

**SHERWOOD MUNICIPAL CODE**

**(Covering Ordinances through 2016-015, passed October 18, 2016.)**

**Looseleaf Supplement**

Included in the Charter is:

**(Resolution 2016-073, adopted December 2, 2016.)**

See the Charter Comparative Table for further information.

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

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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 2016-015, passed October 18, 2016, and the Charter up to date through Resolution 2016-073, passed December 2, 2016.**

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
2012-003	Included	13
2012-007	Included	13
2012-008	Included	13
2012-009	Included	13
2012-011	Included	13
2012-012	Omitted	13
2012-013	Omitted	13
2012-014	Omitted	13
2013-001	Included	14
2013-002	Omitted	14
2013-003	Included	14
2013-004	Omitted	14
2013-005	Included	14
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
2014-010	Included	15
2014-011	Included	15
2014-048 (Res.)	Included	15
2014-012	Included	15
2014-013	Omitted	15
2014-014	Included	15
2014-015	Included	15
2014-016	Omitted	15
2014-017	Included	15
2014-018	Included	15
2014-019	Included	15
2014-020	Included	15
2014-021	Included	15
2014-022	Included	15
2014-077 (Res.)	Included	15
2015-001	Included	15
2015-002	Included	15
2015-003	Included	16
2015-004	Omitted	16
2015-005	Included	16
2015-006	Included	16
2015-008	Omitted	16
2015-009	Omitted	16
2016-005	Included	16
2016-006	Included	16
2016-009	Included	17
2016-007	Included	17
2016-008	Included	17
2016-010	Included	17
2016-043 (Res.)	Included	17
2016-013	Included	17
2016-014	Omitted	17
2016-015	Omitted	17
2016-001	Included	17
2016-002	Included	17
2016-003	Included	17
2016-073 (Res.)	Included	17

## SHERWOOD CITY CHARTER

### PREAMBLE

We, the voters of Sherwood, Oregon exercise our power to the fullest extent possible under the Oregon Constitution and laws of the state, and enact this Home Rule Charter.

### Chapter I

#### NAMES AND BOUNDARIES

**Section 1. Title, Effective Date and Review.** This charter shall be referred to as the Sherwood City Charter and takes effect January 1, 2015. This charter shall be reviewed at least every six years, with the appointment of a charter review committee by the City council.

(Res. No. 2014-077, § 1, 12-16-2014; Res. 05-008 § 1 (part))

**Section 2. Name.** The City of Sherwood, Oregon, continues as a municipal corporation with the name City of Sherwood.

(Res. 05-008 § 1 (part))

**Section 3. Boundaries.** The city includes all territory within its boundaries as they now exist or are legally modified. Unless required by state law, annexations may only take effect with the approval of city voters. The city recorder will maintain as a public record an accurate and current description of the boundaries.

(Res. 05-008 § 1 (part))

### Chapter II

#### POWERS

**Section 4. Powers.** The city has all powers that the constitutions, statutes and com-

mon law of the United States and Oregon expressly or impliedly grant or allow the city, as fully as though this charter specifically stated each of those powers.

(Res. 05-008 § 1 (part))

**Section 5. Construction.** The charter will be liberally construed so that the city may exercise fully all powers possible under this charter and under United States and Oregon law.

(Res. 05-008 § 1 (part))

**Section 6. Distribution.** The Oregon Constitution reserves initiative and referendum powers as to all municipal legislation to city voters. This charter vests all other city powers in the council except as the charter otherwise provides. The council has legislative, administrative and quasi-judicial authority. The council exercises legislative authority by ordinance, administrative authority by resolution, and quasi-judicial authority by order. The council may not delegate its authority to adopt ordinances. The council appoints members of commissions, board and committees established by ordinance or resolution.

(Res. 05-008 § 1 (part))

### Chapter III

#### COUNCIL

**Section 7. Council.** The council consists of a mayor and six councilors nominated and elected from the City. A majority of the council may cause an item to be added to the agenda of a future meeting.

(Res. No. 2014-077, § 1, 12-16-2014; Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))

**§ 8 Section 8. Mayor.** The mayor presides over and facilitates council meetings, preserves order, enforces council rules, and

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determines the order of business under council rules. The mayor is a voting member of the council. The mayor must sign all records of council decisions. The mayor serves as the political head of the city government. (Res. 05-008 § 1 (part))

**Section 9. Council President.** At its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform duties. (Res. 05-008 § 1 (part))

**Section 10. Rules.** In January after each general election, the council must by resolution adopt council rules. (Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))

**Section 11. Meetings.** The council must meet at least once a month at a time and place designated by its rules, and may meet at other times in accordance with council rules. The council shall afford an opportunity for general public comment at each regular meeting. (Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))

**Section 12. Quorum.** A majority of the council members is a quorum to conduct business, but a smaller number may meet and compel attendance of absent members as prescribed by council rules. (Res. 05-008 § 1 (part))

**Section 13. Vote Required.** The express approval of a majority of a quorum of the council is necessary for any council decision, except when this charter requires approval by a majority of the council. (Res. 05-008 § 1 (part))

**Section 14. Record.** A record of council meetings must be kept in a manner prescribed by the council rules. (Res. 05-008 § 1 (part))

## Chapter IV

### LEGISLATIVE AUTHORITY

**Section 15. Ordinances.** The council will exercise its legislative authority by adopting ordinances. The enacting clause for all ordinances must state "The City of Sherwood ordains as follows:" (Res. 05-008 § 1 (part))

#### Section 16. Ordinance Adoption.

(a) Except as this provision provides otherwise, adoption of an ordinance requires reading of the proposed ordinance by title at two separate meetings separated by at least six days, and approval by a majority of council, which approval may occur at the meeting at which the second reading is conducted or a subsequent meeting.

(1) The text of the proposed ordinance shall be posted and available to the public on the City's website at least six days in advance of each meeting at which the ordinance will be read or considered pursuant to this section.

(2) At each meeting that the ordinance is read or considered pursuant to this section, the title of the ordinance shall be read and public comments shall be accepted, prior to any vote of the council on adoption.

(3) An ordinance may be adopted at a single meeting of the council by unanimous vote of all sitting councilors on the question upon being read by title twice.

(b) Any substantive amendment to a proposed ordinance must be read aloud or made available in writing to the public before the council adopts the ordinance at that meeting.



(c) After the adoption of an ordinance, the vote of each member must be entered into the council minutes.

(d) After adoption of an ordinance, the city recorder must endorse it with the date of adoption and the recorder's name and title. The city recorder must submit the ordinance to the mayor for approval. If the mayor approves the ordinance, the mayor must sign and date it.

(e) If the mayor vetoes the ordinance, the mayor must return it to the city recorder with written reasons for his veto within 10 days of receipt of the ordinance. If the ordinance is not so returned, it takes effect as if approved.

(f) At the first council meeting after veto by the mayor, the council will consider the reasons of the mayor and again vote on the ordinance. If four councilors vote to adopt the ordinance, it will take effect.

(g) After July 1, 2015, any ordinance, resolution or order approved by a majority of the City Council that imposes a new city tax, charge, or fee and/or increases by more than two percent annually any city utility tax, charge, or fee including but not limited to water charges, sewer and surface water charges, and street utility fees that are imposed on residential properties occupied by owners and/or occupants within the City of Sherwood boundaries, shall not be effective unless ratified by a majority vote of the City's qualified electors voting in an election where at least 50 percent of the registered voters cast a ballot, or the election is a general election in an even-numbered year. (Res. No. 2016-073, § 1, 12-2-16; Res. No. 2016-043, § 1, 7-19-2016; Res. No. 2014-077, § 1, 12-16-2014; Res. 05-008 § 1 (part))

**Section 17. Effective Date of Ordinances.** Ordinances normally take effect on the 30th day after adoption and approval by the mayor, or adoption after veto by the mayor,

or on a later day provided in the ordinance. An ordinance adopted by all councilors may take effect as soon as adopted, or other date less than 30 days after adoption if it contains an emergency clause, and is not subject to veto by the mayor.

(Res. 05-008 § 1 (part))

## Chapter V

### ADMINISTRATIVE AUTHORITY

**Section 18. Resolutions.** The council will normally exercise its administrative authority by approving resolutions. The approving clause for resolutions may state "The City of Sherwood resolves as follows:"

(Res. 05-008 § 1 (part))

### Section 19. Resolution Approval.

(a) Approval of a resolution or any other council administrative decision requires approval by the council at one meeting.

(b) Any substantive amendment to a resolution must be read aloud or made available in writing to the public before the council adopts the resolution at a meeting.

(c) After approval of a resolution or other administrative decision, the vote of each member must be entered into the council minutes.

(d) After approval of a resolution, the city recorder must endorse it with the date of approval and the recorder's name and title.

(Res. 05-008 § 1 (part))

**Section 20. Effective Date of Resolutions.** Resolutions and other administrative decisions take effect on the date of approval, or on a later day provided in the resolutions.

(Res. 05-008 § 1 (part))

## Chapter VI

### QUASI-JUDICIAL AUTHORITY

**Section 21. Orders.** The council will normally exercise its quasi-judicial authority by approving orders. The approving clause for orders may state "The City of Sherwood orders as follows:"  
(Res. 05-008 § 1 (part))

#### Section 22. Order Approval.

(a) Approval of an order or any other council quasi-judicial decision requires approval by the council at one meeting.

(b) Any substantive amendment to an order must be read aloud or made available in writing to the public at the meeting before the council adopts the order.

(c) After approval of an order or other council quasi-judicial decision, the vote of each member must be entered in the council minutes.

(d) After approval of an order, the city recorder must endorse it with the date of approval and the recorder's name and title.  
(Res. 05-008 § 1 (part))

**Section 23. Effective Date of Orders.** Orders and other quasi-judicial decisions take effect on the date of final approval, or on a later day provided in the order.  
(Res. 05-008 § 1 (part))

## Chapter VII

### ELECTIONS

**Section 24. Councilors.** At each general election, three councilors will be elected for four-year terms. No councilor shall serve on the council more than three consecutive terms.  
(Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))

**Section 25. Mayor.** At each general election, a mayor will be elected for a two-year term.

(Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))

**Section 26. State Law.** City elections must conform to state law except as this charter or ordinances provide otherwise. All elections for city offices must be nonpartisan.

(Res. 05-008 § 1 (part))

#### Section 27. Qualifications.

(a) The mayor and each councilor must be a qualified elector under state law, and reside within the city for at least one year immediately before election or appointment to office.

(b) No person may be a candidate at a single election for more than one city office.

(c) Neither the mayor, nor a councilor may be employed by the city.

(d) The council is the final judge of the election and qualifications of its members.  
(Res. 05-008 § 1 (part))

**Section 28. Nominations.** The council must adopt an ordinance prescribing the manner for a person to be nominated to run for mayor or a city councilor position.  
(Res. 05-008 § 1 (part))

**Section 29. Terms.** The term of an officer elected at a general election begins at the first council meeting of the year immediately after the election, and continues until the successor qualifies and assumes the office irrespective of any applicable term limit.  
(Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))

**Section 30. Oath.** The mayor and each councilor must swear or affirm to faithfully

perform the duties of the office and support the constitutions and laws of the United States and Oregon.  
(Res. 05-008 § 1 (part))

**Section 31. Vacancies.** The mayor or a council office becomes vacant:

- (a) Upon the incumbent's:
    - (1) Death,
    - (2) Adjudicated incompetence, or
    - (3) Recall from the office.
    - (4) An election to a different City office.
  - (b) Upon declaration by the council after the incumbent's:
    - (1) Failure to qualify for the office within 10 days of the time the term of office is to begin,
    - (2) Absence from the city for 45 days without council consent, or all meetings in a 60 day period.
    - (3) Ceasing to reside in the city
    - (4) Ceasing to be a qualified elector under state law,
    - (5) Conviction of a public offense punishable by loss of liberty,
    - (6) Resignation from the office, or
    - (7) Removal under Section 33(i).
- (Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))

**Section 32. Filling Vacancies.** A mayor or councilor vacancy will be filled by an election if 13 months or more remain in the office term or by appointment of the majority of the council within 45 days if less than 13 months remain. The election will be held at the next available election date to fill the vacancy for the remainder of the term. A mayor or councilor vacancy shall be filled by appointment by a majority of the remaining council members. The appointee's term of office runs from appointment until the

vacancy is filled by election or until expiration of the term of office if no election is required to fill the vacancy.  
(Res. No. 2014-048, § 1, 7-15-2014; Res. 05-008 § 1 (part))

## Chapter VIII

### APPOINTIVE OFFICERS

#### Section 33. City Manager.

(a) The office of city manager is established as the administrative head of the city government. The city manager is responsible to the mayor and council for the proper administration of all city business. The city manager will assist the mayor and council in the development of city policies, and carry out policies established by ordinances and resolutions.

(b) A majority of the council must appoint and may remove the manager. The appointment must be made without regard to political considerations and solely on the basis of education and experience in competencies and practices of local government management.

(c) The manager need not reside in the city.

(d) The manager may be appointed for a definite or an indefinite term, and may be removed at any time by a majority of the council. The council must fill the office by appointment as soon as practicable after the vacancy occurs.

(e) The manager must:

- (1) Attend all council meetings unless excused by the mayor or council;
- (2) Make reports and recommendations to the mayor and council about the needs of the city;
- (3) Administer and enforce all city ordinances, resolutions, franchises, leases, contracts, permits, and other city decisions;

## CHARTER

(4) Appoint, supervise and remove city employees;

(5) Organize city departments and administrative structure;

(6) Prepare and administer the annual city budget;

(7) Administer city utilities and property;

(8) Encourage and support regional and intergovernmental cooperation;

(9) Promote cooperation among the council, staff and citizens in developing city policies, and building a sense of community;

(10) Perform other duties as directed by the council;

(11) Delegate duties, but remain responsible for acts of all subordinates.

(f) The manager has no authority over the council or over the judicial functions of the municipal judge.

(g) The manager and other employees designated by the council may sit at council meetings but have no vote. The manager may take part in all council discussions.

(h) When the manager is temporarily disabled from acting as manager or when the office becomes vacant, the council must appoint a manager pro tem. The manager pro tem has the authority and duties of manager, except that a pro tem manager may appoint or remove employees only with council approval.

(i) No council member may directly or indirectly attempt to coerce the manager or a candidate for the office of manager in the appointment or removal of any city employee, or in administrative decisions. Violation of this prohibition is grounds for removal from office by a majority of the council after a public hearing. In council meetings, councilors may discuss or suggest anything with the manager relating to city business.

(j) The manager may not serve as city recorder or city recorder pro tem.

(Res. 05-008 § 1 (part))

### **Section 34. City Recorder.**

(a) The office of city recorder is established as the council clerk, city custodian of records and city elections official. The recorder must attend all council meetings unless excused by the City Manager.

(b) The City Manager must appoint and may remove the recorder. The appointment must be made without regard to political considerations and solely on the basis of education and experience.

(c) When the recorder is temporarily disabled from acting as recorder or when the office becomes vacant, the City Manager must appoint a recorder pro tem. The recorder pro tem has the authority and duties of the recorder.

(Res. No. 2016-073, § 1, 12-2-16; Res. 05-008 § 1 (part))

**Section 35. City Attorney.** The office of city attorney is established as the chief legal counsel of the city government. The City attorney shall be either an employee of the City or a firm under a written contract approved by the council. A majority of the council must appoint and may remove the attorney or contracted firm. If the attorney is an employee of the City, the attorney must appoint and supervise, and may remove any city attorney office employees.

(Res. No. 2014-077, § 1, 12-16-2014; Res. 05-008 § 1 (part))

### **Section 36. Municipal Court and Judge.**

(a) A majority of the council may appoint and remove a municipal judge. A municipal judge will hold court in the city at such place as the council directs. The court will be known as the Sherwood Municipal Court.

(b) All proceedings of this court will conform to state laws governing justices of the peace and justice courts.

(c) All areas within the city and areas outside the city as permitted by state law are within the territorial jurisdiction of the court.

(d) The municipal court has jurisdiction over every offense created by city ordinance. The court may enforce forfeitures and other penalties created by such ordinances. The court also has jurisdiction under state law unless limited by city ordinance.

(e) The municipal judge may:

(1) Render judgments and impose sanctions on persons and property;

(2) Order the arrest of anyone accused of an offense against the city;

(3) Commit to jail or admit to bail anyone accused of a city offense;

(4) Issue and compel obedience to subpoenas;

(5) Compel witnesses to appear and testify and jurors to serve for trials before the court;

(6) Penalize contempt of court;

(7) Issue processes necessary to enforce judgments and orders of the court;

(8) Issue search warrants; and

(9) Perform other judicial and quasi-judicial functions assigned by ordinance.

(f) The council may appoint and may remove municipal judges pro tem.

(g) The council may transfer some or all of the functions of the municipal court to an appropriate state court.

(Res. 05-008 § 1 (part))

## Chapter IX

### PERSONNEL

**Section 37. Compensation.** The council must authorize the compensation of City

appointive officers and employees as part of its approval of the annual city budget. The mayor and councilors shall not be compensated but may be reimbursed for actual and reasonable expenses.

(Res. No. 2014-077, § 1, 12-16-2014; Res. 05-008 § 1 (part))

**Section 38. Merit Systems.** The council by resolution will determine the rules governing recruitment, selection, promotion, transfer, demotion, suspension, layoff, and dismissal of city employees based on merit and fitness.

(Res. 05-008 § 1 (part))

## Chapter X

### PUBLIC IMPROVEMENTS

**Section 39. Procedure.** The council may by ordinance provide for procedures governing the making, altering, vacating, or abandoning of a public improvement. A proposed public improvement may be suspended for one year upon remonstrance by owners of the real property to be specially assessed for the improvement. The number of owners necessary to suspend the action will be determined by ordinance.

(Res. 05-008 § 1 (part))

**Section 40. Special Assessments.** The procedure for levying, collecting and enforcing special assessments for public improvements or other services charged against real property will be governed by ordinance.

(Res. 05-008 § 1 (part))

**Chapter XI**

**MISCELLANEOUS PROVISIONS**

**Section 41. Debt.** City indebtedness may not exceed debt limits imposed by state law. A charter amendment is not required to authorize city indebtedness.  
(Res. 05-008 § 1 (part))

**Section 42. Solid Waste Incinerators.** The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the city. This applies to solid waste defined by ORS 459.005(24), and includes infectious wastes defined by ORS 459.386(2). This prohibition does not apply to otherwise lawful furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a byproduct on-site and used only for energy recovery purposes. Such small-scale incinerators are only exempt from this prohibition if they are ancillary to a city permitted or conditional use, and may not utilize infectious wastes or any fuels derived from infectious wastes. This prohibition does not apply to solid waste incinerators lawfully permitted to operate before September 5, 1990, but does apply to any expansion, alteration or modification of such uses or applicable permits.  
(Res. 05-008 § 1 (part))

**Section 43. Willamette River Drinking Water.** Use of Willamette River water as a residential drinking water source within the city is prohibited except when such use has been previously approved by a majority vote of the city's electors.  
(Res. 05-008 § 1 (part))

**Section 44. Ordinance Continuation.** All ordinances consistent with this charter in force when it takes effect remain in effect until amended or repealed.  
(Res. 05-008 § 1 (part))

**Section 45. Repeal.** All charter provisions adopted before this charter takes effect are repealed.  
(Res. 05-008 § 1 (part))

**Section 46. Severability.** The terms of this charter are severable. If any provision is held invalid by a court, the invalidity does not affect any other part of the charter.  
(Res. 05-008 § 1 (part))

**Section 47. Reserved.**

**Editor's note**—Res. No. 2014-077, § 1, adopted December 16, 2014, amended the Code by repealing former § 47, which pertained to time of effect, and derived from Res. 05-008.



## CHARTER COMPARATIVE TABLE

This is a chronological listing of the resolutions of Sherwood, Oregon beginning with Supplement No. 15, included in this Charter. For prior resolutions, please see the Resolution List, which was not maintained after 2006.

<b>Resolution Number</b>	<b>Adoption Date</b>	<b>Section</b>	<b>Section this Charter</b>
2014-048	7-15-2014	1	7, 10, 11 24, 25, 29 31, 32
2014-077	12-16-2014	1	1, 7, 16, 35, 37
			Rpld 47
2016-043	7-19-2016	1	16
2016-073	12- 2-2016	1	16, 34

## **Title 1**

### **GENERAL PROVISIONS**

#### **Chapters:**

<b>1.01</b>	<b>Code Adoption</b>
<b>1.04</b>	<b>General Provisions</b>
<b>1.08</b>	<b>Reserved</b>
<b>1.10</b>	<b>Public Contracting Rules</b>



## **Chapter 1.08**

### **RESERVED\***

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\***Editor's note**—Ord. No. 2016-009, § 2, adopted May 3, 2016, amended the Code by repealing former Ch. 1.08, §§ 1.08.010—1.08.050, in its entirety. Former Ch. 1.08 pertained to initiative and referendum, and derived from Ord. 98-1038 §§ 2—9.

**Chapter 2.04****ELECTIONS****Sections:****Article I. Introduction****2.04.010 State law applies.****2.04.012 Definitions.****Article II. Candidates****2.04.020 Eligibility.****2.04.021 Nomination petition or declaration of candidacy.****2.04.022 Petition or declaration contents.****2.04.023 Filing.****2.04.024 Deficient petitions.****2.04.025 Withdrawal of candidacy—Refund of filing fee.****2.04.026 Certificate of nomination.****Article III. Vacancies in Office****2.04.030 Vacancy in office.****2.04.032 Filling of vacancy.****2.04.034 Appointment by council.****Article IV. Initiative and Referendum****2.04.040 Prospective petition.****2.04.041 Ballot title—Appeal.****2.04.042 Petition and circulation requirements.****2.04.043 Filing and percentage requirements—Verification.****2.04.044 Measure referred by council.****2.04.045 Withdrawal, adoption, preparation of explanatory statement and election.****2.04.046 Election notice and results.****Article I. Introduction****2.04.010 State law applies.**

As provided by City Charter Section 26, state elections laws apply to matters not regulated by this article. The city charter and this article prevail over any conflicting state laws. (Ord. 05-008 § 1 (Exh. A)(part))

**2.04.012 Definitions.**

Words or phrases have the following meanings unless the context clearly requires a different meaning:

"Candidate" means an individual whose name appears or is expected to appear on an official ballot.

"City legislation" means an ordinance or proposed ordinance, or a proposed amendment, revision or repeal of the city charter.

"Elective city position" means the office of mayor or councilor.

"Elector" means an individual eligible under state and city law to vote in city election.

"Initiative" means proposed city legislation submitted to electors by a petition of qualified electors.

"Measure" means city legislation, or a proposition or question for city electors.

"Prospective petition" means information required for a completed petition, except for signatures and other identification of petition signers.

"Qualified elector" means an individual qualified to vote under Section 2, Article II, Oregon Constitution.

"Recorder" means the city recorder or authorized representative.

"Referendum" means city legislation submitted to electors by the council or by a petition of qualified electors, or a proposition or question submitted to city electors by the council.

"Regular election" means a city election held at the same time as a primary or general biennial election for electing federal, state or county officers.

"Special election" means a city election not held on the date of a regular election.

"Term of office" means the term of office of the last person elected to the office. (Ord. 05-008 § 1 (Exh. A)(part))

## **Article II. Candidates**

### **2.04.020 Eligibility.**

A qualified elector who has resided in the city during the twelve (12) months immediately preceding the election may be a candidate for an elective city position. (Ord. 05-008 § 1 (Exh. A)(part))

### **2.04.021 Nomination petition or declaration of candidacy.**

A. An eligible elector may become a candidate for an elective city position by filing a nomination petition or a declaration of candidacy in a form prescribed by the Secretary of State and available from the recorder.

B. A declaration of candidacy must be accompanied by the filing fee established by council resolution.

C. A nomination petition must contain signatures of not fewer than twenty (20) city-qualified electors as follows:

1. No elector may sign more than three petitions. If more than three are signed, the signature is valid only on the first three valid petitions filed;

2. The signatures need not all be attached to one paper, but each separate paper of the petition must be attached to an affidavit of the circulator showing the number of signers and stating that each signature is the genuine signature of the person;

3. Each signature must have next to it the signer's residence, by its street and number or other description;

4. The recorder must certify the signatures in the nomination petition for genuineness by comparing them and the other required information with the elector registration cards on file with the county clerk;

5. After the petition is filed with the recorder, the recorder has ten days to verify the signatures, and attach to the petition a certificate stating the number of signatures believed genuine. (Ord. 05-008 § 1 (Exh. A)(part))

### **2.04.022 Petition or declaration contents.**

A. A nomination petition or declaration of candidacy must contain:

1. The name by which the candidate is commonly known. A candidate may use a nickname in parentheses in addition to the candidate's full name;

2. The residence address of the candidate;

3. The office or position number for which the candidate seeks nomination;

4. A statement that the candidate is willing to accept the office if elected;

5. A statement that the candidate will qualify if elected;

6. A statement of the candidate's occupation, educational and occupational background, and prior governmental experience; and

7. The signature of the candidate.

B. A declaration of candidacy must include a statement that the required fee is included with the declaration. (Ord. 05-008 § 1 (Exh. A)(part))

### **2.04.023 Filing.**

A. A nomination petition or declaration of candidacy must be filed with the recorder.

B. The recorder will date and time stamp immediately upon filing a nominating petition, declaration of candidacy, withdrawal or other document required to be filed.

C. A nomination petition or declaration of candidacy must be filed in accordance with the schedule established by state law.

(Ord. No. 2016-009, § 2, 5-3-2016; Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.024 Deficient petitions.**

If a nomination petition is not signed by the required number of qualified electors or the declaration of candidacy is not complete, the recorder will notify the candidate within five days after the filing. The recorder will return it immediately to the candidate, and state in writing how the petition is deficient. The deficient petition may be amended and filed again as a new petition, or a substitute petition for the same candidate may be filed within the time requirements for filing petitions. (Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.025 Withdrawal of candidacy— Refund of filing fee.**

A. A candidate who has filed a nomination petition or declaration of candidacy may withdraw not later than the sixty-seventh day before the election date by filing a statement of withdrawal with the recorder. The withdrawal must be made under oath and state the reasons for the withdrawal.

B. If requested not later than sixty-seven (67) days before the election date, the recorder will refund the filing fee of a candidate who dies, withdraws or becomes ineligible for the nomination. (Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.026 Certificate of nomination.**

The recorder will certify the nominations to the county clerk in accordance with

the time requirements of state law stating the offices and the terms of office for which the candidates are nominated. (Ord. 05-008 § 1 (Exh. A)(part))

### **Article III. Vacancies in Office**

#### **2.04.030 Vacancy in office.**

A city elective office becomes vacant as provided by City Charter Section 31. (Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.032 Filling of vacancy.**

A. Upon becoming aware of a vacancy in an elective office, the council must promptly determine and declare the date of vacancy.

B. A vacancy in an elective office must be filled as provided by City Charter Section 32. (Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.034 Appointment by council.**

A. In filling a vacancy, the council may make inquiries and hold interviews as it considers necessary for the appointment. The appointment may be made at a regular or special council meeting.

B. The council will use the following procedures in the appointment process:

1. Public notice to appropriate neighborhood organizations, civic groups, a newspaper of general circulation and other recognized groups;

2. Deadline for submitting applications at least two weeks after the notice;

3. Appointment from those applicants nominated and seconded for consideration by members of the council. The recorder will announce the results of each ballot and will record each councilor's ballot. An applicant who receives a majority of the votes by the current council members will be appointed to the vacant position. If no applicant receives a majority vote on the first ballot, the council will continue to vote on

the two applicants who receive the most votes until an applicant receives a majority of the councilors voting. (Ord. 05-008 § 1 (Exh. A)(part))

#### **Article IV. Initiative and Referendum**

##### **2.04.040 Prospective petition.**

A. Before circulating a petition proposing an initiative or referendum for city legislation, the chief petitioners must file a prospective petition with the recorder. The recorder will provide the form showing:

1. The signatures, printed names and mailing addresses of at least one and not more than three chief petitioners, all of whom must be city electors;

2. For initiative petitions, the text of the city legislation proposed for adoption, and, where applicable, the title, ordinance number, and charter or code section numbers proposed for amendment, revision or repeal;

3. For referendum petitions, the text of the city legislation proposed for referral, and where applicable, the title, ordinance number or code section numbers of the city legislation proposed for referral; and

4. Whether one or more persons will be paid for obtaining signatures on the petition.

B. The recorder must date and time stamp any prospective petition filed.

C. After the recorder determines that the prospective petition complies with this subchapter and state law, the recorder will certify to one of the chief petitioners that petitions may be circulated among the electors in accordance with Section 2.04.042 of this chapter. (Ord. 05-008 § 1 (Exh. A)(part))

##### **2.04.041 Ballot title—Appeal.**

A. Prior to the end of the fifth business day after a prospective initiative petition is filed and meets all legal require-

ments, the recorder will review the text of the proposed initiative to determine if it complies with the single subject requirement and if it proposes city legislation.

B. If the proposed text does not meet the requirements of subsection A of this section, the recorder will notify the chief petitioner by certified mail, return receipt requested, that the prospective petition does not meet the single subject or city legislation requirement.

C. Any elector dissatisfied with the recorder's determination may file a petition for review in circuit court. The petition for review must be filed not later than the seventh business day after the written determination by the recorder.

D. If the proposed initiative meets the requirements of subsection A of this section or a referendum petition is certified for circulation, the recorder will send two copies of the prospective petition to the city attorney. The city attorney has five business days after receipt to prepare a ballot title for the proposed measure conforming to the requirements of state law. After preparing the ballot title, the city attorney will return one copy of the prospective petition and ballot title to the recorder and one copy to one of the chief petitioners.

E. After receiving a ballot title from the city attorney, the recorder must publish in a newspaper of general circulation in the city a notice of receipt of the ballot title. The notice must state that a city elector may file a petition for review of the ballot title not later than the date referred to in subsection F of this section.

F. After receiving the prospective petition and ballot title from the city attorney, the recorder must write the date of receipt on it. Within seven business days after that date, any city elector may petition in circuit court to challenge the ballot title prepared by the city attorney. After the seven-day

period, or following final adjudication of any review by the circuit court, the recorder must certify the ballot title as prepared by the city attorney or as prescribed by the court to one of the chief petitioners.

G. Any city elector filing a petition of review with the circuit court must file a copy of the challenge with the recorder not later than the end of the business day next following the date the petition is filed with the circuit court. This requirement does not invalidate a petition that is timely filed with the circuit court.

H. The procedures in subsections A through G of this section also apply to referendum measures. However, the completion of these procedures is not a prerequisite to the circulation of petitions for referendum measures under Section 2.04.042. Ballot titles need not be stated on petitions circulated to propose referendum measures. (Ord. No. 2016-009, § 2, 5-3-2016; Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.042      Petition and circulation requirements.**

A. After the requirements of Section 2.04.040(C) are met for referendum petitions, and after the requirements of Section 2.04.041(F) of this chapter are met for initiative petitions, the chief petitioners may circulate a petition for the measure among city electors. The petition (cover sheet and signature sheet) must conform to the requirements of state law.

B. The petition identification number will be assigned by the recorder.

C. Each signature sheet of a referendum petition must contain the title, ordinance number or code section numbers of the city legislation proposed by referral and the date it was adopted by the council.

D. No signature sheet may be circulated by more than one person. Each signature sheet must contain a statement signed

by the circulator that each elector who signed the sheet did so in the circulator's presence, and, to the best of the circulator's knowledge, each such elector is a legal elector of the city and that the information placed on the sheet by each such elector is correct. (Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.043      Filing and percentage requirements—Verification.**

A. The recorder will accept for signature verification only petitions that comply with the requirements of this subchapter and other applicable law.

B. No petition may be accepted for filing unless it contains at least the required number of verified signatures to submit the measure to the electors, as prescribed by subsections G, H or I of this section.

C. No initiative petition may be accepted for signature verification more than six months after the date of the recorder's certification under Section 2.04.041(F) of this chapter.

D. Any petition to refer legislation adopted by the council must be submitted for signature verification not more than thirty (30) days after the council's adoption of the legislation.

E. An initiative or referendum petition may not be accepted for signature verification if it contains less than one hundred (100) percent of the required number of signatures.

F. Upon the acceptance of a petition, the recorder must verify the signatures. The verification may be performed by random sampling in a manner approved by the Secretary of State. Within thirty (30) days after the recorder's acceptance of a petition, the recorder must certify to the council whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed measure to city electors. The recorder must state in the certifi-



cate the number of qualified signatures prescribed by subsections G, H or I of this section to require the proposed city legislation to be submitted to city electors. The petition is considered filed as of the date of the recorder's certification.

G. An initiative measure proposing the amendment, revision or repeal of the city charter will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds fifteen (15) percent of the total number of votes cast in the city for all candidates for governor at the last general election.

H. An initiative measure proposing the adoption, amendment or repeal of any other city legislation will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds fifteen (15) percent of the total number of votes cast in the city for all candidates for governor at the last general election.

I. A referendum measure will be submitted to the electors if the number of qualified signatures on the petition equals or exceeds ten percent of the total number of votes cast in the city for all candidates for governor at the last general election. (Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.044 Measure referred by council.**

A. The council may directly refer to the electors any ordinance or any proposed ordinance, property tax, bond or other proposition or question. It may also directly refer to the electors any proposed amendment, revision or the repeal of the city charter.

B. The city attorney will prepare a ballot title and explanatory statement that conforms to the requirements of state law. The council will certify and file the ballot title and explanatory statement with the recorder.

C. The recorder will publish in a newspaper of general circulation in the city a notice of receipt of the ballot title and explanatory statement including notice that an elector may file a petition for review of the ballot title not later than the date set in subsection D of this section.

D. Any elector may petition the circuit court to challenge the ballot title certified by the council. Such petition must be filed with the circuit court within seven business days of council filing of the ballot title. Any person filing a petition of review with the circuit court must file a copy of the challenge with the recorder not later than the end of the business day next following the date the petition is filed with the circuit court. This requirement does not invalidate a petition that is timely filed with the circuit court.

E. A measure will be considered filed under this section as of the date the council delivers its certified ballot title to the recorder. (Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.045 Withdrawal, adoption, preparation of explanatory statement and election.**

A. The chief petitioners may withdraw a verified petition at any time before council action to adopt the proposed legislation or submit it to the electors. Any withdrawal must be either by written declaration or oral declaration made at a council meeting and entered in the minutes of that meeting.

B. Unless a petition is withdrawn, after receiving a certification from the recorder that a petition has sufficient signatures to require the proposed city legislation to be submitted to the electors under Section 2.04.043(F), the council may either adopt the proposed legislation by ordinance, or call an election to submit the legislation to the electors. The council may

also call an election to submit matters to the electors upon referral under Section 2.04.044 of this chapter.

C. The council shall submit an explanatory statement consisting of an impartial, simple, and understandable statement of no more than five hundred (500) words explaining the measure and its effect(s) for any initiative or referendum by petition or any referral by council. The city attorney shall prepare a draft for consideration by the council of any explanatory statement required by this subsection.

D. The council must call the election on the next election date available under state law that is not sooner than the ninetieth day after the date of the recorder's certificate of sufficient signatures. For a council referral, the election on the referendum of city legislation may be held on the next election date available under state law.

(Ord. No. 2016-009, § 2, 5-3-2016; Ord. 05-008 § 1 (Exh. A)(part))

vides a later effective date. (Ord. 05-008 § 1 (Exh. A)(part))

#### **2.04.046 Election notice and results.**

A. Notice of elections on measures submitted to city electors on regular or special election dates must be given in accordance with state law.

B. Measures referred by the council will be designated on the ballot: "Referred to the Voters by the City Council."

C. Measures proposed by referendum petition will be designated on the ballot: "Referred by Petition."

D. Measures proposed by initiative petition will be designated on the ballot: "Proposed by Initiative Petition."

E. The recorder must certify the election results to the council at the first council meeting after the results are certified by the county clerk.

F. A measure adopted by the electors takes effect thirty (30) days after the election, unless such measure expressly pro-



## **Chapter 2.08**

### **BOARDS AND COMMISSIONS GENERALLY**

#### **Sections:**

#### **2.08.010 Appointments.**

#### **2.08.020 Reserved.**

#### **2.08.010 Appointments.**

Except for replacing board and commission members who resign or are removed from office in mid-term, appointments to city established boards and commissions shall be established per the terms set forth in the adopted legislation.

(Ord. No. 2009-013, § 1, 10-6-2009; Ord. 92-954 § 1)

#### **2.08.020 Reserved.**

**Editor's note**—Ord. No. 2009-013, § 1, adopted October 6, 2009, amended the Code by repealing former § 2.08.020. Former § 2.08.020 pertained to incumbents, and derived from Ord. 92-954.

claim form and provide a copy to the claimant.

4. The owner may request an extension for filing a complete claim. A request for an extension or continuance will be deemed a waiver of the beginning of the one hundred eighty (180) day period required before accrual of a cause of action for compensation.

B. Claim Requirements. A claim will not be accepted for filing without all of the following information:

1. Fee. An application fee must be paid in advance of acceptance for filing to cover the costs of completeness review and claim processing. This fee will be established by city council resolution.

2. Claim Form. A completed claim on a form provided by the city manager.

3. Identification of Owner and Other Interest Holders. The name(s), address(es) and telephone number(s) of all owners, and anyone with any interest in the property, including lien holders, trustees, renters, lessees, and a description of the ownership interest of each.

4. Property Description. The address, tax lot number, and legal description of the real property that is the subject of the claim.

5. Nearby Property Owner Information. The names and addresses of all owners of property within three hundred (300) feet of the property, as listed on the most recent property tax assessment roll where such property is located.

6. Listing of Nearby Owned Property. Identification of any other property owned by the owner within three hundred (300) feet of the boundary of the claim property.

7. Title Report. A title report demonstrating the title history, the date the owner acquired ownership of the property, and the ownership interests of all owners. The title report must also specify any restrictions on use of the property unrelated to the

land use regulation including, but not limited to, any restrictions established by covenants, conditions and restrictions (CC&Rs), other private restrictions, or other regulations, easements or contracts.

8. Copy of Existing Regulation. A copy of the land use regulation that the owner making the claim believes restricts the use of the property, or interest therein, and that the owner believes has had the effect of reducing the fair market value of the property, including the date the owner claims the land use regulation was first enacted, enforced, or applied to the property.

9. Copy of Prior Regulations. A copy of the land use regulation in existence, and applicable to the property, when the owner became the owner of the property, and a copy of the land use regulation in existence immediately before the regulation that was enacted or enforced or applied to the property, that the owner claims restricts the use of the property and, the owner claims, caused a reduction in fair market value due to the regulation described in subsection (B)(8) of this section being more restrictive.

10. Appraisals. A written appraisal by an appraiser, qualified as such in the state of Oregon, stating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after enactment, enforcement or application of the land use regulation described in subsection (B)(8) of this section, and explaining the rationale and factors leading to that conclusion. If the claim is for more than ten thousand dollars (\$10,000.00), copies of two appraisals by different appraisers must be included.

11. Narrative. See Appendix A of this chapter.

12. Statement Regarding Exceptions. See Appendix A of this chapter.

13. **Owner Statement.** A statement by the owner explaining the effect a modification, removal or nonapplication of the land use regulation would have on the potential development of the property, and stating the most extensive development the owner believes would be permitted on the property if the identified land use regulation were modified, removed or not applied.

14. **Copies of Documents.** Copies of any land use actions, development applications or other applications for permits previously filed in connection with the property and the action taken. City "enforcement" or "application" of the land use regulation is a prerequisite to making a Measure 37 claim must be described and identified by the claimant.

15. **Site Plan and Drawings.** A copy of the site plan and drawings in a legible eight and one-half by eleven (11) inch format that relate to the proposed use of the property if the land use regulation is modified, removed or not applied.

16. **Statement of Relief Sought.** A statement of the relief sought by the owner. (Ord. 04-017 § 1 (part))

### **3.10.050 Claim review process.**

A. The city manager will assess any claim for compensation and make a recommendation to the city council on the disposition of the claim. The recommendation will state that the claim be:

1. Denied;
2. Investigated further;
3. Declared valid, in which case the recommendation will further state whether the land use regulation at issue should be removed, waived or modified, or that the claimant should be compensated; or
4. Evaluated in another manner not inconsistent with this chapter or Ballot Measure 37, including possible city condemnation of the property.

B. The city council will conduct a public hearing before taking final action on a recommendation from the city manager.

C. Notice of the public hearing will be provided to the claimant and to all record owners of the subject property, and to all owners of property within three hundred (300) feet of the subject property. Additional notice may be sent to the Oregon Department of Land Conservation and Development, Metro and such others as the city may designate.

D. The notice will state the date, time and location of the hearing and will be sent no later than ten days before the hearing. The notice will describe the hearing process, and will state how evidence may be submitted.

E. After the conclusion of the public hearing, and no later than one hundred eighty (180) days from the date the claim was filed, the city council will:

1. Determine that the claim does not meet the requirements of this chapter and Ballot Measure 37, and deny the claim; or
2. Adopt an order with appropriate findings that supports a determination that the claim is valid and directs that the claimant be compensated in an amount set forth in the order, or remove, waive or modify the challenged land use regulation as applied to the subject property.

F. The city council's decision to remove, waive or modify a land use regulation or to compensate the claimant will be based on whether the public interest would be better served by compensating the owner, or by removing, waiving or modifying a land use regulation with respect to the subject property; or any other factors deemed relevant by the city council.

G. If the city council removes, waives or modifies a land use regulation, it may apply the land use regulations in effect at the time the claimant acquired the property.

H. The owner will bear the burden of proof relating to the claim, the devaluation of the owner's property and the owner's entitlement to just compensation. The standard of proof will be by a preponderance of the evidence.

I. A copy of the city council order will be sent by mail to the owner and to each individual or entity that participated in the city council review process if the city was provided with a mailing address.

J. The city council may establish by resolution additional procedures related to the processing of Ballot Measure 37 claims. (Ord. 04-017 § 1 (part))

### **3.10.060 Conditions, revocation and transfer.**

A. The city council may establish any relevant conditions of approval for compensation, should compensation be granted, or for any other action taken under this chapter.

B. Failure to comply with any condition of approval is grounds for revocation of the approval of the compensation for the claim, grounds for recovering any compensation paid and grounds for revocation of any other action taken under this chapter.

C. If the owner, or the owner's successor in interest, fails to fully comply with all conditions of approval, the city may institute a revocation or modification proceeding before the city council under the same process for city council review of a claim under this chapter.

D. Unless otherwise stated in the city's decision, any action taken under this chapter runs with the property and is transferred with ownership of the property. All conditions, time limits or other restrictions imposed with approval of a claim will bind all subsequent owners of the subject property.

E. A land use regulation waived under this chapter will create a Measure 37 non-

conforming use, or a nonconforming structure, as appropriate, on the property benefiting from the waiver, which is defined separately from any nonconforming uses in Title 16 of this code. All valid claims and subsequent waivers shall be recorded with the property. (Ord. 04-017 § 1 (part))

### **3.10.070 Waiver of claims.**

See Appendix A of this chapter. (Ord. 04-017 § 1 (part))

### **3.10.080 Costs and attorney fees.**

If an owner commences an action to collect compensation and the city prevails, the city is entitled to all fees and costs incurred, as well as any sum that a court, including any appellate court, may deem reasonable as attorney's fees. (Ord. 04-017 § 1 (part))

### **3.10.090 Availability of funds to pay claims.**

Compensation can only be paid based on the availability and appropriation of funds for this purpose. (Ord. 04-017 § 1 (part))

### **3.10.100 Review of a decision.**

A writ of review under ORS 34.010 to 34.102 is the exclusive means to contest a final decision of the city council under Section 3.10.050, and must be filed within sixty (60) days of the notice provided under Section 3.10.050 of this chapter. The owner of the real property that is the subject of the claim under this chapter is a necessary party in such a proceeding. (Ord. 04-017 § 1 (part))

### **3.10.110 Private cause of action.**

See Appendix A of this chapter. (Ord. 04-017 § 1 (part))

### **3.10.120 Compensation by other.**

An individual or entity other than the city may compensate the claimant for any

diminution in value established under this chapter, in lieu of the city removing, modifying or waiving the land use regulation causing the diminution. A contract between the city, the claimant, and the individual or entity providing the compensation is a condition precedent to compensating a claimant under this subsection, and must be approved by the city attorney. (Ord. 04-017 § 1 (part))

### **3.10.130 Severability.**

If any phrase, clause, or other part or parts of this chapter are found invalid by a court of competent jurisdiction, the remaining phrases, clauses and other part or parts will remain in full force and effect. (Ord. 04-017 § 1 (part))

### **3.10.140 Applicable state law, no independent rights.**

For all claims filed, the applicable state law is those portions of ORS Chapter 197 added by Ballot Measure 37, or as amended, modified or clarified by subsequent amendments or rules adopted by the Oregon Legislature or Oregon Administrative Agencies. Any claim that has not been processed completely under this chapter will be subject to any such amendments, modifications, clarifications or other state actions. This chapter is adopted solely to address claims filed under the ORS Chapter 197 provisions added by Ballot Measure 37. This chapter does not create any rights independent of those provisions. (Ord. 04-017 § 1 (part))

**Appendix A**  
**Measure 37 Claims Ordinance**  
**Possible Additions**

The following provisions are identified as provisions the City Council may wish to consider adding to its Claims Ordinance.

They are identified in the proposed ordinance as "See Appendix A."

**1. 3.10.020(4)(a) - Definition of Nuisances**

As written, this provision is consistent with Measure 37's exception for regulations prohibiting common law nuisances. Additional language could include a reference to any city nuisance ordinances. The risk is that some city ordinances may arguably classify as nuisance activities beyond those deemed nuisances under the common law. The ordinance provision could be re-written to state:

A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law, including Sherwood Municipal Code chapter 9.44, as amended from time to time, and the criminal laws of Oregon and the City.

**2. 3.10.030 - Pre-filing Conference**

The following language would require a pre-filing conference, unless exempted by the City Administrator. This is akin to a pre-application conference in the land use context.

(1) Before submitting a claim for compensation, the owner must schedule and attend a pre-filing conference with the manager to discuss the claim. The pre-filing conference will follow the procedure set forth by the manager and may include a filing fee and notice to neighbors, other organizations and agencies. The filing fee will be set by city council resolution.

(2) To schedule a pre-filing conference, the owner must contact the manager and pay the appropriate conference fee. The pre-filing conference is for the owner to provide a summary of the owner's claim to the manager, and for the manager to provide information to the owner about regulations that may affect the claim. The manager may provide the owner with a written summary of the pre-filing conference within 10 days after it is held.

(3) The manager is not authorized to settle any claim at a pre-filing conference. Any omission or failure by staff to recite to an owner all relevant applicable regulations will not constitute a waiver or admission by the City.

(4) A pre-filing conference is valid for six months from the date it is held. If no claim is filed within six months of the conference, the owner must schedule and attend another conference before the City will accept a claim for filing. The manager may waive the pre-filing requirements if, in the manager's opinion, a pre-filing conference would serve no purpose.

**3. 3.10.040 — Claim Requirements**

The following subsections would require the claimant to submit with the claim a narrative regarding the property's history and would require the claimant to explain why the challenged land use regulation is exempt under Measure 37.

(i) *Narrative.* The owner must provide a narrative describing the history of the owner and any family member's ownership of the property, the history of land use regulations

applicable to the claim, and how the enactment, enforcement or application of the land use regulation restricts the use of the property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

(j) *Statement Regarding Exceptions.* A statement by the owner making the claim of why the following Ballot Measure 37 exceptions do not apply:

1. Commonly and historically recognized public nuisances under common law;
2. Protection of public health and safety;
3. Regulations required under federal law;
4. Use of property for the purpose of selling pornography or performing nude dancing;  
or
5. The subject land use regulation was enacted prior to the date of the acquisition of the property by the owner, or prior to acquisition by a family member of the owner who owned the subject property prior to the acquisition or inheritance by the owner [if "family member" status is claimed it must also be addressed in the title report required by item (h) above].



## Chapter 3.12

### MONIES OWED CITY

#### Sections:

- 3.12.010 Definitions.**
- 3.12.015 Authority to withhold or deny issuance.**
- 3.12.020 Appeal of denial—Hearing before city manager—Appeal of city manager's decision.**

#### **3.12.010 Definitions.**

As used in this chapter the following terms shall mean as set out below unless the context requires otherwise:

"Activity or enterprise" means and includes all conduct or activity for gain or otherwise conducted by an applicant or any enterprise or undertaking for gain or otherwise.

"Applicant" means and includes any natural person or any entity (including corporation, unincorporated association, partnership, etc.) lawfully capable of engaging in or conducting activity in the city which activity requires a permit from the city.

"City" means the city of Sherwood.

"City finance director" means and includes the director and any designate other than the city manager.

"City manager" means and includes the city manager or the city manager's designate.

"Permit" means and includes any and all permit(s), approval(s) or other form(s) of city authorization of whatever nature required by federal, state or local law as a condition for the lawful pursuit of an activity or enterprise in the city, including business licenses issued under the authority of Sherwood Municipal Code (SMC) Chapter 5.04, alarm system registrations done pursuant to SMC Chapter 8.08 and building

permits issued pursuant to SMC Chapter 15.04, excepting land use permit(s) required or authorized under SMC Title 16. (Ord. 08-005 § 1 (Exh. A)(part))

#### **3.12.015 Authority to withhold or deny issuance.**

A. If an applicant for a city issued permit owes money to the city, the city may (through the offices of the city finance director) revoke, suspend or deny issuance of said permit until the monies owed are either paid in full or arrangements, satisfactory to the city finance director, are entered into for payment.

B. Any revocation, suspension or denial made by the city based on the terms of this chapter shall be set out in writing, describing the basis for the city's action and setting out the amount deemed by the city to be owed it. (Ord. 08-005 § 1 (Exh. A)(part))

#### **3.12.020 Appeal of denial—Hearing before city manager—Appeal of city manager's decision.**

A. In the event an applicant wishes to challenge a decision by the city pursuant to Section 3.12.015, the applicant may, at their option, file an appeal thereof with the office of the city manager within fifteen (15) days of the city's action.

B. The appeal shall be in writing and include, at a minimum, the following:

1. Information identifying the applicant (i.e., name and address);
2. Telephone number;
3. The type of permit at issue and the action (revocation—suspension—denial) taken by the city;
4. A copy of the written determination described in Section 3.12.015; and
5. Reason(s) why the city's action is unlawful or otherwise inappropriate.



C. Within ten business days of the date the completed appeal is filed with the city manager's office, the city manager shall hold a hearing on the matter, unless the applicant agrees to an extension. At the hearing, the city manager will take testimonial and other evidence, if any, offered by applicant as well as include in the record any material offered by the city supporting the city's position that monies are owed and the amount thereof.

D. After reviewing the material and evidence offered and received, the city manager shall make a written decision and either uphold, modify or reverse the city's action. The decision of the city manager shall be final.

E. An appeal of the city manager's decision may be taken by way of writ of review (ORS 34.010 to ORS 34.100) and not otherwise. (Ord. 08-005 § 1 (Exh. A)(part))

**Chapter 3.25****MARIJUANA TAX\*****3.25.010 Definitions.****3.25.020 Tax imposed.****3.25.030 Collection.**

retail sale occurs and remitted by each recreational marijuana retailer that engages in the retail sale of marijuana items.  
(Ord. No. 2016-003, § 2, 1-19-2016)

**3.25.010 Definitions.**

As used in this chapter, unless the context requires otherwise:

(1) "Marijuana item" has the meaning given that term in Oregon Laws 2015, chapter 614, section 1.

(2) "Recreational marijuana retailer" means a person who sells marijuana items to a consumer in this state.

(3) "Retail sale price" means the price paid for a marijuana item, excluding tax, to a recreational marijuana retailer by or on behalf of a consumer of the marijuana item.  
(Ord. No. 2016-003, § 2, 1-19-2016)

**3.25.020 Tax imposed.**

As described in section 34a of House Bill 3400 (2015), the City of Sherwood hereby imposes a tax of three percent on the retail sale price of marijuana items by a recreational marijuana retailer in the area subject to the jurisdiction of the city.  
(Ord. No. 2016-003, § 2, 1-19-2016)

**3.25.030 Collection.**

The tax shall be collected at the point of sale of a marijuana item by a recreational marijuana retailer at the time at which the

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**\*Editor's note**—Ord. No. 2016-001, § 1, adopted January 19, 2016, amended the Code by repealing former Ch. 3.25, §§ 3.25.010—3.25.130, which pertained to similar subject matter, and derived from Ord. No. 2014-019, adopted October 7, 2014. Subsequently Ord. No. 2016-003, § 2, adopted January 19, 2016, amended the Code by adding a new Ch. 3.25. Both ordinances were approved by voters at the election of November 8, 2016.

## **Title 5**

### **BUSINESS LICENSES AND REGULATIONS**

#### **Chapters:**

- |             |   |
|-------------|---|
| <b>5.04</b> | <b>Business Licenses, Regulations<br/>and Recycling</b> |
| <b>5.08</b> | <b>Amusement Games</b>                                  |
| <b>5.12</b> | <b>Bingo, Lotto and Raffle Games</b>                    |
| <b>5.20</b> | <b>Liquor Establishments</b>                            |
| <b>5.24</b> | <b>Taxicabs</b>   |
| <b>5.28</b> | <b>Process and Fees for Liquor<br/>Licenses</b>         |
| <b>5.30</b> | <b>Recreational Marijuana<br/>Businesses</b>            |

## Chapter 5.28

### PROCESS AND FEES FOR LIQUOR LICENSES

#### Sections:

- 5.28.010 Purpose.**
- 5.28.015 Application.**
- 5.28.020 Application review.**
- 5.28.025 Information from applicant.**
- 5.28.030 Time frames for response.**
- 5.28.035 Standards and criteria.**
- 5.28.040 Fees.**
- 5.28.045 Effective date.**

#### **5.28.010 Purpose.**

Oregon statute authorizes the Oregon Liquor Control Commission (OLCC) to take into consideration the written recommendation of the city concerning approval or denial of initial or renewal licenses and/or imposition of restrictions on license privileges and the conduct of operations at licensed premises in the city. This chapter sets forth the process for review of liquor license applications, and establishes the standards and criteria to be considered by the city manager in addressing such applications. (Ord. 04-009 (part))

#### **5.28.015 Application.**

An application shall consist of a legible copy of the OLCC "Liquor License Application." When the application is for a new outlet, the applicant shall provide legible copies of the "Individual History" form and "Business Information" form or other forms required by OLCC to be submitted with the application. (Ord. 04-009 (part))

#### **5.28.020 Application review.**

The city manager shall refer each application to the police department and to such

other departments deemed by him/her as appropriate. Any department receiving an application shall, if appropriate, conduct an investigation and shall report findings and recommendations, if any, to the city manager. (Ord. 04-009 (part))

#### **5.28.025 Information from applicant.**

A department designated to review an application or to review a renewal of an existing license, may require the applicant to supply additional information necessary to determine the qualifications of the applicant for the proposed application or renewal. If the applicant fails to supply the information required or submits false or misleading information, the city manager may recommend denial of the application. (Ord 04-009 (part))

#### **5.28.030 Time frames for response.**

A. License Actions. The city manager shall provide a recommendation, if any, to OLCC within forty-five (45) days of receipt of an application. Notwithstanding the foregoing, the city manager may within that forty-five-(45) day period, file a written request meeting the requirements of subsection C of this section seeking an additional forty-five (45) days within which to render a recommendation.

B. Renewal Applications. The city manager shall provide a recommendation, if any, to OLCC within sixty (60) days of notification by OLCC that an existing licensee is eligible for renewal. The city manager may, within that sixty-(60) day period, file with OLCC a written request meeting the requirements of subsection C of this rule and seeking an additional forty-five (45) days within which to render its recommendation.

C. Extension Requests. City manager requests for additional time to provide a recommendation shall: 1) set forth the reason additional time is needed; 2) state that

the city manager is considering making an unfavorable recommendation; and 3) state the specific grounds being considered toward an unfavorable recommendation. (Ord. 04-009 (part))

**5.28.035 Standards and criteria.**

The criteria for issuance and maintenance of licenses contained in OAR 845-005-0308(2004) are adopted by this reference as the standards and criteria to be considered by the city manager in recommending approval or denial of an application. (Ord. 04-009 (part))

**5.28.040 Fees.**

In lieu of the application fee set forth in ORS 471.166(7), the city of Sherwood shall charge the following fees in connection with review and processing of liquor license applications:

- |    |          |   |
|----|----------|---|
| A. | \$100.00 | Original new outlet application.  |
| B. | \$ 75.00 | Change in ownership or licensee, change in location or change in privilege application. |
| C. | \$ 35.00 | Renewal or temporary application.   |

These fees may be changed by further resolution of the council. (Ord. 04-009 (part))

**5.28.045 Effective date.**

The ordinance codified in this chapter shall become effective the thirtieth (30th) day after its enactment by the city council and approval by the mayor. (Ord. 04-009 (part))

## Chapter 5.30

### RECREATIONAL MARIJUANA BUSINESSES\*

#### Sections:

#### 5.30.010 Definitions.

#### 5.30.020 Ban declared.

#### 5.30.010 Definitions.

As used in this chapter, unless the context requires otherwise:

(1) "Marijuana" means the plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae and the seeds of the plant Cannabis family Cannabaceae.

(2) "Recreational marijuana processor" means an entity licensed by the Oregon Liquor Control Commission to process marijuana.

(3) "Recreational marijuana producer" means an entity licensed by the Oregon Liquor Control Commission to manufacture, plant, cultivate, grow or harvest marijuana.

(4) "Recreational marijuana retailer" means an entity licensed by the Oregon Liquor Control Commission to sell marijuana items to a consumer in this state.

(5) "Recreational marijuana wholesaler" means an entity licensed by the Oregon Liquor Control Commission to purchase marijuana items in this state for resale to a person other than a consumer.

(Ord. No. 2016-002, § 2, 1-19-2016)

#### 5.30.020 Ban declared.

As described in section 134 of House Bill 3400 (2015), the City of Sherwood

hereby prohibits the establishment and operation of the following in the area subject to the jurisdiction of the City:

- (1) Recreational marijuana producers;
  - (2) Recreational marijuana processors;
  - (3) Recreational marijuana wholesalers;
  - (4) Recreational marijuana retailers.
- (Ord. No. 2016-002, § 2, 1-19-2016)

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\***Editor's note**—Ch. 5.30 derives from Ord. No. 2016-002, § 2, adopted January 19, 2016, and approved by voters at the election of November 8, 2016.

## Chapter 9.52

### PROHIBITING OF NOISE\*

#### Sections:

- 9.52.010 Purpose.**
- 9.52.020 Scope.**
- 9.52.030 Definitions.**
- 9.52.040 General prohibition.**
- 9.52.050 Noises prohibited.**
- 9.52.060 Exemptions.**
- 9.52.070 Enforcement responsibility and authority.**
- 9.52.080 Variances.**
- 9.52.090 Variance application.**
- 9.52.100 Public notification for variance.**
- 9.52.110 Variance review.**
- 9.52.120 Variance decision.**
- 9.52.130 Appeal.**
- 9.52.140 Penalties.**

#### **9.52.010 Purpose.**

This chapter is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of Sherwood through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety; or causes public inconvenience, annoyance or alarm to reasonable persons of ordinary sensitivity. (Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

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\***Editor's note**—Ord. No. 2016-005, § 1, adopted February 2, 2016, amended the Code by, in effect, repealing former Ch. 9.52, §§ 9.52.010—9.52.140, and adding a new Ch. 9.52. Former Ch. 9.52 pertained to similar subject matter, and derived from Ord. 01-1116, §§ 1—13.

#### **9.52.020 Scope.**

This chapter applies to the control of all sound originating within the jurisdictional limits of the city. (Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.030 Definitions.**

As used in this chapter, unless the context requires otherwise:

"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.

"City" means the City of Sherwood.

"City manager" means the city manager of the city or the city manager's designee.

"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.

"Day hours" are between 7:00 a.m. and 9:00 p.m. Monday through Friday and 8:00 a.m. and 9:00 p.m. Saturday and Sunday.

"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.

"Dynamic braking device" means a device 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.

"Emergency" means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

"Emergency work" means any work performed for the purpose of preventing or alleviating physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

"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.

"Night hours" are all hours other than day hours as defined in this chapter.

"Noise sensitive area" includes, but is not limited to, real property normally used as a church, temple, synagogue, day care center, hospital, rest home, retirement home, group care home, school, library, 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.

"Person" means any individual, firm, association, partnership, joint venture, or corporation.

"Plainly audible" means any sound that can be detected by a reasonable person of ordinary sensitivities using his or her unaided hearing faculties.

"Police chief" means the police chief of the city or the police chief's designee.

"Public right-of-way" means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

"Public space" means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

"Residential area" means any real property which contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the city's zoning ordinance. (Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.040 General prohibition.**

A. No person shall make, continue, or cause to be made or continued:

1. Any unreasonably loud or raucous noise; or

2. Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace, or safety of reasonable persons of ordinary sensitivity, within the jurisdictional limits of the city; or

3. Any noise which is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the neighborhood from which said noises emanate, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.

B. Factors for determining whether a sound is unreasonably loud and raucous include, but are not limited to, the following:

1. The proximity of the sound to sleeping facilities, whether residential or commercial;

2. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;

3. The time of day or night the sound occurs;

4. The duration of the sound; and



5. Whether the sound is recurrent, intermittent, or constant.  
(Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.050 Noises prohibited.**

The following acts are declared to be per se violations of this chapter. This enumeration does not constitute an exclusive list:

1. Dynamic braking devices (Jake Brakes). Using any dynamic braking device on any motor vehicle, except in the case of an emergency.
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 during night hours.
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 during night hours.
4. Lawn mowing equipment. Operating lawn-mowing equipment (to include powered landscaping tools/equipment) with a combustion engine during night hours.
5. Sound producing, amplifying, or reproducing equipment. Causing or permitting sound produced by a musical instrument, radio, television, phonograph, loudspeaker, bullhorn, or other similar equipment to be plainly audible within any dwelling unit other than the source, or plainly audible at a distance of fifty (50) feet from the source in a commercial area, industrial area, or public space.
6. Domestic power equipment. During night hours, operating domestic power equipment in such a manner as to be plainly audible within any dwelling unit other than the source.
7. Off-highway vehicles. Operating any motor vehicle, designed for or capable of travel on or over natural terrain, including

but not limited to motorcycles, mini-bikes, motor scooters, and dune buggies, 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.

8. Auxiliary equipment on motor vehicles. Causing, allowing, permitting, or failing 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.

9. Vehicle horns, signaling devices, and similar devices. The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle, or other vehicle on any right-of-way or in any public space of the City, for more than ten (10) consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.

10. Animals and birds. Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, or otherwise cares for the animal or bird.

11. Noise sensitive areas. The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of a noise sensitive institution or facility; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.

12. Construction or repair of buildings. The construction, demolition, alteration, or repair of any building during night

hours. In cases of emergency, construction or repair noises are exempt from this provision.

13. Emergency signaling devices. The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle, or similar emergency signaling device, except in an emergency or except as provided in subsections (a) and (b), below.

a. Testing of an emergency signaling device shall occur during day hours. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five (5) minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.

b. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, in instances other than as provided in subsection (a) above, shall terminate within fifteen (15) minutes of activation, unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this chapter.

(Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.060 Exemptions.**

Sounds caused by the following are exempt from the prohibitions set out in Sections 9.52.040—9.52.050; these exemptions are in addition to the exemptions specifically set forth in Section 9.52.050:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work, including but not limited to sounds made by an emergency vehicle, as defined in ORS 801.260, when responding to or from an

emergency, when in pursuit of an actual or suspected violator of the law, and when performing required testing of emergency equipment.

2. Sounds made by activities by or at the direction of the city, the state, or the federal government in maintenance, construction, demolition, or repair of public improvements in public rights-of-way or easements, provided that such activities shall not take place during night hours except when public welfare and convenience renders it impractical to perform the work during day hours.

3. Sounds produced pursuant to a specific variance granted by the Oregon environmental quality commission, or under Section 9.52.080 of this chapter.

4. Sounds produced by the audience, participants, and sound amplifying equipment at events on public property or private school property which are sponsored, sanctioned, or otherwise approved by the city, the Sherwood School District, or the private school which owns the property where the event occurs.

5. 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 9.52.050(2) of this chapter.

6. Sounds made by legal fireworks on the third of July, Fourth of July, and the Friday and Saturday during the weekend closest to the Fourth of July of each year, between the hours of 7:00 a.m. and 11:00 p.m., and sounds made between midnight and 12:30 a.m. on January 1 of each year. (Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.070 Enforcement responsibility and authority.**

A. The following individuals shall enforce this chapter: The city manager or po-

lice chief will have primary responsibility for the enforcement of the noise regulations contained in this chapter. Nothing in this chapter shall prevent the city manager or police chief from obtaining voluntary compliance by way of warning, notice, or education.

B. Enforcement of this chapter may include seizure of the sound producing equipment.

(Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.080 Variances.**

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

(Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.090 Variance application.**

An applicant for a variance shall submit an application in writing to the city manager that contains the following:

1. A reference to the provision(s) from which the variance is sought;
2. The reason(s) the variance is necessary;
3. The type and 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 designating 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 9.52.030, or a combination thereof;

6. Any other supporting information related to the variance criteria in Section 9.52.110 or which the city manager may reasonably require to allow evaluation under said criteria.

7. An application fee in an amount established by resolution of the city council. (Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.100 Public notification for variance.**

A. Within five (5) business days of the submission of an application for a variance, the city manager may, if the city manager determines that the requested variance may have a substantial impact on the surrounding areas, require public notification of the request for a variance. If such notification is required, the decision timeline in Section 9.52.110 will not commence until ten (10) business days after the completion of said public notice and provision to the city manager of the information specified in subsection C of this section.

B. If such public notice is required by the city manager, the applicant shall:

1. 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;
2. Provide a copy of the notice to the city for publication on the city's website; and
3. Deliver written notice to the owner or occupant of each property that is located within three hundred (300) feet of the property line of the property containing the sound source.

C. Notice under this section shall include:

1. The nature and substance of the variance being requested, including the provision(s) of this chapter from which the variance is being requested;

2. The location, date(s), and time(s) for which the variance is being requested;

3. The name of the event to which the variance relates, if applicable;

4. The name and contact information of the applicant;

5. The name and contact information for the city manager.

6. A statement that all interested persons may file written comments on the application with the city manager and stating a deadline for such comments which is ten (10) business days after the date of the notice.

D. Upon completion of provision of the above notice, the applicant shall so notify the city manager in writing and provide a list of addresses to which notices were delivered, the name of the newspaper in which notice was published, and the date(s) on which the notice was published.

(Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.110 Variance review.**

A. The city manager may grant a variance, after considering the written application for variance and any written comments submitted pursuant to Section 9.52.100, when it appears that:

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

2. The public health and safety provisions of the City Code, exclusive of this chapter, will not be violated if a variance is granted; and

3. That granting the variance will not be unreasonably detrimental to the public welfare.

B. In making said decision, the city manager must consider such factors as the potential impacts on businesses and noise sensitive properties within four hundred

(400) feet, the time of day, the day of the week, the proposed type and amount of amplification, and any secondary noise consequences.

(Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.120 Variance decision.**

A. The city manager shall grant or deny a variance within ten (10) business days of receipt of a complete variance application.

B. The city manager may impose such limitations, conditions, and safeguards as deemed appropriate, so that the spirit of this 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.

C. A decision to grant or deny the variance shall be in writing and shall state the reasons for such decision. The 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. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)

#### **9.52.130 Appeal.**

A. The applicant may appeal a variance decision to the city council by submitting a written request for appeal within ten (10) business days from the date of the city manager's decision.

B. To file an appeal, the applicant must submit the following information to the city recorder:

1. The name of the applicant for the variance;

2. The claimed reasons the city manager's decision was in error; and

3. The appeal fee, as established by resolution of the city council.

C. Upon receipt of the completed appeal request, the city recorder shall place

the matter on the agenda for a hearing at the next regular city council meeting which is at least five (5) business days from the date the request is received, and provide written notice of the date of the hearing to the applicant and any individuals who submitted written comments on the application under Section 9.52.100.

D. At the hearing, the city council shall hear from the applicant, the city manager, and any other person deemed appropriate by the city council. Upon conclusion of the hearing, the city council must decide whether to grant or deny a variance based on the variance criteria in Section 9.52.110. The city council may impose such limitations, conditions, and safeguards as deemed appropriate, so that the spirit of this chapter will be observed, and the public safety and welfare secured. A violation of such condition of limitation shall constitute a violation of this chapter. The city council's decision shall be final.

(Ord. No. 2016-007, § 2, 6-7-2016)

**Editor's note**—Ord. No. 2016-007, § 2, adopted June 7, 2016, amended the Code by repealing former § 9.52.130, and adding a new § 9.52.130. Former § 9.52.130 pertained to review, and derived from Ord. No. 2016-005, adopted February 2, 2016.

#### **9.52.140 Penalties.**

A. Violation of any provision of this chapter constitutes a class C violation for the first offense. Subsequent violations of this chapter constitute a class B violation.

B. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate offense and may be punished separately.

(Ord. No. 2016-007, § 2, 6-7-2016; Ord. No. 2016-005, § 1, 2-2-2016)



## **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)

## Chapter 16.08

### HEARINGS OFFICER\*

#### Sections:

#### **16.08.010 Appointment**

#### **16.08.020 Minutes**

#### **16.08.030 Conflicts of Interest**

#### **16.08.040 Powers and Duties**

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

#### **16.08.010 Appointment**

- A. The City Council shall appoint a Hearings Officer to serve at the pleasure of the City Council. The Hearings Officer shall be selected as provided in the City's contracting rules for personal service contracts. The Hearings Officer may be terminated by a majority vote of the City Council.
  - B. The City Council may appoint another Hearings Officer to serve as a backup to the Hearings Officer under § 16.08.010 A. above. The Hearings Officer appointed under § 16.08.010.A. shall notify the City when the Hearings Officer is unavailable.
  - C. If the office of the Hearings Officer is vacant or a Hearings Officer is unavailable, the Planning Commission shall perform all duties of the Hearings Officer.
- (Ord. No. 2010-002, § 2, 2-16-2010)

#### **16.08.020 Minutes**

Before any meeting of the Hearings Officer, public notice shall be given as required by state statute and this Code. Accurate records of all Hearings officer proceedings shall be kept by the City and maintained on file in the City Recorder's Office.

#### **16.08.030 Conflicts of Interest**

- A. The Hearings Officer shall not participate in any proceeding or action in which they hold a direct or substantial financial interest, or when such interest is held by a member's immediate family. Additionally, the Hearings Officer shall not participate when an action involves any business in which they have been employed within the previous two (2) years, or any business with which they have a prospective partnership or employment.
- B. Any actual or potential interest by the Hearings officer in a land use action shall be disclosed by the Hearings officer at the meeting where the action is being taken. The Hearings Officer shall also disclose any pre-hearing or ex-parte contacts with applicants, officers, agents, employees, or any other parties to an application before the Hearings Officer. Ex-parte contacts shall not invalidate a final decision or action of the Hearings Officer, provided that the Hearings Officer indicates the substance of the ex-parte communication and of the right of parties to rebut said content at the first hearing where action will be considered or taken.

#### **16.08.040 Powers and Duties**

Except as otherwise provided by law, the Hearings Officer shall be vested with all powers and duties, and shall conduct all business, as set forth in the laws of the State of Oregon, the City Charter, this Code, and City ordinances.

## Chapter 16.10

### DEFINITIONS\*

#### Sections:

##### 16.10.010 Generally

##### 16.10.020 Specifically

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

##### 16.10.010 Generally

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

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

(Ord. No. 2016-013, § 1, 10-18-2016)

##### 16.10.020 Specifically

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

**Abut:** Contiguous to, in contact with, or adjoining with a common property line; two properties separated by another parcel, lot, tract or right-of-way measuring twenty (20) feet in width or less, shall be considered abutting for the purposes of interpreting the infill-related development standards. See also "adjacent."

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

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

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

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

**Adjacent:** A relative term meaning nearby; may or may not be in actual contact with each other, but are not separated by things of the same kind. For example, a lot is adjacent to a lot across the street because the lots are separated by a street, not an intervening lot.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Change in Use:** A change to a parcel of land, a premise or a building which creates a change in vehicular trip generation activities, which changes the minimum parking requirements of this Code, or which changes the use classification as defined by this Code or the Uniform Building Code.

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

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

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

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

**Co-Location:** The placement of two or more antenna systems or platforms by separate FCC license holders on a structure such as a support structure, building, water tank or utility pole.

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

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

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

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

**Compatible:** Any structures or uses capable of existing together in a harmonious, orderly, efficient, and integrated manner, considering building orientation, privacy, lot size, buffering, access and circulation.

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

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

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

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

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

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

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

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

**Day-Care Facility:** Any facility that provides day care to six or more children, including a child day care center or group day care home, including those known under a descriptive name, such as nursery school, preschool, kindergarten, child playschool, child development center, except for those facilities excluded by law, and family day care providers as defined by this Code. This term applies to the total day care operation and it includes the physical setting, equipment, staff, provider, program, and care of children.

**Deed Restriction:** A covenant or contract constituting a burden on the use of private property for the benefit of property owners in the same subdivision, adjacent property owners, the public or the City of Sherwood, and designed to mitigate or protect against adverse impacts of a development or use to ensure compliance with a Comprehensive Plan.

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

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

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

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

**Development:** Any man-made change to improved or unimproved real property or structures, including but not limited to construction, installation, or alteration of a building or other structure; change in use of a building or structure; land division; establishment or termination of rights of access; storage on the land; tree cutting; drilling; and any site alteration such as land surface mining, filling, dredging, grading, construction of earthen berms, paving, parking improvements, excavation or clearing.

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

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

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

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

**Dwelling, Single-Family:** A structure containing one dwelling unit.

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

**Dwelling, Two-Family or Duplex:** A single structure on one lot containing two individual dwelling units, sharing a common wall, but with separate entrances.

**Dwelling, Townhome or Row House:** A single-family dwelling unit which is attached on one or both sides to a similar adjacent unit(s) on similar lot(s). The attachment is made along one or more common walls which are jointly owned. The units may either be on individual platted lots or may be located on a single lot as individual condominium units. The units are distinct from each other by scale, color, massing, or materials.

**Dwelling, Multi-Family:** A single structure containing three or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-family dwellings include structures commonly called garden

apartments, apartments and condominiums. Multi-family dwellings that are attached on one or both sides to similar adjacent but distinct units are considered townhomes (see definition above).

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

**Educational Institution:** Any bona-fide place of education or instruction, including customary accessory buildings, uses, and activities, that is administered by a legally-organized school district; church or religious organization; the State of Oregon; or any agency, college, and university operated as an educational institution under charter or license from the State of Oregon. An educational institution is not a commercial trade school as defined by Section 16.10.020.

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

**Environmentally Constrained Land:** Any portion of land located within the floodway, one hundred-year floodplain, wetlands and/or vegetated corridor as defined by Clean Water Services.

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

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

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

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

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

**Extra Capacity Improvements:** Improvements that are defined as necessary in the interest of public health, safety and welfare by Divisions V, VI, and VIII of this Code, and the Community Development Plan, to increase the capacities of collector or arterial streets; water, sewer, storm drainage or other utility facilities; and parks and open space.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

- A. **Object:** A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g., statue, fountain, milepost, monument, sign, etc.
- B. **Site:** The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e.g., battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, etc.
- C. **District:** A geographically defined area possessing a significant concentration of buildings, structures, objects, and/or sites which are unified historically by plan or physical development, e.g., downtown, residential, neighborhood, military reservation, ranch complex, etc.
- D. **Primary, Secondary, and Contributing:** Historic ranking in descending order based on four scoring criteria for surveyed properties-historical, architectural, use considerations, and physical and site characteristics.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Letter of Map Amendment (LOMA): An amendment to the Flood Insurance Rate Maps based on technical data showing that an existing structure or parcel of land that has not been elevated by fill (natural grade) was inadvertently included in the special flood hazard area because of an area of naturally high ground above the base flood.
2. Letter of Map Revision (LOMR):
  - a. LOMR-F (Letter of Map Revision based on Fill) is a letter from FEMA stating that an existing structure or parcel of land that has been elevated by fill would not be inundated by the base flood.

A LOMR revises the current Flood Insurance Rate Map and/or Flood Insurance Study to show changes to the floodplains, floodways, or flood elevations. LOMRs are generally based on manmade alterations that affected the hydrologic or hydraulic characteristics of a flooding source and thus result in modification to the existing regulatory floodway, the effective Base Flood Elevation, or the Special Flood Hazard Area.

**Level of Service (LOS):** A measure of the overall comfort afforded to motorists as they pass through a roadway segment or intersection, based on such things as impediments caused by other vehicles, number and duration of stops, travel time, and the reserve capacity of a road or an intersection (i.e., that portion of the available time that is not used). LOS generally is referred to by the letters "A" through "F", with LOS "E" or "F" being generally unacceptable. LOS generally is calculated using the methodology in the Highway Capacity Manual, Special Report 209, by the Transportation Research Board (1985).

**Limited Land Use Decision:** A final decision or determination in accordance with ORS 197.195 made by a local government pertaining to a site within an urban growth boundary

which concerns: 1) the approval or denial of a subdivision or partition, or 2) the approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright but not limited to site review and design review.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Lowest Floor:** Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for the parking of vehicles, building access



or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 16.134.090.

**Manufactured Dwelling [or Manufactured Home]:** Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle." All manufactured homes located in the City after the effective date of this Code shall meet or exceed the standards of the U.S. Department of Housing and Urban Development and shall have been constructed after June 15, 1976.

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

**Manufactured Home Space:** A plot of land within a manufactured home park designed to accommodate one manufactured home, on a rental or lease basis.

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

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

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

**Motel:** See "Hotel."

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

**Net Buildable Acre:** Means an area measuring 43,560 square feet after excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses. When environmentally sensitive areas also exist on a property and said property is within the Metro urban growth boundary on or before January 1, 2002, these areas may also be removed from the net buildable area provided the sensitive areas are clearly delineated in accordance with this Code and the environmentally sensitive areas are protected via tract or restricted easement.

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

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

**Non-Attainment Area:** A geographical area of the State which exceeds any state or federal primary or secondary ambient air quality standard as designated by the Oregon Environmental Quality Commission and approved by the U.S. Environmental Protection Agency.

**Non-Conforming Structure or Use:** A lawful structure or use, existing as of the effective date of this Code, or any applicable amendments, which does not conform to the minimum requirements of the zoning district in which it is located.

**Nursing Home:** An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care, or institutions for the care and treatment of mental illness, alcoholism, or narcotics addiction.

**Occupancy Permit:** The permit provided in the Uniform Building Code which must be issued prior to occupying a building or structure or portion thereof. For the purposes of this Code, "occupancy permit" includes the final inspection approval for those buildings or structures not required to obtain an occupancy permit by the Uniform Building Code.

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

**Office:** A room or building for the transaction of business, a profession or similar activities, including but not limited to administration, bookkeeping, record keeping, business meetings, and correspondence. Products may not be stored or manufactured in an office, except to accommodate incidental sales, display and demonstration.

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

**Open Space:** Open ground area which is not obstructed from the ground surface to the sky by any structure, except those associated with landscaping, or recreational facilities. Parking lots and storage areas for vehicles and materials shall not be considered open space.

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

**Partition:** The dividing of an area or tract of land into two or three parcels within a calendar year when such area exists as a unit or contiguous units of land under single ownership at the beginning of each year. Partitions do not include: divisions of land resulting from lien foreclosures; divisions of land resulting from the creation of cemetery lots; divisions of land made pursuant to a court order, lot line adjustments where an additional parcel is not created and where the existing parcels are not reduced below the minimum requirements of this Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Recreational Vehicle:** A vehicle which is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**School:** See Educational Institution.

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

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

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

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

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

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

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

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

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

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

**Solid Waste Facility:**

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



safe transport to facilities authorized to receive, treat, or dispose of such materials pursuant to federal or state law. Treatment and storage facilities do not include facilities for on-site disposal of hazardous waste.

- N. **Wood Waste Recycling Facility:** A facility that receives, temporarily stores and processes untreated wood, which does not contain pressure treated or wood preservative treated wood, in the form of scrap lumber, timbers, or natural wood debris, including logs, limbs, and tree trunks, for reuse, fuel, fuel pellets, or fireplace logs.
- O. **Yard Debris Depot:** A facility that receives yard debris for temporary storage, awaiting transport to a processing facility.
- P. **Yard Debris Processing Facility:** A facility that receives, temporarily stores and processes yard debris into a soil amendment, mulch or other useful product through grinding and/or controlled biological decomposition.

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

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

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

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

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

**Story:** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a

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

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

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

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

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

- H. **Marginal Access Street (frontage or backage road):** A minor street parallel and adjacent to a principal arterial or arterial street providing access to abutting properties, but protected from through traffic. [Figure 8-5a of the Transportation System Plan illustrates the cross-sections of a frontage or backage road.]
- I. **Neighborhood Route:** Neighborhood routes are streets that provide connections within or between neighborhoods, but not citywide. Neighborhood routes are primarily used or planned to move traffic between the local street system, and onto collectors and arterials. [Figure 8-5a of the Transportation System Plan illustrates the neighborhood route cross-section.]
- J. **Principal Arterial:** Principal arterials are streets that provide connectivity at a regional level, and are typically State routes. [Figures 8-2 and 8-3b in the Transportation System Plan illustrates the principal arterial cross-section].

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

**Street Plug:** A narrow strip of land located between a subdivision and other property that is conveyed to the City for the purpose of giving the City control over development on the adjacent property.

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

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

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

**Subdivision:** The division of an area or tract of land into four or more lots within a calendar year, when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

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

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

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

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

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

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



**Surrounding:** To be encircled on all or nearly all sides; as interpreted for property lines and land uses, a use is surrounded by another use when the other use is abutting on greater than seventy-five percent (75%) of its perimeter.

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

**Townhomes:** See "Dwelling—Townhome or Row House."

**Transportation Facilities:** The physical improvements used to move people and goods from one place to another; i.e., streets, sidewalks, pathways, bike lanes, airports, transit stations and bus stops, etc.

**Transportation Improvements:** Transportation improvements include the following:

- A. Normal operation, maintenance repair, and preservation activities of existing transportation facilities.
- B. Design and installation of culverts, pathways, multi-use paths or trails, sidewalks, bike lanes, medians, fencing, guardrails, lighting, curbs, gutters, shoulders, parking areas, and similar types of improvements within the existing right-of-way.
- C. Projects identified in the adopted Transportation System Plan not requiring future land use review and approval.
- D. Landscaping as part of a transportation facility.
- E. Emergency measures necessary for the safety and protection of property.
- F. Street or road construction as part of an approved land use application.

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

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

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

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

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

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

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

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

**Wetlands:** Those land areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are generally identified in

the City's 1992 Local Wetland inventory, and the Metro 2004 Natural Resources Inventory, or in the absence of such identification, are based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989).

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

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

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

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

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

(Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2016-008, § 2, 6-21-2016; Ord. No. 2015-005, § 2, 5-5-2015; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2014-012, § 3, 7-17-2014; Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-009, § 2, 7-19-2011; Ord. 2006-009 §§ 1, 2)

**Chapter 16.30****RESERVED\***

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**\*Editor's note**—See editor's note, Ch. 16.22. Former Ch. 16.30, §§ 16.30.010—16.30.070, pertained to the General Commercial district, and derived from Ord. No. 86-851; Ord. No. 87-867; Ord. No. 87-870; Ord. No. 88-979; Ord. No. 91-922; Ord. No. 93-964; Ord. No. 97-1019; Ord. No. 2000-1092; Ord. No. 2002-1136; and Ord. No. 2010-015, adopted October 5, 2010.

## Chapter 16.31

### INDUSTRIAL LAND USE DISTRICTS\*

#### Sections:

**16.31.010 Purpose**

**16.31.020 Uses**

**16.31.030 Development Standards**

**16.31.040 Employment Industrial (EI) Restrictions**

**16.31.050 Tonquin Employment Area (TEA) Commercial Nodes Use Restrictions**

**16.31.060 Community Design**

**16.31.070 Floodplain**

#### **16.31.010 Purpose**

- A. Employment Industrial (EI) - The EI zoning district provides employment areas that are suitable for, and attractive to, key industries and industry clusters that have been identified by the State of Oregon and the City's economic development strategy as important to the state and local economy. The following are preferred industry sectors for areas zoned EI: Clean Technology; Technology and Advanced Manufacturing; and Outdoor Gear and Active Wear.

Land zoned EI shall provide for large and medium-sized parcels for industrial campuses and other industrial sites that can accommodate a variety of industrial companies and related businesses. Areas zoned EI are also intended to provide the opportunity for flex building space within small- and medium-sized industrial campuses and business parks to accommodate research and development companies, incubator/emerging technology businesses, related materials and equipment suppliers, and/or spin-off companies and other businesses that derive from, or are extensions of, larger campus users and developments. Retail and commercial uses are allowed only when directly supporting area employers and employees.

Industrial establishments and support services shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Hearing Authority.

- B. Light Industrial (LI) - The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the Commission.
- C. General Industrial (GI) - The GI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products from previously prepared or raw

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\***Editor's note**—Ord. No. 2012-011, adopted August 7, 2012, amended the Code by consolidating the provisions of Chs. 16.31, 16.32 and 16.34. Former Ch. 16.31, §§ 16.31.010—16.31.100, pertained to the Employment Industrial district, and derived from Ord. 2010-014, adopted October 5, 2010. See Chs. 16.32 and 16.34 for specific derivation.

materials, providing such activities can meet and maintain minimum environmental quality standards and are situated so as not to create significant adverse effects to residential and commercial areas of the City. The minimum contiguous area of any GI zoning district shall be fifty (50) acres.

(Ord. No. 2016-008, § 2, 6-21-2016; Ord. No. 2012-011, § 2, 8-7-2012)

#### 16.31.020 Uses

- A. The table below identifies the land uses that are permitted outright (P), permitted conditionally (C) and not permitted (N) in the industrial zoning districts. The specific land use categories are described and defined in Chapter 16.88.
- B. Uses listed in other sections of this Code, but not within this specific table are prohibited.
- C. Any use not otherwise listed that can be shown to be consistent or associated with the uses permitted outright or conditionally in the industrial zones or contribute to the achievement of the objectives of the industrial zones may be permitted outright or conditionally, utilizing the provisions of Chapter 16.88.
- D. Additional limitations for specific uses are identified in the footnotes of this table.

Uses	LI	GI	EI <sup>1</sup>
<b>RESIDENTIAL</b>			
• Single Dwelling unit, including a manufactured home, for one (1) security person employed on the premises and their immediate family	P	P	P
<b>CIVIC</b>			
• Hospitals	C	N	N
• Police and fire stations and other emergency services	C	C	C
• Vehicle testing stations	C	C	C
• Postal services - Public	C	C	C
• Postal substations when located entirely within and incidental to a use permitted outright	C	C	C
• Public and private utility structures, including but not limited to telephone exchanges, electric substations, gas regulator stations, treatment plants, water wells, and public work yards	P	P	C
• Small-scale power generation facilities	P	P	P
• Large-scale power generation facilities	C	P	C
• Public recreational facilities including parks, trails, playfields and sports and racquet courts on publicly owned property or under power line easements	C	C	C
<b>COMMERCIAL</b>			
• Commercial Trade Schools, commercial educational services and training facilities	P	P	C
<b>Entertainment/recreation</b>			
• Country clubs, sports and racquet clubs and other similar clubs	C	C	C

Uses	LI	GI	EI <sup>1</sup>
• Indoor recreation facilities such as arcades, mini-golf, or bounce house facilities <sup>2,3</sup>	C	C	C
<b>Motor Vehicle related</b>			
• Motorized vehicle and sport craft repairs and service	C	C	N
• Motorized vehicle and sport craft repair and service clearly incidental and secondary to and customarily associated with a use permitted outright or conditionally	P	P	P
• Automotive, boat, trailer and recreational vehicle storage	C	C	C <sup>4</sup>
• Vehicle fueling stations or car wash facilities <sup>5</sup>	C	C	C
• Junkyards and salvage yards	N	N	N
• Manufactured home sales and display area	N	N	N
<b>Office and Professional Support services</b>			
• Business and professional offices <sup>3</sup>	P	P	P
• Business support services such as duplicating, photocopying, mailing services, fax and computer facilities <sup>3</sup>	P	P	P
• Any incidental business, service, processing, storage or display, not otherwise permitted, that is essential to and customarily associated with a use permitted outright, provided said incidental use is conducted entirely within an enclosed building	P	P	P
<b>Childcare</b>			
• Day cares, preschools, and kindergartens, when clearly secondary to a permitted use	P	P	P
• Day cares, preschools, and kindergartens as a stand-alone use <sup>3</sup>	C	C	C
<b>General Retail - sales oriented</b>			
• Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business <sup>3</sup>	P	P	P
• Medical marijuana dispensary, not exceeding 3,000 square feet of gross square footage	P <sup>6</sup>	P <sup>6</sup>	N
• Tool and equipment repair, rental and sales, including truck rental <sup>7</sup>	P	P	P
• Retail plant nurseries and garden supply stores (excluding wholesale plant nurseries)	P	P	N
• Wholesale building material sales and service	C	P	N
• Retail building material sales and lumber yards <sup>3</sup>	C	P	N
<b>Personal Services</b>			
• Health clubs and studios less than 5,000 square feet in size	P	P	P
• Personal services catering to daily customers where patrons pay for or receive a service rather than goods or materials, including but not limited to financial, beauty, pet grooming, and similar services <sup>8</sup>	C	C	C
• Public or commercial parking (non-accessory)	N	N	N

Uses	LI	GI	EI <sup>1</sup>
• Veterinarian offices and animal hospitals	C	C	C
• Animal boarding/Kennels and pet daycare facilities with outdoor recreation areas <sup>8</sup>	C	C	C
<b>Eating and Drinking establishments:</b>			
• Restaurants, taverns, and lounges without drive-thru <sup>3</sup>	C	C	C
• Restaurants with drive-thru services	N	N	N
• On-site cafeteria that is secondary to, and serving employees of, a permitted use	P	P	P
<b>INDUSTRIAL</b>			
• Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products contained wholly within an enclosed building provided exterior odor and noise is consistent with municipal code standards and there is no unscreened storage and not otherwise regulated elsewhere in the code	P	P	P
• Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products not otherwise prohibited elsewhere in the code provided other off-site impacts are compliant with local, state and federal regulations	C	P	C
• Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of acids, paints, dyes, soaps, ammonia, chlorine, sodium compounds, fertilizer, herbicides, insecticides and similar chemicals	N	C	N
• Distribution, warehousing and storage associated with a permitted use operating on the same site	P	P	P
• Distribution and warehousing up to 150,000 square feet, provided product(s) are stored within an enclosed building <sup>9</sup>	P	P	P
• Distribution and warehousing greater than 150,000 square feet provided product(s) are stored within an enclosed building <sup>9</sup>	N	P	C
• Mini-warehousing or self-storage	N	P	N
• Medical or dental laboratories, including biomedical compounding	P	P	P
• Laboratories (not medical or dental)	P	P	P
• Research and development and associated manufacturing	P	P	P
• Contractors' storage and equipment yards	C	P	C <sup>4</sup>
Building, heating, plumbing or electrical contractors and suppliers, building maintenance services, and similar uses <sup>10</sup>	P	P	P
• Industrial laundry, dry cleaning, dyeing, or rug cleaning plants	C	P	N
• Sawmills	C	C	N
• Sand and gravel pits, rock crushing facilities, aggregate storage and distribution facilities or concrete or asphalt batch plants	N	C	N
• Solid waste transfer stations	N	C	N

Uses	LI	GI	EI <sup>1</sup>
The following uses are specifically prohibited in all industrial zones because they have been determined to have adverse environmental, public and aesthetic impacts and are not suitable for location in any of the industrial zones in the City			
• Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of toxins or explosive materials, or any product or compound determined by a public health official to be detrimental to the health, safety and welfare of the community	N	N	N
• Pulp and paper mills	N	N	N
• Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products	N	N	N
• Metal rolling and extraction mills, forge plants, smelters and blast furnaces	N	N	N
• Meat, fish, poultry and tannery processing	N	N	N
• General purpose solid waste landfills, incinerators, and other solid waste facilities not otherwise permitted in this code	N	N	N
<b>WIRELESS COMMUNICATION FACILITIES</b>			
• Radio, television, and similar communication stations, including associated transmitters	C	C	C
• Wireless communication towers <sup>11</sup> and transmitters	C	C	C
• Wireless communication facilities on City-owned property	C	C	C
• Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure	P	P	P
<b>OTHER</b>			
Agricultural uses including but not limited to:			
• Farm equipment sales and rentals	N	N	N
• Farming and horticulture	P	P	P
• Raising of animals other than household pets	N	N	N
• Truck and bus yards	N	P	N

<sup>1</sup> See special criteria for the EI zone, 16.31.030 and the Tonquin Employment Area (TEA), 16.31.040.

<sup>2</sup> If use is mixed with another, such as a restaurant, it is considered secondary to that use and permitted, provided it occupies less than fifty (50) percent of the total area.

<sup>3</sup> Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.

<sup>4</sup> On constrained land where structures would not otherwise be permitted, provided that no natural resources such as wetland or floodplains are impacted.

<sup>5</sup> Limited to Cardlock, wholesale or facilities incidental to and solely serving an associated permitted or conditional use - no public retail fuel sales.

<sup>6</sup> See Special Criteria for Medical Marijuana Dispensary under Section 16.38.020.



<sup>7</sup> Sales and rental area Limited in size to five thousand (5,000) square feet in a single outlet and no more than twenty thousand (20,000) square feet in multiple outlets in the same development project.

<sup>8</sup> Animal boarding/kennels and pet daycare facilities entirely within an enclosed building are considered "other personal service."

<sup>9</sup> For standalone warehousing and distribution only. Warehousing and distribution associated with another approved use is ancillary and permitted without size limitations.

<sup>10</sup> These businesses are involved in the servicing and supplying of materials and equipment primarily intended for industrial, institutional, or commercial businesses. On-site sales are limited as most activity occurs electronically or off-site. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products are generally delivered to the customer. Few customers, especially the general public, come to the site.

<sup>11</sup> Except for towers located within one thousand (1,000) feet of the Old Town District which are prohibited.

(Ord. No. 2016-008, § 2, 6-21-2016; Ord. No. 2015-005, § 2, 5-5-2015; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2012-011, § 2, 8-7-2012)

### **16.31.030 Development Standards**

#### **A. Generally**

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this Code shall be reduced below the minimum required by this Code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum Code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.84 (Variances and Adjustments).

#### **B. Development Standards**

Except as otherwise provided, required minimum lot areas and dimensions and setbacks shall be:

<b>Development Standards by Zone</b>	<b>LI</b>	<b>GI</b>	<b>EI</b>
Lot area - Industrial Uses:	10,000 SF	20,000 SF	3 acres <sup>9</sup>
Lot area - Commercial Uses (subject to Section 16.31.050):	10,000 SF	20,000 SF	10,000 SF
Lot width at front property line:	100 feet		
Lot width at building line:	100 feet		
Front yard setback <sup>11</sup>	20 feet	None	20 feet
Side yard setback <sup>10</sup>	None	None	None
Rear yard setback <sup>11</sup>	None	None	None
Corner lot street side <sup>11</sup>	20 feet	None	20 feet
Height <sup>11</sup>	50 feet		

<sup>9</sup> Lots within the EI zone that were legal lots of record prior to October 5, 2010 and smaller than the minimum lot size required in the table below may be developed if found consistent with other applicable requirements of Chapter 16.31 and this Code. Further subdivision of lots smaller than three (3) acres shall be prohibited unless Section 16.31.050 applies.

<sup>10</sup> When a yard is abutting a residential zone or public park, there shall be a minimum setback of forty (40) feet provided for properties zoned Employment Industrial and Light Industrial Zones, and a minimum setback of fifty (50) feet provided for properties zoned General Industrial.

<sup>11</sup> Structures located within one-hundred (100) feet of a residential zone shall be limited to the height requirements of that residential zone.  
(Ord. No. 2016-008, § 2, 6-21-2016)

#### **16.31.040      Employment Industrial (EI) Restrictions**

##### **A. Use Restrictions**

1. Retail and professional services that cater to daily customers, such as restaurants and financial, insurance, real estate, legal, medical and dental offices, shall be limited in the EI zone.
  - a. New buildings for stores, branches, agencies or other retail uses and services shall not occupy more than five thousand (5,000) square feet of sales or service area in a single outlet and no more than twenty thousand (20,000) square feet of sales or service area in multiple outlets in the same development project, and
  - b. New buildings for stores, branches, agencies or other retail uses and services shall not be located on lots or parcels smaller than five (5) acres in size. A "development project" includes all improvements proposed through a site plan application.
2. Notwithstanding the provisions of Section 16.31.050 "Commercial Nodes Use Restrictions," commercial development permitted under 16.31.050(1)(a) may only be proposed concurrent with or after industrial development on the same parcel. Commercial development may not occur prior to industrial development on the same parcel.

##### **B. Land Division Restrictions**

1. Lots of record prior to October 5, 2010 that are smaller than the minimum lot size required in the EI zone may be developed if found consistent with other applicable requirements of Chapter 16.31 and this code. Further subdivision of lots smaller than three (3) acres shall be prohibited unless Section 16.31.050 applies.
2. Lots or parcels larger than fifty (50) acres may be divided into smaller lots and parcels pursuant to a Planned Unit Development approved by the city so long as the resulting division yields at least one (1) lot or parcel of at least 50 acres in size.
3. Lots or parcels fifty (50) acres or larger, including those created pursuant to subsection (2) above, may be divided into any number of smaller lots or parcels pursuant to a Planned Unit Development approved by the city so long as at least forty (40) percent of the area of the lot or parcel has been developed with industrial uses or uses accessory to industrial use.

(Ord. No. 2016-008, § 2, 6-21-2016; Ord. No. 2012-011, § 2, 8-7-2012)

**16.31.050 Tonquin Employment Area (TEA) Commercial Nodes Use Restrictions**

- A. Within the Tonquin Employment Area (TEA), only commercial uses that directly support industrial uses located within the TEA are permitted as conditional uses.
- B. Commercial development, not to exceed a total of five (5) contiguous acres in size, may be permitted.
- C. Commercial development may not be located within three hundred (300) feet of SW 124th Avenue or SW Oregon Street, and must be adjacent to the proposed east-west collector street.

(Ord. No. 2016-008, § 2, 6-21-2016; Ord. No. 2012-011, § 2, 8-7-2012)

**16.31.060 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, the applicable provisions of Divisions V, VIII and IX will apply. (Ord. No. 2016-008, § 2, 6-21-2016; Ord. No. 2012-011, § 2, 8-7-2012)

**16.31.070 Floodplain**

Except as otherwise provided, Section 16.134.020 shall apply. (Ord. No. 2016-008, § 2, 6-21-2016; Ord. No. 2012-011, § 2, 8-7-2012)

**Chapter 16.32**

**RESERVED\***

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\***Editor's note**—Ord. No. 2012-011, § 2, adopted August 7, 2012, amended the Code by repealing former Ch. 16.32, §§ 16.32.010—16.32.070, in its entirety. Former Ch. 16.32 pertained to the Light Industrial district, and derived from Ord. No. 86-851; Ord. No. 87-867; Ord. No. 88-979; Ord. No. 91-922; Ord. No. 93-964; Ord. No. 97-1019; Ord. No. 98-1051; Ord. No. 2000-1092; Ord. No. 2001-1119; Ord. No. 2002-1136; Ord. No. 2009-009, adopted July 21, 2009; and Ord. No. 2010-05, adopted April 6, 2010.

**Division VIII. ENVIRONMENTAL RESOURCES****Chapter 16.132****GENERAL PROVISIONS\*****Sections:****16.132.010 Purpose**

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

**16.132.010 Purpose**

This Division is intended to protect, preserve, and otherwise properly manage the City's natural and environmental resources for the benefit of the general public, to regulate land development so as to protect the public from natural and environmental hazards, and to establish performance standards allowing the City to properly and uniformly assess the impact of residential, commercial, industrial, and institutional development and activities on the quality of the City's environment.

(Ord. 91-922, § 3)

## Chapter 16.134

### FLOODPLAIN (FP) OVERLAY\*

#### Sections:

- 16.134.010 Generally**
- 16.134.020 Purpose**
- 16.134.030 Greenways**
- 16.134.040 Development Review**
- 16.134.050 Permitted Uses**
- 16.134.060 Conditional Uses**
- 16.134.070 Prohibited Uses**
- 16.134.080 Floodplain Development**
- 16.134.090 Floodplain Structures**
- 16.134.100 Additional Requirements**

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

#### **16.134.010 Generally**

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

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

(Ord. No. 2016-013, § 1, 10-18-2016; Ord. 91-922, § 3)

#### **16.134.020 Purpose**

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

- A. The FP zoning district is an overlay district that controls and regulates flood hazard areas in order to protect the public health, safety and general welfare; to reduce potential flood damage losses; and to protect floodways and natural drainageways from encroachment by uses which may adversely affect water quality and water flow and subsequent upstream or downstream flood levels. The FP zone shall be applied to all areas within the base flood, and shall supplement the regulations of the underlying zoning district.

- B. FP zoning districts are areas within the base flood as identified by the Federal Emergency Management Agency (FEMA) in a Flood Insurance Study (FIS) and in Flood Insurance Rate Maps (FIRM) published for the City and surrounding areas, or as otherwise identified in accordance with Section 16.134.020C. These FEMA documents are adopted by reference as part of this Code, and are on file at the City.
- C. When base flood elevation data is not available from the FIS or FIRM, the City shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, and standards developed by the FEMA, in order to administer the provisions of this Code.

(Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 88-870)

#### **16.134.030 Greenways**

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

(Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 88-879)

#### **16.134.040 Development Review**

- A. The City Engineer is the designated local Floodplain Administrator and is responsible for maintaining local floodplain management records for the City.
- B. Provided land is not required to be dedicated as per Section 16.134.030, a conditional use permit (CUP) is required before any use, construction, fill, or alteration of a floodplain, floodway, or watercourse, or any other development begins within any FP zone, except as provided in Section 16.134.050.
- C. Application for a CUP for development in a floodplain shall conform to the requirements of Chapter 16.82 and may include, but is not limited to, plans and scale drawings showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, and drainage facilities.
- D. The following specific information is required in a floodplain CUP application and shall be certified and verified by a registered civil engineer or architect. The City shall maintain such certifications as part of the public record. All certifications shall be based on the as-built elevations of lowest building floors.
  - 1. Elevations in relation to the current FIRM and FIS of the lowest floor (including basement) of all structures;
  - 2. Elevations in relation to the current FIRM and FIS to which any structure has been flood proofed.
  - 3. That the flood proofing methods for any structure meet the requirements of this section, Floodplain Structures.
  - 4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
  - 5. A base flood survey and impact study made by a registered civil engineer.



6. Proof all necessary notifications have been sent to, and permits have been obtained from, those federal, state, or other local government agencies for which prior approval of the proposed development is required.
  7. Any other information required by this section, by any applicable federal regulations, or as otherwise determined by the City to be necessary for the full and proper review of the application.
- E. Where elevation data is not available as per subsection B of this section, or from other sources as per Section 16.134.020.C, a floodplain CUP shall be reviewed using other relevant data, as determined by the City, such as historical information, high water marks, and other evidence of past flooding. The City may require utility structures and habitable building floor elevations, and building flood proofing, to be at least two feet above the probable base flood elevation, in such circumstances where more definitive flood data is not available.
- F. Variances to any standard within the floodplain overlay shall comply with the provisions of the Code of Federal Regulations (CFR) section 60.6(a)(1)—(7).  
(Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; 88-879)

#### **16.134.050 Permitted Uses**

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

- A. Agricultural uses, provided that associated structures are not allowed, except for temporary building and boundary fences that do not impede the movement of floodwaters and flood-carried materials.
  - B. Open space, park and recreational uses, and minor associated structures, if otherwise allowed in the underlying zoning district, that do not impede the movement of floodwaters and flood-carried materials.
  - C. Public streets and appurtenant structures, and above and underground utilities, subject to the provisions of Sections 16.134.080 and 16.134.090.
  - D. Other accessory uses allowed in the underlying zoning district that do not involve structures, and will not, in the City's determination, materially alter the stability or storm drainage absorption capability of the floodplain.
- (Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 91-922)

#### **16.134.060 Conditional Uses**

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

##### **Greenways:**

- A. Any permitted or conditional use allowed in the underlying zoning district, when located in the flood fringe only, as specifically defined by this Code.
- (Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; 88-879)

**16.134.070 Prohibited Uses**

In the FP zone the following uses are expressly prohibited:

- A. The storage or processing of materials that are buoyant, flammable, contaminants, explosive, or otherwise potentially injurious to human, animal or plant life.
  - B. Public and private sewerage treatment systems, including drainfields, septic tanks and individual package treatment plants.
  - C. Any use or activity not permitted in the underlying zoning district.
  - D. Any use or activity that, in the City's determination, will materially alter the stability or storm drainage absorption capability of the floodplain.
  - E. Any use or activity that, in the City's determination, could create an immediate or potential hazard to the public health, safety and welfare, if located in the floodplain.
  - F. Any use, activity, or encroachment located in the floodway, including fill, new construction, improvements to existing developments, or other development, except as otherwise allowed by Section 16.134.050 and unless certification by a registered engineer or architect is provided demonstrating that the use, activity, or encroachment will not result in any increase to flood levels during the occurrence of the base flood discharge.
  - G. The storage of recreational vehicles.
- (Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

**16.134.080 Floodplain Development****A. Floodplain Alterations****1. Floodplain Survey**

The floodplain, including the floodway and flood fringe areas, shall be surveyed by a registered land surveyor or civil engineer, and approved by the City, based on the findings of the flood insurance study and other available data. Such delineation shall be based on the current FIRM and FIS data and be field-located from recognized valid benchmarks.

**2. Grading Plan**

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

**3. Fill and Diked Lands**

- a. Proposed floodplain fill or diked lands may be developed if a site plan for the area to be altered within the floodplain is prepared and certified by a registered civil engineer and approved by the Commission pursuant to the applicable provisions of this Code.

- b. Vehicular access shall be provided from a street above the elevation of the base flood to any proposed fill or dike area if the area supports structures for human occupancy. Unoccupied fill or dike areas shall be provided with emergency vehicle access.

#### 4. Alteration Site Plan

- a. The certified site plan prepared by a registered civil engineer or architect for an altered floodplain area shall show that:
  - (1) Proposed improvements will not alter the flow of surface water during flooding such as to cause a compounding of flood hazards or changes in the direction or velocity of floodwater flow.
  - (2) No structure, fill, storage, impervious surface or other uses alone, or in combination with existing or future uses, will materially reduce the capacity of the floodplain or increase in flood heights.
  - (3) Proposed floodplain fill or diked areas will benefit the public health, safety and welfare and incorporate adequate erosion and storm drainage controls, such as pumps, dams and gates.
  - (4) No serious environmental degradation shall occur to the natural features and existing ecological balance of upstream and downstream areas.
  - (5) On-going maintenance of altered areas is provided so that flood-carrying capacity will not be diminished by future erosion, settling, or other factors.
- b. Applicants must obtain a conditional letter of map revision (CLOMR) from FEMA before any encroachment, including fill, new construction, substantial improvement, or other development, in the regulatory floodway is permitted. Applicants are responsible for preparing technical data to support the CLOMR application and paying any processing or application fees to FEMA.

#### 5. Subdivisions and Partitions

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

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

(Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

**16.134.090 Floodplain Structures**

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

**A. Generally**

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

**B. Utilities**

1. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities located within structures shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
2. Electrical service equipment, or other utility structures, shall be constructed at or above the base flood elevation. All openings in utility structures shall be sealed and locked.
3. Water supply and sanitary sewer systems shall be approved by the Washington County Health Department, and shall be designed to minimize or eliminate the infiltration of floodwaters into the systems, or any discharge from systems into floodwaters.

**C. Residential Structures**

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

**D. Non-Residential Construction**

1. All commercial, industrial or other non-residential structures shall have either the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
    - a. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
    - c. Be certified by a Registered Professional Engineer or Architect that the design and methods of construction are in accordance with accepted standards of practice for meeting all provisions of this Section. A record of such certificates shall be maintained by the Floodplain Administrator in accordance with Section 16.134.040.A.
    - d. Nonresidential structures that are elevated and not flood proofed must meet the same standards for space below the lowest floor as per Section 16.134.090.C.2.
- (Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

**16.134.100 Additional Requirements**

- A. Dimensional standards or developments in the FP zone are the same as in the underlying zoning district, except as provided in Section 16.134.100.
- B. Approval of a site plan pursuant to Chapter 16.90 that includes portions of the FP overlay may be conditioned by the City to protect the best interests of the surrounding area or the community as a whole, and to carry out the terms of the Comprehensive Plan. These conditions may include, but are not limited to:
  1. Increasing the required lot sizes, yard dimensions, modifying street widths, or off-street parking spaces.
  2. Limiting the height, size, or location of buildings.
  3. Controlling the location and number of vehicle access points.
  4. Limiting the number, size, location, or lighting of signs.
  5. Requiring diking, fencing, screening, landscaping, or other facilities to protect the proposed development, or any adjacent or nearby property.
  6. Designating sites for open space or water retention purposes.
  7. Construction, implementation, and maintenance of special drainage facilities and activities.
- C. FEMA Notification.
  1. Notify FEMA within six months of project completion when a conditional letter of map revision (CLOMR) has been obtained from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified base flood elevations. This notification shall be provided as a letter of map revision (LOMR).
  2. The applicant is responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.

3. The floodplain administrator is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this Code and all applicable state and federal laws.

(Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

1. The scale, mass, height, areas, appearances and architectural design of buildings and other development structures and features.
2. Vehicular and pedestrian ways and parking areas.
3. Existing or proposed alteration of natural topographic features, vegetation and waterways. (Ord. 2002-1128 § 3; 94-990)

#### **16.162.030 Permitted Uses**

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Division VIII:

- A. Uses permitted outright in the RC zone, Section 16.28.020; the HDR zone, Section 16.20.020; and the MDRL zone, Section 16.16.020; provided that uses permitted outright on any given property are limited to those permitted in the underlying zoning district, unless otherwise specified by this Section and Section 16.162.040. (Ord. 2006-009 § 2)
- B. In addition to the home occupations permitted under Section 16.42.020, antique and curio shops, cabinet making, arts and crafts galleries, artists cooperatives, and bookshops, are permitted subject to the standards of Chapter 16.42 and this Chapter, in either the underlying RC or MDRL zones.
- C. Boarding and rooming houses, bed and breakfast inns, and similar accommodations, containing not more than five (5) guest rooms, in the underlying RC, HDR and MDRL zones.
- D. Motels and hotels, in the underlying RC zone only.
- E. Residential apartments when located on upper or basement floors, to the rear of, or otherwise clearly secondary to commercial buildings, in the underlying RC zone only.
- F. Other similar commercial uses or similar home occupations, subject to Chapter 16.88.
- G. Offices or architects, artists, attorneys, dentists, engineers, physicians, accountants, consultants and similar professional services.
- H. Uses permitted outright in the RC zone are allowed within the HDR zone when limited to the first floor, adjacent to and within 100 feet of, Columbia Street within the Old Town Overlay District. (Ord. 2002-1128 § 3; 94-990; 92-946; 87-859)

#### **16.162.040 Conditional Uses**

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Division VIII, and are approved in accordance with Chapter 16.82:

- A. Uses permitted as conditional uses in the RC zone, Section 16.28.020, HDR zone, Section 16.20.020, and the MDRL zone, Section 16.16.020, provided that uses permitted as conditional uses on any given property are limited to those permitted in the underlying zoning district, unless otherwise specified by Section 16.162.030 and this Section.
- B. Townhouses (shared wall single-family attached) subject to Chapter 16.44. In addition, any garages shall use alley access. RC zone setback standards may be used in lieu of other applicable standards.



C. Public and commercial (non-accessory) parking within residential zoning districts when both of the following apply:

1. On May 1, 2016, no buildings existed on the property where the parking is to be located; and
2. The property has street frontage on an arterial and/or collector street as identified within the Sherwood Transportation System Plan.

(Ord. No. 2016-010, § 2, 6-21-2016; Ord. 2006-009 § 2; Ord. 2002-1128 § 3; 94-990; 92-946; 87-859)

#### **16.162.050 Prohibited Uses**

The following uses are expressly prohibited in the OT overlay zone, notwithstanding whether such uses are permitted outright or conditionally in the underlying RC, HDR or MDRL zones:

- A. Adult entertainment businesses.
- B. Manufactured homes on individual lots.
- C. Manufactured home parks.
- D. Restaurants with drive-through. (Ord. 2002-1128 § 3; 94-990; 92-946; 87-859)
- E. Stand alone cellular or wireless communication towers and facilities. Co-location of existing legally permitted facilities is acceptable. (Ord. 2006-009 § 2)

#### **16.162.060 Dimensional Standards**

In the OT overlay zone, the dimensional standards of the underlying RC, HDR and MDRL zones shall apply, with the following exceptions:

- A. Lot Dimensions - Minimum lot area (RC zoned property only): Twenty-five hundred (2,500) square feet.
- B. Setbacks - Minimum yards (RC zoned property only): None, including structures adjoining a residential zone, provided that Uniform Building Code, Fire District regulations, and the site design standards of this Code, not otherwise varied by this Chapter, are met.
- C. Height - The purpose of this standard is to encourage 2 to 4 story mixed-use buildings in the Old Town area consistent with a traditional building type of ground floor active uses with housing or office uses above.

Except as provided in Section 16.162.080, subsection C below, the maximum height of structures in RC zoned property shall be forty (40) feet (3 stories) in the "Smockville Area" and fifty (50) feet (4 stories) in the "Old Cannery Area". Limitations in the RC zone to the height of commercial structures adjoining residential zones, and allowances for additional building height as a conditional use, shall not apply in the OT overlay zone. However, five foot height bonuses are allowed under strict conditions. Chimneys, solar and wind energy devices, radio and TV antennas, and similar devices may exceed height limitations in the OT overlay zone by ten (10) feet.

Minimum height: A principal building in the RC and HDR zones must be at least sixteen (16) feet in height. (Ord. 2006-009 § 2)

- D. Coverage - Home occupations permitted as per Chapter 16.42 and Section 16.162.030 may occupy up to fifty percent (50%) of the entire floor area of all buildings on a lot. (Ord. 2002-1128 § 3; 94-946; 87-859)

Ordinance Number	Date	Description	Section	Section this Code
2016-001	1-19-16	Marijuana tax	1 Rpld	3.25.010— 3.25.130
2016-002	1-19-16	Recreational marijuana businesses	2 Added	5.30.010, 5.30.020
2016-003	1-19-16	Marijuana tax	2 Added	3.25.010— 3.25.030
2016-005	2- 2-2016	Prohibiting of noise	1 Rpld	9.52.010— 9.52.140
			Added	9.52.010— 9.52.140
2016-006	2- 2-2016	Targeted residential picketing	1 Added	9.64.010— 9.64.030
2016-007	6- 7-2016	Prohibiting of noise	2	9.52.010— 9.52.120, 9.52.140
			Rpld	9.52.130
			Added	9.52.130
2016-008	6-21-2016	Industrial uses	2	16.10.020
				16.31.010— 16.31.070
2016-009	5- 3-2016	Elections	2	2.04.023
				2.04.041
				2.04.045
			Rpld	1.08.010— 1.08.050
2016-010	6-21-2016	Conditional uses in the Old Town Overlay District	2	16.162.040
2016-013	10-18-2016	Floodplain Overlay District	1	16.10.010, 16.10.020 16.134.010— 16.134.100
2016-014	10-18-2016	Sanitary Sewer Master Plan		Omit
2016-015	10-18-2016	Stormwater Master Plan		Omit

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