2000; Ord. 2221, Add, 01/18/2000)

55.02.084 Mitigation Required.

With the exception of dead trees, hazard trees and trees that are 10 inch or less in diameter removed from developed single family lots, an applicant shall provide mitigation for any tree approved for removal. The mitigation requirement shall be satisfied as follows:

1. Replanting on site. The applicant shall plant either a minimum 2-inch caliper deciduous tree or a 6-8 foot tall evergreen tree for each tree removed. The tree shall be planted according to the specifications in the City Tree Planting and Maintenance Guidelines as approved by the City Council.

2. Replanting off site. If in the City's determination there is insufficient available space on the subject property, the replanting required in subsection (1) shall occur on other property in the applicant's ownership or control within the City, in an open space tract that is part of the same subdivision, or in a City owned or dedicated open space or park. Such mitigation planting is subject to the approval of the authorized property owners. If planting on City owned or dedicated property, the City may specify the species and size of the tree. Nothing in this section shall be construed as an obligation of the City to allow trees to be planted on City owned or dedicated property.

3. Payment in lieu of planting. If in the City's determination no feasible alternative exists to plant the required mitigation, the applicant shall pay into the tree fund an amount as established by resolution of the City Council.

(Ord. 2260, Amended, 09/05/2000; Ord. 2221, Add, 01/18/2000)

55.02.085 Request for Public Hearing on a Type II Tree Cutting Permit.

1. Any person may request a hearing on a Type II tree cutting permit by filing a written Request for Hearing, along with the applicable hearing fee as established by resolution of the City Council with the City Recorder, within fourteen days of the date the notice of tentative decision was posted pursuant to LOC 55.02.082. Failure to file within the fourteen day period shall preclude such a request.

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2. An applicant for a tree cutting permit may appeal denial of a permit or conditions imposed on an approved permit by filing a written notice of intent to appeal, along with the applicable filing fee as established by resolution of the City Council, with the City Recorder within fourteen days of the date of decision on the permit.

3. Requests for hearing and appeals shall be heard by the Community Forestry Commission (CFC), which shall hold a public hearing on the request or appeal. The City shall send written notice of the hearing to the applicant, the person requesting the hearing if different from the applicant, and to the recognized Neighborhood Association for the area in which the subject property is located. The written notice shall be sent at least ten days in advance of the hearing.

4. The CFC shall hear testimony from the applicant, followed by those in favor of the application, those opposed to the application (beginning with the person who requested the hearing if different from the applicant), and concluding with rebuttal by the applicant. Any person may testify before the CFC. Following the close of the public testimony, the CFC shall determine, based upon the evidence and testimony in the record, whether or not the application complies with the criteria contained in LOC 55.02.080. The findings, conclusions, and order shall contain the CFC's reasons for approving, denying or modifying the permit.

5. A decision of the CFC shall not become final for ten days from the date of adoption of written findings. Any person who appeared before the CFC either orally or in writing may appeal the decision of the CFC to the City Council by filing a written notice of intent to appeal, along with an appeal fee as established by resolution of the Council, with the City Recorder within ten days of the date of adoption of the CFC's written findings, conclusions and order. The findings, conclusions, and order and minutes of the CFC meeting, along with any written staff reports or testimony shall be forwarded to the City Council. Written notice of the appeal hearing shall be sent at least ten days in advance of the Council hearing to those persons who appeared before the CFC. The hearing before the City Council shall be on the record established before the CFC and only persons who appeared before the CFC orally or in writing may testify. The appellant shall testify first, followed by persons in favor of the appeal, persons in opposition to the appeal (beginning with the applicant if different from the appellant), and concluding with rebuttal by the appellant. The Council's hearing and decision shall otherwise comply with subsection (4) of this section. The decision of the Council shall be final.

(Ord. No. 2097, Enacted, 12/20/94) (Ord. 2260, Amended, 09/05/2000; Ord. 2221, Amended, 01/18/2000)

55.02.090 Repealed. Ord. No. 1807; 09-15-81.

55.02.092 Expiration of Tree Cutting Permits.

A properly issued tree cutting permit shall remain valid for no more than 60 days from the date of issuance or date of final decision by a hearing body, if applicable. A 60 day extension shall be automatically granted by the City Manager if requested in writing before the expiration of the permit. No additional extensions beyond the first extension shall be granted. Permits that have lapsed are deemed void. Trees removed after a tree cutting permit has expired shall be considered a violation of this Chapter.

(Ord. 2260, Amended, 09/05/2000; Ord. 2221, Add, 01/18/2000)

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55.02.094 Conditions of Approval for Tree Cutting Permits.

1. The City may impose conditions of approval on any tree cutting permit if the condition is reasonably related to preventing, eliminating or mitigating a negative impact or potential impact on natural features or processes or on the built environment of the neighborhood which is as created or contributed to by the approved tree removal.

2. Conditions of approval may include, but are not limited to:

- a. Cutting a tree or stump flush with the grade instead of grinding or fully removing a stump;
- b. Requiring modifications in the location, design or intensity of a development or activities on a site or to require or prohibit certain construction methods;
- c. Requiring vegetation not requiring a tree removal permit to remain in place or be planted.
- d. Requiring the removal of injurious vegetation (English Ivy) from other trees on the property.

(Ord. 2221, Add, 01/18/2000)

55.02.100 Repealed. Ord. No. 1807, 09-15-81.

55.02.110 Repealed. Ord. No. 1807, 09-15-81.

55.02.120 Repealed. Ord. No. 1807, 09-15-81.

55.02.125 Evidence of Violation.

1. If a tree is removed without a tree cutting permit, a violation shall be determined by measuring the stump. A stump that is 7 caliper inches or more in diameter shall be considered prima facie evidence of a violation of this chapter.

2. Removal of the stump of a tree removed without a tree cutting permit prior to the determination provided in subsection 1 of this section is a violation of this chapter.

3. Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed. Prosecution of or failure to prosecute the owner shall not be deemed to relieve any other responsible person.

4. Tree removal or topping caused by natural weather conditions shall not be deemed a violation of this chapter and shall be exempt from all penalties set forth in LOC 55.02.130.

(Ord. No. 2059, Sec. 1; 06-16-92. Ord. No. 2097, Amended, 12/20/94) (Ord. 2221, Amended, 01/18/2000)

55.02.130 Penalties.

1. Civil Violation. A violation of any provision of this chapter, or the breach of any condition of a permit granted under this chapter shall be a civil violation as defined by LOC 34.04.105, enforceable pursuant to LOC Article 34.04. The unlawful removal of each individual tree shall be a separate offense hereunder. Failure to comply with the provisions of this chapter or a condition of approval shall be a separate offense each day the failure to comply continues. The violation shall be punishable by a fine set forth by the municipal court and the enforcement fee and restoration requirements as set forth in LOC 55.02.130(3) and (4).

2. Nuisance Abatement. The removal of a tree in violation of this chapter is hereby declared to be a public nuisance, and may be abated by appropriate proceedings pursuant to LOC Article 34.08.

3. Enforcement Fee. A person who removes a tree without first obtaining a tree cutting permit from the City pursuant to this Chapter, removes a tree in violation of an approved tree cutting permit, or

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violates a condition of an approved tree cutting permit shall pay an enforcement fee to the City in an amount as established by resolution of the City Council.

4. Restoration.

a. A person who removes a tree without first obtaining a Type II, dead tree, or hazard tree cutting permit from the City pursuant to this Chapter, removes a tree in violation of an approved Type II, dead tree, or hazard tree cutting permit, or violates a condition of such a permit shall pay into the City's Tree Fund a standard fee per caliper inch for the total number of caliper inches of the tree removed in violation of this Chapter in an amount as established by resolution of the City Council.

b. The City may require the person to pay into the City's Tree Fund an increased fee per caliper inch for the total number of caliper inches of the tree removed in violation of this Chapter in an amount as established by resolution of the City Council or the value of the tree as determined by an arborist in accordance with the methods set forth in the "Guide for Plant Appraisal" an official publication of the International Society of Arboriculture, whichever is greater, if any of the following apply:

- i. The person has committed a previous violation of a provision of this Chapter, or
- ii. Tree protection measures as required by LOC Article 55.08 were not installed or maintained, or
- iii. The tree removed was any of the following:
 - (A) 36 caliper inches in diameter or greater,
 - (B) a heritage tree, per LOC Article 55.06,
 - (C) expressly protected or required to be preserved as a condition of approval of a development permit pursuant to the Lake Oswego Community Development Code,
 - (D) located within the Willamette River Greenway per LOC Article 50.15,
 - (E) part of a Resource Conservation (RC) or Resource Protection (RP) area, per LOC Article 50.16,
 - (F) located on public right of way, City owned or dedicated property, a public or private open space area or conservation easement.

5. Injunction. Upon request of the City Manager or direction from Council, the City Attorney may institute appropriate action in any court to enjoin the removal of trees in violation of this chapter.

6. Loss of City Privileges.

a. A person hired to perform tree removal within the City, upon request shall provide evidence to the City Manager that he or she possess a valid license to conduct business in Lake Oswego. The person is subject to business license revocation pursuant to LOC 20.02.085 if the person violates any provision of this Chapter.

b. Any arborist, builder, landscaper, contractor, or tree service that has performed any tree removal in violation of this chapter or submitted a falsified report for the criteria required in this chapter, shall not be considered a responsible bidder for any City contracts for a period of two years from the date of violation or report.

7. Arborist Report and Required Treatment. Upon request by the City, a person who violates any provision of this chapter shall submit a report prepared by an arborist to evaluate the damage to a tree and/or make recommendations to remedy the violation. The City upon evaluating these recommendations may, at the City's discretion, require that the recommended measures be implemented.

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8. Cumulative Remedies. The rights, remedies, and penalties provided in this chapter are cumulative, are not mutually exclusive, and are in addition to any other rights, remedies and penalties available to the City under any other provision of law.

(Ord. No. 1429, Sec. 1; 05-18-71. Ord. No. 1880, Sec. 1; 02-07-84. Ord. No. 2059, Sec. 1, 06-16-92. Ord. No. 2097, Amended, 12-0-94.) (Ord. 2316, Amended, 03/05/2002; Ord. 2260, Amended, 09/05/2000; Ord. 2231, Amended, 03/21/2000, Editorial correction - Paragraph 1 - word "tree removal" changed to "violation"; Ord. 2221, Amended, 01/18/2000)

55.02.135 Repealed. Ord. No. 2221, 01-18-00.

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Article 55.06

Heritage Trees.

Sections:

- 55.06.010 Purpose; Definition.**
- 55.06.020 Nomination.**
- 55.06.030 Review Process.**
- 55.06.040 Protection of Heritage Trees.**
- 55.06.050 Recognition of Heritage Trees.**
- 55.06.060 Removal of Heritage Tree Designation.**

55.06.010 Purpose; Definition.

1. The purpose of LOC Article 55.06 is to recognize, foster appreciation and provide for voluntary protection of Heritage Trees.

2. For the purpose of this Article, a "Heritage Tree" is a tree or stand of trees that is of landmark importance due to age, size, species, horticultural quality or historic importance.

(Ord. No. 2159, Enacted, 11/04/97)

55.06.020 Nomination.

1. Any person may nominate a particular tree or trees as a Heritage Tree. If the proposed Heritage Tree is located on property other than City property or public right-of-way under City or County jurisdiction, the nomination shall be submitted by the property owner or accompanied by the property owner's written consent. If the proposed Heritage Tree is located on City property or public right-of-way under City or County jurisdiction, the nomination shall be submitted to the City Manager or County Administrator, as appropriate; if the nomination is consented to by the City or County, the City Manager or County Administrator shall submit the nomination to the Natural Resources Advisory Board (NRAB) pursuant to LOC 55.06.030.

2. Nomination shall be made on such form as required by the City Manager. The nomination form shall include a narrative explaining why the tree qualifies for Heritage Tree status pursuant to the description in LOC 55.06.010 and the written consent of the property owner as described in subsection (1) of this section.

(Ord. No. 2159, Enacted, 11/04/97) (Ord. 2289, Amended, 06/05/2001)

55.06.030 Review Process.

1. The NRAB shall review all Heritage Trees nominations at a public meeting. Notice of the meeting shall be provided to the nominating applicant, the property owner (unless the nominated tree is located on public right-of-way under City or County jurisdiction, in which event notice shall be given to the respective City Manager or County Administrator) and the Chair of any recognized neighborhood association in which the tree is located.

2. Staff shall prepare a report for the NRAB analyzing whether the tree complies with the requirements for designation.

3. After considering the staff report and any testimony by interested persons, the NRAB shall vote on the nomination. The NRAB may designate a tree as a Heritage Tree if the Board determines that the following criteria are met:

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- a. The tree or stand of trees is of landmark importance due to age, size, species, horticultural quality or historic importance; and
- b. The tree is not irreparably damaged, diseased, hazardous or unsafe, or the applicant is willing to have the tree treated by an arborist and the treatment will alleviate the damage, disease or hazard;

4. Following approval of the nomination by the NRAB:

- a. If the tree is located on private property, the designation shall be complete upon the Property Owner's execution of a covenant running with the land suitable for recordation by the City. The covenant shall describe the subject property, generally describe the location of the heritage tree, and covenant that the tree is protected as a "Heritage Tree" by the City of Lake Oswego and is therefore subject to special protection as provided in LOC Chapter 55.

- b. If the tree is located on public right-of-way, the designation shall be complete upon the Staff's listing of the tree on the City Heritage Tree records.

5. If the tree is located on the public right-of-way, the City or County, as appropriate, shall condition any future Property Owner-requested vacation of the public right-of-way upon the execution of a covenant in accordance with section (4) above, which shall be recorded by the City upon the vacation of the right-of-way.

(Ord. No. 2159, Enacted, 11/04/97). (Ord. 2289, Amended, 06/05/2001)

55.06.040 Protection of Heritage Trees.

1. Unless the tree qualifies for a dead or hazard tree removal permit, a permit to remove a designated Heritage Tree shall be processed as a Type II Tree Removal Permit subject to the criteria contained in LOC 55.02.080, as modified by subsection (2) of this section.

2. If an application to remove a Heritage Tree is sought pursuant to LOC 55.02.080 the applicant shall demonstrate that the burden imposed on the property owner, or, if the tree is located within the public right-of-way under City or County jurisdiction, then the burden imposed on the respective City or County by the continued presence of the tree outweighs the public benefit provided by the tree in order to comply with 55.02.080(3). For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner, or if appropriate, the City or County:

- a. View obstruction;
- b. Routine pruning, leaf raking and other maintenance activities; and
- c. Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.

3. Unless the permit is to remove a dead or hazard tree pursuant to LOC 55.02.042(3) or (4), the applicant to remove a heritage tree shall be required to mitigate for the loss of the tree pursuant to LOC 55.02.084.

4. Any person who removes a Heritage Tree in violation of LOC Article 55.06 shall be subject to the penalties provided in LOC 55.02.130. In addition, the violator shall be subject to double the enforcement fee established pursuant to LOC 55.02.130(3).

(Ord. No. 2159, Enacted, 11/04/97) (Ord. 2289, Amended, 06/05/2001; Ord. 2260, Amended, 09/05/2000)

55.06.050 Recognition of Heritage Trees.

1. A Heritage Tree plaque shall be designed and may be furnished by the City to the property owner, or if the tree is in the public right-of-way, to the appropriate City or County official, of a designated

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Heritage Tree. The City may charge a fee to cover the costs of the providing the plaque. The plaque shall be posted at a location at or near the tree and, if feasible, visible from a public right-of-way.

2. The Planning Department shall maintain a list and map of designated Heritage Trees.
(Ord. No. 2159, Enacted, 11/04/97) (Ord. 2289, Amended, 06/05/2001)

55.06.060 Removal of Heritage Tree Designation.

A Heritage Tree shall be removed from designation if it dies or is removed pursuant to LOC 55.06.040. If removed from private property, the City shall record a document extinguishing the covenant.

- (Ord. No. 2159, Enacted, 11/04/97) (Ord. 2289, Amended, 06/05/2001)

55.06.060

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TREES**

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Article 55.08

Tree Protection.

Sections:

- 55.08.010 Applicability.**
- 55.08.020 Tree Protection Plan Required.**
- 55.08.030 Tree Protection Measures Required.**
- 55.08.040 Inspection.**

55.08.010 Applicability.

This article is applicable to any ministerial, minor, or major development.
(Ord. 2221, Add, 01/18/2000)

55.08.020 Tree Protection Plan Required.

1. A Tree Protection Plan approved by the City Manager shall be required prior to conducting any development activities including, but not limited to clearing, grading, excavation, or demolition work on a property or site, which requires ministerial, minor, or major development approval.

2. In order to obtain approval of a Tree Protection Plan; an applicant shall submit a plan to the City, which clearly depicts all trees to be preserved on the site. The plan must be drawn to scale and include the following:

- a. Location, species, and diameter of each tree on site and within 15 feet of the site;
- b. Location of the drip line of each tree;
- c. Location of existing and proposed roads, water, sanitary and storm sewer, irrigation, and other utility lines/facilities and easements;
- d. Location of dry wells and soakage trenches;
- e. Location of proposed and existing structures;
- f. Grade change or cut and fill during or after construction;
- g. Existing and proposed impervious surfaces;
- h. Identification of a contact person and/or arborist who will be responsible for implementing and maintaining the approved tree protection plan; and
- i. Location and type of tree protection measures to be installed per LOC 55.08.030.

3. For minor or major development, the Tree Preservation Plan shall be prepared by an arborist and shall include an inventory of all trees on site, their health or hazard condition, and recommendations for treatment for each tree.

(Ord. 2221, Add, 01/18/2000)

55.08.030 Tree Protection Measures Required.

1. Except as otherwise determined by the City Manager, all required tree protection measures set forth in this section shall be instituted prior to any development activities, including, but not limited to clearing, grading, excavation or demolition work, and shall be removed only after completion of all construction activity, including landscaping and irrigation installation.

2. Chain link fencing, a minimum of 6 feet tall with steel posts placed no farther than ten feet apart, shall be installed at the edge of the tree protection zone or dripline, whichever is greater, and at the boundary of any open space tracts or conservation easements that abut the parcel being developed.

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3. The fencing shall be flush with the initial undisturbed grade.
4. Approved signs shall be attached to the chain link fencing stating that inside the fencing is a tree protection zone, not to be disturbed unless prior approval has been obtained from the City Manager and arborist for the project.
5. No construction activity shall occur within the tree protection zone, including, but not limited to dumping or storage of materials such as building supplies, soil, waste items, or parked vehicles or equipment.
6. The tree protection zone shall remain free of chemically injurious materials and liquids such as paints, thinners, cleaning solutions, petroleum products, and concrete or dry wall excess, construction debris, or run-off.
7. No excavation, trenching, grading, root pruning or other activity shall occur within the tree protection zone unless directed by an arborist present on site and approved by the City Manager.
(Ord. 2221, Add, 01/18/2000)

55.08.040 Inspection.

The applicant shall not proceed with any construction activity, except installation of erosion control measures, until the City has inspected and approved the installation of the required tree protection measures and a building and/or grading permit has been issued by the City.
(Ord. 2221, Add, 01/18/2000)

APPROVED MINUTES

City of Sherwood, Oregon
Planning Commission Minutes
October 24, 2006

Commission Members Present:

Chair Adrian Emery
Jean Lafayette
Dan Balza
Matt Nolan
Todd Skelton

Staff: Rob Dixon – Community Dev. Director

Julia Hajduk – Sr. Planner
Heather Austin – Assoc. Planner
Cynthia Butler – Admin. Assistant III

Commissioners Absent:

Vice Chair Patrick Allen
Russell Griffin

City Attorney:

David Doughman

1. **Call to Order/Roll Call** – Cynthia Butler called roll. Vice Chair Patrick Allen and Commissioner Griffin were absent.
2. **Agenda Review** - There were no changes to the agenda.
3. **Consent Agenda** - Minutes from the September 26, 2006 Planning Commission session were approved by vote.

Yes – 5 No – 0 Abstain - 0
4. **Brief Announcements** – Staff had no announcements.
5. **Community Comments** – Chair Emery asked if there were any community comments.

Carolyn Peterson, 14340 SW Fair Oaks Drive, Sherwood, OR 97140 – Carolyn spoke about the Moser property located off of Murdock Rd. in SE Sherwood and the recent clear cut of trees that occurred. Carolyn stated that tree protection standards should be in place to avert property owners from clear cutting and that tree cutting guidelines in Goal 5 are not enough. Carolyn referred to the proposed maximum cut allowed as 5 per acre, per year. Carolyn said that also no erosion control appears to be in place on the Moser property and that with the rainy season here this was especially of concern. Carolyn asked City staff for information on an erosion control plan or compliance.

Rob Dixon said that part of the logging permit includes an erosion control permit, and that he will talk to the Engineering Dept. and Clean Water Services to follow up on this issue and would email Carolyn with the information. Carolyn said that she has heard there may be plans for a rock quarry to remove rock on the site and asked for confirmation. Adrian Emery said that it would be difficult for a property owner to do and deferred to staff regarding the Code. Julia Hajduk said she did not believe the area was zoned appropriately to allow it. Carolyn added that some of the land is steep and not buildable, and eventually will require some green space. Carolyn suggested that the City may consider purchasing some of the land for park space and asked what the process would be to move this idea forward.

Rob Dixon said that the City Council is the decision body for land acquisition, but the capital improvement plan comes before any land acquisitions could be considered.

Chair Emery asked if there were any other community comments. There were none.

6. Old Business: Public Hearing, Goal 5 (PA 06-02) and Infill/Redevelopment (PA 06-03) Standards Plan Amendments continued from September 26, 2006.

Jean Lafayette read the Public Hearings Disclosure Statement.

Chair Emery opened the public hearing and asked if commissioners had any conflicts of interest, exparté contact or bias to declare.

Jean Lafayette referred to the last public hearing on Infill Standards and testimony from Scott Waller. Jean said she was not aware that Scott was planning on attending the hearing or to testify, but that she has known Scott for several years as he lives next door to a friend of hers. Jean did talk to Scott after the last hearing and encouraged him to contact staff or visit the City website for more information. Jean added that this would not affect her decision making process.

Julia Hajduk recapped some of the actions taken by staff since the last hearing. The department website has been updated in further detail and developers have been contacted and alerted to the information so that they could provide feedback. Julia reported that no developers responded with comments. The format for all of the documented updates for the materials delivered to commissioners included better page numbering features.

Heather Austin said that the Mayor's comments as documented in the last hearing have been incorporated into the materials along with changes recommended by commissioners at the last hearing.

Julia said that as a result of public testimony to provide clarification, a note has been added to the bottom of the regionally significant Fish and Wildlife Habitat Inventory map as a recommended change that states; "Data from this map is obtained directly from Metro inventory adopted in 2002, based on specific criteria evaluated at broad-brush level. This map is not intended to indicate any additional regulation on any property. Actual resource value to be determined on a site-by-site basis using methodology established by Metro." Julia said this addition is recommended to clarify that the document is not regulatory, but a flag to be used for future review.

Julia added that the commissioners should have received in their packets a copy of a letter from Kurt Kristensen, dated October 15, 2006. Commissioners confirmed. Julia said that tree protection standards are closely tied to natural resource protection in Goal 5. Tree protection is not required to fulfill Metro's guidelines for implementing the Goal 5 Natural Resources Protection Program. The City of Sherwood saw tree protection as an existing loophole in the standards allowing property owners to remove trees without regulation if a land use application has not been submitted and under review. Julia said staff recommended the maximum 5 per acre, per year standard. Julia added that the proposed standard is not strict, but is focused on striking balance. Julia said that City staff will follow the Planning Commission's lead if they

feel higher and more strict standards need to be recommended, or if more public input is needed. Julia recommended however, that additional tree protection issues remain separate for evaluation at a later date to allow for public input and process. Julia added that the current Goal 5 Natural Resource Protection Standards need to be adopted in order to meet the commitment to Metro for implementation by the end of the year.

Adrian Emery asked how the home owner's associations (HOA) can be regulated if the City adopts tree protection standards. Julia responded that if regulations are adopted by the City they will supersede restrictions by a HOA.

Chair Emery opened the hearing to public testimony.

Kurt Kristensen, 22520 SW Fair Oaks Ct., Sherwood, OR 97140 – Kurt addressed Goal 5 and said that there needs to be more strict standards. Kurt said that the state wants to give cities authority to address tree cutting regulations and he encouraged the City of Sherwood to adopt an ordinance similar to that of Lake Oswego. Kurt referred to this letter dated October 15, 2006 that included a copy of Lake Oswego's tree ordinance. Kurt said he also supported the protection of heritage trees in the Lake Oswego ordinance. Julia said that the inventory process for a heritage tree protection plan would be extensive and would need to be added to a future work plan if the Planning Commission desires to make that recommendation.

Kurt recapped that he recommends that the Planning Commission leave some trees for the City of Sherwood and future generations, and urged them to consider adding protections into adoption of the Goal 5 plan amendment process.

Julia Hajduk said that the City of Tigard's standards are 10 per acre per year, and that staff's recommendation was half that amount at 5 per acre per year, not to exceed 100 inches.

Carolyn Peterson asked Julia to clarify how the 100 inches is calculated. Julia responded that an example would be 5 (five), 20-inch trees equal the 100 inches.

Rob Dixon added that the goal is to provide a "carrot", or incentive for property owners to leave more trees.

Julia recapped the process to date including extensive discussions at work sessions and public testimony at public hearings. Julia recommended that the Planning Commission approve the Goal 5 Natural Resources Plan Amendment as presented and to add the evaluation of a separate tree protection component at a later date in a future work program, if desired.

Jean Lafayette said she felt it was important not to delay addressing tree protection regulations.

Matt Nolan agreed with Jean.

Adrian Emery said he felt that the Goal 5 Standards should be kept as they are currently, with a request that the City Council schedule the work program for next year to include review on a more definitive tree protection ordinance.

Jean agreed with Adrian's recommendation and added that the Council could review Mr. Kristensen's material as another resource of information. Adrian agreed. Jean added that current staff recommendations within Goal 5 are the first steps to provide some protection where none currently exists, but that she would like to see a focused effort on producing tree protection regulation when possible.

Chair Emery received consensus from all commissioners in agreement. Adrian asked if there was further discussion on Goal 5 recommendations at this time. There were none.

Jean referred to Page 9, Section 1.202.04, regarding the term "adjacent" and asked Heather to clarify. Heather stated that you are not adjacent to your neighbor on the other side of the house next to you, but that you are adjacent to people who are separated from you by the street. Julia Hajduk suggested providing an example within the text would help make the definition more clear. Jean and Heather agreed.

Jean referred to Page 17, Item .171, regarding the term "surrounding" and the last sentence "abutting on most of its perimeter", Jean asked for clarification on "most". Heather suggested adding a definitive percentage number such as greater than 50% or 70% of its perimeter. Jean agreed and Adrian suggest using 75%. Heather confirmed.

Dan Balza referred to Page 28, Item C regarding Height, and stated that the height of the structure was fine, but questioned why "chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet", and thought that 20 feet above the structure seemed excessive and asked for the reason behind this amount. Heather said this was not a change and is the current standard in the Code.

David Doughman said that federal law mandates the 20 feet for radio operations, which pre-empts local government regulations.

Jean also referred to Page 28, Item 2-E regarding Multi-family housing setbacks, and asked if the portion "greater than 24 feet in height in Section 2.309 refers only to Infill, or if the same standard applied to non-Infill development. Heather said that the intention is to imply that the height and setback requirements listed in the Infill section would apply to both Infill and non-Infill development. Jean asked for further clarification if the change would appear wherever multi-family dwellings are listed in the Code requiring compliance to this setback standard with two additional criteria required: 1) additional ½ feet setback for every 1 foot of height, and 2) no building greater than 24 feet in height may have more than 750 square feet of blank wall space. Heather confirmed, and added that this change requires greater setbacks with more height and less mass for increased height. Heather suggested that the text can be more specific and refer to the setback information, rather than just referring to Section 2.309. Jean agreed this would be more clear.

Jean referred to Page 31 regarding street setbacks for right-of-way and asked why they changed to such a degree. Heather stated that the TSP setbacks had not been updated in the Code and that the material now reflects what was already approved in the TSP. Julia added that the information is consistent with the TSP.

Rob Dixon reiterated that the TSP setbacks for right-of-way were determined to produce the desired cross-section of streets, which allows for more prevalent green strips with more trees and sidewalk.

Jean referred to Page 32, Item D-2 regarding fences and pedestrian access ways, and asked for clarification on a flag lot. Heather said that the flag portion of the lot is a public access easement and suggested adding the wording “public” to read “public access ways”. Jean agreed.

Jean referred to Page 37, Section 2.309.01, and asked Heather if the height is regulated by the underlying district. Heather confirmed and said that additional height language will clarify this requirement. Jean referred to Page 39 and asked if this section applied to multi-family only. Heather said that it does apply to multi-family for Infill and non-Infill development, but it only applies to single family specifically for Infill development. Jean referred to a previous diagram defining a side and rear yard setback including a flag lot in relation to surrounding development, and asked Heather if she could insert something similar to make the information more clear. Heather confirmed.

Jean referenced the top of Page 41, Item 1, regarding yard setbacks. Jean recommended changing this to 85% instead of 75% to be consistent in other parts of the Code that refer 85% for less lot reduction. Commissioners agreed. Heather confirmed. Additionally on Page 41, Item 2, Jean referred to a typographical error in setbacks currently reads “three (5)”, and should read “five (5)”. Heather confirmed.

Regarding Goal 5, Jean referenced Page 49, Item F, and asked Julia to clarify the 50% reduction allowed for landscaping when the project is reviewed as part of a site plan land use application. Julia reiterated that landscape standards apply to development that goes through the site plan review process, including multi-family housing and does not apply to single family dwellings. Julia added that the reduction does not apply to the overall landscaping required, but allows a reduction in one area of the site plan if the site is already supporting existing habitat area. Jean said she would like to see a reference to setbacks added to state that in no case will the allowed landscape reduction reduce the minimum 5 foot setback requirements. Julia confirmed.

Jean referenced Page 54, Item C, regarding Wheel Stops and a dropped sentence error located following, “storm water run off towards”.. Julia confirmed the language from the definitions on the initial proposed summary of changes would be used to complete the sentence.

Adrian Emery reference Page 49, Section 5.204.01 requiring the landscaping to be installed prior to issuance of occupancy permits, and stated that depending on the time of year and conditions this may not be possible. Adrian asked what kind of criteria will be used to measure the ability of a property owner to satisfy this standard. Julia said the standard currently exists in the Code and that the City evaluate this on a case-by-case basis. Heather reiterated that these standards do not apply to single family dwellings.

Jean referred to Page 82 regarding the deleted section on Density Transfer, and asked for clarification on the deletion. Julia reiterated that it was discovered that a previous ordinance that removed the SIF fee from the development code replaced these with SDC’s in the municipal code. Julia added the section on the related Density Transfer was not removed from the Code at that time and no longer applies. Jean asked to clarify if the ability for density transfer still exists

in the Code. Julia confirmed that it does, but only within a PUD or with the exceptions being adopted as part of this Goal 5 process. Jean further clarified that Goal 5 allows a minor shift of density based on protection. Julia confirmed. Jean asked if the density transfer process was clear in the PUD standards of the Code. Julia confirmed.

Jean referenced Page 95, Item B-2, regarding a 30% reduction in setbacks for residential zones except for garages, and asked Julia to add the language for better clarification that the reduction cannot go below the minimum 5 foot setback requirement. Adrian agreed the minimum 5 foot setback should not be flexible. Commissioners agreed. Julia confirmed.

Chair Emery asked if there were further questions for staff. There were none.

Chair Emery closed the public hearing at 8:33 PM.

Dan Balza stated that he was in favor of adding more protection for trees and recommended that commissioners ask City Council to place this issue on the future work program, so that it will come back to Planning Commission at a later date for review. Commissioners agreed.

Chair Emery asked if there were any further changes or discussion on the plan amendments. There was none.

Jean Lafayette moved that the Planning Commission approve for recommendation to City Council the Goal 5 Natural Resources Plan Amendment (PA 06-02), and Infill/Redevelopment Standards Plan Amendment (PA 06-03), based on the adoption of the staff report, findings of fact, public testimony, staff recommendations, agency comments, applicant comments, conditions, and changes as revised, to be forwarded to the December 5, 2006 City Council session.

Todd Skelton seconded.

Chair Emery asked if there was further discussion on the motion. There was none. A vote was taken:

Yes – 5 No – 0 Abstain – 0

Motion carried.

7. New Business: Economic Development Strategy – Julia Hajduk recapped the process to date in Kevin Cronin's absence and said that Staff is requesting authorization from the Planning Commission to prepare an application to integrate the Economic Development Strategy with the existing Comprehensive Plan, and to schedule a public hearing for review on November 14, 2006.

Jean Lafayette moved to approve authorizing City staff to initiate the process for a plan amendment on the Economic Development Strategy to be presented at a public hearing before the Planning Commission on November 14, 2006.

Dan Balza seconded.

Chair Emery asked if there was any further discussion on the motion. There was none. A vote was taken:

Yes – 5 No – 0 Abstain – 0

Motion carried.

8. Comments from Commission: Todd Skelton asked staff to clarify stop signs at the intersection at Main St. and Railroad Blvd. and said that they were approved to be a 4-way stop and has been noticed to change to a 2-way stop.

Rob Dixon responded that the changes in stop signage involved direction by City Council based on public input received from the community requesting a 4-way stop at this intersection, and also by a federal law order mandating a 2-way stop at the railroad crossing. The City has contracted an engineering firm to conduct a traffic study and make recommendations. Meanwhile, the City is installing additional traffic safety and caution enhancements to make the intersection more safe.

Jean said that a sign is needed for Pine St. at the intersection of Pine St. and Willamette St.

Adrian said that the reflective street names on the monuments do not show up well at night due to LED lighting on the monument that is too bright. Rob confirmed that the LED lighting will be softened and that the street names are designed to be reflective. If the reflective lettering does not reflect properly after the LED lighting is adjusted, the problem will be addressed.

Chair Emery asked if there were any further comments from commissioners. There was none.

9. Next Meeting: November 14, 2006 – Economic Development Strategy public hearing and Parks Master Plan.

10. Adjournment – Chair Emery adjourned the session at 8:45 PM.

End of minutes.