

## SHERWOOD MUNICIPAL CODE

(Covering Ordinances through 2014-008, passed April 1, 2014.)

### Looseleaf Supplement

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Insert and maintain this instruction sheet in front of this publication. File removed pages for reference.



**municode**

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# **SHERWOOD, OREGON**

## **MUNICIPAL CODE**

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**A Codification of the General Ordinances of  
Sherwood, Oregon**

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**Beginning with Supp. No. 9,  
Supplemented by Municipal Code Corporation**

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## PREFACE

The Sherwood, Oregon Municipal Code, originally published by Book Publishing Company in 1998, has been kept current by regular supplementation by Matthew Bender & Company, Inc., its successor in interest.

Beginning with Supplement No. 9, Municipal Code Corporation will be keeping this code current by regular supplementation.

During original codification, the ordinances were compiled, edited and indexed by the editorial staff of Book Publishing Company under the direction of Derryck Dittman, city attorney, and Tim Henkle, administrative assistant to the city manager.

The code is organized by subject matter under an expandable three-factor decimal numbering system which is designed to facilitate supplementation without disturbing the numbering of existing provisions. Each section number designates, in sequence, the numbers of the Title, chapter, and section. Thus, Section 2.12.040 is Section .040, located in Chapter 2.12 of Title 2. In most instances, sections are numbered by tens (.010, .020, .030, etc.), leaving nine vacant positions between original sections to accommodate future provisions. Similarly, chapters and titles are numbered to provide for internal expansion.

In parentheses following each section is a legislative history identifying the specific sources for the provisions of that section. This legislative history is complemented by an ordinance disposition table, following the text of the code, listing by number all ordinances, their subjects, and where they appear in the codification; and beginning with Supplement No. 9, legislation can be tracked using the "Code Comparative Table and Disposition List."

A subject-matter index, with complete cross-referencing, locates specific code provisions by individual section numbers.

**This supplement brings the Code up to date through Ordinance 2014-008, passed April 1, 2014.**

Municipal Code Corporation  
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## SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code and are considered "Included." Ordinances that are not of a general and permanent nature and ordinances that amend subject matter not found in the Code are not codified and are considered "Omitted."

By adding to this table with each supplement, users of this Municipal Code will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Included/ Omitted	Supp. No.
2011-001	Included	12
2011-002	Included	12
2011-003	Included	12
2011-004	Included	12
2011-005	Included	12
2011-006	Included	12
2011-007	Included	12
2011-008	Included	12
2011-009	Included	12
2011-010	Omitted	13
2011-011	Included	13
2011-012	Included	13
2011-013	Included	13
2012-001	Included	13
2012-002	Included	13
2012-004	Omitted	13
2012-005	Omitted	13
2012-006	Included	13
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2012-008	Included	13
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2012-014	Omitted	13
2013-001	Included	14
2013-002	Omitted	14
2013-003	Included	14
2013-004	Omitted	14
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2013-006	Omitted	14

<b>Ord. No.</b>	<b>Included/ Omitted</b>	<b>Supp. No.</b>
2013-007	Omitted	14
2013-008	Included	14
2014-001	Omitted	14
2014-002	Included	14
2014-003	Omitted	14
2014-004	Omitted	14
2014-005	Omitted	14
2014-006	Included	14
2014-007	Omitted	14
2014-008	Omitted	14

**Chapter 8.20****SOLID WASTE MANAGEMENT****Sections:**

- 8.20.010 Short title.**
- 8.20.020 Purpose, policy and scope.**
- 8.20.030 Definitions.**
- 8.20.040 Franchises.**
- 8.20.045 Franchise—Application, application approval, and statement of ownership.**
- 8.20.050 Franchise term.**
- 8.20.060 Franchise fees.**
- 8.20.070 Franchisee responsibility.**
- 8.20.080 Rates.**
- 8.20.090 Transfer, suspension, modification or revocation of franchise.**
- 8.20.100 Preventing interruption of service.**
- 8.20.110 Suspension of service.**
- 8.20.120 Subcontracts.**
- 8.20.130 Enforcement officers; franchisee right of action; damages.**
- 8.20.140 Containers/collections limitations.**
- 8.20.150 Offensive waste prohibited.**
- 8.20.160 Unauthorized deposit prohibited.**
- 8.20.170 Violation—Penalty.**

**8.20.010 Short title.**

The ordinance codified in this chapter shall be known as the city of Sherwood solid waste management ordinance and may be so cited and shall be hereinafter referred to as this chapter. (Ord. 89-899 § 1)

**8.20.020 Purpose, policy and scope.**

A. It is declared to be in the public interest for the city to establish a policy relative to solid waste management and to:

1. Provide sufficient waste volume to sustain solid waste management facilities necessary to achieve resource recovery goals established by the city, county, State Department of Environmental Quality and metropolitan service district;

2. Provide the basis for agreements with other governmental units and persons for regional flow control to such facilities;

3. Ensure safe accumulation, storage, collection, transportation, disposal or resource recovery of solid waste, and protect the public health, safety and welfare;

4. Ensure maintenance of a financially stable, reliable solid waste collection and disposal service;

5. Ensure rates that are just, fair, reasonable and adequate to provide necessary service to the public;

6. Prohibit rate preference and other discriminatory practices which benefit one user at the expense of other users of the service or the general public;

7. Conserve energy and material resources and meet statewide goals of recycling usable wastes;

8. Eliminate overlapping service to reduce truck traffic, street wear, air pollution and noise;

9. Provide standards for solid waste service and public responsibilities; and

10. Provide resource recovery by and through the franchisee.

B. No person shall:

1. Provide solid waste service, offer to provide service or advertise for the performance of service without having obtained a franchise from the city;

2. Accumulate, store, collect, transport, transfer, dispose of or resource recover solid waste except as in compliance

with this chapter, other city ordinances, and Chapter 459 Oregon Revised Statutes dealing with solid waste management, and regulations and amendments promulgated under any of the foregoing.

C. Nothing in this chapter shall:

1. Prohibit any person from transporting directly to an authorized disposal or recycling or resource recovery facility, or utilizing or resource recover solid waste produced by himself or herself so long as he or she complies with this chapter, other city ordinances, and Chapter 459 Oregon Revised Statutes dealing with solid waste management, and regulations promulgated under any of the foregoing. Provided however, that except as provided herein, a lessor or property owner shall not provide service to a tenant, lessee or occupant except through the franchisee;

2. Prohibit any person from contracting with any other governmental agency to provide solid waste service;

3. Prohibit any person from transporting, disposing of or resource recovering, sewage sludge, septic tank pumpings and cesspool pumpings;

4. Prohibit any person licensed as a motor vehicle wrecker under ORS 481.345 et seq. from collecting, transporting, disposing of or utilizing motor vehicles or motor vehicle parts;

5. Prohibit the city council by amendment to this chapter from withdrawing or modifying certain solid waste services on the basis of finding that such service is not necessary for the implementation of the purposes of this chapter or a city, county or metropolitan service district solid waste management plan;

6. Prohibit any person transporting solid waste through the city that is not collected within the city;

7. Prohibit a contractor employed to demolish, construction, or remodel a build-

ing or structure, including but not limited to land clearing operations and construction wastes, from hauling waste created in connection with such employment;

8. Prohibit the occasional collection, transportation and reuse of repairable or cleanable discards or source separated solid waste for recycling or resource recovery by private charitable or nonprofit organizations for the purpose of raising funds for charitable, civic, or benevolent activity provided that the activity is conducted in accordance with the terms and under the conditions contained in this chapter;

9. Prohibit the operation at a fixed location of a facility where the generator, producer, source or franchised collector of solid waste brings that waste for transfer, disposal or resource recovery;

10. Prohibit the collection, transportation or redemption of beverage containers under ORS Chapter 459;

11. Prohibit a person from transporting or disposing of waste that he or she produces as an incidental part of janitorial services; gardening or landscaping services; rendering; or other similar and related occupations;

12. Require the franchisee to store, collect, transport, dispose of or resource recover any hazardous waste as defined by or pursuant to ORS Chapter 466. (Ord. 89-899 § 2)

#### **8.20.030 Definitions.**

"Carry-out service" means service whereby the franchisee will collect properly stored solid waste located on the customer's property, provided said waste is clearly visible and accessible to the franchisee.

"Charitable or nonprofit organization" means any person or persons organized and existing for charitable, benevolent, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal,

or other nonprofit purpose, and who is exempt from federal and state income taxes as a nonprofit organization.

"Compensation" means any type of consideration paid for service including, but not limited to, the proceeds from resource recovery or recycling, rent, lease payments, and any other direct or indirect provision for payment of money, goods, services or benefits by owners, tenants, leasees, occupants or similar persons or the exchange of services between persons.

"Council" means the city council of the city of Sherwood.

"Curb-side service" means service whereby the franchisee will collect properly stored solid waste placed by the customer alongside a public street or some other location designated by the franchisee.

"Franchise" means the right to provide service granted to a person pursuant to this chapter.

"Nonrecycling customer" means a regular customer of the franchisee that elects not to enroll in the recycling program or fails to provide recyclable materials at least once monthly, as determined by the franchisee's records.

"Person" means any individual, partnership, corporation, trust, firm, estate, joint venture or other public or private legal entity.

"Putrescible material" means organic materials that can decompose and may give rise to foul-smelling, offensive odors or products.

"Recycling customer" means a regular customer of the franchisee who enrolls in the recycling program and provides recyclable materials curbside at least once monthly, as determined by the franchisee's records.

"Resource recovery" means the process of obtaining useful material or energy resources from solid waste and includes:

1. "Energy recovery," which means recovery in which all or a part of the solid

waste materials are processed to utilize the heat content, or other forms of energy, of or from the material.

2. "Material recovery," which means any process of obtaining from solid waste, by presegregation or otherwise, materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purpose.

3. "Recycling," which means any process by which solid waste materials are transformed into new products in such manner that the original products may lose their identity. The process includes collection, transportation, storage and transfer of solid waste and placing the solid waste in the stream of commerce for resource recovery.

4. "Reuse," which means the return of a commodity into the economic stream for use in the same kind of application as before without change in its identity.

"Service" means the collection, transportation, storage, transfer, disposal of or resource recovery of solid waste, using the public streets of the city to provide service, and including solid waste management.

"Solid waste" means:

1. All putrescible and non-putrescible wastes, including, but not limited to garbage, rubbish, refuse, ashes, waste paper, cardboard, yard debris, compost, tires, equipment and furniture; commercial, industrial, demolition and construction wastes; discarded or abandoned vehicles or parts thereof; discarded home or industrial appliances; manure, vegetable and animal solid and semi-solid wastes, dead animals, infectious waste as defined in ORS 459.386 organic food waste, electronics and associated components, mattresses, junk and other wastes. Solid waste shall not include:

- a. Sewer sludge and septic tank and cesspool pumping, chemical toilet waste or other sludge;



b. Reusable beverage containers as defined in ORS 459A.700 and 459A.725;

c. Material used for fertilizer or for other productive agricultural operations in growing or harvesting crops and the raising of fowl or animals.

2. The fact that materials that would otherwise come within the definition of solid waste may from time to time have value and thus be utilized does not remove them from the definition.

"Solid waste management" means the prevention or reduction of solid waste; management of the storage, transfer, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities used for those activities.

"Source separation" means the separation or setting aside of waste, by the source generator or producer of the waste, for recycling or reuse. Total source separation means the complete separation by the source generator or producer of the waste by type or kind of waste from all other types or kinds of waste. Total source separation requires each type or kind of recyclable material such as newsprint, computer paper, cardboard, glass, ferrous cans and aluminum cans to be distinctly separated into a separate package, container or stack in preparation for collection. For example, newspaper, cardboard, glass, ferrous cans and waste wood are each placed in a separate container and no two or more recyclables are mixed in the same container.

"Standard can" means a thirty-two (32) gallon metal or rigid plastic garbage can.

"Tote barrel" means a wheeled, sixty (60) gallon, rigid plastic garbage can provided by the franchisee to their customers.

"Twenty (20) gallon can" means a twenty (20) gallon metal or rigid plastic garbage can.

"Waste" means material that is no longer wanted or usable by the source, the source generator or producer of the material, and the material is to be disposed of or resource recovered by another person, and includes both source separated material and nonsource separated materials.

(Ord. 2013-001, § 1, 2-5-2013; Ord. 98-1049 § 4; Ord. 90-915 § 2; Ord. 89-899 § 3)

#### **8.20.040 Franchises.**

A. Subject to the provisions of this chapter, other city ordinances, and the City Charter, the council may by resolution grant exclusive or nonexclusive franchises, with or without competitive bidding, to provide service over and upon the streets of a franchise area within the city. Nonperformance of the terms and conditions of the franchise agreement may result in financial and operating penalties to the franchisee, and may result in the loss or limitation of the franchisee's right to provide services.

B. Where any area is annexed to the city of Sherwood and the area had been franchised by Washington County for solid waste collection service prior to annexation, the county franchise and franchise holder shall be recognized for that particular area subject to the provisions of ORS 459.085(3). If the area was franchised by Washington County to a city franchisee, that area shall be added by resolu-

fication for a city initiated amendment to the service rate schedule.

E. Any request for a rate adjustment shall conform to the following process:

1. Notwithstanding any request for an amendment to the rate schedule, the franchisee shall annually supply a report of current income and expense for the current calendar year for services provided within the city. Any request for a rate adjustment must include the projected income and expense for the balance of the year for such service and justification for any proposed rate adjustments.

2. The city manager shall report and make recommendations to the city council within thirty (30) days of submission of an acceptable and complete franchisee report and rate adjustments proposal.

3. The council shall conduct a public hearing on any proposed rate adjustment.

F. Rates established by the council are fixed rates and the franchisee shall not charge more or less than the fixed rate unless pursuant to subsection (C)(2) of this section.

G. Any services not included in the rate schedule shall be charged at the reasonable cost of providing the service taking into consideration the factors utilized in established scheduled rates pursuant to this section.

H. In establishing rates, the council may set uniform rates, uniform rates by zone and different rates for collectors where there is a service and cost justification.

I. Any person who receives solid waste service from the franchisee shall be responsible for payment for such service and the franchisee shall be solely responsible for the billing, collection and accounting of said payments. The city shall not be responsible or liable for unpaid, delinquent or noncollectible payments for services. (Ord. 04-010 § 1 (Exh. A)(part); Ord. 01-1113 § 1; Ord. 00-1088 § 1; Ord. 94-986 § 2; Ord. 89-899 § 8)

#### **8.20.090 Transfer, suspension, modification or revocation of franchise.**

A. The franchisee shall not transfer this franchise or any portion thereof to other persons within sixty (60) days prior written notice of the intent to transfer, and the enactment by the city council of an ordinance authorizing the transfer. The city council may approve the transfer if the transferee meets all applicable requirements met by the original franchisee. The city council may attach to the authorizing ordinance whatever conditions it deems appropriate to guarantee maintenance of service and compliance with this chapter.

B. Failure to comply with a written notice to provide the services required by this chapter or to otherwise comply with the provisions of this chapter after written notice and a reasonable opportunity to comply shall be grounds for modification, revocation or suspension of the franchise.

1. After written notice from the city that such grounds exist, franchisee shall have thirty (30) days from the date of mailing of the notice in which to comply or to request a public hearing before the city council.

2. If franchisee fails to comply within the specified time or fails to comply with the order of the city council entered upon the basis of written findings at the public hearing, the city council may suspend, modify or revoke franchise or make such action contingent upon continued noncompliance.

3. In the event that the city finds an immediate and serious danger to the public through creation of a health or safety hazard, as a result of the actions of the franchisee, the city may take action to alleviate such conditions or suspend or revoke the franchise within a time specified in the notice to the franchisee and without prior written notice or a public hearing. (Ord. 89-899 § 9)

### **8.20.100 Preventing interruption of service.**

The franchisee agrees as a condition of this franchise that whenever the city council finds that the failure of service or threatened failure of service would result in creation of an immediate and serious health hazard or serious public nuisance, the city council may, after a minimum of twenty-four (24) hours written or verbal notice to the franchisee, provide for or authorize another person to temporarily provide the service or to use and operate the land, facilities and equipment of a franchisee to provide emergency service. The city council shall return any seized property and business upon abatement of the actual or threatened interruption of service, and after payment to the city for any net cost incurred in the operation of the solid waste service. (Ord. 89-899 § 10)

### **8.20.110 Suspension of service.**

The franchisee shall not suspend or terminate service to all or a portion of his or her customers unless:

A. Street or road access is blocked and there is no alternate route, provided that the franchisee shall restore service not later than twenty-four (24) hours after street or road access is opened.

B. Excessive weather conditions render providing service unduly hazardous to persons providing service or to the public or such termination is caused by accidents or casualties resulting by an act of God or a public enemy.

C. A customer has not paid for provided service after a regular billing and after a written delinquency notice, which notice shall not be sent less than fifteen (15) days after the date of mailing of the regular billing.

D. Other than for non-payment for provided service, ninety (90) days written no-

tice is given to the city council and to affected customers and written approval is obtained from the city council.

E. The customer does not comply with the service standards of Section 8.20.140 of this chapter, provided that the customer is given a thirty (30) day written notice to comply with the applicable service standards. (Ord. 04-010 § 1 (Exh. A)(part); Ord. 89-899 § 11)

### **8.20.120 Subcontracts.**

The franchisee may subcontract with others to provide a portion of the service where the franchisee does not have the necessary equipment or capacity to provide said service. Such a subcontract shall not relieve the franchisee of total responsibility for providing and maintaining service and from compliance with this chapter. Except where emergency incidental service is provided by a subcontractor, such subcontract shall be in writing and shall be filed with the city recorder and approved by the city manager prior to the commencement of actual service by the subcontractor. (Ord. 89-899 § 12)

### **8.20.130 Enforcement officers; franchisee right of action; damages.**

A. The city manager shall have the authority to enforce this chapter and rules and regulations adopted pursuant thereto. The city manager may designate appropriate city employees, including police officers, and others to enter premises to ascertain compliance with this chapter's provisions. No premises shall be entered without first attempting to obtain the consent of either the owner or person in control thereof, if different. If consent cannot be obtained, the city representative shall secure a search warrant from the municipal court before attempting to

gain entry and shall have recourse to every other remedy provided by law to secure such entry.

B. A franchisee shall have a cause of action in any court of competent jurisdiction against any person or entity providing service in the city limits without first having a franchise in violation of SMC 8.20.020(B). The cause of action may seek any and all appropriate relief, including injunctive relief.

1. Notice to City Manager. Before commencing an action under this section, the franchisee shall provide a minimum of thirty (30) days' written notice to the city manager who then may elect to either enforce the provisions of this chapter or allow the franchisee to go forward. If the manager fails to respond to the franchisee's notice, the franchisee may proceed with its action. A franchisee may not commence or maintain an action if the manager elects to pursue enforcement.

2. Damages. Any person or entity providing solid waste service within Sherwood's city limits without first having a franchise, will be liable for and subject to the following:

- a. Lost customer revenue due the franchisee;
- b. Franchise fees owed the city;
- c. Five hundred dollars (\$500.00) liquidated damages for each day that each violation of the Code occurred; and
- d. Other appropriate legal or equitable remedy available to the franchisee and/or the city.

The court shall award reasonable attorney fees to the prevailing party.

C. Indemnity. The city shall have no liability for franchisee's attorney fees and costs incurred pursuing enforcement under this section. Any franchisee electing to pursue its rights under subsection B above, shall indemnify and hold the city harmless

for any and all costs, damages or liabilities incurred by the city arising as a result of franchisee's pursuit of an enforcement action.

(Ord. 2013-001, § 2, 2-5-2013; Ord. 89-899 § 13)

#### **8.20.140 Containers/collections limitations.**

A. To achieve the purposes of this chapter, prevent recurring injuries to collectors and other persons, to comply with safety standards of the State Accident Insurance Fund; and to comply with all reasonable safety, health and environmental safeguards:

1. Solid waste cans provided by the customer shall:

- a. Be a standard can or twenty (20) gallon can;
- b. Have a round bottom, sides tapering outward to the opening at the top providing for unobstructed dumping of the contents, a bail or two handles on opposite sides, a close fitting lid with handle, watertight waterproof, rodent resistant, and easily cleanable and will not crack or break in freezing weather;
- c. Not to exceed sixty (60) pounds gross loaded weight.

2. Putrescible material shall be placed in plastic bags or securely wrapped in paper after being drained of liquids before placing in cans, tote barrels, or containers.

3. Sunken refuse cans, tote barrels or containers shall not be used, unless they are placed above ground by the owner for service.

4. On the scheduled collection day, the carry-out service customers shall provide safe access to a pickup point which does not jeopardize the safety of the driver of a collection vehicle or the motoring public or create a hazard or risk to the person providing the service. Cans, tote barrels and containers must be visible from a public right-

of-way which may be serviced and driven to by collection vehicles where practical. This form of access must not require the collector to pass behind an automobile or other vehicle or to pass under low hanging obstructions such as eaves, tree branches, clotheslines or electrical wires which obstruct safe passage to and from cans. Cans must be at ground level, outside of garages, fences and other enclosures, and within one hundred (100) feet of the straight right-of-way or curb. Where the city manager, or his or her designee, finds that a private bridge, culvert or other private structure or road is incapable or safely carrying the weight of the collection vehicle, the collector shall not enter onto such structure or road, and customer shall provide a safe alternative access point or system.

5. The curb-side service customer shall place cans or tote barrels alongside a public street or other accessible place, at a location designated by the franchisee.

6. All solid waste cans and tote barrels located at single-family residences shall be placed together in one location on the regularly scheduled collection day.

7. All solid waste receptacles, including but not limited to cans, tote barrels, containers and drop boxes, shall be maintained in a safe and sanitary condition by the customer.

8. Solid waste service customers shall place items not intended for pickup at least three feet from solid waste can(s), tote barrel(s) or container(s).

9. No person shall place any hazardous waste as defined by or pursuant to ORS Chapter 466 out for collection by the franchisee or place it in any container supplied by the franchisee without prior written notification and acceptance by the franchisee and also upon compliance with any requirements of ORS Chapter 466 and any rules or regulations thereunder.

10. A container for hazardous or other special wastes shall be appropriately labeled and placed in a location inaccessible to the public. If the container is reusable, it shall be suitable for cleaning and be cleaned.

11. No person shall use any solid waste collection container of thirty-two (32) gallons or more in capacity unless it is supplied or approved by the franchisee, on the basis of safety, equipment compatibility, availability of equipment and the purposes of this chapter.

12. Tote barrels, containers and drop boxes supplied by the franchisee shall be cleaned by the customer, provided, however, that the franchisee shall be responsible for exterior painting and provide normal maintenance. The customer shall be liable for damage to containers and drop boxes beyond reasonable wear and tear.

B. No stationary compactor or other container for commercial or industrial use shall exceed the safe loading design limit or operation of the collection vehicle provided by the franchisee. Upon request of a group of customers requiring special service, the city council may require the franchisee to provide for vehicles capable of handling specialized loads including, but not limited to, front loading collection trucks and drop-box trucks and systems.

C. To prevent injuries to users and collectors, stationary compacting devices for handling solid wastes shall comply with applicable federal and state safety regulations.

D. Any vehicle used by any person to transport wastes shall be so loaded and operated as to prevent the wastes from dripping, dropping, sifting, blowing, or otherwise escaping from the vehicle onto any public right-of-way or lands adjacent thereto. (Ord. 89-899 § 14)

#### **8.20.150 Offensive waste prohibited.**

No person shall have waste on his or her property that is offensive or hazardous

to the health or safety of others or which creates offensive odors or a condition of unsightliness. (Ord. 89-899 § 15)

**8.20.160      Unauthorized deposit prohibited.**

No person shall, without prior authorization and compliance with requirements of this chapter, deposit waste on public property or the private property of another person. Streets and other public places are not authorized as places to deposit waste except where specific provisions for containers have been made. (Ord. 89-899 § 16)

**8.20.170      Violation—Penalty.**

Violation by any person of the provisions of this chapter shall be deemed to be a misdemeanor and shall be punishable upon conviction by a fine of not more than five hundred dollars (\$500.00). (Ord. 89-899 § 18)



## **Title 9**

### **PUBLIC PEACE, MORALS AND WELFARE**

#### **Chapters:**

<b>9.04</b>	<b>Introductory Provisions</b>
<b>9.08</b>	<b>Oregon Criminal Statutes</b>
<b>9.12</b>	<b>Classification of Offenses</b>
<b>9.16</b>	<b>Disposition of Offenders</b>
<b>9.20</b>	<b>Offenses By or Against Public Officers and Government</b>
<b>9.24</b>	<b>Offenses Against the Person</b>
<b>9.28</b>	<b>Theft and Related Offenses</b>
<b>9.32</b>	<b>Offenses Against Property</b>
<b>9.36</b>	<b>Offenses Against Public Peace and Decency</b>
<b>9.40</b>	<b>Curfew</b>
<b>9.44</b>	<b>Nuisances</b>
<b>9.46</b>	<b>Abatement of Noxious Weeds</b>
<b>9.48</b>	<b>Criminal Procedure</b>
<b>9.50</b>	<b>Possession, Manufacture or Delivery of Drug Paraphernalia</b>
<b>9.52</b>	<b>Prohibiting of Noise</b>
<b>9.54</b>	<b>Regulation of Camping in Areas Open to the Public</b>
<b>9.56</b>	<b>Prohibits Use of Tobacco Products on City Property</b>
<b>9.60</b>	<b>Inventory Procedures</b>

11. Hypodermic syringes, needles and other objects used, intended for use in storing or concealing controlled substances;

12. Objects used, or intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

- a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
- b. Water pipes;
- c. Carburetion tubes and devices;
- d. Smoking and carburetion masks;
- e. Roach clips: meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;
- f. Chamber pipes;
- g. Carburetor pipes;
- h. Electric pipes;
- i. Air-driven pipes;
- j. Chillums;
- k. Bongs; and
- l. Ice pipes or chillers.

"Marijuana" means all parts of the plant Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. (Ord. 03-1154 § 1 (part))

#### **9.50.015 Factors to be considered.**

In determining whether an object may be drug paraphernalia, the municipal court,

other judicial entity or person should consider (in addition to other logically relevant factors) the following:

A. Statements by an owner or by anyone in control of the object concerning its use;

B. Prior convictions, if any, of an owner, or of anyone in control of the object, under any State or Federal law relating to any controlled substance;

C. The proximity of the object to controlled substances;

D. The existence of any residue of controlled substances on the object;

E. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he or she knows intend to use the object to facilitate a violation of federal or state law relating to controlled substances;

F. Instructions, oral or written, provided with the object concerning its use;

G. Descriptive materials accompanying the object which explain or depict its use;

H. National and local advertising concerning its use;

I. The manner in which the object is displayed for sale;

J. Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

K. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

L. The existence and scope of legitimate uses for the object in the community; and M. Expert testimony concerning its use. (Ord. 03-1154 § 1 (part))

#### **9.50.020 Offenses and penalties.**

A. Possession of Drug Paraphernalia. It is unlawful for any person to use, or to



possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

**B. Manufacture or Delivery of Drug Paraphernalia.** It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing that it will be used to plant, propagate, cultivate, grow, harvest manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance.

**C. Violation of subsection A or B of this section shall be a class A violation with a fine of the statutory maximum provided under ORS 153.018. Citations shall be issued and court procedures followed consistent with ORS 153.030 to 153.121. (Ord. 03-1154 § 1 (part))**

#### **9.50.025 Nuisance.**

**A.** Drug paraphernalia are declared to be public nuisances and any peace officer may seize any such paraphernalia and it shall be held subject to the order of municipal court as to its disposition.

**B.** Whenever it appears to the court that drug paraphernalia has been possessed in violation of the ordinance codified in this chapter, the court may order the chief of police to destroy the paraphernalia. (Ord. 03-1154 § 1 (part))

#### **9.50.030 Severability.**

If any provision of the ordinance codified in this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the ordinance

which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. (Ord. 03-1154 § 1 (part))

## Chapter 9.52

### PROHIBITING OF NOISE

#### Sections:

- 9.52.010 Purpose.**
- 9.52.020 Definitions.**
- 9.52.030 Noise disturbance prohibited.**
- 9.52.040 Permissible sound levels.**
- 9.52.050 Exemptions.**
- 9.52.060 Enforcement responsibility and authority.**
- 9.52.070 Variances.**
- 9.52.080 Variance application.**
- 9.52.090 Public notification for Class B or C variance.**
- 9.52.100 Variance review.**
- 9.52.110 Variance decision.**
- 9.52.120 Review.**
- 9.52.130 Penalties.**
- 9.52.140 Emergency.**

#### **9.52.010 Purpose.**

It is hereby found and declared that:

A. The making and creation of excessive, unnecessary or unusually loud noises within the limits of the city of Sherwood is a condition which has existed for some time and the extent in volume of such noises is increasing;

B. The making, creation, or maintenance of such excessive, unnecessary, unnatural, or unusually loud noises which are prolonged, unusual and unnatural in their time, place and use affect, and are a detriment to public health, comfort, convenience, safety, welfare, and prosperity of the residents of the city of Sherwood; and

C. The necessity in the public interest for provisions and prohibitions hereinafter contained in this chapter, is declared as a matter of legislative determination and pub-

lic policy, and it is further declared that the provisions and prohibitions hereinafter contained are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and prosperity and the peace and quiet of the city of Sherwood and its inhabitants. (Ord. 01-116 § 1)

#### **9.52.020 Definitions.**

As used in this chapter:

"Commercial" means any use of an office, service establishment, hotel, motel, retail store, park, amusement or recreation facility, or other use of the same general type, and rights-of-way appurtenant thereto, whether publicly or privately owned.

"Domestic power equipment" means power tools or equipment used for home or building repair, maintenance, alteration or other home manual arts projects, including but not limited to powered hand tools, lawn mowers and garden equipment.

"Industrial" means any use of a warehouse, factory, mine, wholesale trade establishment, or other use of the same general type, and rights-of-way appurtenant thereto, whether publicly or privately owned.

"Motor vehicle" means any land vehicle, which is designed to be self-propelled.

"Noise sensitive" means any use of a church, temple, synagogue, day care center, hospital, rest home, retirement home, group care home, school, dwelling unit (single family dwelling, duplex, triplex, multifamily dwelling, or mobile home), or other use of the same general type, and rights-of-way appurtenant thereto, whether publicly or privately owned.

"Plainly audible" means unambiguously communicated to the listener. Plainly audible sounds include, but are not limited to understandable musical rhythms, understandable spoken words, and vocal sounds other than speech, which are distinguish-

able as raised or normal. (Ord. 01-1116 § 2)

**9.52.030 Noise disturbance prohibited.**

A. Generally. In addition to the specific prohibitions in subsection B of this section and Section 9.52.040, it is unlawful for any person to knowingly create, assist in creating, permit, continue, or permit the continuance of any noise disturbance.

A noise disturbance is any sound, including sound produced by animals, which annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of others, within the limits of the city.

B. Specific Prohibitions. Unless exempted by Section 9.52.050, the following acts are declared to be noise disturbances within the meaning of subsection A of this section provided, however, that this enumeration shall not be deemed to be exclusive:

1. Dynamic braking devices (Jake Brakes). Using any dynamic braking device on any motor vehicle, except to avoid imminent danger to persons or property. A dynamic braking device is one used primarily on trucks and busses to convert a motor from an internal combustion engine to an air compressor for the purpose of vehicle braking without using the wheel brakes.

2. Idling engines on motor vehicles. Operating for more than fifteen (15) consecutive minutes any idling engine in such a manner as to be plainly audible within any dwelling unit between the hours of 10:00 p.m. and 7:00 a.m.

3. Motor vehicle repair and testing. Repairing or testing any motor vehicle in such a manner as to be plainly audible within any dwelling unit between the hours of 10:00 p.m. and 7:00 a.m.

4. Lawn mowing equipment. Operating lawn-mowing equipment (to include powered landscaping tools/equipment) with a combustion engine between 10:00 p.m. and 7:00 a.m. (Ord. 01-1116 § 3)

**9.52.040 Permissible sound levels.**

A. Except as specifically provided elsewhere in this chapter, "day" hours are between 7:00 a.m. and 10:00 p.m. Monday through Friday; and 8:00 a.m. to 7:00 p.m. Saturday and Sunday.

B. Except as otherwise provided elsewhere in this chapter, "night" hours are between 10:00 p.m. and 7:00 a.m. Monday through Friday, and 7:00 p.m. and 8:00 a.m. Saturday and Sunday.

1. Sound producing, amplifying, or reproducing equipment. During day and night hours, no person shall cause or permit sound produced by a musical instrument, radio, television, phonograph, loudspeaker, or other similar equipment to be plainly audible within any dwelling unit other than the source.

2. Domestic power equipment. The day period does not apply to sounds produced by domestic power equipment.

3. During night hours, no person shall operate domestic power equipment in such a manner as to be plainly audible within any dwelling unit other than the source.

4. Commercial construction. The day period does not apply to any sounds produced in commercial construction activity.

5. Off-highway vehicles. No person shall operate any self-propelling motor vehicle, designed for or capable of travel on or over natural terrain, including but not limited to motorcycles, mini-bikes, motor scooters, dune buggies, and jeeps, off a public right-of-way in such a manner that the sound level is plainly audible within any dwelling unit outside the boundary of the noise-producing property during day or night hours.

6. Auxiliary equipment on motor vehicles. No person shall cause, allow, permit, or fail to control the operation of any auxiliary equipment on a motor vehicle or trailer for more than thirty (30) minutes when the

sound level produced by such equipment is plainly audible within any dwelling unit outside the boundary of the noise-producing property during night hours. Auxiliary equipment means a mechanical device that is built in or attached to a motor vehicle or trailer, including, but not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, and blowers. (Ord. 01-1116 § 4)

#### **9.52.050 Exemptions.**

The following sounds are exempted from the provisions of this chapter:

A. Sounds made by work necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from imminent exposure to danger.

B. Sounds made by warning devices to protect persons or property from imminent exposure to danger, provided however that intrusion or fire alarms shall not sound continuously for more than fifteen (15) minutes. Sounds made by the Tualatin Valley fire and rescue district sirens during use and testing.

C. Sounds made by an emergency vehicle, as defined in ORS 801.260, when responding to or from an emergency or when in pursuit of an actual or suspected violator of the law.

D. Sounds made by activities by or on direction of the city of Sherwood in maintenance construction, or repair of public improvements in public rights-of-way or easements.

E. Sounds produced pursuant to a specific variance granted by the Oregon environmental quality commission, or under Section 9.52.070 of this chapter.

F. Sounds produced by the audience, participants and sound amplifying equipment at athletic events on public property

and sponsored or sanctioned or otherwise approved by the city or the Sherwood school district.

G. Sounds made by motor vehicle exhaust systems that comply with the provisions of ORS 815.250, but this exemption does not apply to violation of Section 9.52.030 B 2 of this chapter. (Ord. 01-1116 § 5)

#### **9.52.060 Enforcement responsibility and authority.**

A. The Sherwood police department and the city manager's designee shall jointly enforce this chapter.

B. Enforcement of this chapter may include seizure of the sound producing equipment. (Ord. 01-1116 § 6)

#### **9.52.070 Variances.**

A. Generally. Any person who owns, controls, or operates any sound source which does not comply with a provision of this chapter may apply for:

1. A Class A variance for an event that does not exceed seventy-two (72) hours in duration; or

2. A Class B variance for an event or activity or series of related events, or activities that are seventy-two (72) hours or more in duration.

B. The city manager or the city manager's designee may file application for a Class C variance for a community event or activity of any duration that does not comply with a provision of this chapter. (Ord. 01-1116 § 7)

#### **9.52.080 Variance application.**

A. An applicant for a variance shall submit in writing:

1. A reference to the provision from which the variance is sought;

2. The reason or reasons why the variance is necessary;

3. The physical characteristics of the involved sound;

4. The times when the involved sound will be emitted and the anticipated duration of the sound;

5. Where the sound will not be generated by a mobile source which moves beyond the boundaries of one block, a site plan sketch which shows the area of sound generation and designates whether the uses in the area within four hundred (400) feet of the source of the involved sound are commercial, industrial, or noise sensitive as defined in Section 9.52.020, or a combination thereof;

6. Any other supporting information which the city manager or council may reasonably require to allow consideration of the conditions set forth in Section 9.52.100.

B. The applicant for a Class A variance shall submit the application to the city manager's designee. The applicant for a Class B or Class C variance shall submit the application to the city recorder, who shall place the matter on the agenda for the forthcoming council meeting. (Ord. 01-1116 § 8)

#### **9.52.090 Public notification for Class B or C variance.**

The applicant for a Class B variance or the city for a Class C variance shall post notice along the nearest public road at the boundaries of the property containing the sound source so that the notice is visible from the public road, and publish notice in a newspaper of general circulation in the city. Notice shall be posted on the property at least seven days before the public hearing, and notice shall be published at least four days before the public hearing. Notice under this section shall state the date the council will consider the application, the nature and substance of the variance to be considered, and that recipients of the notification may file written comments on the

application with the city recorder before the council meeting at which the application will be considered. (Ord. 01-1116 § 9)

#### **9.52.100 Variance review.**

The city manager or the city manager's designee or council may grant a variance, after considering the written application for variance and any written comments submitted by persons specified in Section 9.52.090, when it appears that the following conditions exist:

A. There are unnecessary or unreasonable hardships or practical difficulties which can be most effectively relieved by granting the variance, and;

B. That granting the application will not be unreasonably detrimental to the public welfare. (Ord. 01-1116 § 10)

#### **9.52.110 Variance decision.**

A. The city manager or the city manager's designee shall grant or deny a Class A variance within three days of receipt of a complete variance application, excluding Saturdays, Sundays, and holidays.

B. The council shall grant or deny a Class B or Class C variance within thirty (30) days of receipt of the application, and may, on its own motion, hold a public hearing on the application before deciding to grant or deny the variance.

C. The city manager or council may impose such limitations, conditions, and safeguards as deemed appropriate, so that the spirit of the chapter will be observed, and the public safety and welfare secured. A violation of any such condition or limitation shall constitute a violation of this chapter.

D. A decision to grant or deny the variance shall be in writing and shall state the reasons for such decision. The council or city manager shall notify the applicant of the decision and shall make it available to

any person who has submitted written comments on the application. (Ord. 01-1116 § 11)

**9.52.120 Review.**

The decision of the council to grant or deny a variance is final. The city manager shall file his or her written decision with the city recorder, who shall place the matter on the agenda for the forthcoming council meeting. The decision of the city manager is final on the date of that council meeting, unless the council, on its own motion, decides to reverse or modify the decision of the city manager or to schedule a public hearing on the application. If a public hearing is held, the council shall grant or deny the variance within thirty (30) days after the hearing, and may impose conditions on the granting of the variances as set forth in Section 9.52.110. (Ord. 01-1116 § 12)

**9.52.130 Penalties.**

Violation of any provision of this chapter constitutes a Class C violation (City of Sherwood Municipal Code 9.12.030) for the first offense. Subsequent violations of this chapter constitute a Class B violation (City of Sherwood Municipal Code 9.12.030). (Ord. 01-1116 § 13)



## **Chapter 9.54**

### **REGULATION OF CAMPING IN AREAS OPEN TO THE PUBLIC**

#### **Sections:**

- 9.54.010 Purpose.**
- 9.54.020 Definitions.**
- 9.54.030 Regulation of camping.**
- 9.54.040 Enforcement responsibility and authority.**
- 9.54.050 Variances.**
- 9.54.060 Variance application.**
- 9.54.070 Public notification for Class B variance.**
- 9.54.080 Variance review.**
- 9.54.090 Variance decision.**
- 9.54.100 Review.**
- 9.54.110 Civil penalties.**

#### **9.54.010 Purpose.**

This chapter is enacted to promote and protect the health, safety and welfare of the city's residents as well as property within the city through the regulation of camping on or near areas open to the public as well as on or near vacant lots in order to address the adverse impacts of such activities including crime victimization, littering, public urination, public defecation, public intoxication, theft of water and electricity, verbal and physical assaults, trespass onto adjacent public and private properties, vandalism, property damage, fire hazards, and harassment or intimidation of occupants, employees, and/or customers.  
(Ord. No. 2013-008, § 1, 11-19-2013)

#### **9.54.020 Definitions.**

For the purposes of this chapter, the following definitions shall apply:

A. "Area open to the public" means an outdoor area on private property within the city and that is intended for public access

including but not limited to private streets, alleyways and pedestrian ways, and common areas such as parking lots and picnic areas of schools, medical facilities, apartment houses, office and industrial buildings, service stations, churches and retail shopping centers. An "area open to the public" also includes a vacant or unimproved lot or parcel that, while not intended for public access, is not fenced or otherwise restricts direct public access to the lot or parcel. "Area open to the public" does not include those areas of improved private real property that are not open to the public such as a residential property including the yard.

B. "Camp" or "camping" means the use of an area open to the public as temporary quarters for the purposes of living, sleeping or residing. Such activities may include, but need not be limited to any of the following:

(1) Sleeping or making preparations to sleep, including the laying down of bedding for the purpose of sleeping;

(2) The parking of any motor vehicle, including a motor home, recreational vehicle or trailer, for the apparent purpose of occupancy;

(3) Making any fire.  
(Ord. No. 2013-008, § 1, 11-19-2013)

#### **9.54.030 Regulation of camping.**

Except as otherwise provided in this chapter, a person shall not camp in any area open to the public. Nothing in this chapter prohibits a person from camping in an area lawfully designated for camping including campgrounds or recreational vehicle parks.  
(Ord. No. 2013-008, § 1, 11-19-2013)

**9.54.040 Enforcement responsibility and authority.**

The city police department and the city manager, or person designated by the city manager, are jointly charged with the enforcement of this chapter.

(Ord. No. 2013-008, § 1, 11-19-2013)

**9.54.050 Variances.**

A. Any person may apply for a:

1. Class A variance to camp in an area open to the public for up to fourteen (14) days in duration; or

2. Class B variance to Camp in an area open to the public for fifteen (15) or more days in duration.

B. A person, entity or organization may apply for a variance under subsection (A) on behalf of multiple individuals or person(s).

C. Notwithstanding any other provision of this chapter, the chief of police, the city manager or the city manager's designee may permit a person to camp in areas open to the public provided:

(1) A situation exists that necessitates the need to camp in the area open to the public;

(2) The use of the area open to the public for camping purposes will not, on balance be unduly detrimental to the public health, safety or welfare; and

(3) The owner or person or entity legally controlling occupancy of the area open to the public has consented to the camping.  
(Ord. No. 2013-008, § 1, 11-19-2013)

**9.54.060 Variance application.**

A. An applicant for a variance shall submit the following information on a form approved by the city:

1. A reference to the provision in this chapter from which the variance is sought;

2. The reason(s) why the variance is necessary;

3. A general description of the physical characteristics of the area open to the public for which a variance is sought;

4. The variance's time period;

5. The signed consent from the owner or person or entity legally controlling occupancy of the area open to the public for which the variance is sought;

6. Any other supporting information the city manager or city council may reasonably require to allow consideration of the conditions set forth in section 9.52.100.

B. The applicant for a Class A variance shall submit the application to the city manager or the city manager's designee. The applicant for a Class B variance shall submit the application to the city recorder, who shall place the matter on the agenda for a forthcoming city council meeting.

(Ord. No. 2013-008, § 1, 11-19-2013)

**9.54.070 Public notification for Class B variance.**

The applicant for a Class B variance shall post notice along the nearest public road at the boundaries of the property containing the area open to the public for which the variance is sought so that the notice is visible from the public road, publish notice thereof in a newspaper of general circulation in the city and post on the city's website. Posted notice on the property and website shall be at least seven (7) days prior to the public hearing with published notice completed at least four (4) days prior to the hearing. Notice under this section shall state the date the council will consider the application, the nature and substance of the variance to be considered, and that written comments on the application may be filed with the city recorder before the meeting at which the application is to be considered.

(Ord. No. 2013-008, § 1, 11-19-2013)

**9.54.080 Variance review.**

The city manager, city manager's designee may grant a Class A variance.



City council may grant a Class B variance.

If requested by the applicant the city manager may extend a Class A variance by up to fifteen (15) calendar days if council cannot consider a Class B variance because of scheduling issues.

The city manager, city manager's designee or city council may grant a variance, after considering the written application for variance and any written comments submitted when it appears the following conditions exist:

A. There are unnecessary or unreasonable hardships or practical difficulties which can be most effectively relieved by granting the variance; and

B. The granting of the application will not be unduly detrimental to the public health or safety or welfare.

(Ord. No. 2013-008, § 1, 11-19-2013)

#### **9.54.090 Variance decision.**

A. The city manager or the manager's designee shall grant or deny a Class A variance within five (5) days of receipt of a complete variance application, excluding Saturdays, Sundays, and holidays.

B. The city council shall grant or deny a Class B variance within thirty (30) days of receipt of the application, and may, on its own motion, hold a public hearing on the application before deciding to grant or deny the variance.

C. The city manager, city manager's designee or city council may impose such limitations, conditions and safeguards as deemed appropriate, so that the spirit of the chapter will be observed, and the public safety, health and welfare are secured. A violation of any such condition or limitation constitutes a violation of this chapter.

D. A decision to grant or deny the variance shall be in writing and state the reasons for the decision. The city council or

city manager shall notify the applicant of the decision and shall make it available to any person who submitted written comments on the application.

(Ord. No. 2013-008, § 1, 11-19-2013)

#### **9.54.100 Review.**

The decision of the city manager, city manager's designee or the city council to grant or deny a variance is final. Such decisions may be reviewed pursuant to ORS 34.010 to 34.100 (writ of review).

(Ord. No. 2013-008, § 1, 11-19-2013)

#### **9.54.110 Civil penalties.**

A person who violates any provision of this chapter is subject to a civil penalty (Class C violation) for each day a violation occurs.

(Ord. No. 2013-008, § 1, 11-19-2013)

## **Chapter 9.56**

### **PROHIBITS USE OF TOBACCO PRODUCTS ON CITY PROPERTY**

#### **Sections:**

#### **9.56.010 Definitions.**

#### **9.56.020 Tobacco use prohibited.**

#### **9.56.030 Violation.**

#### **9.56.040 Severability.**

#### **9.56.010 Definitions.**

The following definitions apply to this chapter:

"Smoking" means any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, weed, plant or other tobacco or tobacco-like product or substance in any manner or any form.

"Tobacco product" means any tobacco, cigarette, cigar, pipe tobacco, smokeless tobacco, chewing tobacco, or any other form of tobacco which may be utilized for smoking, chewing, inhalation, or any other means of ingestion.

"Tobacco use" means smoking, chewing or other ingestion of any tobacco product. (Ord. 01-1117 § 1)

#### **9.56.020 Tobacco use prohibited.**

Tobacco use is prohibited on any city-owned, controlled or managed property, with the exclusion of public right-of-way, including, but not limited to city-owned buildings, parks, vehicles and other real and personal property. (Ord. 01-1117 § 2)

#### **9.56.030 Violation.**

Violation of this chapter in an infraction punishable by fine of not less than fifty (\$50.00) dollars nor more than five hundred (\$500.00) dollars. (Ord. 01-1117 § 3)

#### **9.56.040 Severability.**

If any provision, clause, sentence, or paragraph of this chapter or the applica-

tion thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions of this chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are declared to be severable.

## Chapter 9.60

### INVENTORY PROCEDURES

#### Sections:

#### **9.60.010 Purpose.**

#### **9.60.020 Definitions.**

#### **9.60.030 Inventories of impounded vehicles.**

#### **9.60.040 Inventories of persons in police custody.**

#### **9.60.010 Purpose.**

This chapter sets out the process for conducting an inventory of personal property found in a lawfully impounded vehicle as well as to the personal property in the possession of a person in police custody. It is not be interpreted to affect any other statutory or constitutional right(s) that police officers may employ to search persons or search or seize possessions for any other purpose. (Ord. 07-005 § 1 (part))

#### **9.60.020 Definitions.**

For the purpose of this chapter, the following definitions shall apply:

"Closed container" means a container whose contents are not exposed to view.

"Open container" means a container which is unsecured or incompletely secured in such a fashion that the container's contents are exposed to view.

"Police custody" means:

1. The imposition of restraint as a result of an arrest as that term is defined at ORS 133.005(1); or
2. The imposition of actual or constructive restraint by a police officer pursuant to a court order; or
3. The imposition of actual or constructive restraint by a police officer pursuant to ORS Chapter 426; or
4. The imposition of actual or constructive restraint by a police officer for

purposes of taking the restrained person to an approved facility for the involuntary confinement of persons pursuant to Oregon law.

"Police officer" means any officer of the Sherwood police department.

"Valuable" means:

1. Cash money of an aggregate amount of fifty dollars (\$50.00) or more; or
2. Individual items of personal property with a value of over five hundred dollars (\$500.00). (Ord. 07-005 § 1 (part))

#### **9.60.030 Inventories of impounded vehicles.**

A. The contents of all vehicles impounded by a police officer will be inventoried. The inventory shall be conducted before constructive custody of the vehicle is released to a third-party towing company except under the following circumstances:

1. If there is a reasonable suspicion to believe that the safety of either the police officer(s) or any other person is at risk, a required inventory will be done as soon as safely practical; or

2. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.

B. The inventory of an impounded vehicle is conducted to:

1. Promptly identify personal property to establish accountability and avoid spurious claims as to that property;
2. Assist in the prevention of theft of property;
3. Locate toxic, flammable or explosive substances; and
4. Reduce the danger to persons and property.

C. Inventories of impounded vehicles will be conducted according to the following procedure:

1. An inventory of personal property and the contents of open containers will be conducted throughout the passenger and engine compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any pockets in the doors or in the back of the front seat, in any console between the seats, under any floor mats and under the seats.

2. In addition to the passenger and engine compartments as described above, an inventory of personal property and the contents of open containers will also be conducted in the following locations:

- a. Any other type of unlocked compartments that are a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked car-top containers; and

- b. Any locked compartments including (but not limited to) locked vehicle trunks, locked hatchbacks and locked car-top containers if either the keys are available to be released with the vehicle to the third-party towing company or an unlocking mechanism for such compartment is available within the vehicle.

3. Unless otherwise provided in this Chapter 10.30, closed containers located either within the vehicle or any of the vehicle's compartments will not be opened for inventory purposes.

4. Upon completion of the inventory, the police officer will complete a report as directed by the chief of police.

5. Any valuables located during the inventory process will be listed on a property receipt. A copy of the property receipt will either be left in the vehicle or tendered to the person in control of the vehicle if such person is present. The valuables will be dealt with in such a manner as directed by the

chief of police. (Ord. 07-005 § 1 (part))

#### **9.60.040 Inventories of persons in police custody.**

A. A police officer will inventory the personal property in the possession of a person taken into police custody and such inventory will be conducted whenever:

1. Such person will be either placed in a secure police holding room or transported in the secure portion of a police vehicle; or

2. Custody of the person will be transferred to another law enforcement agency, correctional facility, or "treatment facility" as that phrase is used in ORS 426.460 or such other lawfully approved facility for the involuntary confinement of persons pursuant to Oregon Revised Statutes.

B. The purpose of the inventory of a person in police custody will be to:

1. Promptly identify property to establish accountability and avoid spurious claims to property; or

2. Fulfill the requirements of ORS 133.455 to the extent that such statute may apply to certain property held by the police officer for safekeeping; or

3. Assist in the prevention of theft of property; or

4. Locate toxic, flammable or explosive substances; or

5. Locate weapons and instruments that may facilitate an escape from custody or endanger law enforcement personnel; or

6. Reduce the danger to persons and property.

C. Inventories of the personal property in the possession of such persons will be conducted according to the following procedure:

1. An inventory will occur prior to placing such person into a holding room or a police vehicle, whichever occurs first. However, if reasonable suspicion to believe that

the safety of either the police officer(s) or the person in custody are at risk, an inventory will be done as soon as safely practical prior to the transfer of custody to another law enforcement agency or facility.

2. To complete the inventory of the personal property in the possession of such person, the police officer will remove all items of personal property from the clothing worn by such person. In addition, the officer will also remove all items of such personal property from all open containers in the possession of such person.

3. A closed container in the possession of such person will have its contents inventoried only when:

a. The closed container is to be placed in the immediate possession of such person at the time that person is placed in the secure portion of a custodial facility, police vehicle or secure police holding room; or

b. Such person requests that the closed container be with them in the secure portion of a police vehicle or a secure police holding room; or

c. The closed container is designed for carrying money and/or small valuables on or about the person including, but not limited to, closed purses, closed coin purses, closed wallets and closed fanny packs.

D. Valuables found during the inventory process will be noted by the police officer in a report as directed by the chief of police.

E. All items of personal property neither left in the immediate possession of the person in custody nor left with the facility or agency accepting custody of the person, will be handled in the following manner:

1. A property receipt will be prepared listing the property to be retained in the possession of the respective police department and a copy of that receipt will be tendered to the person in custody when

such person is released to the facility or agency accepting custody of such person; or

2. The property will be dealt with in such manner as directed by the chief of police.

F. All items of personal property neither left in the immediate possession of the person in custody nor dealt with as provided in subsection E of this section, will be released to the facility or agency accepting custody of the person so that they may:

1. Hold the property for safekeeping on behalf of the person in custody; and

2. Prepare and deliver a receipt, as may be required by ORS 133.455, for any valuables held on behalf of the person in custody. (Ord. 07-005 § 1 (part))

**10.08.040 Vehicles to be removed from fire scenes.**

Whenever the owner or driver of a vehicle discovers that such vehicle is parked immediately in front of, or close to a building to which the fire department has been summoned, he or she shall immediately remove such vehicle from the area unless otherwise directed by police or fire officers. (Ord. 04-004 § 1 (Exh. A)(part))

**10.08.050 Method of parking.**

A. No person having control or charge of a motor vehicle shall allow it to stand on any street unattended without first fully setting its parking brakes, stopping its motor, and removing the ignition key; and, when standing upon an precipitous grade, the front wheels of the vehicle shall be angled into the curb.

B. No person shall stand or park a vehicle in a street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within twelve (12) inches of the edge of the curb, except where the street is marked or signed for angle parking.

C. Where parking space markings are placed on a street, no person shall stand or park a vehicle other than at the indicated direction and within a single marked space. (Ord. 04-004 § 1 (Exh. A)(part))

**10.08.060 Prohibited parking or standing.**

No person shall park or leave standing a motor vehicle of any kind or character, whether motorized or not, as follows:

- A. Within ten feet of a fire hydrant;
- B. Within any portion of a crosswalk;
- C. Within any area marked as a loading zone other than for the purpose of loading or unloading cargo. (Ord. 04-004 § 1 (Exh. A)(part))

**10.08.070 Parking prohibited on certain streets.**

No person shall park a motor vehicle of any kind, whether motorized or not, on the following designated portions of the following public streets, except as may be necessitated by an emergency:

A. At any time:

1. On the southeasterly side of 1st Street from the intersection of 1st Street with Park Street to the intersection of 1st Street with Main Street.

2. On North Sherwood Blvd. from the intersection of North Sherwood Blvd. with 3rd Street through the intersection of North Sherwood Blvd. with Southwest Pacific Highway (Highway 99W).

3. On the southwesterly side of Gleneagle Drive from the intersection of Gleneagle Drive with Southwest Pacific Highway to the intersection of Gleneagle Drive with North Sherwood Boulevard.

4. On the northeast side of Northwest Park Street from the intersection of Northwest Park Street with Southwest 1st street to the intersection of Northwest Park Street and Railroad Street.

5. On the east side of Roy Street from the intersection of Roy Street and Oregon Street to the intersection of Roy Street and G. & T. Drive.

6. On Meinecke Road between the Cedar Creek Bridge and the intersection of Meinecke Road and Lee Drive.

7. On the northwest side of Highway 99 West from the point of its intersection with the southeast corner of tax lot 1400, assessor's tax map #2S130D, said lot being more particularly described in instrument recorded in Washington County Deed Records in Book 7800 at page 5379, thence southwest a distance of 305.68 to the southwest corner of said parcel and tax lot.

8. On the Southerly side of Willamette Street from its intersection with Washing-



ton Street to approximately two hundred sixty (260) feet easterly of its intersection with Lincoln Street.

9. On the Northerly side of Willamette Street from its intersection with Highland Drive to approximately two hundred twenty (220) feet Westerly of Lincoln Street.

10. On the northeasterly side of Northwest Park Street from Railroad Street to Northwest 2nd Street.

11. On the northeasterly side of Northwest Main Street from Railroad Street to Northwest 3rd Street.

12. On the northeasterly side of North Pine Street from Railroad Street to Northeast Oregon Street and from the alleyway between Northeast 2nd Street and Northeast 3rd Street to Northeast 3rd Street.

13. On the northeasterly side of Northeast Oak St. from Northeast Oregon St. to the end of the curb approximately one hundred fifty (150) feet north of Northeast 2nd Street.

14. On the northwesterly side of Northeast Ash Street from Northeast Oregon Street to the end of the curb at approximately one hundred fifty (150) feet northerly of Northeast 1st Street.

15. On Northeast Oregon Street from North Pine Street to the railroad crossing.

16. On the northwesterly side of Northeast 1st Street from Northwest Park Street to Northwest Main Street and the northwesterly side of Northeast 1st Street from North Pine Street to approximately one hundred (100) feet easterly of Northeast Ash Street.

17. On the southeasterly side of Northwest 2nd Street from Northwest Park Street to North Pine Street.

18. On the southeasterly side of Northeast 2nd Street from North Pine Street to Northeast Oak Street and on the northwesterly side of Northeast 2nd Street from

Northeast Oak Street to the end of the curb at approximately one hundred fifty (150) feet easterly of Northeast Oak Street.

19. On the northwesterly side of Northwest 3rd Street from Northwest Main Street to North Pine Street.

20. No parking shall be allowed on the southeasterly side of Northeast 3rd Street from North Pine Street to fifty (50) feet easterly of Pine Street and on the northwesterly side of Northeast 3rd Street.

B. Between the hours of eight a.m. and four p.m., on Monday through Saturday, in excess of two hours continuously in any one location on any city street outside of a residential district, as defined by subsection 1 of ORS 801.430.

C. The city may establish residential parking districts (districts) to protect specified residential areas from the effects of spillover parking arising as a result of adjacent commercial, employment or mixed-use or other uses that generate a high demand for parking. Parking by those without a permit may be prohibited, within the following guidelines:

1. A request for creation of a district shall be initially directed to the city manager, who shall make and then forward a written recommendation to the city council for its review.

2. When evaluating a district's possible designation or any attribute thereof the city manager may, in assessing whether the general welfare of the city is enhanced or promoting thereby, consider the following factors:

- a. The residential nature within the district;
- b. The volume of traffic and available parking;
- c. The surface width of streets within the proposed district;

d. The relationship between the need for parking space by residents of the proposed district and the need and use of parking space by the public at large; and

e. The hours of day or night when use of parking within the proposed district is necessary or most convenient.

3. Any district established by council after review of the city manager's written recommendation shall be done by resolution, clearly defining the boundaries thereof and the hours within which non-permitted parking is to be prohibited.

4. The city manager shall cause city approved signs to be installed and thereafter maintained in the district identifying any parking restrictions for non-residents and the exception thereto applicable for the district's permit holders.

5. The city manager shall establish and enforce procedures and standards concerning the terms, issuance, denial and revocation of both permanent and temporary permits for use within districts created within the city. Residents of a district may apply for permit(s) from the city manager. (Ord. No. 2013-005, § 2, 8-20-2013; Ord. 04-004 § 1 (Exh. A)(part))

#### **10.08.080 Disabled persons parking.**

The city manager is directed to establish by proper signing and designation, reserved street parking space or spaces, as needed for disabled persons, which parking shall be subject to the rules and regulations of the Oregon Revised Statutes for disabled persons parking. (Ord. 04-004 § 1 (Exh. A)(part))

#### **10.08.090 Repeat violation procedures.**

Any violation of the provisions of this chapter shall be subject to the remedies listed below:

A. First violation — Request to move vehicle posted on the vehicle itself. If vehi-

cle is not relocated within a twenty-four-(24) hour period a second violation action will be taken.

B. Second violation — Vehicle is ticketed and there is a seventy-two- (72) hour notice to tow. Ticket is for a fine of no less than fifty dollars (\$50.00) or no greater than two hundred fifty dollars (\$250.00) (Class C Violation). Notice to tow shall be provided as for abandoned, discarded, and hazardously located vehicles pursuant to Sherwood Municipal Code Section 8.04.070. If the vehicle is not relocated within the seventy-two- (72) hour period a third violation action will be taken.

C. Third violation — Vehicle is ticketed and towed same day. Ticket is for a fine of no less than two hundred dollars (\$200.00) or no greater than five hundred dollars (\$500.00) (Class B Violation). Notice after removal shall be provided as for abandoned, discarded, and hazardously located vehicles pursuant to Sherwood Municipal Code Section 8.04.070. Notice shall be provided that the vehicle is subject to ticket as a Class A violation and immediate towing if subsequently parked in the same area within three hundred (300) lineal feet along the curb in either direction.

D. Fourth and subsequent violations — For the same vehicle parked in the same area within a three hundred (300) lineal feet measured along the curb in either direction, those vehicles will be ticketed and are subject to immediate towing. Ticket for fourth and subsequent violations is for a fine of no less than five hundred dollars (\$500.00) or no greater than one thousand dollars (\$1,000.00) (Class A Violation). Notice after removal shall be provided as for abandoned, discarded, and hazardously located vehicles pursuant to Sherwood Municipal Code Section 8.04.070. (Ord. 04-004 § 1 (Exh. A)(part))



## Chapter 10.12

### MISCELLANEOUS TRAFFIC REGULATIONS

#### Sections:

- 10.12.010 Powers of the city council.**
- 10.12.020 Authority of police and fire officers.**
- 10.12.030 Stop when traffic obstructed.**
- 10.12.040 Unlawful marking.**
- 10.12.050 Use of sidewalks.**
- 10.12.060 Permits required for parades.**
- 10.12.070 Funeral procession.**
- 10.12.080 Drivers in procession.**
- 10.12.090 Driving through procession.**
- 10.12.100 Emerging from vehicle.**
- 10.12.110 Boarding or alighting from vehicles.**
- 10.12.120 Riding on motorcycles.**
- 10.12.130 Unlawful riding.**
- 10.12.140 Clinging to vehicles.**
- 10.12.150 Crossing private property.**
- 10.12.160 Driving in parks.**
- 10.12.170 Sleds, skis, toboggans and skateboards on streets.**
- 10.12.180 Damaging sidewalks and curbs.**
- 10.12.190 Obstructing streets.**
- 10.12.200 Removing glass and debris.**
- 10.12.210 Illegal cancellation of traffic citations.**
- 10.12.220 Existing traffic signs.**
- 10.12.230 Bridle paths—Penalty.**
- 10.12.240 Violation—Penalty.**
- 10.12.010 Powers of the city council.**

The council, provided that where required by the Motor Vehicle Laws of Ore-

gon approval of the State Highway Commission has first been obtained, may by resolution establish traffic controls which shall become effective upon the installation of appropriate signs, signals or other markings. Such traffic controls may designate and regulate.

The city manager is delegated authority to direct the installation of necessary traffic control devices, as described in this chapter, on an emergency basis to protect the safety and health of the citizens.

A. The parking and standing of vehicles by:

1. Classifying portions of streets upon which either parking or standing, or both, shall be prohibited, or prohibited during certain hours,

2. Establishing the time limit for legal parking in limited parking areas,

3. Designating the angle of parking if other than parallel to the curb,

4. Designating areas within which, or streets or portions of streets along which, parking meters will be installed, and the denomination of coins to be used or deposited in parking meters;

B. Through streets and one-way streets;

C. For trucks exceeding specified weights, streets to which they shall be restricted and streets on which they are prohibited;

D. Traffic control signals and the time of their operation;

E. Bus stops, bus stands, taxicab stands, and stands for other passenger common carrier vehicles;

F. Loading zones;

G. Turn regulations at intersections;

H. Marked pedestrian crosswalks and safety zones;

I. Special speed regulations in city parks. (Ord. 06-015 § 1; Ord. 599 § IX(1), 1970)

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

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

**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.

## Division II. LAND USE AND DEVELOPMENT

### Chapter 16.12

#### RESIDENTIAL LAND USE DISTRICTS\*

The residential districts are intended to promote the livability, stability and improvement of the City's neighborhoods.

#### SECTION:

##### **16.12.010. Purpose and Density Requirements**

##### **16.12.020. Allowed Residential Land Uses**

##### **16.12.030 Residential Land Use Development Standards**

##### **16.12.040 Community Design**

##### **16.12.050 Flood Plain**

##### **16.12.060 Amateur Radio Towers/Facilities**

#### **16.12.010. Purpose and Density Requirements**

##### **A. Very Low Density Residential (VLDR)**

###### **1. Standard Density**

The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas that warrant preservation but are otherwise deemed suitable for limited development. Standard density in the VLDR zone is 0.7 to 1 dwelling unit per acre.

###### **2. VLDR Planned Unit Development Density Standards**

Property in the VLDR zone that is developed through the Planned Unit Development (PUD) process under Chapter 16.40, if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, may develop to a density of 1.4 to 2.0 dwelling units per net buildable acre under the following conditions:

- a. The minimum lot size is not less than 10,000 square feet;
- b. The following areas are dedicated to the public or preserved as common open space: floodplains under Section 16.134.020 (Special Resource Zones); natural resources areas as shown on the Natural Resources and Recreation Plan Map, attached as Appendix C, or as specified in Chapter 5 of the Community Development Plan; and wetlands defined and regulated under current Federal regulation and Division VIII of this Code; and
- c. The higher density development will better preserve natural resources as compared to one (1) unit per acre.

###### **3. Southeast Sherwood Master Planned Unit Development**

- a. Property in the VLDR zone that is developed through the Planned Unit Development process under Chapter 16.40 and is based on, and generally conforms to the concepts, goals and objectives of the SE Sherwood Master Plan may develop to a maximum density of four (4.0) dwelling units per net buildable acre.

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\***Editor's note**—Ord. No. 2011-03, § 2, adopted April 5, 2011, amended the Code by repealing former Ch. 16.12, §§ 16.12.010—16.12.070, in its entirety, and added a new Ch. 16.12. Former Ch. 16.12 pertained to the Very Low Density Residential zoning district, and derived from Ords. 86-851, 87-857, 88-919, 90-921, 1997-1019, 2000-1092, 2000-1108, 2003-1153, and 2006-021; and Ord. No. 2010-015, adopted October 5, 2010.

- b. Development under Section 16.12.010.A.3 must generally follow the development pattern shown as Alternative B/C in the SE Sherwood Master Plan (2006) and address the following factors:
  - (1) Varied lot sizes are allowed with a minimum lot area of 10,000 square feet if it can be shown that adequate buffering exists adjacent to developed properties with screening, landscaping, roadways or open space.
  - (2) The open space areas as required by Chapter 16.40 (Planned Unit Development), where feasible, should include parks and pathways that are located within the general vicinity of Alternative B/C in the SE Sherwood Master Plan.
  - (3) There is a pedestrian-friendly transportation system that links the site with nearby residential developments, schools, parks, commercial areas and other destinations.
  - (4) The unique environmental opportunities and constraints identified in the SE Sherwood Master Plan.
  - (5) The view corridors identified in the SE Sherwood Master Plan.
  - (6) The housing design types that are compatible with both surrounding and existing development.
- c. A density transfer under Chapter 16.40.050.C.2. is not permitted for development under this Section 16.12.010.A.3.
- d. The Planning Commission will consider the specific housing design types identified and the preservation of the identified view corridors at the time of final development review to ensure compatibility with the existing and surrounding development.

#### B. Low Density Residential (LDR)

The LDR zoning district provides for single-family housing and other related uses with a density of 3.5 to 5 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

#### C. Medium Density Residential (MDRL)

The MDRL zoning district provides for single-family and two-family housing, manufactured housing and other related uses with a density of 5.6 to 8 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirements.

#### D. Medium Density Residential High (MDRH)

The MDRH zoning district provides for a variety of medium density housing, including single-family, two-family housing, manufactured housing multi-family housing, and other related uses with a density of 5.5 to 11 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

#### E. High Density Residential (HDR)

The HDR zoning district provides for higher density multi-family housing and other related uses with density of 16.8 to 24 dwelling units per acre. Minor land partitions shall be exempt from the minimum density requirement.

(Ord. No. 2013-003, § 2, 9-3-2013; Ord. No. 2011-003, § 2, 4-5-2011)

**16.12.020. Allowed Residential Land Uses****A. Residential Land Uses**

The table below identifies the land uses that are allowed in the Residential Districts. The specific land use categories are described and defined in Chapter 16.10.

<b>USES</b>					
	<b>VLDR</b>	<b>LDR</b>	<b>MDRL</b>	<b>MDRH</b>	<b>HDR</b>
<b>RESIDENTIAL</b>					
• Single-Family Attached or Detached Dwellings	P	P	P	P	P
• Two Family Dwelling Units	N	N	P	P	P
• Multi-family Dwellings	N	N	N	P	P
• Townhomes-subject to Chapter 16.44	N	N	N	P	P
• Planned Unit Developments (PUDs)-subject to Chapter 16.40	P	P	P	P	P
• Manufactured Homes on Individual Lots	P	P	P	P	P
• Manufactured Home Park-subject to Chapter 16.46	N	N	P	P	N
• Accessory Dwelling Unit-subject to Chapter 16.52	P	P	P	P	P
• Group Homes <sup>1</sup>	P	P	P	P	P
<b>Whereas P=Permitted, C=Conditional, N=Not Allowed</b>					

<sup>1</sup> Group homes not to exceed five (5) unrelated persons in residence provided such facilities are substantially identical, in the city's determination, in physical form to other types of housing allowed in the zoning district.

Development Standard by Residential Zone-	VLDR	VLDR-PUD	LDR	MDRL	MDRH	HDR
• Two or Multi-Family: for the first 2 units	X	X	X	10,000	8,000	8,000
• Multi-Family: each additional unit after first 2	X	X	X	X	3,200	1,500
Minimum Lot width at front property line: (in feet)	25	25	25	25	25	25
Minimum Lot width at building line <sup>6</sup> : (in feet)						
• Single-Family	None	None	60	50	50	50
• Two-Family	X	X	X	60	60	60
• Multi-family	X	X	X	X	60	60
Lot Depth	None	None	80	80	80	80
Maximum Height <sup>7</sup> (in feet)	30 or 2 stories	30 or 2 stories	30 or 2 stories	30 or 2 stories	35 or 2.5 stories	40 or 3 stories
• Amateur Radio Tower	70	70	70	70	70	70
• Chimneys, Solar or Wind Devices, Radio and TV aerials <sup>8</sup>	50	50	50	50	55	60
Setbacks (in feet)						
• Front yard <sup>9</sup>	20	20	20	14	14	14
• Face of garage	20	20	20	20	20	20
• Interior side yard						
• Single-Family Detached	5	5	5	5	5	5
• Single-Family Attached	20	20	20	10	5	5
• Two Family	X	X	X	5	5	5
• Multi-Family						
• 18 ft. or less in height	X	X	X	X	5	5
• Between 18-24 ft. in height	X	X	X	X	7	7
• If over 24 ft. in height	X	X	X	X	§ 16.68 Infill	§ 16.68 Infill

<sup>6</sup> Minimum lot width at the building line on cul-de-sac lots may be less than that required in this Code if a lesser width is necessary to provide for a minimum rear yard.

<sup>7</sup> Maximum height is the lesser of feet or stories

<sup>8</sup> Some accessory structures, such as chimneys, stacks, water towers, radio or television antennas, etc. may exceed these height limits with a conditional use permit, per Chapter 16.62 (Chimneys, Spires, Antennas and Similar Structures).

<sup>9</sup> Reductions in front yard setbacks for architectural features as described in 16.50.050 are not permitted in the MDRL, MDRH, or HDR zoning districts.

Development Standard by Residential Zone-	VLDR	VLDR-PUD	LDR	MDRL	MDRH	HDR
• Corner lot street side						
• Single Family or Two Family	20	20	20	15	15	15
• Multi-Family	X	X	X	X	20	30
• Rear yard	20	20	20	20	20	20

(Ord. No. 2014-006, § 2, 3-4-2014; Ord. No. 2012-006, § 2, 3-6-2012; Ord. No. 2011-003, § 2, 4-5-2011)

#### 16.12.040 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, *see* Divisions V, VIII, IX.

(Ord. No. 2011-003, § 2, 4-5-2011)

#### 16.12.050 Flood Plain

Except as otherwise provided, Section 16.134.020 shall apply.

(Ord. No. 2011-003, § 2, 4-5-2011)

#### 16.12.060 Amateur Radio Towers/Facilities

A. All of the following are exempt from the regulations contained in this section of the Code:

1. Amateur radio facility antennas, or a combination of antennas and support structures seventy (70) feet or less in height as measured from the base of the support structure consistent with ORS § 221.295.
2. This includes antennas attached to towers capable of telescoping or otherwise being extended by mechanical device to a height greater than 70 feet so long as the amateur radio facility is capable of being lowered to 70 feet or less. This exemption applies only to the Sherwood Development Code and does not apply to the City of Sherwood Building Code or other applicable city, state, and federal regulations. Amateur radio facilities not meeting the requirements of this section must comply with Chapter 16.12.030.C.

B. Definitions

1. Amateur Radio Services: Radio communication services, including amateur-satellite service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in Title 47, Code of Federal Regulations, Part 97 and regulated there under.
2. Amateur Radio Facilities: The external, outdoor structures associated with an operator's amateur radio service. This includes antennae, masts, towers, and other antenna support structures.

(Ord. No. 2012-006, § 2, 3-6-2012)

district. The ordinance shall contain findings of fact as per this Section, state all conditions of approval, and set an effective date subject to approval of the Final Development Plan as per Section 16.40.030.

#### E. Effect of Decision

Approval of the Preliminary Development Plan shall not constitute final acceptance of the PUD. Approval shall, however, be binding upon the City for the purpose of preparation of the Final Development Plan, and the City may require only such changes in the plan as are necessary for compliance with the terms of preliminary approvals.

(Ord. No. 2011-003, § 2, 4-5-2011; Ord. No. 2010-015, § 2, 10-5-2010; Ord. No. 2008-015, § 1, 10-7-2008; Ord. 2001-1119, § 1; 98-1053; Ord. 86-851, § 3)

### **16.40.030 Final Development Plan**

#### A. Generally

Upon approval of the PUD overlay zoning district and preliminary development plan by the Council, the applicant shall prepare a detailed Final Development Plan as per this Chapter, for review and approval of the Commission. The Final Development Plan shall comply with all conditions of approval as per Section 16.40.020. In addition, the applicant shall prepare and submit a detailed site plan for any non-single-family structure or use not addressed under Section 16.40.020(B)(6), for review and approval, pursuant to the provisions of Chapter 16.90. The site plan shall be processed concurrently with the Final Development Plan.

#### B. Final Subdivision Plat

If the PUD involves the subdivision of land, a final plat shall be prepared and submitted for final approval, pursuant to Chapter 16.124.

(Ord. No. 2008-015, § 1, 10-7-2008; Ord. 86-851, § 3)

### **16.40.040 General Provisions**

#### A. 1. Phasing

- a. The City may require that development be done in phases, if public facilities and services are not adequate to serve the entire development immediately.
- b. Any PUD which requires more than twenty four (24) months to complete shall be constructed in phases that are substantially complete in themselves and shall conform to a phasing plan approved as part of the Final Development Plan.

#### 2. Failure to Complete

- a. When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one (1) year from the date of approval of a Final Development Plan, the Commission shall determine whether or not the PUD's continuation, in whole or in part, is in the public interest.
- b. If continuation is found not to be in the public interest, the Commission shall recommend to the Council that the PUD be extinguished. The Council, after public hearing, may extend the PUD, extend with conditions, or extinguish the PUD.



**B. Changes in Approved Plans**

**1. Major Changes**

Proposed major changes in a Final Development Plan shall be considered the same as a new application, and shall be made in accordance with the procedures specified in this Chapter.

**2. Minor Changes**

Minor changes in a Final Development Plan may be approved by the Council without further public hearing or Commission review, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses.

**C. Multiple Zone Density Calculation**

When a proposed PUD includes multiple zones, the density may be calculated based on the total permitted density for the entire project and clustered in one or more portions of the project, provided that the project demonstrates compatibility with the adjacent and nearby neighborhood(s) in terms of location of uses, building height, design and access.

(Ord. No. 2008-015, § 1, 10-7-2008; Ord. 86-851, § 3)

**16.40.050 Residential PUD**

**A. Permitted Uses**

The following uses are permitted outright in Residential PUD when approved as part of a Final Development Plan:

1. Varied housing types, including but not limited to single-family attached dwellings, zero-lot line housing, row houses, duplexes, cluster units, and multi-family dwellings.
2. Related NC uses which are designed and located so as to serve the PUD district and neighborhood.
3. All other uses permitted within the underlying zoning district in which the PUD is located.

**B. Conditional Uses**

A conditional use permitted in the underlying zone in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the Commission as per Chapter 16.82.

**C. Development Standards**

**1. Density**

The number of dwelling units permitted in a Residential PUD shall be the same as that allowed in the underlying zoning district, except as provided in Subsection (C)(2), below or 16.40.040.C above.

**2. Density Transfer**

Where the proposed PUD site includes lands within the base floodplain, wetlands and buffers, or steeply sloped areas which are proposed for public dedication, and such

dedication is approved as a part of the preliminary development plan, then a density transfer may be allowed adding a maximum of 20% to the overall density of the land to be developed.

### 3. Minimum Lot Size

The minimum lot size required for single-family, detached dwellings is 5,000 square feet, unless the subject property is either:

- a. Located within the High Density Residential zone (HDR). In that case, there is no minimum lot size provided the applicant demonstrates that the proposal meets the purpose and intent of the Zoning and Development Code and the Sherwood Comprehensive Plan until February 4, 2015.
- b. Or qualifies as infill, defined as: parent parcel of 1.5 acres or less proposed for land division, where a maximum 15% reduction in lot size may be allowed from the minimum lot size.

(Ord. No. 2014-002, § 2, 2-4-2014; Ord. No. 2008-015, § 1, 10-7-2008; Ord. 2001-1119, § 3; Ord. 86-851, § 3)

## **16.40.060 Non-Residential (Commercial or Industrial) PUD**

### A. Permitted Uses

Any commercial, industrial or related use permitted outright in the underlying zoning district in which the PUD is located, may be permitted in a Non-Residential PUD, subject to Division VIII.

### B. Conditional Uses

Conditional use permitted in the underlying zoning district in which the PUD is located may be allowed as part of the PUD upon payment of required application fee and approval by Commission.

### C. Development Standards

#### 1. Floor Area

The gross ground floor area of principal buildings, accessory buildings, and future additions shall not exceed sixty percent (60%) of the buildable portion of the PUD.

#### 2. Site and Structural Standards

Yard setback, type of dwelling unit, lot frontage and width and use restrictions contained in this Code may be waived for the Non-Residential PUD, provided that the intent and objectives of this Chapter are complied with in the Final Development Plan. Building separations shall be maintained in accordance with the minimum requirements of the Fire District.

#### 3. Perimeter Requirements

Unless topographical or other barriers within the PUD provide reasonable privacy for existing uses adjacent to the PUD, the Commission shall require that structures located on the perimeter of the PUD be:

- a. Setback in accordance with provisions of the underlying zoning district within which the PUD is located and/or:
- b. Screened so as to obscure the view of structures in the PUD from other uses.

4. Height

Maximum building height is unlimited, provided a sprinkler system is installed in all buildings over two (2) stories, as approved by the Fire District, excepting that where structures are within one hundred (100) feet of a residential zone, the maximum height shall be limited to that of the residential zone.

5. Community Design Standards

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Divisions V, VIII and IX.

6. Density Transfer

Where the proposed PUD includes lands within the base floodplain, a density transfer may be allowed in accordance with Section 16.142.040.

7. Minimum Site Area

a. Commercial PUD

Minimum area for a Commercial PUD shall be five (5) acres. Development of a Commercial PUD of less than five (5) acres may be allowed if the PUD can be developed consistent with the intent and standards of this Chapter, as determined by the Commission.

b. Industrial PUD

The minimum site area for an Industrial PUD shall be twenty (20) acres. (Ord. 91-922, § 3; Ord. 86-851)

Ordinance Number	Date	Description	Section	Section this Code
				16.106.010— 16.106.040
				16.106.060— 16.106.080
				16.108.010— 16.108.040
				16.120.010— 16.120.080
				16.122.010— 16.122.050
				16.124.010— 16.124.030
				16.126.010— 16.126.050
				16.128.010— 16.128.130
2011-012	10-18-2011	Renaming streets	1 Added	12.06.010— 12.06.040
2011-013	11- 1-2011	Adopting the 2011 Oregon Residential Specialty Code	1	15.04.150
2012-001	1- 3-2012	Amending multiple sections of the Zoning and Community Development Code	2	16.98.040
			Rpld	16.86.010, 16.86.020
			Added	16.86.010— 16.86.030
2012-002	1-17-2012	The use of bicycles, unicycles, roller-skates, roller-blades, scooters and skateboards	2 Added	12.12.235
2012-003	5- 1-2012	Trees on private property	2	16.10.020 Ch. 16.142 (tit.) 16.142.040 16.142.060— 16.142.080
2012-004	3- 6-2012	Denali Planned Unit Development		Omit
2012-005	2-21-2012	Fifteenth amendment to Sherwood Urban Renewal Plan		Omit
2012-006	3- 6-2012	Amateur radio towers	2	16.12.020, 16.12.030
			Added	16.12.060
2012-007	5- 1-2012	System development charge credits	1	15.16.100.H
2012-008	7-17-2012	Landscaping, off-street parking and loading requirements	2	16.92.010— 16.92.040
				16.94.010— 16.94.030
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2012-009	8- 7-2012	Signs	2 Rpld	16.102.010— 16.102.080
			Added	16.100.010— 16.100.030
				16.102.010— 16.102.060
2012-011	8- 7-2012	Commercial, industrial and institutional and public use classifications	2	16.88.010— 16.88.030

Ordinance Number	Date	Description	Section	Section this Code
			Rpld	16.22.010— 16.22.080
				16.24.010— 16.24.080
				16.26.010— 16.26.080
				16.28.010— 16.28.070
				16.30.010— 16.30.070
				16.31.010— 16.31.100
				16.32.010— 16.32.070
				16.34.010— 16.34.070
				16.36.010— 16.36.070
			Added	16.22.010— 16.22.060
				16.31.010— 16.31.070
				16.36.010— 16.36.070
				16.88.040
2012-012	10- 2-2012	Amendment to Transportation System Plan and Comprehensive Plan regarding the functional classification of Cedar Brook Way		Omit
2012-013	11-14-2012	Declaring certain sidewalks to be defective		Omit
2012-014	11-14-2012	Declaring certain sidewalks to be defective		Omit
2013-001	2- 5-2013	Definition of "solid waste" and franchise enforcement	1	8.20.030
			2	8.20.130
2013-002	5-21-2013	Declaring certain sidewalks to be defective		Omit
2013-003	9- 3-2013	Property zoned very low density residential	2	16.12.010.A
2013-004	7-16-2013	Vacation of public storm sewer easement located on private property and establishing a new public storm water easement with adjusted boundary to match encroachment conditions		Omit
2013-005	8-20-2013	Parking on certain streets	1 Added	10.08.070.C
2013-006	8-20-2013	Assessing sidewalk construction costs on certain lots and parcels		Omit
2013-007	9-17-2013	Approving the Sherwood Town Center Plan and amending the Comprehensive Plan		Omit
2013-008	11-19-2013	Regulation of camping in areas open to the public	1 Added	9.54.010— 9.54.110
2014-001	2- 4-2014	Amending comprehensive plan and zoning map to redesignate a parcel from General Commercial to High Density Residential		Omit
2014-002	2- 4-2014	Planned unit developments	2	16.40.050
2014-003	2-18-2014	Temporarily prohibiting locating medical marijuana facilities within the city		Omit

<b>Ordinance Number</b>	<b>Date</b>	<b>Description</b>	<b>Section</b>	<b>Section this Code</b>
2014-004	2-18-2014	Amendment to the transportation system plan and comprehensive plan		Omit
2014-005	2-18-2014	Amendment to the transportation system plan and comprehensive plan		Omit
2014-006	3- 4-2014	Dimensional table as it relates to front yard setbacks within the Medium Density Residential Low, Medium Density Residential High and High Density Residential zoning districts	2	16.12.030.C
2014-007	4- 1-2014	Declaring certain sidewalks to be defective		Omit
2014-008	4- 1-2014	Repealing Ord. 2014-003 re medical marijuana facilities		Omit

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### PEDESTRIANS

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