



*Home of the Tualatin River National Wildlife Refuge*

## ORDINANCE 2016-013

### **AMENDING CHAPTERS 16.10 (DEFINITIONS) AND 16.134 (FLOODPLAIN OVERLAY) OF THE ZONING AND COMMUNITY DEVELOPMENT CODE AS THEY RELATE TO THE REGULATION OF DEVELOPMENT WITHIN THE FLOODPLAIN IN SHERWOOD, AND DECLARING AN EMERGENCY**

**WHEREAS**, the City of Sherwood includes property that is located in the floodplain, and has development insured by the National Flood Insurance Program (NFIP); and

**WHEREAS**, the NFIP is a federal program created in 1968 through the passage of the National Flood Insurance Act and administered by the Federal Emergency Management Agency (FEMA); and

**WHEREAS**, the Flood Insurance Rate Map (FIRM) is the official map prepared by FEMA which delineates the Special Flood Hazard Area (SFHA) and shows a community's Base Flood Elevations (BFEs), flood zones, and floodplain boundaries; and

**WHEREAS**, the SFHA is the area where floodplain management regulations of the NFIP must be enforced and where mandatory purchase of flood insurance applies; and

**WHEREAS**, Chapters 16.10 (Definitions) and 16.134 (Floodplain (FP) Overlay) of the Sherwood Zoning and Community Development Code (SZCDC) house local regulations related to development within the floodplain that are intended to maintain the City's standing in the National Flood Insurance Program; and

**WHEREAS**, since 2007, FEMA has been working on a "Flood Map Modernization" project to improve and update the nation's flood maps and create digital FIRMs in the Tualatin River Basin; and

**WHEREAS**, on May 4, 2016, FEMA notified the City of the final flood elevation determination; and

**WHEREAS**, prior to November 4, 2016, the City is required, as a condition of continued eligibility in the NFIP, to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(d) of the NFIP regulations (44 CFR 59, etc.); and

**WHEREAS**, over the course of the past six months, the Planning Department has prepared proposed amendments, held a work session with affected landowners, and formally made application to amend the consistent with those requirements; and

**WHEREAS**, at their meeting on September 13, 2016, the Planning Commission conducted a public hearing, considered the amendments, made revisions, and recommended that the City Council adopt the proposed amendments as revised; and

**WHEREAS**, the proposed amendments are attached as Exhibits 1 and 2 to this Ordinance.

**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, and evidence presented at the public hearings, the City Council adopts the findings of fact contained in the Planning Commission recommendation, which is included as Attachment 1 to the staff report for this Ordinance in the October 4, 2016 Council packet, finding that the text of the SZCDC shall be amended to read as documented in Exhibits 1 and 2, attached to this Ordinance.

**Section 2. Approval** The proposed amendments to Chapter 16.10 (Definitions) and 16.134 (Floodplain (FP) Overlay in Exhibits 1 and 2 attached to this Ordinance are hereby **APPROVED**.

**Section 3. Planning Department Authorized** The Planning Department is hereby directed to take such action as may be necessary to document the amendment, including notice of adoption to the Department of Land Conservation and Development (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 adopted by this Ordinance apply to all land use applications submitted beginning on the effective date of this Ordinance.

**Section 5. Emergency Declared; Effective Date** This Ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this Ordinance takes effect upon its enactment by the City Council and approval by the Mayor.

**Duly passed by the City Council this 18<sup>th</sup> day of October 2016.**

  
Krisanna Clark, Mayor 10/18/16  
Date

Attest:

  
Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Brouse	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Robinson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kuiper	<input checked="" type="checkbox"/>	<input type="checkbox"/>
King	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Harris	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Exhibit 1 to Ordinance 2016-013

### Chapter 16.10 - DEFINITIONS\*

#### Sections:

#### 16.10.010 - 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.

#### 16.10.020 - Specifically

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

**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.

**Access:** The way or means by which pedestrians and vehicles enter and leave property.

**Access Way:** A pathway providing a connection for pedestrians and bicyclists between two (2) streets, between two (2) lots, or between a development and a public right-of-way. An access way is intended to provide access between a development and adjacent residential uses, commercial uses, public use such as schools, parks, and adjacent collector and arterial streets where transit stops or bike lanes are provided or designated. An access way may be a pathway for pedestrians and bicyclists (with no vehicle access), a pathway on public or private property (i.e., with a public access easement), and/or a facility designed to accommodate emergency vehicles.

**Accessory Building:** A structure that is incidental and subordinate to the main use of property, is located on the same lot as the main use, and is freestanding or is joined to the primary structure solely by non-habitable space as defined by the State Building Code.

**Accessory Use:** A use or activity that is subordinate and incidental to the primary use of the property. A property may have more than one accessory use.

**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. For example, a lot is adjacent to a lot across the street because the lots are separated by a street, not an intervening lot.

**Alteration:** An addition, removal, or reconfiguration which significantly changes the character of a historic resource, including new construction in historic districts.

**Apartment:** Each dwelling unit contained in a multi-family dwelling or a dwelling unit that is secondary to the primary use of a non-residential building.

**Assisted Living Facilities:** A program approach, within a physical structure, which provides or coordinates a range of services, available on a 24-hour basis, for support of resident independence in a residential setting.

**Automobile Sales Area:** An open area, other than a street, used for the display, sale, or rental of new or used automobiles, and where no repair work is done, except minor incidental repair of automobiles to be displayed, sold, or rented on the premises.

**Base Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood" or "100-year flood plain".

**Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.

**Board-and-batten:** Wall covering composed of solid wood wide boards, and solid wood narrow strips. Wide boards are attached vertically with small spaces remaining. Narrow strips, or batten, are attached over spaces between boards.

**Boarding or Rooming House:** Any building or portion thereof containing not more than five (5) guest rooms where rent is paid in money, goods, labor or otherwise.

**Building:** Any structure used, intended for, supporting or sheltering any use or occupancy. Each portion of a structure separated by a division wall without any openings shall be deemed a separate building.

**Building Area:** That portion of a property that can be occupied by the principal use, thus excluding the front, side and rear yards.

**Building, Existing:** Any building erected prior to the adoption of this Code or one for which a legal building permit has been issued.

**Building Height:** The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The height of a stepped or terraced building is the maximum height of any segment of the building. The reference datum shall be selected by the following criteria, whichever yields the greater height:

- A. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building, when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.
- B. An elevation ten (10) feet higher than the lowest grade, when the sidewalk or ground surface described in this Section is more than ten (10) feet above lowest grade.

**Building Official:** The City employee or agent charged with the administration and enforcement of the Uniform Building Code and other applicable regulations.

**Building Permit:** A permit issued under the terms of the Uniform Building Code.

**Buffer:** A landscaped area, wall, berm or other structure or use established to separate and protect land uses.

**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.

**Church:** Any bona-fide place of worship, including Sunday School buildings, parsonages, church halls, and other buildings customarily accessory to places of worship.

**City:** The City of Sherwood, Oregon and its duly authorized officials, employees, consultants and agents.

**Clean Water Services:** An agency of Washington County providing for sanitary sewer collection and treatment, and for storm water management.

**Code:** The City of Sherwood, Oregon Zoning and Community Development Code, Part 3 of the City of Sherwood Comprehensive Plan.

**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.

**Commercial Trade School:** Any private school or institution operated for profit that is not included in the definitions of an educational institution or school.

**Commission:** The City of Sherwood Planning Commission.

**Common-Wall Dwelling:** Dwelling units with shared walls such as two-family, and multi-family dwellings.

**Community Development Plan:** Part 2 of the City of Sherwood Comprehensive Plan.

**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.

**Comprehensive Plan:** The City of Sherwood Comprehensive Plan.

**“Conditional Letter of Map Revision (CLOMR)”:** Means a letter from FEMA commenting on whether a proposed project, if built as proposed, would meet the minimum NFIP standards or proposed hydrology changes.

**Conditional Use:** A use permitted subject to special conditions or requirements as defined in any given zoning district and Chapter 16.82 of the Code.

**Condominium:** An individually-owned dwelling unit in a multi-family housing development with common areas and facilities.

**Convalescent Homes:** See Nursing Home in this Code.

**Council:** The City of Sherwood City Council.

**Crawlspace:** An under-floor space that has its interior floor area (finished or not) no more than 5 feet below the top of the next-higher floor. Crawlspaces generally have solid foundation walls. (See Subgrade Crawlspace also)

**Critical Facility:** Means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

**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.

**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.

**Demolish:** To raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of a structure or resource.

**Density:** The intensity of residential land uses per acre, stated as the number of dwelling units per net buildable acre. Net buildable acre means an area measuring 43,560 square feet after excluding present and future rights-of-way and environmentally constrained areas.

**Designated Landmark:** A property officially recognized by the City of Sherwood as important in its history, culture, or architectural significance.

**Designated Landmarks Register:** The list of, and record of information about, properties officially recognized by the City of Sherwood as important in its history.

**Development:** Any man-made change to improved or unimproved real property or structures, including but not limited to construction, installation, or alteration of a 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, filling, dredging, grading, construction of earthen berms, paving, parking improvements, excavation or clearing.

**Development Plan:** Any plan adopted by the City for the guidance of growth and improvement in the City.

**Diameter at Breast Height (DBH):** Is a standard arboricultural method for measuring the diameter of a tree. For the purposes of this code, DBH shall be measured four and a half feet above ground level as defined by the International Society of Arboriculture.

**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 business designed for serving customers at a drive-up window or in automobiles.

**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.

**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).

**Easement:** The grant of the legal right to use of land for specified purposes.

**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 16.10.020.

**Established Neighborhood:** An existing residential area that is taken into consideration when infill development is proposed. See Chapter 16.68, Infill Development Standards, intended to promote compatibility between existing residential areas and new development through controls on the type, height, size, scale, or character of new buildings.

**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.

**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.

**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.

**Extraordinary Historic Importance:** The quality of historic significance achieved outside the usual norms of age, association, or rarity.

**Evergreen:** A plant which maintains year-round foliage.

**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.

**Extra Capacity Improvements:** Improvements that are defined as necessary in the interest of public health, safety and welfare by Divisions V, VI, and VIII 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.

**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.

**Family Day Care Provider:** A day care provider which accommodates fewer than thirteen (13) children in the provider's home.

**Fence:** A freestanding structure that provides a barrier between properties or different uses on the same property and is generally used to provide privacy and security. A fence may be open or solid and is usually constructed of wood, metal, wire, brick, cement block, stone, vinyl, or composite materials.

**Fiber Board (also pressboard or stucco board):** A building material composed of wood chips or plant fibers bonded together with or without stucco and compressed into rigid sheets.

**Fiber Cement Board (i.e. HardiPlank):** A fire resistant building material composed of wood fiber and cement compressed into clapboard.

**Fire District:** Tualatin Valley Fire and Rescue.

**Flag Lot:** A building lot which is provided access to a public street by means of a narrow strip of land with minimal frontage.

**Flood Fringe:** The area of the flood plain lying outside of the floodway.

**Flood Insurance Rate Map (FIRM):** Means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

**Flood Insurance Study:** Means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood-Boundary-Floodway Map, and the water surface elevation of the base flood.

**Flood Plain:** The flood-hazard area adjoining a river, stream or other water course, that is subject to inundation by a base flood. The flood plain includes the floodway and floodway fringe, and the City greenway, as defined by this Code.

**Floodway:** The channel of a river, stream or other watercourse, and the adjoining areas of the flood plain, required to discharge the base flood without cumulatively increasing the water surface elevation of said watercourse by more than one (1) foot.

**Footcandle:** A unit of illumination. One footcandle is the intensity of illumination when a source of one (1) candlepower illuminates a screen one (1) foot away.

**Frontage:** That side of a parcel abutting on a street or right-of-way ordinarily regarded as the front of the parcel, except that the shortest side of a corner lot facing a street, shall not be deemed the lot frontage.

**Garage:** A building or a portion thereof which is designed to house, store, repair or keep motor vehicles.

**Government Structure:** Any structure used by a federal, state, local government, or special district agency.

**Ground Floor Area:** The total area of a building measured by taking the largest outside dimensions of the building, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

**Hard Surface:** Any man-made surface that prevents or retards the saturation of water into land, or that causes water to run-off in greater quantities or increased rates, than existed under natural conditions prior to development. Common hard surfaces include but are not limited to: roofs, streets, driveways, sidewalks and walkways, patios, parking and loading areas, and other graveled, oiled, macadam or concrete surfaces. Also referred to as impermeable surface.

**Hazardous Waste:** Has the meaning given that term in ORS 466.005.

**Hearing Authority:** The City of Sherwood Planning Commission, City Council, Landmarks Advisory Board or Hearings Officer.

**Hearings Officer:** An individual appointed by the City Council to perform the duties as specified in this Code.

**Hedges:** A line of closely spaced vegetation specifically planted and trained in such a way as to form a barrier to mark the boundary of an area or visually screen an area.

**Highest Adjacent Grade:** Means the highest natural elevation of the finished ground surface post construction, adjacent to the proposed walls of a structure.

**Historic Integrity:** The quality of wholeness of historic location, design, setting, materials, workmanship, feeling, and/or association of a resource, as opposed to its physical condition.

**Historic Resource:** A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. Resource types are further described as:

- A. **Object:** A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g., statue, fountain, milepost, monument, sign, etc.
- B. **Site:** The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e.g., battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, etc.
- C. **District:** A geographically defined area possessing a significant concentration of buildings, structures, objects, and/or sites which are unified historically by plan or physical development, e.g., downtown, residential, neighborhood, military reservation, ranch complex, etc.



- D. **Primary, Secondary, & Contributing:** Historic ranking in descending order based on four scoring criteria for surveyed properties—historical, architectural, use considerations, and physical and site characteristics.

**Historic Resources of Statewide Significance:** Buildings, structures, objects, sites, and districts which are listed on the Federal National Register of Historic Places.

**Hogged Fuel:** Fuel generated from wood or other waste that has been fed through a machine that reduces it to a practically uniform size of chips, shreds, or pellets.

**Home Occupation:** An occupation or a profession customarily carried on in a residential dwelling unit by a member or members of a family residing in the dwelling unit and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

**Hotel:** A building or buildings in which there are more than five (5) sleeping rooms occupied as temporary dwelling places, which rooms customarily do not contain full kitchen facilities, but may include kitchenettes.

**Homeowners Association:** A formally organized group of homeowners within a single housing development having shared responsibility for portions of the development such as building, landscaping, or parking maintenance, or other activities provided for by covenant or legal agreement.

**Household:** All persons occupying a group of rooms or a single room which constitutes a dwelling unit.

**Inert Material:** Solid waste material that remains materially unchanged by variations in chemical, environmental, storage, and use conditions reasonably anticipated at the facility.

**Inventory of Historic Resources:** The record of information about resources potentially significant in the history of the City of Sherwood as listed in the Cultural Resource Inventory (1989), and hereafter amended.

**Junk:** Materials stored or deposited in yards and open areas for extended periods, including inoperable or abandoned motor vehicles, inoperable or abandoned machinery, motor vehicle and machinery parts, broken or discarded furniture and household equipment, yard debris and household waste, scrap metal, used lumber, and other similar materials.

**Junk-Yard:** Any lot or site exceeding two hundred (200) square feet in area used for the storage, keeping, or abandonment of junk as defined by this Code.

**Kennel:** Any lot or premise on which four (4) or more dogs or cats more than four (4) months of age are kept.

**Laboratory, Medical or Dental:** A laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists, and where no fabrication is conducted on the premises except the custom fabrication of dentures.

**Landmarks Board:** The City of Sherwood Landmarks Advisory Board.

**Landscape Feature:** A trellis, arbor or other decorative feature that is attached to or incorporated within the fence.

**Leachate:** Liquid that has come into direct contact with solid waste and contains dissolved and/or suspended contaminants as a result of such contact.

**Letter of Map Change (LOMC):** Means an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps and/or Flood Insurance Studies. LOMCs are issued in the following categories:

1. **Letter of Map Amendment (LOMA):** An amendment to the Flood Insurance Rate Maps based on technical data showing that an existing structure or parcel of land that has not been elevated by fill (natural grade) was inadvertently included in the special flood hazard area because of an area of naturally high ground above the base flood.

## 2. Letter of Map Revision (LOMR)

- a. LOMR-F (Letter of Map Revision based on Fill) is a letter from FEMA stating that an existing structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

A LOMR revises the current Flood Insurance Rate Map and/or Flood Insurance Study to show changes to the floodplains, Floodways, or flood elevations. LOMRs are generally based on manmade alterations that affected the hydrologic or hydraulic characteristics of a flooding source and thus result in modification to the existing regulatory Floodway, the effective Base Flood Elevation, or the Special Flood Hazard Area. **Level of Service (LOS):** A measure of the overall comfort afforded to motorists as they pass through a roadway segment or intersection, based on such things as impediments caused by other vehicles, number and duration of stops, travel time, and the reserve capacity of a road or an intersection (i.e., that portion of the available time that is not used). LOS generally is referred to by the letters "A" through "F", with LOS "E" or "F" being generally unacceptable. LOS generally is calculated using the methodology in the Highway Capacity Manual, Special Report 209, by the Transportation Research Board (1985).

**Limited Land Use Decision:** A final decision or determination in accordance with ORS 197.195 made by a local government pertaining to a site within an urban growth boundary which concerns: 1) the approval or denial of a subdivision or partition, or 2) the approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright but not limited to site review and design review.

**Loading or Unloading Space:** An off-street space or berth for the temporary parking of vehicles while loading or unloading merchandise or materials.

**Lot:** A parcel of land of at least sufficient size to meet the minimum zoning requirements of this Code, and with frontage on a public street, or easement approved by the City. A lot may be:

- A. A single lot of record; or a combination of complete lots of record, or complete lots of record and portions of other lots of record.
- B. A parcel of land described by metes and bounds; provided that for a subdivision or partition, the parcel shall be approved in accordance with this Code.

**Lot Area:** The total horizontal area within the lot lines of a lot, exclusive of streets and access easements to other property.

**Lot, Corner:** A lot situated at the intersection of two (2) or more streets, other than an alley.

**Lot Coverage:** The proportional amount of land on a lot covered by buildings.

**Lot Depth:** The average horizontal distance between the front and rear lot lines measured in the direction of the side lot lines.

**Lot Frontage:** The distance parallel to the front lot line, measured between side lot lines at the street line.

**Lot, Interior:** A lot other than a corner lot.

**Lot of Record:** Any unit of land created as follows:

- A. A parcel in an existing, duly recorded subdivision or partition.
- B. An existing parcel for which a survey has been duly filed which conformed to all applicable regulations at the time of filing.
- C. A parcel created by deed description or metes and bounds provided, however, contiguous parcels created by deed description or metes and bounds under the same ownership and not conforming to the minimum requirements of this Code shall be considered one (1) lot of record.

**Lot, Through:** A lot having frontage on two (2) parallel or approximately parallel streets.

**Lot Lines:** The property lines bounding a lot.

**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.

**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 is considered a rear lot line.

**Lot Line, Side:** Any lot line not a front or rear lot line.

**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.

**Lower Explosive Limit:** The minimum concentration of gas or vapor in air that will propagate a flame at twenty-five degrees (25°C) Celsius in the presence of an ignition source.

**Lowest Floor:** Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 16.134.090.

**Manufactured Dwelling:** Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle". 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.

**Manufactured Home Park:** A lot, tract, or parcel with two (2) or more spaces for rent or sale for the siting of manufactured homes.

**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.

**Medical Marijuana Dispensary:** A retail facility registered by the Oregon Health Authority that is allowed to receive marijuana, immature marijuana plants or usable marijuana products (such as edible products, ointments, concentrates or tinctures) and to transfer that marijuana, immature plants, or usable product to a person with a valid Oregon Medical Marijuana Program card (a patient or the patient's caregiver). A dispensary includes all premises, buildings, curtilage or other structures used to accomplish the storage, distribution and dissemination of marijuana.

**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.

**Mobile Vendor:** A service establishment operated from a licensed and moveable vehicle that vends or sells food and/or drink or other retail items.

**Motel:** See Hotel.

**Municipal Solid Waste:** Solid waste primarily from residential, business, and institutional uses.

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

**Net Developable Site:** Remaining area of a parent parcel after excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses but not including preserved areas for tree stands which are not associated with wetlands, streams or vegetated corridors.

**New Construction:** For the purposes of regulating development within the floodplain overlay, new construction means, structures for which the "start of construction" commenced on or after the effective date of this ordinance.

**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.

**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.

**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.

**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.

**Occupy:** To take or enter upon possession of.

**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.

**Off-Street Parking:** Parking spaces provided for motor vehicles on individual lots and not located on public street right-of-way.

**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.

**Parks Board:** The City of Sherwood Parks Advisory Board.

**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 under single ownership at the beginning of each year. Partitions do not include: divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; divisions of land made pursuant to a court order, lot line adjustments where an additional parcel is not created and where the existing parcels are not reduced below the minimum requirements of this Code.

**Partition Land:** A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right of way purposes provided that such road or right of way complies with the Comprehensive Plan and ORS 215.213 (2)(q) to (s) and 215.283 (2)(p) to (r).

**Partition Plat:** Partition plat includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a land partition.

**Pedestrian Facilities:** Improvements and provisions made to accommodate or encourage walking, including but not limited to sidewalks, accessways, signalization, crosswalks, ramps, refuges, paths, and trails.

**Pedestrian Way:** A right-of-way for pedestrian traffic.

**Person:** A natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, receiver, syndicate, branch of government, or any group or combination acting as a unit.

**Plat:** The final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision or partition.

**Plat, Preliminary:** A map and plan of a proposed subdivision, as specified by this Code.

**Principal Building/Use:** The main or primary purpose for which a structure, land, or use is designed, arranged, or intended, or for which the building or use may lawfully be occupied or maintained under the terms of this Code.

**Professional Engineer:** A professional engineer currently licensed to practice in the State of Oregon. The type of professional engineer may be specified in the ordinance (i.e., civil, structural, acoustic, traffic, etc.).

**Professions:** Members of professions, such as doctors, dentists, accountants, architects, artists, attorneys, authors, engineers, and others who are generally recognized professionals by virtue of experience or education.

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

**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.

**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.

**Public Plaza:** A square in a city or town; an open area usually located near urban buildings and often featuring walkways, trees and shrubs, places to sit, and sometimes shops which is under the control, operation or management of the City or other government agency.

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

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

**Recreational Vehicle:** Means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self propelled or permanently towable by another vehicle;
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

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

**Relocation:** The removal of a resource from its historic context.

**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.

**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.

**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.

**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.

**Restrictive Covenant:** A legally binding limitation on the manner in which a tract of land or lot can be used, usually a condition placed on the deed.

**Retail Trade:** The sale of goods and products to the consumer generally for direct consumption and not for resale.

**Retaining Wall:** A solid barrier constructed of stone, concrete, steel or other material designed to retain or restrain earth, rock, or water and is used to alter the grade.

**Right-of-Way:** An interest in real property typically acquired by reservation, dedication, prescription, or condemnation and intended for the placement of transportation and utility facilities and infrastructure or similar public use.

**Road:** The portion or portions of street rights-of-way developed for vehicular traffic.

**Rural Zone:** A land use zone adopted by a unit of local government that applies to land outside a regional urban growth boundary.

**Sanitariums:** An institution for the treatment of chronic diseases or for medically supervised recuperation.

**School:** See Educational Institution.

**Sealed Container:** A receptacle appropriate for preventing release of its contents, protecting its contents from the entry of water and vectors, and that will prevent the release of noxious odors if the contents are capable of emitting such odors.

**Setback:** The minimum horizontal distance between a public street right-of-way line, or side and rear property lines, to the front, side and rear lines of a building or structure located on a lot.

**Shared-use path:** A facility for non-motorized access conforming to City standards and separated from the roadway, either in the roadway right-of-way, independent public right-of-way, or a public access easement. It is designed and constructed to allow for safe walking, biking, and other human-powered travel modes.

**Sidewalk:** A pedestrian walkway with hard surfacing.

**Sight Distance:** The distance along which a person can see approaching objects, such as automobiles or pedestrians, from a street intersection or a driveway along a street.

**Sign:** An identification, description, illustration, or device which is affixed to, or represented directly or indirectly upon a building, structure, or land, which directs attention to a product, place, activity, person, institution, or business.

**Significant Vegetation:** A tree exceeding six (6) inches in diameter measured four (4) feet above grade at the base of the tree or other vegetation more than four (4) feet above grade, but not including blackberry or other vines or weeds.

**Skirting:** A covering that totally obscures the undercarriage of a manufactured home, and extending from the top of the undercarriage to the ground.

**Soil Amendment:** A material, such as yard waste compost, added to the soil to improve soil chemistry or structure.

**Solid Waste:** Has the meaning given that term in ORS 159.005.

**Solid Waste Facility:**

- A. **Conditionally Exempt Small Quantity Collection Facility:** A facility that receives, sorts, temporarily stores, controls, and processes for safe transport hazardous waste from conditionally exempt generators, as that term is defined in ORS 465.003.
- B. **Demolition Landfill:** A land disposal site for receiving, sorting and disposing only land clearing debris, including vegetation and dirt, building construction and demolition debris and inert materials, and similar substances.
- C. **Household Hazardous Waste Depot:** A facility for receiving, sorting, processing and temporarily storing household hazardous waste and for preparing that waste for safe transport to facilities authorized to receive, process, or dispose of such materials pursuant to federal or state law.
- D. **Limited Purpose Landfill:** A land disposal site for the receiving, sorting and disposing of solid waste material, including but not limited to asbestos, treated petroleum, contaminated soil, construction, land clearing and demolition debris, wood, treated sludge from industrial processes, or other special waste material other than unseparated municipal solid waste.
- E. **Resource Recovery Facility:** A facility for receiving, temporarily storing and processing solid waste to obtain useful material or energy.
- F. **Mixed Construction and Demolition Debris Recycling Facility:** A facility that receives, temporarily stores, processes, and recovers recyclable material from mixed construction and demolition debris for reuse, sale, or further processing.
- G. **Solid Waste Composting Facility:** A facility that receives, temporarily stores and processes solid waste by decomposing the organic portions of the waste by biological means to produce useful products, including, but not limited to, compost, mulch and soil amendments.
- H. **Monofill:** A land disposal site for receiving, sorting and disposing only one type of solid waste material or class of solid waste materials for burial, such as a facility which accepts only asbestos.
- I. **Municipal Solid Waste Depot:** A facility where sealed containers are received, stored up to seventy-two (72) hours, staged, and/or transferred from one mode of transportation to another.
- J. **Small Scale Specialized Incinerator:** A facility that receives, processes, temporarily stores, and burns a solid waste product as an accessory use to a permitted use, including incinerators for disposal of infectious wastes as part of a medical facility, but not including mass burn solid waste incinerators, refuse-derived fuel technologies, human or animal remains crematorium, or any energy recovery process that burns unseparated municipal solid waste.
- K. **Solid Waste Facilities:** Any facility or use defined in this section of this Code.
- L. **Solid Waste Transfer Station:** A facility that receives, processes, temporarily stores and prepares solid waste for transport to a final disposal site, with or without material recovery prior to transfer.
- M. **Treatment and Storage Facility:** A facility subject to regulation under the Resource Conservation and Recovery Act. 42 USC Sections 6901-6987, for receiving, sorting, treating, and/or temporarily storing hazardous waste, and for processing such waste for safe transport to facilities authorized to receive, treat, or dispose of such materials pursuant to federal or state law. Treatment and storage facilities do not include facilities for on-site disposal of hazardous waste.
- N. **Wood Waste Recycling Facility:** A facility that receives, temporarily stores and processes untreated wood, which does not contain pressure treated or wood preservative treated wood, in the form of scrap lumber, timbers, or natural wood debris, including logs, limbs, and tree trunks, for reuse, fuel, fuel pellets, or fireplace logs.
- O. **Yard Debris Depot:** A facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

- P. **Yard Debris Processing Facility:** A facility that receives, temporarily stores and processes yard debris into a soil amendment, mulch or other useful product through grinding and/or controlled biological decomposition.

**Solid Waste Processing:** An activity or technology intended to change the physical form or chemical content of solid waste or recycled material including, but not limited to, sorting, baling, composting, classifying, hydropulping, incinerating or shredding.

**Sound Wall:** An exterior wall designed to protect sensitive land uses including parks, residential zones and institutional public zones from noise generated by roadways, railways, commercial and industrial noise sources.

**Special Care Facility:** A facility licensed by the State of Oregon, defined in OAR and not otherwise defined in this Code. Uses wholly contained within the facility and not independently accessible to the non-resident public which are either essential or incidental to the primary use shall be permitted. Where such facility contains uses which are otherwise listed as conditional uses in the base zone then those uses must be subjected to the conditional use process if they are independently accessible to the non-resident public from the outside of the facility building(s).

**Specialized Living Facility:** Identifiable services designed to meet the needs of persons in specific target groups which exist as the result of a problem, condition or dysfunction resulting from a physical disability or a behavioral disorder and require more than basic services of other established programs.

**Start of Construction:** For the purposes of regulating development within the floodplain overlay, start of construction includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six (6) feet above grade for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade at any point, such usable or unused under-floor space shall be considered as a story.

**Story, First:** The lowest story in a building, provided such floor level is not more than four (4) feet below grade, for more than 50 percent (50%) of the total perimeter, or not more than eight (8) feet below grade, at any point.

**Story, Half:** A story under a gable, hip, or gambrel roof, the wall plates of which, on at least two (2) exterior walls, are not more than three (3) feet above the floor of such story.

**Street:** A public or private road, easement or right-of-way that is created to provide access to one or more lots, parcels, areas or tracts of land. Categories of streets include:

- A. **Alley:** A narrow street, typically abutting to the rear lot or property line. [Figure 8-3a of the Transportation System Plan illustrates the alley cross-section]
- B. **Arterial:** Arterial streets provide connectivity at a regional level, but are not State routes. [Figure 8-2 of the Transportation System Plan illustrates arterial cross-sections.]



- C. **Bikeway:** Any road, path or way that is in some manner specifically open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are shared with other transportation modes. Bikeways may include:
- (1) Multi-use Path. A paved way (typically 8 to 12-feet wide) separate from vehicular traffic; typically shared with pedestrians, skaters, and other non-motorized users.
  - (2) Bike Lane. A portion of the street (typically 4 to 6-feet wide) that has been designated by permanent striping and pavement markings for the exclusive use of bicycles.
  - (3) Shoulder Bikeway. The paved shoulder of a street that does not have curbs or sidewalks that is 4 feet or wider and is typically shared with pedestrians.
  - (4) Shared Roadway. A travel lane that is shared by bicyclists and motor vehicles. Also called Bike Route.
  - (5) Multi-use Trail. An unpaved path that accommodates all-terrain bicycles; typically shared with pedestrians (NOTE: Figure 8-6 of the Transportation System Plan illustrates the multi-use path and trail cross-sections).
- D. **Collector:** Collectors are streets that provide citywide or district-wide connectivity. Collectors are primarily used or planned to move traffic between the local street system, and onto major streets, but may also accommodate through traffic. [Figure 8-4 of the Transportation System Plan illustrates collector cross-sections.]
- E. **Cul-de-Sac:** A short street that terminates in a vehicular turnaround. See Section 16.108.060.
- F. **Half Street:** A portion of the width of a street, usually along the edge of a development, where the remaining portion of the street has been or could be provided by another development.
- G. **Local Street:** Local streets provide the highest level of access to adjoining land uses. Local streets do not provide through connection at any significant 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].

**Street Line:** A dividing line between a lot and a street right-of-way.

**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.

**Structure:** A structure must be more than one foot from grade to be considered a structure. Within the floodplain overlay, a structure includes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**Structural Alterations:** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

**Stucco board:** A fiber cement board core product that mimics the appearance of stucco.

**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.

**Subdivision Improvements:** Construction of facilities such as streets; water, sewer, gas and telephone lines; storm drainage; and landscaping.

**Subgrade Crawlspace:** A crawlspace foundation where the subgrade under-floor area is no more than 5 feet below the top of the next-higher floor and no more than 2 feet below the lowest adjacent grade on all sides. (see Crawlspace also)

**Substantial Damage:** Within the floodplain overlay, substantial damage means a damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before damage occurred.

**Substantially Improved Building:** Within Chapter 16.134 Floodplain (FP) Overlay, A building that has undergone reconstruction, rehabilitation, repair, addition, or other improvement, the cost of which equals or exceeds 50% of the market value of the building before the "start of construction" of the improvement. This term does not include a building that has undergone reconstruction, rehabilitation, addition, or other improvement related to:

Any project or improvement of a building to correct existing violations of a state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

Any alteration of a "historic building", provided that the alteration will not preclude the structure's continued designation as a "historic building".

**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 greater than 75% of its perimeter.

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

**Townhomes:** (See "Dwelling- Townhome or Row House")

**Transportation Facilities:** 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:** Transportation improvements include the following:

- A. Normal operation, maintenance repair, and preservation activities of existing transportation facilities.
- B. 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.
- C. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval.
- D. Landscaping as part of a transportation facility.
- E. Emergency measures necessary for the safety and protection of property.
- F. Street or road construction as part of an approved land use application.

**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.

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

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

**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.

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

**Wall:** A solid structural barrier that is not intended to alter the grade and is not considered a retaining wall or sound wall.

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

**Water Dependent:** Means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

**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).

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

**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.

**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:

- 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.

**Zero-Lot-Line:** Attached or detached dwelling units which are constructed with only one side yard or no rear yard setbacks.

(Ord. No. 2015-005, § 2, 5-5-2015; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2014-012, § 3, 7-17-2014; Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-009, § 2, 7-19-2011; Ord. 2006-009 §§ 1, 2)

## Exhibit 2 to Ordinance 2016-013

### Chapter 16.134 - FLOODPLAIN (FP) OVERLAY\*

#### Sections:

#### 16.134.010 - Generally

Special resource zones are established to provide for preservation, protection, and management of unique natural and environmental resources in the City that are deemed to require additional standards beyond those contained elsewhere in this Code. Special resource zones may be implemented as underlying or overlay zones depending on patterns of property ownership and the nature of the resource. A property or properties may be within more than one (1) resource zone. In addition, the City may identify special resource areas and apply a PUD overlay zone in advance of any development in order to further protect said resources.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Washington County, Oregon and Incorporated Areas," (flood insurance study) dated November 4, 2016, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file with the Sherwood City Engineer at Sherwood City Hall.

(Ord. 91-922, § 3)

#### 16.134.020 – Purpose

The purpose of this ordinance is to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by complying with the provisions of this Chapter.

- A. The FP zoning district is an overlay district that controls and regulates flood hazard areas in order to protect the public health, safety and general welfare; to reduce potential flood damage losses; and to protect floodways and natural drainageways from encroachment by uses which may adversely affect water quality and water flow and subsequent upstream or downstream flood levels. The FP zone shall be applied to all areas within the base flood, and shall supplement the regulations of the underlying zoning district.
- B. FP zoning districts are areas within the base flood as identified by the Federal Emergency Management Agency (FEMA) in a Flood Insurance Study (FIS) and in Flood Insurance Rate Maps (FIRM) published for the City and surrounding areas, or as otherwise identified in accordance with Section 16.134.020C. These FEMA documents are adopted by reference as part of this Code, and are on file at the City.
- C. When base flood elevation data is not available from the FIS or FIRM, the City shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, and standards developed by the FEMA, in order to administer the provisions of this Code.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 88-870)

#### 16.134.030 - Greenways

The FP zoning districts overlaying the Rock Creek and Cedar Creek floodplains are designated greenways in accordance with Chapter 5 of the Community Development Plan. All development in these two floodplains shall be governed by the policies in Division V, Chapter 16.142 of this Code, in addition to the requirements of this Section and the Clean Water Services Design and Construction Standards R&O 07-20, or its replacement.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 88-879)

#### 16.134.040 - Development Review

- A. The City Engineer is the designated local Floodplain Administrator and is responsible for maintaining local floodplain management records for the City.
- B. Provided land is not required to be dedicated as per Section 16.134.030, a Conditional Use Permit (CUP) is required before any use, construction, fill, or alteration of a floodplain, floodway, or watercourse, or any other development begins within any FP zone, except as provided in Section 16.134.050.
- C. Application for a CUP for development in a floodplain shall conform to the requirements of Chapter 16.82 and may include, but is not limited to, plans and scale drawings showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, and drainage facilities.
- D. The following specific information is required in a floodplain CUP application and shall be certified and verified by a Registered Civil Engineer or Architect. The City shall maintain such certifications as part of the public record. All certifications shall be based on the as-built elevations of lowest building floors.
  - 1. Elevations in relation to the current FIRM and FIS of the lowest floor (including basement) of all structures;
  - 2. Elevations in relation to the current FIRM and FIS to which any structure has been flood proofed.
  - 3. That the flood proofing methods for any structure meet the requirements of this Section, Floodplain Structures.
  - 4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
  - 5. A base flood survey and impact study made by a Registered Civil Engineer.
  - 6. Proof all necessary notifications have been sent to, and permits have been obtained from, those Federal, State, or other local government agencies for which prior approval of the proposed development is required.
  - 7. Any other information required by this Section, by any applicable Federal regulations, or as otherwise determined by the City to be necessary for the full and proper review of the application.
- E. Where elevation data is not available as per subsection B of this Section, or from other sources as per Section 16.134.020.C, a floodplain CUP shall be reviewed using other relevant data, as determined by the City, such as historical information, high water marks, and other evidence of past flooding. The City may require utility structures and habitable building floor elevations, and building flood proofing, to be at least two (2) feet above the probable base flood elevation, in such circumstances where more definitive flood data is not available.

- F. Variances to any standard within the floodplain overlay shall comply with the provisions of the Code of Federal Regulations (CFR) section 60.6(a)(1-7).

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; 88-879)

#### 16.134.050 - Permitted Uses

In the FP zone the following uses are permitted outright, and do not require a CUP, provided that floodway flow, or floodplain capacity, will not be impeded, as determined by the City, and when greenway dedication is not required as per Section 16.134.030.

- A. Agricultural uses, provided that associated structures are not allowed, except for temporary building and boundary fences that do not impede the movement of floodwaters and flood-carried materials.
- B. Open space, park and recreational uses, and minor associated structures, if otherwise allowed in the underlying zoning district, that do not impede the movement of floodwaters and flood-carried materials.
- C. Public streets and appurtenant structures, and above and underground utilities, subject to the provisions of Sections 16.134.080 and 16.134.090.
- D. Other accessory uses allowed in the underlying zoning district that do not involve structures, and will not, in the City's determination, materially alter the stability or storm drainage absorption capability of the floodplain.

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 91-922)

#### 16.134.060 - Conditional Uses

In the FP zone the following uses are permitted as conditional uses, subject to the provisions of this Section and Chapter 16.82, when greenway dedication is not required as per this Section.

Greenways:

- A. Any permitted or conditional use allowed in the underlying zoning district, when located in the flood fringe only, as specifically defined by this Code.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; 88-879)

#### 16.134.070 - Prohibited Uses

In the FP zone the following uses are expressly prohibited:

- A. The storage or processing of materials that are buoyant, flammable, contaminants, explosive, or otherwise potentially injurious to human, animal or plant life.
- B. Public and private sewerage treatment systems, including drainfields, septic tanks and individual package treatment plants.
- C. Any use or activity not permitted in the underlying zoning district.
- D. Any use or activity that, in the City's determination, will materially alter the stability or storm drainage absorption capability of the floodplain.

- E. Any use or activity that, in the City's determination, could create an immediate or potential hazard to the public health, safety and welfare, if located in the floodplain.
- F. Any use, activity, or encroachment located in the floodway, including fill, new construction, improvements to existing developments, or other development, except as otherwise allowed by Section 16.134.050 and unless certification by a Registered Engineer or Architect is provided demonstrating that the use, activity, or encroachment will not result in any increase to flood levels during the occurrence of the base flood discharge.
- G. The storage of recreational vehicles.

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

#### 16.134.080 - Floodplain Development

##### A. Floodplain Alterations

###### 1. Floodplain Survey

The floodplain, including the floodway and flood fringe areas, shall be surveyed by a Registered Land Surveyor or Civil Engineer, and approved by the City, based on the findings of the Flood Insurance Study and other available data. Such delineation shall be based on the current FIRM and FIS data and be field-located from recognized valid benchmarks.

###### 2. Grading Plan

Alteration of the existing topography of floodplain areas may be made upon approval of a grading plan by the City. The plan shall include both existing and proposed topography and a plan for alternate drainage. Contour intervals for existing and proposed topography shall be included and shall be not more than one (1) foot for ground slopes up to five percent (5%) and for areas immediately adjacent to a stream or drainage way, two (2) feet for ground slopes between five and ten percent (5% to 10%), and five (5) feet for greater slopes.

###### 3. Fill and Diked Lands

- a. Proposed floodplain fill or diked lands may be developed if a site plan for the area to be altered within the floodplain is prepared and certified by a Registered Civil Engineer and approved by the Commission pursuant to the applicable provisions of this Code.
- b. Vehicular access shall be provided from a street above the elevation of the base flood to any proposed fill or dike area if the area supports structures for human occupancy. Unoccupied fill or dike areas shall be provided with emergency vehicle access.

###### 4. Alteration Site Plan

- a. The certified site plan prepared by a Registered Civil Engineer or Architect for an altered floodplain area shall show that:
  - (1) Proposed improvements will not alter the flow of surface water during flooding such as to cause a compounding of flood hazards or changes in the direction or velocity of floodwater flow.
  - (2) No structure, fill, storage, impervious surface or other uses alone, or in combination with existing or future uses, will materially reduce the capacity of the floodplain or increase in flood heights.
  - (3) Proposed floodplain fill or diked areas will benefit the public health, safety and welfare and incorporate adequate erosion and storm drainage controls, such as pumps, dams and gates.

- (4) No serious environmental degradation shall occur to the natural features and existing ecological balance of upstream and downstream areas.
  - (5) On-going maintenance of altered areas is provided so that flood-carrying capacity will not be diminished by future erosion, settling, or other factors.
  - b. Applicants must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA before any encroachment, including fill, new construction, substantial improvement, or other development, in the regulatory floodway is permitted. Applicants are responsible for preparing technical data to support the CLOMR application and paying any processing or application fees to FEMA.
5. Subdivisions and Partitions

All proposed subdivisions or partitions including land within an FP zone must establish the boundaries of the base flood by survey and dedicate said land as per Section 16.134.050. The balance of the land and development must:

- a. Be designed to include adequate drainage to reduce exposure to flood damage, and have public sewer, gas, electrical and other utility systems so located and constructed to minimize potential flood damage, as determined by the City.
- b. Provide for each parcel or lot intended for structures, a building site which is at or above the base flood elevation, and meets all setback standards of the underlying zoning district.
- c. Where base flood elevation data is not provided, or is not available from an authoritative source, it shall be generated by the applicant for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres, whichever is less.

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

#### 16.134.090 - Floodplain Structures

Structures in the FP zone permitted in accordance with this section, shall be subject to the following conditions, in addition to the standards of the underlying zoning district:

##### A. Generally

- 1. All structures, including utility equipment, and manufactured housing, shall be anchored to prevent lateral movement, floatation, or collapse during flood conditions, and shall be constructed of flood-resistant materials, to standards approved by the City, State Structural and Plumbing Specialty Codes and applicable building codes.
- 2. The lowest floor elevation of a structure designed for human occupancy must be at least one and one-half (1½) feet above the base flood elevation and the building site must comply with the provisions of Section 16.134.080.A.
- 3. The lower portions of all structures shall be flood proofed according to the provisions of the State Structural and Plumbing Specialty Code to an elevation of at least one and one-half (1½) feet above the base flood elevation.
- 4. The finished ground elevation of any under floor crawl space shall be above the grade elevation of an adjacent street, or natural or approved drainage way unless specifically approved by the City. A positive means of drainage from the low point of such crawl space shall be provided.

##### B. Utilities

- 1. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities located within structures shall be designed and/or otherwise elevated or located



so as to prevent water from entering or accumulating within the components during conditions of flooding.

2. Electrical service equipment, or other utility structures, shall be constructed at or above the base flood elevation. All openings in utility structures shall be sealed and locked.
3. Water supply and sanitary sewer systems shall be approved by the Washington County Health Department, and shall be designed to minimize or eliminate the infiltration of floodwaters into the systems, or any discharge from systems into floodwaters.

C. Residential Structures

1. All residential structures shall have the lowest floor, including basement, elevated to at least one and one-half (1½) feet above the base flood elevation.
2. Fully enclosed areas below the lowest floor that are subject to flooding are not permitted unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a Registered Engineer or Architect, or must meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all openings shall be no higher than one (1) foot above grade.
  - c. Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.
3. Shall be constructed with materials resistant to flood damage,

D. Non-Residential Construction

1. All commercial, industrial or other non-residential structures shall have either the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
  - a. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
  - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c. Be certified by a Registered Professional Engineer or Architect that the design and methods of construction are in accordance with accepted standards of practice for meeting all provisions of this Section. A record of such certificates shall be maintained by the Floodplain Administrator in accordance with Section 16.134.040.A.
  - d. Nonresidential structures that are elevated and not flood proofed must meet the same standards for space below the lowest floor as per Section 16.134.090.C.2.

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

16.134.100 - Additional Requirements

- A. Dimensional standards or developments in the FP zone are the same as in the underlying zoning district, except as provided in Section 16.134.100.
- B. Approval of a site plan pursuant to Chapter 16.90 that includes portions of the FP overlay may be conditioned by the City to protect the best interests of the surrounding area or the community as a whole, and to carry out the terms of the Comprehensive Plan. These conditions may include, but are not limited to:

1. Increasing the required lot sizes, yard dimensions, modifying street widths, or off-street parking spaces.
2. Limiting the height, size, or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Limiting the number, size, location, or lighting of signs.
5. Requiring diking, fencing, screening, landscaping, or other facilities to protect the proposed development, or any adjacent or nearby property.
6. Designating sites for open space or water retention purposes.
7. Construction, implementation, and maintenance of special drainage facilities and activities.

C. FEMA Notification

1. Notify FEMA within six months of project completion when a Conditional Letter of Map Revision (CLOMR) has been obtained from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified Base Flood Elevations. This notification shall be provided as a Letter of Map Revision (LOMR).
2. The applicant is responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.
3. The Floodplain Administrator is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this code and all applicable State and Federal laws.

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)