



ORDINANCE 2009-008

AN ORDINANCE AMENDING SECTION 16.112 OF THE DEVELOPMENT CODE PERTAINING TO WATER

WHEREAS, The City adopted the Water System Master Plan in 2005 via Ordinance 2005-016, including incorporating the Water Master Plan map into the Comprehensive Plan; and

WHEREAS, the development code was not updated when the Water Master Plan was adopted to fully reflect the Water Master Plan document; and

WHEREAS, the City has initiated procedures to bring operation and management of the water system back under the jurisdiction on the City; and

WHEREAS, as part of the process to bring the operation and management of the system back under City jurisdiction, the public works department has recommended modifications to ensure the development code fully reflects the adopted Water Master Plan, the design and construction standards and to specify the process for over-sizing and reimbursement of water lines as part of the development process; and

WHEREAS, the proposed amendments were reviewed for compliance and consistency with the Comprehensive Plan, regional and state regulations and found to be fully compliant; and

WHEREAS, The proposed amendments were subject to full and proper notice and review and a public hearing was held before the Planning Commission on June 23, 2009; and

WHEREAS, the Planning Commission voted to forward a recommendation of approval to the City Council based on the analysis and findings of the staff report contained in Exhibit 1 including the proposed development code modifications in Exhibit 1-A; and

WHEREAS, the City Council held a public hearing on July 21, 2009 and determined that the proposed changes to the Development Code met the applicable Comprehensive Plan criteria and continued to be consistent with regional and state standards.

NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1. Findings. After full and due consideration of the application, the Planning Commission recommendation ("Exhibit 1"), the record, findings, and of the evidence presented at the public hearing, the Council finds that the text of the SZCDC shall be amended as documented in Exhibit 1-A; therefore, the Council adopts the findings of fact contained in the Planning Commission recommendation attached as Exhibit 1.

Section 2. Approval. The proposed amendments for Plan Text Amendment (PA) 09-04 identified in Exhibit 1-A, are hereby **APPROVED**.

Section 3 - Manager Authorized. The Planning Department is hereby directed to take such action as may be necessary to document this amendment, including notice of adoption to DLCDC and necessary updates to Chapter 16 of the municipal code in accordance with City ordinances and regulations.

Section 4 - Effective Date. This ordinance shall become effective the 30th day after its enactment by the City Council and approval by the Mayor.

Duly passed by the City Council this 21st day of July 2009.


Keith S. Mays, Mayor

ATTEST:


Sylvia Murphy, City Recorder

	<u>AYE</u>	<u>NAY</u>
Folsom	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Weislogel	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Heironimus	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**CITY OF SHERWOOD
Planning Commission Recommendation**

**Date: June 23, 2009
File No: PA 09-04
Updates to Chapter 16.112 (Water) of the SZCDC**

Proposal: Amend the public utilities section of the development code to reflect the updated water system master plan (Adopted in 2005) and to clarify over-sizing requirements. The proposed amendments are attached as Exhibit A. The Planning Commission held a hearing on June 23, 2009 and voted to forward a recommendation of approval to the City Council based on the analysis and finding contained within this report.

I. BACKGROUND

Background

The City adopted the Water System Master Plan in 2006 via Ordinance 2005-016. The adoption included updating the Water System map in the Comprehensive Plan but did not include updates to the development code. In preparation of the City taking back management of the water system, the Public Works department has asked for updates to ensure there is no confusion over the correct water system maps and standards utilized.

- A. Review Type: The legislative change to the development code requires a Type V review with a public hearing before the Planning Commission who will make a recommendation to the City Council. The City Council will then hold a public hearing and make a decision after consideration of public comment. An appeal would be heard by the Land Use Board of Appeals (LUBA).
- B. Public Notice and Hearing: Notice of the application was posted in five locations throughout the City on June 22, 2009. The notice was published in the Tigard/Tualatin Times on June 11 and June 18, 2009 in accordance with Section 16.72.020 of the SZCDC. The Council meeting date of July 21, 2009 for Council consideration was announced at the Planning Commission hearing.
- C. Review Criteria: The required findings for a "Plan Amendment" are identified in Section 16.80 of the Sherwood Zoning and Community Development Code. In addition, applicable Comprehensive Plan policies are found in Chapter 7 – Community Facilities and Services. Statewide Land Use Planning Goals 1, 2 and 11 are applicable to this application. Compliance with the applicable criteria is discussed further in this report.

II. PUBLIC COMMENTS

Public notice was posted in five locations throughout the City on June 2, 2009. Notice was published in The Times on June 11 and June 18, 2009. Staff has received no written comments prior to the Planning Commission hearing. At the public hearing, the Commission heard testimony from two individuals. Below is a summary of the comments provided:

James R. Claus – was concerned about the costs of the City taking over management of the water system and indicated that he believed the impetus for the transfer of the water system operation and management back to the City to be staff driven because they need the funds.

Susan Claus – Concern about the cost of the water program.

III. AGENCY COMMENTS

Staff sent e-notice to affected agencies on June 1, 2009. The City received responses from the following agencies indicating that they had not comment or objections: Kinder Morgan, ODOT Signs, and TVWD.

Notice was sent to the following agencies and no comments have been received as of the date of this report: Trimet, NW Natural, Sherwood Broadband, BPA, CWS, DSL, Sherwood School District, TVF&R, Pride, Raindrops 2 Refuge, Portland Western RR, Metro, Washington County, ODOT, PGE

The City of Sherwood Public Works and Engineering departments provided comments which directly influenced the revisions proposed.

IV. PLAN AMENDMENT REVIEW

A. APPLICABLE DEVELOPMENT CODE CRITERIA

16.80.030.1

Text Amendment- This section states that an amendment to the text of the Comprehensive Plan may be granted, provided that the proposal satisfies all applicable requirements of the adopted Sherwood Comprehensive Plan, the Transportation System Plan and the Zoning and Community Development Code.

As discussed in detail further in this report, the plan amendment for PA 09-04 is reviewed for compliance with applicable Comprehensive Plan policies and the statewide planning goals within this report. There are no applicable Metro Functional Plan policies.

FINDING: As discussed in detail throughout this report, the proposed amendment complies with this standard.

16.80.030.3 - Transportation Planning Rule Consistency

- A. Review of plan and text amendment applications for effect on transportation facilities. Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.
- B. "Significant" means that the transportation facility would change the functional classification of an existing or planned transportation facility, change the standards implementing a functional classification, allow types of land use, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of a transportation facility, or would reduce the level of service of the facility below the minimum level identified on the Transportation System Plan
- C. Per OAR 660-12-0060, Amendments to the Comprehensive Plan or changes to land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility identified in the Transportation System Plan.

FINDING: This section is not applicable

B. APPLICABLE COMPREHENSIVE PLAN POLICIES

The applicable Comprehensive Plan Policies and Objectives are found in Chapter 7 (Community Facilities and Services). The stated policy is "To insure the provision of quality community services and facilities of a type, level and location which is adequate to support existing development and which encourages efficient and orderly growth at the least public cost." The applicable listed objectives are

1. Develop and implement policies and plans to provide the following public facilities and services; public safety fire protection, sanitary facilities, water supply, governmental services, health services, energy and communication services, and recreation facilities.
2. Establish service areas and service area policies so as to provide the appropriate kinds and levels of services and facilities to existing and future urban areas.

The proposed amendment to the Development Code is consistent with these stated objectives because they make more clear the appropriate service maps and design standards to be utilized in the construction of water lines. In addition, it clarifies that over-sizing of lines may be required as part of a development in order to be consistent with the Master Plan but that reimbursement will be provided.

FINDING: As discussed above, the proposed update to the water section of the development code are consistent with and supportive of existing Comprehensive Plan policies.

C. APPLICABLE STATEWIDE PLANNING GOALS

Goal 1 (Citizen Involvement)

FINDING: Staff utilized the public notice requirements of the Code to notify the public of this proposed plan amendment. The City's public notice requirements have been found to comply with Goal 1 and, therefore, this proposal meets Goal 1.

Goal 2 (Land Use Planning)

FINDING: The proposed amendments are housekeeping measures to clarify reference to the Water System Master Plan adopted in 2005 and implemented as an appendix to the Comprehensive Plan.

Goal 3 (Agricultural Lands)

Goal 4 (Forest Lands)

Goal 5 (Natural Resources, Scenic and Historic Areas and Open Spaces)

Goal 6 (Air, Water and Land Resources Quality)

Goal 7 (Areas Subject to Natural Hazards)

Goal 8 (Recreational Needs)

Goal 9 (Economic Development)

Goal 10 (Housing)

FINDING: The Statewide Planning Goals 3-10 do not specifically apply to this proposed plan amendment; however, the proposal does not conflict with the stated goals.

Goal 11 (Public Facilities and Services)

FINDING: The proposed amendments are fully consistent with Goal 11. The Water System Master Plan was developed consistent with Goal 11 requirements and the amendments merely provide housekeeping to clarify references to the adopted Plan Map and updated Engineering Design and Construction Standards.

Goal 12 (Transportation)

Goal 13 (Energy Conservation)

Goal 14 (Urbanization)

Goal 15 (Willamette River Greenway)

Goal 16 (Estuarine Resources)

Goal 17 (Coastal Shorelands)

Goal 18 (Beaches and Dunes)

Goal 19 (Ocean Resources)

FINDING: The Statewide Planning Goals 12-19 do not specifically apply to this proposed plan amendment; however, the proposal does not conflict with the stated goals.

Staff assessment and recommendation on Plan Amendment:

Based on the discussion, findings of fact and conclusions of law detailed above, staff finds that the proposed plan amendment meets applicable local and state criteria and that there are no applicable regional criteria.

Staff recommends the Planning Commission **RECOMMEND APPROVAL** of PA 09-04 Chapter 16.112 (Water) updates to the Sherwood City Council.

Exhibits

A – Proposed Development Code amendments to Chapter 16.112

Exhibit 1-A

Chapter 16.112 - WATER SUPPLY*

Sections:

16.112.010 REQUIRED IMPROVEMENTS

16.112.020 DESIGN STANDARDS

16.112.030 SERVICE AVAILABILITY

* Editor's Note: Some sections may not contain a history.

16.112.010 REQUIRED IMPROVEMENTS

Water lines and fire hydrants conforming to City and Fire District standards shall be installed to serve all building sites in a proposed development. All waterlines shall be connected to existing water mains or shall construct new mains appropriately sized and located in accordance with the Water System Master Plan.

(Ord. 86-851 § 3)

16.112.020 DESIGN STANDARDS

1. Capacity

Water lines providing potable water supply shall be sized, constructed, located and installed at standards consistent with this Code, the Water System Master Plan, the City's Engineering Design and Standard Details Manual, and with other applicable City standards and specifications, in order to adequately serve the proposed development and allow for future extensions. (91-922 § 3; 86-851)

2. Fire Protection

All new development shall comply with the fire protection requirements of Chapter 16.116, the applicable portions of Chapter 7 of the Community Development Plan, and the Fire District.

(Ord. 91-922 § 3; 86-851)

3. 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.

C. When over-sizing is required in accordance with the Water System Master Plan, it shall be installed per the Water System Master Plan. Compensation for over-sizing may be provided through direct reimbursement, from the City, after mainlines have been accepted. Reimbursement of this nature would be utilized when the cost of over-sizing is for system wide improvements.

(Ord. 91-922 § 3; 86-851)

16.112.030 SERVICE AVAILABILITY

Approval of construction plans for new water facilities pursuant to Chapter 16.106, 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

Deleted: Service Plan Map, attached as Appendix D, Chapter 7 of the Community Development Plan