



Home of the Tualatin River National Wildlife Refuge

ORDINANCE 2011-009

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE ZONING AND COMMUNITY DEVELOPMENT CODE TO REQUIRE PARKS AND OPEN SPACES IN NEW SUBDIVISIONS AND INCLUDING DIVISIONS I, II, VII AND VIII

WHEREAS, The Sherwood Zoning and Community Development Code has not been comprehensively updated in many years, and

WHEREAS, the City has undertaken a multi-phase, multi-year program to comprehensively update the development code to ensure that it is clear, consistent, and current; and

WHEREAS, the Planning Commission helped guide the development of proposed amendments after extensive public outreach and opportunity for public input; and

WHEREAS, the first phase includes parks and open space requirements in new subdivisions; 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 14, 2011; and

WHEREAS, the Planning Commission voted to forward a recommendation of approval to the City Council for the proposed development code modifications attached as Exhibits A.1 through A.4; and

WHEREAS, the analysis and findings to support the Planning Commission recommendation are identified in the attached Exhibit A; and

WHEREAS, the City Council held a public hearing on July 19, 2011 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, the record, findings, and of the evidence presented at the public hearing, the Council adopts the findings of fact contained in the Planning Commission

recommendation attached as Exhibit A finding that the text of the SZCDC shall be amended as documented in Exhibits A.1 through A.4.

Section 2. Approval. The proposed amendments for Plan Text Amendment (PA) 11-02 identified in Exhibits A.1 through A.4 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 DLCD and necessary updates to Chapter 16 of the municipal code in accordance with City ordinances and regulations.

Section 4 - Applicability. The amendments to the City of Sherwood Zoning and Community Development Code by Sections 1 to 3 of this Ordinance apply to all land use applications submitted after the effective date of this Ordinance.

Section 5 - 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 19th day of July 2011.



Keith S. Mays, Mayor

Attest:



Sylvia Murphy, CMC, City Recorder

	AYE	NAY
Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Langer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Butterfield	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Folsom	<input type="checkbox"/> Absent	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>

City of Sherwood
Planning Commission Recommendation to the City Council
File No: PA 11-02 Parks and Open Spaces in New Subdivisions

July 8, 2011

Signed: Heather M Austin
Heather Austin, AICP, Senior Planner

The Planning Commission held a public hearing on June 14, 2011 to consider the proposed amendments to require new subdivisions to provide open space. The Planning Commission forwarded a recommendation of approval to the Council. The proposed amendments are attached to this report as Exhibits A.1 through A.4.

Proposal: The City is in the process of a multi-phase code clean-up project with the goal of providing a more clear and usable code for both citizens and developers. The proposed amendments to add language to the code regarding parks and open spaces in new subdivisions are attached to this report as Exhibits A.1 through A.4 and include:

- A.1) Updates to the definitions section;
- A.2) Updates to the townhomes standards to clarify open space and park standards;
- A.3) Updates to the subdivision (preliminary plat) standards to clarify open space and park standards; and
- A.4) A new section (16.142.030) requiring parks or open space in new residential subdivisions.

I. BACKGROUND

- A. Applicant: This is a City-initiated text amendment; therefore the applicant is the City of Sherwood.
- B. Location: The proposed amendment is to the text of the development code and, therefore applies citywide.
- C. Review Type: The proposed text amendment requires a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission will make a recommendation to the City Council who will make the final decision. Any appeal of the City Council decision would go directly to the Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the June 14, 2011 Planning Commission hearing on the proposed amendment was published in *The Gazette* on 6/1/11 and *The Times* on 6/2/11. Notice was posted in 5 public locations around town and on the web site on 5/25/11. Notice of the July 19, 2011 City Council hearing was published in the July 2011 edition of *The Archer* and *The Times* on 7/7/11. Notice was posted in 5 public locations around town and on the website 6/29/11.

While this does apply citywide, it does not affect the permissible uses of any property; therefore Measure 56 notice was not required or provided. DLC notice was provided 4/28/11.

E. Review Criteria:

The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).

F. Background:

The city began the code clean-up project in 2010 as a way to update all sections of the code to provide clarity to citizens and developers and to address any local, county, regional or state standards that have gone into effect and that require changes to the code. When the Brookman Area Concept Plan was adopted in 2009, one identified issue of concern was open space and park requirements of new subdivisions. The attached code changes are proposed in order to clarify park and open space standards and to meet recommendations of the Brookman Area Concept Plan. These changes require park or open space area be reserved with new residential subdivision applications. Currently, a developer proposing a single-family residential subdivision is not required to dedicate or reserve park/open space area, but the developer is charged a parks system development charge (SDC) that covers 100% of the need created by the development (i.e. the residents of the new homes will utilize parks and, therefore, the developer is responsible for providing these parks or an equivalent cash amount). Any land conveyed as required by these new standards would be eligible to receive a credit toward the parks SDC. In addition, the city plans to update the SDC methodology to identify these new requirements, and adjust the SDC rate accordingly.

II. **AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS**

Agencies:

The City sent request for comments to the standard agency notification list. The City has received no responses to date.

Public:

No formal public comments have been received to date on the proposed amendments; however the City and Commission have received input from the public during informal listening sessions and via public surveys. In addition, staff has met twice with the Parks Board to review language and receive input. All of these comments helped guide the proposed amendments under review.

III. **REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT**

The applicable Plan Text Amendment review criteria are 16.80.030.1 and 3.

16.80.030.1 - Text Amendment Review

An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.

Need Identified

The City has long identified that the code is not always clear. One example of this is in the definitions section, where determining whether a project is subject to townhome or multi-family standards is not clear. This, in turn, causes confusion as to which standards a project must meet, including open space requirements. In addition, the Brookman Area Concept Plan identified the need for standards regarding open space and park preservation in subdivision developments when a PUD is not proposed. When the Brookman Area Concept Plan was adopted, it included provisions to ensure that the issue of open space was addressed prior to annexation and development. In order for the Brookman area to be annexed to the City of Sherwood, code language must be adopted that addresses the deficiency of open space and park area in residential subdivisions, the primary development type planned for the Brookman area.

These standards will apply generally throughout the city and to future areas annexed into the city, requiring open space dedication of all new residential subdivisions.

Comprehensive Plan and Code

Goal 3 of the “Planning Goals- Recreational Resources” in Chapter 5 of the Comprehensive plan states, “Acquire park and open space land as far in advance as possible to avoid high land costs and the possibility of having to purchase developments later on. The City intends to take full advantage of matching funds from state and federal agencies in the development of its park system”. The proposed code language furthers this goal by providing an additional opportunity for the early acquisition of park and open space land, at time of subdivision. The updates proposed to the definitions, townhomes, and preliminary plat sections are to ensure that the proposed open space and park requirement is consistent with all other parts of the development code.

Applicable Regional (Metro) standards

There are no known Metro standards that this proposed amendment would conflict with.

Consistency with Statewide Planning Goals

Goal 1- “Citizen Involvement”

The purpose statement of Goal 1 is “to develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process”.

The proposed code changes do not include changes to the City’s citizen involvement program, which is in compliance with Goal 1.

Goal 2- “Land Use Planning”

The purpose statement of Goal 2 is “to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to ensure an adequate factual base for such decisions and actions”.

The proposed code changes affect all new subdivisions but do not change the way a subdivision application is processed. The City’s land use planning process and policy framework, which are in compliance with Goal 2, will not change.

Goal 5- “Natural Resources, Scenic and Historic Areas and Open Spaces”

The purpose statement of Goal 5 is “to protect natural resources and conserve scenic and historic areas and open spaces”. In addition, the first two guidelines of Goal 5 are:

- 1) The need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space.
- 2) Criteria should be developed and utilized to determine what uses are consistent with open space values and to evaluate the effect of converting open space lands to inconsistent uses. The maintenance and development of open space in urban areas shall be encouraged.

The proposed development code language furthers the purpose of Goal 5 by requiring open space or park area in new subdivisions. Currently, open space is required when developing a Planned Unit Development (PUD), townhome or multi-family project, but not for a single-family or duplex subdivision. The proposed standards will allow the city to obtain more of the open space identified as needed in the Parks Master Plan. The proposed language also provides clear criteria for the uses of the open space lands and encourages development of open space in the Sherwood urban area.

Goal 10- “Housing”

The purpose statement of Goal 10 is “to provide for the housing needs of the citizens of the state”.

While the proposed changes do add a requirement to new residential (housing) subdivision applications, the proposed requirement will be SDC creditable and, therefore, no change is anticipated to the development of housing in the city. The language includes a density section (proposed Section 16.142.030.D) that does not require a density reduction based on the park requirement and, therefore, no loss of housing is anticipated. The requirements will reduce the SDC burden on the developer while providing an amenity within a development.

FINDING: As demonstrated in the above analysis, there is a need for the proposed amendments and the amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.2 – 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.

FINDING: The requirement of open space in new subdivisions will not result in a change of uses otherwise permitted and will have no impact on the amount of traffic on the transportation system; therefore this policy is not applicable to the proposed amendment.

IV. RECOMMENDATION

Based on the above findings of fact and the conclusion of law based on the applicable criteria, the Planning Commission recommends approval of PA 11-02 to the City Council.

V. EXHIBITS

- A. Proposed development code changes:
 - 1. Chapter 16.10 Definitions
 - 2. Chapter 16.44 Townhomes
 - 3. Chapter 16.122 Preliminary Plats
 - 4. Chapter 16.142 Parks and Open Spaces

Chapter 16.10 DEFINITIONS

16.10.020 SPECIFICALLY

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

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, and environmentally constrained areas, ~~public parks and other public uses.~~

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.

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

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.

Dwelling, Two-Family or Duplex: 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.~~

Dwelling, Townhome or Row House: 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. The units are distinct from each other by scale, color, massing, or materials.

Dwelling, Multi-Family: A single structure containing three (3) or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-family dwellings include structures commonly called garden apartments, apartments and condominiums. Multi-family dwellings that are attached on one or both sides to similar adjacent but distinct units are considered townhomes (see definition above).

~~Townhomes: (See "Dwelling- Townhome or Row House") 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. The units are distinct from each other by scale, color, massing, or materials.~~

Chapter 16.44 TOWNHOMES

16.44.010 Townhome Standards

A. Generally

A townhome may be located on property zoned MDRH or HDR, or in other zones as specified in an approved Planned Unit Development, provided that the townhome meets the standards contained below, and other applicable standards of Division V - Community Design. Such developments that propose townhomes can do so as condominiums on one parent lot, or in a subdivision, but shall do so in groups known as "townhome blocks," which consist of groups no less than two attached single-family dwellings and no more than six in a block, that meet the general criteria of Subsection B below, and specific design and development criteria of this Chapter.

(Ord. 2002-1126, § 2)

B. Standards

1. Each townhome shall have a minimum dwelling area of twelve-hundred (1,200) square feet in the MDRH zone, and one-thousand (1,000) square feet in the HDR zone. Garage area is not included within the minimum dwelling area.
2. Lot sizes shall average a minimum of two-thousand five-hundred (2,500) square feet in the MDRH zone, and one-thousand eight-hundred (1,800) square feet in the HDR zone, unless the property qualifies as "infill," and meets the criteria of Subsection D below. If proposed as a subdivision, lots shall be platted with a width of no less than twenty (20) feet, and depth no less than seventy (70) feet.
3. The townhome shall be placed on a perimeter foundation, the units must meet the front yard, street-side yard, and rear yard setbacks of the underlying zone, if abutting a residential zone designated for, or built as, single-family detached housing.
4. All townhomes shall include at least two (2) off-street parking spaces in the HDR zone, and two and one-half (2- 1/2) spaces in the MDRH zone; garages and/or designated shared parking spaces may be included in this calculation. The City Engineer may permit diagonal or angle-in parking on public streets within a townhome development, provided that adequate lane width is maintained. All townhome developments shall include a parking plan, to be reviewed and approved with the Site Plan application.
5. All townhomes shall have exterior siding and roofing which is similar in color, material and appearance to siding and roofing commonly used on residential dwellings within the City, or otherwise consistent with the design criteria of Subsection E, Design Standards.
6. All townhomes in the MDRH zone shall have an attached or detached garage.
7. All other community design standards contained in Divisions V, VIII and IX 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 that are not specifically varied by this Chapter, shall apply to townhome blocks.

8. ~~All townhome~~ developments ~~over two (2) acres~~ shall accommodate an open space ~~or park~~ area no less than five percent (5%) of the total subject parcel (prior to exclusion of public right-of-way and environmentally constrained areas). Parking areas may not be counted toward this five percent (5%) requirement.

9. Side yard setbacks shall be based on the length of the townhome block; a minimum setback to the property line* on the end of each "townhome block" shall be provided relative to the size of the block, as follows:

TABLE INSET:

a.	100 feet to 150 feet	6 feet minimum
b.	Less than 100 feet	5 feet minimum

* In the case of condominium projects where no property line may exist at the end of each townhome block, the setback shall be applied as a minimum area of separation, as applied to each townhome block.

(Ord. 2002-1126, § 2)

Chapter 16.122 PRELIMINARY PLATS

16.122.010 Generally

A. Approval Required

All subdivisions and partitions are subject to preliminary plat approval through the Type II, Type III or Type IV review processes. Approval of the preliminary plat shall not constitute final acceptance of the plat for recording. Approval shall however, be binding upon the City for the purpose of preparation of the final plat or map, and the City may only require such changes in the plat or map as are necessary for compliance with the terms of preliminary plat approval.

B. Action

The City shall review preliminary plat applications submitted in accordance with Section 16.70 and approve, approve with conditions, or deny the application. Conditions may be imposed by the Hearing Authority if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code. The action of the City shall be noted on two (2) copies of the preliminary plat, including references to any attached documents describing any conditions or restrictions. One (1) copy shall be returned to the applicant with a notice of decision and one (1) retained by the City along with other applicable records.

C. Required Findings

No preliminary plat shall be approved unless:

1. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades, and other standards, unless the City determines that the public interest is served by modifying streets or road patterns.
2. Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon.
3. The plat complies with Comprehensive Plan and applicable zoning district regulations.
4. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.
5. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.
6. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.
7. Tree and woodland inventories have been submitted and approved as per Section 16.142.060.

8. A minimum of five percent (5%) open space has been provided per Sections 16.44.B.8 (Townhomes- Standards) or 16.142.020 (Parks, Open Spaces and Trees- Single-Family Residential Subdivisions), if applicable.

Chapter 16.142 PARKS ~~AND~~, OPEN SPACES ~~AND TREES~~

16.142.010 Purpose

This Chapter 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. The standards of this section do not supersede the open space requirements of a Planned Unit Development, found in Chapter 16.40 – Planned Unit Development (PUD).

(Ord. 2006-021; 91-922, § 3)

16.142.020 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 (townhome development requirements for open space dedication can be found in Chapter 16.44.B.8- Townhome 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.

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 or 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.

16.142.030 Single-Family or Duplex Residential Subdivisions

- A. A minimum of five percent (5%) of the net buildable site (after exclusion of public right-of-way and environmentally constrained areas) shall be maintained as “open space”. Open space must include usable areas such as public parks, swimming and wading pools, grass areas for picnics and recreational play, walking paths, and other like space. The following may not be used to calculate open space:
1. Required yards or setbacks.
 2. Required visual corridors.
 3. Required sensitive areas and buffers.
 4. Any area required to meet a standard found elsewhere in this code.
- B. Enhanced streetscapes such as “boulevard treatments” in excess of the minimum public street requirements may count toward a maximum of 10,000 square feet of the open space requirement.
1. Example: if a 52-foot-wide right-of-way [ROW] is required for a 1,000 foot-long street and a 62-foot wide ROW with 5-foot additional plantings/meandering pathway is provided on each side of the street, the additional 10-foot-wide area x 1,000 linear feet, or 10,000 square feet, counts toward the open space requirement.
- C. The open space shall be conveyed in accordance with one of the following methods:
1. By dedication to the City as public open space (if acceptable to the City). Open space proposed for dedication to the City must be acceptable to the City Manager or the Manager’s designee with regard to the size, shape, location, improvement, environmental condition, and budgetary and maintenance abilities;
 2. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners’ association or other legal entity, with the City retaining the development rights to the open space. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.
- D. The density of a single-family residential subdivision shall be calculated based on the net buildable site prior to exclusion of open space per this Section.
1. Example: a 40,000 square foot net buildable site would be required to maintain 2,000 square feet (5%) of open space but would calculate density based on 40,000 square feet.
- E. If a proposed residential subdivision contains or is adjacent to a site identified as “parks” on the Acquisition Map of the Parks Master Plan (2006) or has been identified for acquisition by the Sherwood Parks and Recreation Board, establishment of open space shall occur in the designated areas if the subdivision contains the park site, or immediately adjacent to the parks site if the subdivision is adjacent to it.

F. If the proposed residential subdivision does not contain or is not adjacent to a site identified on the Parks Master Plan map or otherwise identified for acquisition by the Parks and Recreation Board, the applicant may elect to convey off-site park/open space.

G. This standard does not apply to a residential partition provided that a development may not use phasing or series partitions to avoid the minimum open space requirement. A partition of land that was part of an approved partition within the previous five (5) years shall be required to provide the minimum five percent (5%) open space in accordance with subsection (A) above.

H. The value of the open space conveyed under Subsection (A) above may be eligible for Parks System Development Charges (SDCs) credits based on the methodology identified in the most current Parks and Recreation System Development Charges Methodology Report.

16.142.~~030~~040 Visual Corridors

16.142.~~040~~050 Park Reservation

16.142.~~050~~060 Street Trees

16.142.~~060~~070 Trees on Property Subject to Certain Land Use Applications

16.142.~~070~~080 Trees on Private Property- not subject to a land use action

16.142.~~080~~090 Recommended Street Trees