SUPPLEMENT NO. 18
September 2019

SHERWOOD MUNICIPAL CODE

(Covering Ordinances through 2019-010, passed September 3, 2019.)

Looseleaf Supplement

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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 2019-010, passed September 3, 2019.

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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."

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
2013-007	Omitted	14
2013-008	Included	14
2014-001	Omitted	14
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Ord. No.	Included/ Omitted	Supp. No.
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
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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
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2016-010	Included	17
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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
2016-016	Omitted	18
2017-001	Included	18
2017-002	Omitted	18
2017-003	Omitted	18

Ord. No.	Included/ Omitted	Supp. No.
2017-004	Omitted	18
2017-005	Included	18
2017-006	Included	18
2017-007	Included	18
2017-008	Omitted	18
2018-001	Omitted	18
2018-002	Omitted	18
2018-003	Included	18
2018-004	Omitted	18
2018-005	Included	18
2018-006	Included	18
2018-007	Included	18
2018-008	Included	18
2018-009	Included	18
2018-010	Included	18
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2019-001	Included	18
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2019-008	Included	18
2019-009	Omitted	18
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Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

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))

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

Chapter 2.08

CITIZEN BOARDS AND COMMISSIONS*

Sections:

***Editor's note**—Ord. No. 2019-005, § 2, adopted June 18, 2019, amended the Code by repealing former Ch. 2.08, § 2.08.010, and adding a new Ch. 2.08. Former Ch. 2.08 pertained to boards and commissions generally, and derived from Ord. 92-954, and Ord. No. 2009-013, adopted October 6, 2009.

2.08.010 Purpose.

The city council recognizes the importance of the public involvement process and the contributions citizens can offer. As the recipients of government services, citizens may best be able to identify where efficiencies and improvements may benefit the city. The council has therefore created a system of boards and commissions designed to foster the relationship between the city and its citizens and ensure that the city considers and appropriately weighs the needs and interests of all Sherwood citizens.
(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.015 Definitions.

"Citizen board and commission" means any commission, board, committee, task force, or other similar group of citizens, established by city council, including those which are intended to be permanent and those which are created for a temporary period of time, but excluding subcommittees of the city council.
(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.020 Establishment of citizen boards and commissions; suspension; dissolution.

A. Citizen boards and commissions which are intended to be permanent shall be established by ordinance. Citizen boards and commissions which are created for a temporary period of time shall be established by resolution.

B. The ordinance or resolution establishing a citizen board and commission shall include a specific statement of purpose that identifies its duties and responsibilities.

C. All citizen boards and commissions shall be subject to the provisions of this chapter, except to the extent otherwise specified in the ordinance or resolution establishing a particular citizen board or commission, as they may be amended from time to time, or required by law.

D. The city council may suspend the activities of any citizen board and commission by resolution. The suspension may be indefinite or for a specified period of time, as set forth in the resolution.

E. The city council may dissolve any citizen board and commission, except those required by law. Citizen boards and commissions created by ordinance may only be dissolved by ordinance. Citizen boards and commissions created by resolution may be dissolved by resolution.
(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.025 Role and authority of citizen boards and commissions.

A. The city council is the elected governing body for the city. Unless otherwise provided by law, citizen boards and commissions are created pursuant to the council's authority and shall have only those powers and functions expressly delegated by the council.

B. Unless otherwise provided by law or specifically delegated by council, citizen boards and commissions do not make final decisions, but instead make recommendations, act in an advisory capacity to the council, and help the council implement city council goals.

C. No citizen board and commission shall have the authority to expend city funds, or to obligate the city for payment of any sum of money, except as expressly delegated or authorized by prior approval of the city council.

D. In addition to the duties and responsibilities set forth in the resolution or ordinance establishing a citizen board and commission, as it may be amended from time to time, the city council may by resolution assign other limited duration duties or projects.
(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.030 Duties and responsibilities of citizen boards and commissions and members.

A. All citizen boards and commissions, and any subcommittees thereof, shall comply with the State of Oregon Public Records Law, Public Meetings Law, ethics laws, and all other applicable laws.

B. Members are expected to regularly attend the meetings of the citizen board and commission to which they are appointed.

C. A member of any citizen board and commission may testify before the city council only as an individual citizen, not on behalf of the citizen board and commission to which they are appointed, unless the member has been designated as a spokesperson for the citizen board and commission on the applicable issue or topic by a majority vote of the citizen board and commission.

D. If at any time during his or her term of office a member of a citizen board and commission ceases to meet the qualifications for the citizen board and commission, he or she must immediately notify the citizen board and commission chair and staff liaison in writing.
(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.035 Officers and subcommittees of citizen boards and commissions.

A. In July of each year, every citizen board and commission shall elect a chair and vice-chair from among its members.

B. The chair shall:

1. Preside at all meetings.

2. Be responsible for maintaining communication with the city council liaison and city staff assigned to the citizen board and commission.

3. Ensure that minutes are produced for each meeting if staff is not in attendance.

C. The vice chair shall exercise the duties of the chair in the chair's absence.

D. Vacancies in the office of chair or vice chair due to the mid-term resignation or removal of the officer shall be filled by election of the membership and shall be for the remainder of the vacant term of office.

E. A citizen board and commission may request that the city council establish a subcommittee of the citizen board and commission. Prior to voting to request the council to approve creation of a subcommittee, the citizen board and commission shall first request and consider a report from staff regarding the costs and time involved in staffing the subcommittee. Any request to form a subcommittee shall be submitted to the city council in writing and shall contain:

1. An explanation of the function of and need for the subcommittee;

2. The number and any qualifications of its members;

3. The staff analysis of the cost and time involved in staffing the subcommittee; and

4. If the subcommittee is a temporary subcommittee, a deadline for completion of the subcommittee's responsibilities.

(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.040 Meetings; rules of procedure.

A. Meeting frequency. Each citizen boards and committee shall meet as needed to accomplish its duties and responsibilities.

B. Attendance.

1. A member must provide at least 48 hours' notice to both the chair of the citizen board and commission and the staff liaison regarding any planned absence from a scheduled meeting of the citizen board and commission. In the event of an emergency that will cause a member to be absent from a meeting, the member must endeavor to provide as much advance notice to the chair of the citizen board and commission and the staff liaison as is practicable.

2. Members are expected to attend meetings in person. When this is not possible, a member may submit a request to participate telephonically or through other electronic means to the chair and staff liaison. Such request must include an explanation as to why this accommodation is being requested. The chair must not unreasonably deny such a request.

C. Quorum. A quorum to conduct business shall be defined as a majority of the member positions that are not vacant.

D. Voting. Except as otherwise required by law, the concurrence of a majority of members present and eligible to vote shall be necessary to pass any motion or decide any question. A member is not eligible to vote if the member has recused him/herself due to a conflict of interest or bias. Members are required to vote on all motions unless they have recused themselves.

E. Rules of Procedure. Robert's Rules of Order shall serve as a guideline for the conduct of citizen board and commission meetings.

F. Recommendations. All citizen board and commission recommendations to the city council shall be in writing. The staff liaison, or other person designated by the citizen board and commission, shall prepare a memorandum to the council stating the citizen board and commission's recommendation, which must be approved by majority vote of the citizen board and commission.

(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.045 Council liaisons; council and staff support and coordination.

A. Council liaisons.

1. A council liaison shall be appointed for each citizen board and commission in

accordance with council rules. The purpose of the council liaison is to provide a direct line of communication between the citizen board and commission and the city council. The council liaison and the chair of the citizen board and commission shall have a joint obligation to keep the council and the citizen board and commission informed of relevant city or citizen board and commission information.

2. The council liaison is not a voting member of the citizen board and commission to which he or she is assigned. However, except to the extent otherwise required by law and rules of procedure when the citizen board and commission is exercising quasi-judicial authority, he or she may take part in all discussion and debate in any matter before the citizen board and commission.

B. Other city council members may attend meetings of any citizen board and commission. A council member may not speak on behalf of the city council at a citizen board and commission meeting unless authorized to do so by majority vote of the city council.

C. City staff support.

1. The city manager shall assign staff to provide technical information, guidance, and clerical support for each citizen board and commission. The primary staff person(s) assigned to a citizen board and commission will be designated as the staff liaison(s).

2. A staff liaison is not a voting member of the citizen board and commission to which he or she is assigned. However, except to the extent otherwise required by law and rules of procedure when the citizen board and commission is exercising quasi-judicial authority, he or she may take part in all discussion and debate in any matter before the citizen board and commission.
(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.050 Appointment and removal of citizen board and commission members.

A. Appointments.

1. Members of citizen boards and commissions shall be appointed in accordance with council rules.

2. If a position becomes vacant for any reason before the expiration of a term of office, the appointee shall fill the vacancy for the remainder of the term.

3. Appointees must meet the qualifications for the citizen board and commission, if any.

4. All members must reside within the Sherwood city limits, unless otherwise provided for a specific citizen board and commission.

5. When making or approving appointments, the mayor and council may consider special expertise of applicants and the geographic diversity of the membership of citizen boards and commissions.

6. A citizen may not serve on more than one citizen board and committee simultaneously without approval of the city council by resolution. This provision shall not apply to subcommittees.

7. A citizen serving on more than one citizen board and committee may not be the chairperson of more than one simultaneously.

B. Removal. Members of citizen boards and commissions serve at the pleasure of the city council and may be removed at any time, with or without cause, in accordance with council rules.
(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.055 Term of office.

A. The term of office for members of each citizen board and commission shall be a period of three years, unless otherwise provided herein, in the ordinance or resolu-

tion establishing a citizen board and commission, as it may be amended from time to time, or required by law.

B. All terms of office shall expire on June 30, unless otherwise provided herein, in the ordinance or resolution establishing a citizen board and commission, as it may be amended from time to time, or required by law.

C. Notwithstanding the foregoing, initial terms of office for members of a newly created citizen board and commission which is intended to be permanent shall be staggered so that a majority of the positions do not become vacant in the same year and so that an equal or approximately equal number of positions become vacant each year.

D. Members of citizen boards and commissions in office at the time that this ordinance is enacted shall continue in office until June 30 of the year in which their term of office was scheduled to expire. The length of the subsequent term of office may vary from the requirements in subsection A above, as specified at the time of appointment, if necessary to ensure that a majority of the positions on the citizen board and commission do not become vacant in the same year and that an equal or approximately equal number of positions become vacant each year.

(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.060 Budget committee.

The city budget committee is hereby established for the purposes, and with the composition and duties and responsibilities, set forth in Oregon Local Budget Law (ORS Chapter 294).

(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.065 Cultural arts commission.

A. Purpose. The city cultural arts commission is hereby established for the purpose of advising the city council and city administration on arts and cultural programming, policies, planning, and management.

B. Composition.

1. The commission shall consist of nine members.

2. Eight of the commission members must be residents of the city. One commission member must reside within the 97140 zip code, but need not be a resident of the city.

C. Duties and responsibilities. The commission shall:

1. Identify needs and facilitate arts initiatives that serve the city, expanding and enriching the cultural life of Sherwood.

2. Develop cultural arts policies and make recommendations to city council with regard to public art and arts programming.

3. Promote the utilization of the Sherwood Center for the Arts as a venue for performances and events, promoting cultural tourism.

(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.070 Library advisory board.

A. Purpose. The city library advisory board is hereby established for the purpose of advising the city council and city administration on library policies, planning, and management.

B. Composition.

1. The board shall consist of nine members.

2. Eight of the board members must be residents of the city. One member must be a non-resident of the city, but must be a resident of both Washington County and the Sherwood Public Library service area as then designated.

3. Per ORS 357.465(3), the term of office for library advisory board members shall be four years.

C. Duties and responsibilities. The board shall:

1. Evaluate community needs and resources on a regular basis and incorporate relevant findings into a statement of purpose guiding the provision of library services.

2. Establish long-range plans, goals, and objectives for the library and the improvement and maintenance of the library building.

3. Regularly review and advise the city council and city administration on specific programs and policies relative to library goals and objectives.

4. Promote public participation and awareness programs designed to increase the use of the library.

5. Advise the city council and city administration on library rules, regulations, and other matters relative to the library.

6. Undertake additional responsibilities relative to the library system as may be designated by the city council or requested by the city administration.

(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.075 Parks and recreation advisory board.

A. Purpose. The city parks and recreation advisory board is hereby established for the purpose of advising the city council and city administration on parks and recreation policies, planning, and management.

B. Composition. The board shall consist of nine members.

C. Duties and responsibilities. The board shall:

1. Evaluate community needs and resources on a regular basis and incorporate relevant finding into a proposed statement of purpose guiding the provision of parks and recreation services in the city.

2. Make recommendations to city council regarding long-range plans, goals, and objectives for the acquisition and development of new city parklands and the improvement and maintenance of existing parks.

3. Develop and recommend to the city administration and city council annual budget appropriations supporting and prioritizing parks and recreation operational and capital programs.

4. Regularly review and advise the city council and city administration on specific programs and policies relative to parks and recreation goals and objectives.

5. Coordinate and/or review plans and activities undertaken by volunteer agencies and individuals that are directed toward the improvement of city parks, beautification of other areas of the city, and organizing of recreation programs.

6. Provide a liaison between the city and corporate, civic, fraternal, nonprofit, and other groups related to scheduling and conduct of community-wide events and activities.

7. Consider land use planning issues as they relate to parks, and use of landscaped areas and/or parks dedicated by new subdivisions and construction.

8. Implement public participation and awareness programs designed to combat vandalism and misuse of city parks, thoroughfares, public facilities, greenways, and similar areas.

9. Assist in the development and review of parks rules and regulations and parks activity and use permits.

10. Meet with local sports organizations to identify needs and concerns and develop findings and recommendations for city council.

11. Undertake additional responsibilities relative to the city parks and recreation system as may be designated by the city council or requested by city administration.

(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.080 Planning commission.

The city planning commission is hereby established for the purpose of advising the city council on general land use and transportation planning issues; long-range capital improvement programs; and acting as a hearings body for applications for permits, land use applications, and land use appeals, and other matters as directed by the city council, and for the purposes set forth in ORS Chapter 227 and Sherwood Municipal Code Chapter 16.06. The commission's composition and duties and responsibilities shall be as set forth in, and the commission shall in all other respects be governed by the terms set forth in, ORS Chapter 227 and Sherwood Municipal Code Chapter 16.06. (Ord. No. 2019-005, § 2, 6-18-2019)

2.08.085 Police advisory board.

A. Purpose. The city police advisory board is hereby established for the purpose of advising the city council and city administration on police department policies, planning, and management.

B. Composition.

1. The board shall consist of nine members.

2. At least six members must be residents of the city. The remaining members must reside within the 97140 zip code, but need not be residents of the city.

3. When making appointments to the board, the city will endeavor to include representatives from:

a. Sherwood businesses.

b. The Sherwood faith community.

c. The Sherwood Police Foundation.

d. The Sherwood youth community.

e. The Sherwood School District.

C. Duties and responsibilities. The board shall:

1. Assist the police department in establishing:

a. Priorities for the delivery of police services, including types, levels, and quality of police services;

b. The department's strategic plan and goals;

c. Recommended strategies for the future; and

d. Public policy on policing.

2. Seek opportunities to educate the community about police work and the purpose of law enforcement.

3. Be a component of the Sherwood community, with the goal of promoting public safety.

4. Establish and maintain coordinated and cooperative working relationships between residents, the business community, faith community, youth population, schools, other agencies, and the city police department.

5. Invite and encourage public input regarding the above and advise the chief of police on the above matters and make recommendations to the city council when appropriate.

(Ord. No. 2019-005, § 2, 6-18-2019)

2.08.090 Senior advisory board.

A. Purpose. The city senior advisory board is hereby established for the purpose of advising the city council and city administration on senior services programming, policies, planning, and management.

B. Composition.

1. The board shall consist of nine members.

2. Eight of the board members must be residents of the city. One board member must reside within the 97140 zip code, but need not be a resident of the city.

C. Duties and responsibilities. The board shall:

1. Evaluate community needs and resources on a regular basis and incorporate relevant findings into a statement of purpose guiding the provision of senior services in the city.

2. Assist the city council and city administration in developing long-range plans, goals, priorities, and objectives for the delivery of senior services, including types, levels, and quality of services, through the Marjorie Stewart Senior Community Center and other local senior services.

3. Assist the city council and city administration in creating public policy on senior safety, housing, transportation, health, and other needs.

4. Regularly review, and advise the city council and city administration on, specific programs and policies relative to senior services goals and objectives.

5. Promote public participation and awareness of programs to increase the use of the senior services in and around Sherwood, including at the Marjorie Stewart Senior Community Center.

6. Establish and maintain coordinated and cooperative working relationships between residents, the business community, faith community, youth population, schools, other agencies, the city government including the Marjorie Stewart Senior Community Center, and other local senior services.

7. Undertake additional responsibilities relative to senior services as may be designated by the city council or requested by the city administration.

(Ord. No. 2019-005, § 2, 6-18-2019)

Chapter 2.10

RESERVED*

*__Editor's note__—Ord. No. 2019-005, § 2, adopted June 18, 2019, amended the Code by repealing former Ch. 2.10, §§ 2.10.010—2.10.060. Former Ch. 2.10 pertained to the police advisory board, and derived from Ord. No. 2014-015, adopted August 19, 2014.

Chapter 2.12

RESERVED*

*Editor's note—Ord. No. 2019-005, § 2, adopted June 18, 2019, amended the Code by repealing former Ch. 2.12, §§ 2.12.010—2.12.060. Former Ch. 2.12 pertained to the library advisory board, and derived from Ord. 88-889; Ord. 91-926; Ord. 00-1089; Ord. 03-1142; and Ord. No. 2009-013, adopted October 6, 2009.

Chapter 2.16

RESERVED*

*__Editor's note__—Ord. No. 2019-005, § 2, adopted June 18, 2019, amended the Code by repealing former Ch. 2.16, §§ 2.16.010—2.16.060. Former Ch. 2.16 pertained to the parks and recreation board, and derived from Ord. 814 of 1985, Ord. 92-955, Ord. 99-1073, Ord. 01-1112, and Ord. 04-015.

Chapter 2.20

CITY RECORDS

Sections:

2.20.010 Records officer—Duties.

The city recorder is designated as the records officer for the city. The records officer shall have the duty:

A. To create, maintain, monitor and update the city-wide records retention schedule through coordination with the state archivist and department supervisors;

B. To create a records management manual providing for proper records handling, retention and storage for all city departments;

C. To review requests for new records equipment;

D. To assist in establishing storage facilities;

E. To keep updated on records law and procedures in order to implement required procedures and/or educate staff regarding record retention; and

F. Report to the State Archivist regarding the records management program as required. (Ord. 92-942 § 1)

2.20.020 Records management program.

The city council meeting in duly and regularly constituted session, does find and determine that it is in the best interests of the city to have a records officer and records management program, and does, by this chapter, state such intent and election to do so participate in the records management program as defined by the State Archivist. (Ord. 92-942 § 2)

Chapter 2.28

ABANDONED PROPERTY DISPOSITION

Sections:

2.28.010 Custody of property.

Whenever any personal property other than a motor vehicle is taken into the custody of any department of the city by reason of its having been abandoned, found, seized, or for any other reason, such personal property shall be turned over to and held by the police department at the expense and risk of the owner or person lawfully entitled to possession thereof. (Ord. 799 § 1, 1984)

2.28.020 Surrender to true owner.

Except when the property in question has been confiscated or is being held as evidence, the owner or person lawfully entitled to possession may reclaim it upon application to the police department. The department shall require satisfactory proof of ownership or right to possession, and the department shall further require payment of any charges and expenses incurred in the storage, preservation and custody of the property. (Ord. 799 § 2, 1984)

2.28.030 Sale of property.

A. At any time after expiration of sixty (60) days from the time the property comes into the possession of the police department the chief of police may sell the property at public auction. He or she shall not sell any such property held in evidence in any court proceeding until the need for its use in that proceeding has passed. Notice of the sale shall be given once by publication in a newspaper of general circulation in the city at least ten days before the date of sale. The notice shall give the time and place of the sale and shall describe generally the property to be sold.

B. All sales of property under this chapter shall be for cash and shall be made to the highest and best bidder, provided, however, that any person appearing at or prior to the sale and proving ownership or right of possession to the property in question shall be entitled to reclaim it upon payment of the charges and expenses incurred by the city in the storage, preservation and custody of the property and a proportionate share of the costs of advertising for the sale.

C. If no bids are entered for the property, or if the highest bid is less than the costs incurred by the city, the chief of police may enter a bid on behalf of the city in an amount equal to such costs. If bid in by the city, the property shall become the property of the city as compensation for costs incurred.

D. The proceeds of the sale shall be applied first to payment of the costs of sale and any expenses incurred in preservation, storage and custody of the property, and any balance shall be credited to the general fund of the city.

E. The sale of property pursuant to this chapter shall be without right of redemption.

Title 3

REVENUE AND FINANCE

Chapters:

Chapter 3.25

MARIJUANA TAX*

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 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)

***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.

Chapter 3.30

LOCAL TRANSIENT LODGING TAX

Sections:

3.30.010 Purpose.

A. The purpose of this chapter is to impose a tax upon transient occupants of transient lodging in the City of Sherwood.

B. The local transient lodging tax imposed by this chapter is in addition to and not in lieu of the Washington County transient lodging tax collected within the corporate limits of the City.

C. The local transient lodging tax imposed by this chapter is in addition to and not in lieu of any State transient lodging tax.

(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.020 Definitions.

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

"Accrual accounting" means that the transient lodging tax collector enters the rent due from a transient on his or her records when the rent is earned, whether or not it is paid.

"Cash accounting" means the transient lodging tax collector does not enter the rent due from a transient on his or her records until the rent is paid.

"City Manager" means the City Manager of the City of Sherwood, or his or her designee.

"Collection reimbursement charge" means the amount a transient lodging tax collector may retain as reimbursement for the costs incurred by the transient lodging tax collector in collecting and reporting a transient lodging tax and in maintaining transient lodging tax records.

"Occupancy" means the use or possession, or the right to the use or possession, for lodging or sleeping purposes, of any space, or portion thereof, in transient lodging.

"Rent" means any consideration rendered for the sale, service, or furnishing of transient lodging.

"Tax Administrator" means the Finance Director of the City of Sherwood, Oregon, or his or her designee.

"Transient" means any person who exercises occupancy or is entitled to occupancy in transient lodging for a period of less than 30 consecutive calendar days, counting portions of calendar days as full days. The day an individual checks out of the transient lodging is not included in determining the 30-day period if the individual is not charged rent for that day. Any such individual so occupying or entitled to occupy space in transient lodging shall be deemed a transient for purposes of this chapter until the period of 29 days has elapsed, unless there is an agreement in writing between the transient lodging tax collector and the transient providing for a longer period of occupancy. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. A human being who pays for lodging on a monthly basis, irrespective of the number of days in such month, shall not be deemed a "transient."

"Transient lodging" means:

a. Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;

b. Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or

c. Houses, cabins condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, used for temporary human occupancy.

"Transient lodging intermediary" means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and:

a. Charges for occupancy of the transient lodging;

b. Collects the consideration charged for occupancy of the transient lodging; or

c. Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

"Transient lodging provider" means a person who furnishes transient lodging, and includes a person who operates a transient lodging facility, whether in the capacity of owner, managing agent, lessee, sublessee, mortgagee in possession, licensee, concessionaire, or any other capacity.

"Transient lodging tax collector" means a transient lodging provider or a transient lodging intermediary.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.030 Tax imposed; rate and computation; collector reimbursement.

A. For the privilege of occupancy in any transient lodging within the corporate limits of the city on or after April 1, 2019, each transient shall pay a tax of three percent of the rent.

1. The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

2. The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.

3. The tax shall be collected by the transient lodging tax collector that collects the consideration charged for occupancy of the transient lodging or that receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged for occupancy of the transient lodging.

4. The tax imposed by this subsection is in addition to and not in lieu of any other local transient lodging tax collected within the corporate limits of the city.

B. The transient lodging tax collector may withhold a collection reimbursement charge of five percent of the amount collected under subsection A of this section.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.040 Travel packages.

A. If a separate fee is charged for a service and the service is optional, that fee is not subject to the tax imposed by this chapter.

B. If a separate fee is charged for a service and the service is not optional, or if the value of a service is included in the normal lodging rate, the amount allocated to the service is subject to the tax imposed by this chapter.

C. If the provider offers a lodging package that includes something that is not associated with the actual lodging or is provided by a third party, only the regular lodging rate that would have been charged absent the package item is subject to the tax imposed by this chapter.

D. Any allocation made for the city's local transient lodging tax shall be consistent with the allocation for the state transient lodging tax.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.050 Exemptions.

No tax imposed by this chapter shall be imposed on dwelling units described in ORS 320.308.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.060 Collection of tax by transient lodging tax collectors.

A. The tax constitutes a debt owed by the transient to the city that is extinguished only by payment to the transient lodging tax collector or to the city.

B. The transient shall pay the tax to the transient lodging tax collector at the time the rent is paid.

C. No transient lodging tax collector shall advertise that the tax or any part of the tax will be assumed or absorbed by the transient lodging tax collector, or that it will not be added to the rent, or that, when added, any part will be refunded.

D. The amount of tax shall be separately stated upon the transient lodging tax collector's business records, including lodging receipts provided to transients.

E. The transient lodging tax collector shall enter the tax on the transient lodging tax collector's records when rent is collected if the transient lodging tax collector keeps records on the cash accounting basis or, if the transient lodging tax collector keeps records on the accrual accounting basis, when rent is earned. If rent is paid in installments, the transient shall pay a proportionate share of the tax to the transient lodging tax collector with each installment.

F. The tax collected or accrued by the transient lodging tax collector, or which should have been charged by the transient lodging tax collector, constitutes a debt owing by the transient lodging tax collector to the city.

G. In all cases of credit or deferred payment of rent for transient lodging, the payment of tax to the transient lodging tax collector may be deferred until the rent is paid. A transient lodging tax collector is not liable for the tax until credits are paid or deferred payments are made. The deferral allowed by this subsection does not excuse a transient lodging tax collector from liability for any failure to collect the tax due.

H. A transient lodging tax collector shall not collect, report or remit amounts of the transient lodging tax imposed by this chapter in amounts smaller than one cent.

Fractions of cents calculated as an amount of tax that is collectable, reportable or remittable may be ignored.

I. If, for any reason, the tax due is not paid by the transient to the transient lodging tax collector, the tax administrator may require that such tax be paid by the transient directly to the city.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.070 Rules and regulations.

A. The tax administrator shall administer and enforce provisions of this chapter and has the power to adopt rules and regulations not inconsistent with this chapter as may be necessary to aid in the administration and enforcement of this chapter.

B. Prior to the adoption of rules and regulations, the tax administrator shall (1) give public notice of its intent to adopt rules and regulations, (2) provide copies of the proposed rules and regulations to interested parties, and (3) either provide not less than 15 days for persons to submit data or written comments on the proposed rules and regulations, or conduct a public hearing on the proposed rules and regulations. Additional public notice shall be given when rules and regulations have been finally adopted. Copies of current rules and regulations shall be made available to the public upon request.

C. Unless the context requires otherwise, references to "this chapter" herein include any rules and regulations duly adopted by the tax administrator.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.080 Registry.

A. Every person engaging or about to engage in business as a transient lodging tax collector for a transient lodging in the city shall register with the city on a form provided by the tax administrator. A transient lodging tax collector engaged in business at the time the ordinance codified in this chapter is adopted must register not later than 30 calendar days after the effective date of the ordinance codified in this chapter. A transient lodging tax collector starting business after the ordinance codified in this chapter is adopted must register within 15 calendar days after commencing business. The privilege of registration after the date of imposition of the tax does not relieve any person from the obligation of payment or collection of the tax regardless of registration status.

B. Registration forms shall require, and the person registering with the city shall provide, the name under which the transient lodging tax collector transacts or intends to transact business, the location of the place or places of business, and such other information as may be required by the tax administrator to facilitate the collection of the tax. The registration shall be signed by the transient lodging tax collector.

C. The tax administrator shall, within 15 business days after submittal of a completed registration form, issue without charge a certificate of authority to each registrant to collect the tax, together with a duplicate thereof for each additional place of business of each registrant. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the tax administrator upon the cessation of business at the location named, or upon its sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed therein so as to be seen and come to the notice readily of all occupants and persons seeking occupancy.

D. The certificate shall state, at minimum, the following:

1. The name of the transient lodging tax collector;

2. The address of the transient lodging;

3. The date upon which the certificate was issued; and

4. This statement: "This Transient Lodging Registration Certificate signifies that the person named has fulfilled the requirements of the transient lodgings tax chapter of the Sherwood Municipal Code by registering with the Tax Administrator for the purpose of collecting from transients and remitting the lodging tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a transient lodging without strictly complying with all applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or office of the City. This certificate does not constitute a permit."
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.090 Due dates and returns.

A. The taxes imposed by this chapter and collected by a transient lodging tax collector, less the collection reimbursement charge, are due and payable to the tax administrator, on a quarterly basis, on or before the last day of the month following the end of the calendar quarter, or, if the last day is not a business day, the first business day thereafter. All taxes not remitted by the day they are due are delinquent.

B. Transient lodging tax collectors shall file, with the quarterly tax payment, or, if there is no tax payment due for a given quarter, at the time the tax payment would have been due, a return for that quarter's tax collections. The return shall be filed with the tax administrator and shall be on a form prescribed by the tax administrator. The return shall reflect the amount of tax collected or otherwise due for the period for which the return is filed. At the discretion of the tax administrator, it may also be required to reflect:

1. The total rentals upon which the tax is collected or otherwise due;

2. Gross receipts of the transient lodging tax collector for the period;

3. The amount of rents exempt, if any;

4. An explanation in detail of any discrepancies; and

5. Such other information as may otherwise be necessary for the administration of this chapter.

C. The transient lodging tax collector or his/her designee shall deliver the quarterly tax payment and return to the tax administrator at its office either by personal delivery, via a website portal, or by United States Mail. If the return and taxes are mailed, the postmark shall be considered the date of delivery for determining delinquency.

D. At any time before the due date, the tax administrator may, for good cause, extend the due date for making any return and/or payment of tax for up to 30 days after the date the tax would have become due but for the extension. Further extensions must be approved by the city manager. A transient lodging tax collector who is granted an extension shall pay a fee of three percent per month of the unpaid tax without proration for a fraction of a month. If a return is not filed, and the tax and interest due is not paid by the end of the extension, then the interest shall become a part of the tax for computation of penalties under this chapter.

E. The tax administrator may require a transient lodging tax collector to file returns and to remit taxes on other than a quarterly basis if, in the exercise of the reasonable discretion of the tax administrator, the change in payment schedule is needed to ensure payment or to facilitate collection

of taxes in an individual case. Any change in schedule under this section shall be stated in writing delivered to the transient lodging tax collector at least 20 days in advance of the schedule change.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.100 Penalties and interest; liens.

A. A transient lodging tax collector who fails to remit the full amount of the tax imposed and due by this chapter prior to delinquency shall pay a late payment penalty of ten percent of the amount of the portion of the tax that is unpaid as of the delinquency date, which penalty is owed in addition to the amount of the tax due.

B. If the transient lodging tax collector does not pay the delinquent amount of tax due and the ten percent late payment penalty within thirty (30) days following the delinquency date, the transient lodging tax collector shall pay a second late payment penalty of fifteen (15) percent of the portion of the tax that remains unpaid as of the date that is thirty (30) days following the delinquency date, which penalty is owed in addition to the remaining unpaid amount of the tax and first late payment penalty.

C. If the tax administrator determines that the nonpayment is on account of fraud or intent to evade the provisions of this chapter or any rules or regulations adopted pursuant to this chapter, a penalty of twenty-five (25) percent of the amount of the tax due shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. In addition to the penalties imposed, a transient lodging tax collector who fails to remit a tax imposed by this chapter shall pay interest at the rate of one percent per month or a fraction thereof without proration for portions of a month, on the amount of the tax due, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Every penalty imposed and such interest as accrues under the provisions of this section shall be merged and become a part of the tax herein required to be paid.

F. Within ten days of notice of the imposition of a late payment penalty, a transient lodging tax collector may petition the tax administrator for waiver or refund of any penalty or portion thereof. The tax administrator may, if a good and sufficient reason is shown that such failure is not due to willful neglect, waive or refund the penalty in full or in part.

G. The city may record a lien in the city's lien docket against any real property owned by the transient lodging tax collector in the city as to any delinquent remittances by the transient lodging tax collector.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.110 Deficiencies.

A. If the tax administrator determines that a transient lodging tax collector's return or remittance of tax is missing, incomplete or otherwise incorrect, the tax administrator may compute and determine the amount of tax due based upon the facts contained in the transient lodging tax collector's return, if any, or any other source of information. Any deficiency in the payment of tax due is due and payable immediately upon delivery of a notice of the deficiency from the tax administrator to the transient lodging tax collector, at which time the deficiency amount owed is also delinquent. The tax administrator will apply any penalty and interest relating to the deficiency amount owed as set forth in this chapter.

B. In making a deficiency determination, the tax administrator may offset any overpayment the transient lodging tax collector has against any deficiency, penalty or interest the transient lodging tax collector owes.

C. The tax administrator shall deliver the transient lodging tax collector a written notice of any deficiency determination.

D. Except in the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant to this chapter, every deficiency determination shall be made and notice of the deficiency determination delivered to the transient lodging tax collector within three years after the last day of the month following the end of the month for which the amount is proposed to be determined or within three years after the return is filed, whichever period is later. In the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant to this chapter, every deficiency determination shall be made and notice of the deficiency determination delivered to the transient lodging tax collector within ten years after the last day of the month following the close of the period for which the amount is proposed to be determined or within ten years after the return is filed, whichever period is later.

E. A transient lodging tax collector who receives a notice of deficiency determination from the tax administrator may petition for redetermination and refund of any overpayment. The petition must be made in writing and delivered to the tax administrator within ten days of the transient lodging tax collector's receipt of the notice of a deficiency determination. If a timely petition for redetermination is not received by the tax administrator, the deficiency determination is final. If a timely petition for redetermination is received by the tax administrator, a redetermination will occur as provided in this chapter.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.120 Redetermination.

A. Any person affected by a determination under SMC 3.30.110 may file a petition for redetermination with the tax administrator within ten days of delivery of notice of the tax deficiency determination. Payment in full of all taxes, penalties and interest determined by the tax administrator to be due is a prerequisite to filing a petition for redetermination and refund. Filing a petition for redetermination and refund is a prerequisite to seeking judicial review and the determination shall be final if no petition is timely filed.

B. If a petition for redetermination and refund is filed within the allowable period, the tax administrator shall reconsider the determination, and, if the petition requests, shall grant the petitioner an oral hearing and shall provide at least ten days' notice of the time and place of the hearing, unless the tax administrator and petitioner agree otherwise. The tax administrator may continue the hearing from time to time as may be necessary.

C. The tax administrator may decrease or increase the amount of the original determination as a result of the hearing. If the tax administrator increases the amount of the original determination, such increase is due upon delivery of a written notice of the increase to the petitioner.

D. After considering the petition and all available information, the tax administrator shall issue a redetermination decision and mail the decision to the petitioner.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.130 Security.

The tax administrator, whenever the tax administrator deems it necessary to ensure compliance with this chapter, may require any transient lodging tax collector to deposit with the tax administrator security in the form of cash, bond, or other security acceptable to the tax administrator. The amount of the security shall be fixed by the tax administrator, but shall not be greater

than two times the transient lodging tax collector's estimated average quarterly tax liability for the period for which the transient lodging tax collector files returns, determined in a manner the tax administrator deems proper, or five thousand dollars ($5,000.00), whichever amount is less. The amount of security may be increased or decreased by the tax administrator within the limitation of this section.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.140 Refunds.

A. If a transient lodging tax collector concludes that the transient lodging tax collector has paid more tax, penalty or interest than is due, the transient lodging tax collector may file a claim in writing stating the facts upon which the claim is founded. The claim shall be filed with the tax administrator within one year from the date of payment. The claim shall be made on forms provided by the tax administrator. If the claim is approved by the tax administrator, the excess amount paid shall be credited against any amounts then due and payable from the transient lodging tax collector and the balance refunded to the transient lodging tax collector within fourteen (14) business days of the date the tax administrator concludes that the refund is due. The transient lodging tax collector has the burden of proving the facts that establish the basis for a refund. This section is not applicable to any amount determined by the tax administrator to be due pursuant to the determination provisions of SMC 3.30.110.

B. If a transient concludes that he or she paid more tax than is due, the transient may file a claim in writing stating the facts upon which the claim is founded. The claim shall be filed with the tax administrator within one year from the date of payment. If the claim is approved by the tax administrator, the excess amount collected shall be refunded to the transient within fourteen (14) business days of the date the tax administrator concludes that the refund is due. The transient has the burden of proving the facts that establish the basis for a refund.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.150 Deposit and expenditure of funds.

The tax administrator shall deposit all money collected pursuant to this chapter into a special revenue fund designated by the city council to be allocated for expenditures in a manner consistent with state law.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.160 Records and audit.

A. Each transient lodging tax collector shall keep records, render statements and comply with rules adopted by the tax administrator with respect to the tax imposed by this chapter. The records and statements required by this section must be sufficient to show whether there is a tax liability under this chapter. These records shall be retained by the transient lodging tax collector for a period of at least three years and six months after they are created.

B. The tax administrator may examine, during normal business hours, the books, papers, and accounting records relating to rentals of any transient lodging tax collector, after reasonable notification to the transient lodging tax collector, and may investigate the business of the transient lodging tax collector in order to verify the accuracy of any return made, or if no return is made by the transient lodging tax collector, to ascertain and determine the amount required to be paid.

C. A formal audit of all of the transient lodging tax collectors' records may be conducted at the discretion of the tax administrator. The transient lodging tax collector shall comply with all requests by the

tax administrator in a timely manner. If, under this formal audit, it is determined that any transient lodging tax collector has underpaid the taxes due by three percent or more, the transient lodging tax collector shall pay his/her prorated portion of the total audit costs. Should the tax administrator, in his/her sole discretion, conduct or cause to be conducted individual audits in addition to or in lieu of the audit described above, and should that individual audit determine that the audited transient lodging tax collector has underpaid the taxes due by three percent or more, the transient lodging tax collector shall pay the total individual audit costs.

D. Records, reports, and returns submitted to the tax administrator are exempt from disclosure to the full extent provided by state law. Nothing in this section shall be construed to prohibit:

1. The disclosure to, or the examination of, financial records by city officials, employees, or agents for the purpose of administering or enforcing the terms of this chapter, or collecting taxes imposed under the terms of this chapter, or collecting city business license fees;

2. The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of transient lodging taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the tax administrator;

3. The disclosure of the names and addresses of any person to whom a transient occupancy registration certificate has been issued;

4. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or

5. The disclosure of financial information to the city attorney or other legal representative of the city to the extent the tax administrator deems disclosure or access necessary for the performance of the duties of advising or representing the city.

(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.170 Notice.

In case of service by mail of any notice required by this chapter, the service is complete three days after deposit with the United States Post Office.

(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.180 Appeals.

Any person aggrieved by any decision of the tax administrator may appeal to the city manager by filing a notice of appeal with the tax administrator within fifteen (15) days after the serving of the notice of the tax administrator's decision. The tax administrator shall transmit the notice, together with the file of the appealed matter, to the city manager, who shall fix a time and place for hearing the appeal. The city manager shall give the appellant not less than fifteen (15) days' written notice of the time and place for hearing the appeal. The city manager may continue the hearing from time to time as necessary. The city manager shall render a decision in writing and mail it to the appellant within fifteen (15) days after the close of the hearing. Appeals from any determination made by the city manager are solely and exclusively by writ of review to the Circuit Court of Washington County, as provided in ORS 34.010 to 34.100.

(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.190 Violations and penalty.

A. A person who violates a provision of this chapter commits a class B violation.

B. Each transient lodging transaction for which tax, penalty or interest otherwise due is not paid shall be deemed a separate violation.

C. Each day a person fails to register as a transient lodging tax collector shall be deemed a separate violation.

D. A finding that a person has committed a violation of this chapter shall not act to relieve the person from the provisions of this chapter.

E. If a court finds that a transient lodging tax collector collected the tax imposed by this chapter and intentionally failed to remit the tax proceeds to the city when required by this chapter, the amount of penalty may be increased up to ten times the normal penalty imposed for a class B violation. All amounts listed as room tax in bills or invoices issued by the transient lodging tax collector shall be considered tax collected by the transient lodging tax collector, unless the transient lodging tax collector received no payment on the bill or invoice.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.200 Collection by city; compromise.

A. Except in the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant to this chapter, the city may bring legal action to collect any amounts owed to the city under this chapter within three years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within three years after any determination becomes final, whichever is later. In the case of fraud or willful intent to evade this chapter or the rules and regulations adopted pursuant to this chapter, the city may bring legal action to collect any amounts owed to the city under this chapter within ten years after any tax or any amount of tax required to be collected becomes due and payable, or at any time within ten years after any determination becomes final, whichever is later.

B. The tax administrator may, after consultation with the city attorney, adjust or enter into a settlement as regards any amount believed to be due if, as a result of a bankruptcy filing, foreclosure, bona fide legal or factual dispute or similar circumstance, it is in the best interest of the city.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.210 Remedies cumulative.

Any fines pursuant to this chapter are in addition to, and not in lieu of, any other civil, criminal or administrative penalty, sanction, or remedy otherwise authorized by law.
(Ord. No. 2019-002, § 1, 2-19-2019)

3.30.220 Intergovernmental agreement.

The city council may enter into an intergovernmental agreement with Washington County whereby the county is responsible for the administration, collection, distribution, and/or enforcement of the tax authorized under this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter, but shall not be construed as repealing any provision of this chapter.
(Ord. No. 2019-002, § 1, 2-19-2019)

Chapter 4.04

CITY TELECOMMUNICATIONS UTILITY

Sections:

4.04.010 Definitions.

(Ord. 05-007, § 1 (part))

4.04.020 Utility creation.

The city of Sherwood telecommunications utility is created. It will be known as the Sherwood Broadband. The city council will serve as the Sherwood Broadband governing body and by resolution may adopt rules for its operations.
(Ord. 05-007, § 1 (part))

4.04.030 Operations.

A. Sherwood Broadband will operate as a department of the city under the administrative authority of the city manager. Sherwood Broadband revenues and expenditures will be accounted for within the telecommunications fund of the city budget.

B. Rates for basic residential and business data and content services will be set by council resolution. Rates for specialized services, deposits, late fees and penalties may be set by the city manager. Rates for out of city customers may include a return on capital investment for the city.

C. Sherwood Broadband will comply with city regulations on similar franchised utilities, including the payment of a fee in lieu of franchise fees of up to five percent as set by council resolution.

D. Sherwood Broadband may provide services to customers outside of city boundaries.

E. Sherwood Broadband may provide services directly to customers or indirectly provide services through contracts.
(Ord. 05-007, § 1 (part))

4.04.040—4.04.090 Reserved.

Editor's note—Ord. No. 2018-005, § 1, adopted June 19, 2018, amended the Code by repealing former §§ 4.04.040—4.04.090 in their entirety. Former §§ 4.04.040—4.04.090 pertained to, respectively, the advisory board; membership, terms of office, board organization, staff assistance, and board duties; and derived from Ord. No. 05-007, § 1.

Title 6

ANIMALS

Chapters:

Chapter 6.08

ANIMAL ENDANGERMENT

Sections:

6.08.010 Definitions.

Animal means any nonhuman mammal, bird, reptile, amphibian, or fish.

Animal shelter means the Washington County Bonnie L. Hays Animal Shelter, or any licensed non-profit organization that keeps, houses, and maintains in its custody ten or more animals.

Emergency veterinary clinic means a business, government, or non-profit organization maintained and operated by, or which employs, a licensed veterinarian for surgery, diagnosis, or treatment of animal diseases and injuries, and may include an animal shelter that meets these requirements.

Law enforcement officer means any officer, whether sworn or unsworn, of the Sherwood Police Department.

Owner means any person who is the licensed owner of an animal or who has any ownership right in an animal.

Physical injury means physical trauma, impairment of physical condition, or substantial pain.

(Ord. No. 2019-008, § 2, 8-6-2019)

6.08.020 Animals confined in or on motor vehicles.

1. No animal shall be left unattended within or on a motor vehicle at any location under such conditions as may endanger the health, safety, or well-being of the animal, including but not limited to a dangerous temperature, a lack of food or water for an extended period of time, or confinement with a dangerous animal.

2. If a law enforcement officer has probable cause to believe that an animal that is in or on a motor vehicle is at risk of physical injury, then the law enforcement officer may, in any manner authorized by law, enter the motor vehicle by any reasonable method to provide the animal with food, water, and emergency medical treatment, and may impound the animal under SMC 6.08.040.

3. Violation of subsection 1 of this section is a Class B violation.

(Ord. No. 2019-008, § 2, 8-6-2019)

6.08.030 Officer exemption from liability.

No law enforcement officer shall be held criminally or civilly liable for any action taken in enforcement of this chapter, provided that the officer acts lawfully, in good faith, and without malice.

(Ord. No. 2019-008, § 2, 8-6-2019)

6.08.040 Officer impoundment of animals.

1. An animal is considered impounded from the time the City takes physical custody of the animal.

2. If an animal is impounded under this chapter, the law enforcement officer shall provide the animal with food, water, and emergency medical treatment as he or she deems is necessary and appropriate. If the animal is in need of medical treatment beyond the law enforcement officer's capabilities, he or she shall transport the impounded animal to an emergency veterinary clinic to receive treatment. The

impounded animal shall subsequently be transported to, and held by, an animal shelter.

3. If an animal is impounded under SMC 6.08.020(2) and, after reasonable effort, the owner or person having custody of the animal cannot be found and notified of the impoundment, written notice of the impoundment shall be conspicuously posted on the motor vehicle.

4. Within 72 hours after the impoundment, notice of the impoundment shall be sent by certified mail to the address, if any, of the registered owner of the animal as reflected in the records of Washington County, and the registered owner of the vehicle in or on which the animal was found.

5. Any notice of impoundment required under this section shall include: the impounding officer's name, the reason for the impoundment, the animal shelter's contact information and hours of operation, and the animal shelter's time period for redemption of the animal.

(Ord. No. 2019-008, § 2, 8-6-2019)

6.08.050 Redemption of impounded animals.

1. The owner of the animal or their designee may redeem an animal impounded under this chapter by:

a. Providing appropriate identification as determined by the animal shelter at which the animal is held; and

b. Paying the reasonable fees required by the animal shelter.

2. Animals not redeemed within the time period for redemption set by the animal shelter at which the animal is held become the property of the animal shelter and may be euthanized, transferred, or adopted to any person, in the sole discretion of the animal shelter.

3. Any animal owner who fails to redeem their animal within the time period set by the animal shelter at which the animal is held shall be liable to the animal shelter for all required fees and charges incurred from the date of impoundment until disposition of the animal under subsection (2) above.

(Ord. No. 2019-008, § 2, 8-6-2019)

Title 8

HEALTH AND SAFETY

Chapters:

Chapter 8.04

ABANDONED, STORED, AND HAZARDOUS VEHICLES*

Sections:

8.04.010 Short title.

The ordinance codified in this chapter shall be known and may be cited as the vehicle impoundment ordinance and may be referred to hereafter as "this chapter." (Ord. No. 2019-007, § 2, 6-18-19)

8.04.020 Definitions.

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

"Abandoned" or "abandoned vehicle" means a vehicle left in the same location, or within a five hundred-foot radius of its earlier position, for more than forty-eight (48) hours, when one or more of the following conditions exist:

1. The vehicle has expired, cancelled, altered, or missing license plates or tags;

2. The vehicle appears to be inoperative or disabled; or

3. The vehicle appears to be wrecked, partially dismantled, or junked.

"City" means the City of Sherwood.

"Costs" means the expense of removing, storing and selling an impounded vehicle.

"Hazardous" or "hazardous vehicle" means a vehicle left in a location or condition such as to constitute an immediate threat to public safety, the environment, or safety of vehicular or pedestrian traffic, or in a manner prohibited by SMC 8.04.040.

"Law enforcement officer" is a law enforcement officer of the city or other city employee authorized to enforce this chapter.

"Owner" means any individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle.

"Stored" or "stored vehicle" means a vehicle that has remained in the same location or within a five hundred-foot radius of its earlier position for more than one hundred twenty (120) hours.

"Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, except devices used exclusively upon stationary rails or tracts.
(Ord. No. 2019-007, § 2, 6-18-19)

8.04.030 Abandoned vehicles—Offense.

A. A person commits the offense of abandoning a vehicle if a vehicle which the person owns, as shown in the records of the

***Editor's note**—Ord. No. 2019-007, § 2, adopted June 18, 2019, amended the Code by repealing former Ch. 8.04, §§ 8.04.010—8.04.140, and adding a new Ch. 8.04. Former Ch. 8.04 pertained to abandoned, discarded and hazardously located vehicles, and derived from Ord. No. 97-1032 and Ord. No. 04-005.

department of motor vehicles, is abandoned on any public right-of-way or on public property of the city.

B. The offense described in this section is a Class B violation.
(Ord. No. 2019-007, § 2, 6-18-19)

8.04.035 Stored vehicles—Offense.

A. A person commits the offense of storing a vehicle if a vehicle which the person owns, as shown in the records of the department of motor vehicles, is stored on any public right-of-way or on public property of the city.

B. The offense described in this section is a Class B violation.
(Ord. No. 2019-007, § 2, 6-18-19)

8.04.040 Hazardous vehicles—Offense.

A. No person shall cause:

1. A vehicle to block, impede, or interfere with the vision or normal flow of vehicular, bicycle, or pedestrian traffic on public streets or sidewalks;

2. A vehicle to pose an immediate danger to the public or environmental safety;

3. A vehicle to be parked or left standing on a street, public parking lot, or other area where immediate access is or could be needed, in the event of an emergency, by emergency services personnel or their equipment; or

4. A vehicle to block, be parked, or left standing within ten feet of a fire hydrant.

B. The offense described in this section is a class B violation.

C. The owner of the hazardous vehicle, as shown by the records of the department of motor vehicles, shall be responsible for the hazardous condition of the vehicle.
(Ord. No. 2019-007, § 2, 6-18-19)

8.04.050 Removal of vehicles without notice.

A vehicle may be removed without prior notice when:

A. The vehicle is a hazardous vehicle;

B. A law enforcement officer reasonably believes the vehicle is stolen;

C. A law enforcement officer reasonably believes that the vehicle or its contents constitute evidence of any offense, if such removal is reasonably necessary to obtain or preserve such evidence; or

D. A law enforcement officer reasonably believes that the person in possession of the vehicle has committed one or more of the following offenses:

1. Driving while uninsured in violation of ORS 806.010;

2. Driving while suspended or revoked in violation of ORS 811.175 or 811.182;

3. Driving while under the influence of intoxicants in violation of ORS 813.010;

4. Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.
(Ord. No. 2019-007, § 2, 6-18-19)

8.04.060 Removal of vehicles after notice.

A. A vehicle may be removed after a law enforcement officer provides notice as set forth in this section if the vehicle is abandoned or stored.

B. The law enforcement officer shall provide notice and an explanation of procedures available for obtaining a hearing. Notice shall be given by affixing a notice to the vehicle with the required information. The notice shall be affixed to the vehicle at least forty-eight (48) hours before taking the vehicle into custody.

C. The notice must contain the following:

1. The ordinance violated and under which the vehicle will be removed;

2. The place where the vehicle will be held in custody or the telephone number and address of the police department that will provide the information;

3. That the vehicle, if taken into custody and removed, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents;

4. That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid;

5. That the owner, possessor, or person having an interest in the vehicle is entitled to a hearing, before the vehicle is impounded, to contest the proposed custody and removal, if a hearing is timely requested;

6. The time within which a hearing must be requested and the method for requesting a hearing.

(Ord. No. 2019-007, § 2, 6-18-19)

8.04.070 Impoundment—Notice after removal

A. If the city removes a vehicle, the city shall provide, by certified mail, within two business days after the removal, notice with an explanation of procedures available for obtaining a hearing to the owner(s) of the vehicle and any lessors or security interest holders as shown in the records of the department of motor vehicles. The notice shall state that the vehicle has been removed and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing.

B. If the person(s) required to be provided notice under subsection A cannot be located in the records of the department of motor vehicles, whether because the vehicle lacks necessary identifying information, is not registered with the department of motor vehicles, or otherwise, the city shall make reasonable efforts to provide such notice, which may include posting of notice in the area in which the vehicle was located prior to removal.

C. Any notice given under this section shall state all of the following:

1. That the vehicle has been removed by the city;

2. The ordinance violated and under which the vehicle was removed;

3. The place where the vehicle is being held in custody or the telephone number and address of the appropriate authority that will provide the information;

4. That the vehicle is subject to towing and storage charges, the amount of the charges that have accrued to the date of the notice and the daily storage charges;

5. That the vehicle and its contents are subject to lien for payment of the towing and storage charges and that the vehicle and its contents may be sold by the City of Sherwood or the towing and storage facility where the vehicle is located to cover the charges if the charges are not paid within fifteen (15) calendar days;

6. That the owner, possessor, or person having interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested;

7. That a hearing must be requested not more than five business days after the mailing date of the notice and the method for requesting a hearing;

8. That the vehicle and its contents may be immediately reclaimed by complying with the provisions of this chapter for reclaiming a vehicle, and setting forth the applicable requirements.

(Ord. No. 2019-007, § 2, 6-18-19)

8.04.080 Release of removed vehicles.

A. A vehicle removed under this chapter may be held until a person entitled to lawful possession of the vehicle complies

with the conditions for release or the vehicle is ordered released by a court having jurisdiction over the matter.

B. A vehicle removed under this Chapter shall be released to a person entitled to lawful possession upon compliance with the following:

1. Submission to the police department of proof of ownership or right to possession;

2. Submission to the police department of proof that a person with valid driving privileges will be operating the vehicle;

3. If the vehicle was removed pursuant to SMC 8.04.050.C or D, submission to the police department of proof that the vehicle no longer constitutes evidence of any offense, or that the department no longer needs to preserve such evidence through possession of the vehicle;

4. Submission to the police department of proof of compliance with financial responsibility requirements for the vehicle;

5. Payment to the police department of an administrative fee determined by the city to be sufficient to recover its administrative costs; and

6. Payment of any reasonable towing and storage charges.

C. Each person who obtains release of a removed vehicle shall sign a copy of the receipt issued, indicating that they have received notice of their right to a hearing.

D. A person shall have a lien on a vehicle and its contents if the person, at the request of the city, tows a vehicle. A lien established under this subsection shall be on the vehicle and its contents for the just and reasonable charges for the towing service performed and any storage provided. The lien shall be subject to the provisions for liens under ORS 98.812(3). The person holding the lien may retain possession of the vehicle and contents until the charges on which the lien is based are paid. A lien described under this subsection does not attach to the contents of any vehicle taken from public property until 15 calendar days after removing the vehicle.

E. If a vehicle removed under this chapter is not claimed within 30 calendar days after removal, it shall be disposed of as authorized by ORS 819.210 to 819.260.
(Ord. No. 2019-007, § 2, 6-18-19)

8.04.090 Hearing to contest validity of removal.

A person provided notice under this chapter, or any other person who reasonably appears to have an interest in the vehicle, may request a hearing under this section to contest the validity of the removal or the proposed removal by submitting a request for hearing with the municipal court not more than five business days after the mailing date of the notice. A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the removal of the vehicle is not justified. A hearing under this section shall comply with all of the following:

A. If the city proposes to remove a vehicle and receives a request for hearing before the vehicle is removed, the vehicle shall not be removed unless it constitutes a hazard.

B. The municipal court shall set a time for a hearing within seven business days after receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owner(s) of the vehicle and any lessors or security interest holders shown in the records of the department of motor vehicles, if not the same as the person requesting the hearing, and to the city attorney's office.

C. If the municipal court finds, after a hearing and by substantial evidence on the record, that the removal of a vehicle was or would be:

1. Invalid, the municipal court shall order the immediate release of the vehicle to the owner or person with right to possession. If the vehicle is released under this subsection, the person to whom the vehicle is released is not liable for any towing or storage charges accruing prior to the order of the municipal court. If the person has already paid such towing and storage charges on the vehicle, the city shall reimburse the person for the charges. The person shall be liable for any additional storage charges incurred after the order. New storage charges for the vehicle will not start to accrue until twenty-four (24) hours after the issuance of the order. If the vehicle has not yet been removed, the city shall not remove the vehicle.

2. Valid, the municipal court shall order the vehicle to be held in custody until the costs of the hearing are paid by the person claiming the vehicle, and the person claiming the vehicle otherwise complies with SMC 8.04.080. If the vehicle has not yet been removed, the city shall order its removal.

D. If the person requesting the hearing does not appear at the hearing, the municipal court may enter an order finding the removal to be valid and any applicable charges to be reasonable.

E. A person who fails to appear at a hearing under this section is not entitled to another hearing on the same matter unless the person provides reasons satisfactory to the municipal court for the person's failure to appear.

F. The city is only required to provide one hearing under this section for each time the city removes a vehicle or proposes to do so.

G. A hearing under this section may be used to determine the reasonableness of the charges for towing and storage of a vehicle. Towing and storage charges, set by law, ordinance, or rule, or that comply with law, ordinance, or rule, shall be deemed reasonable for purposes of this chapter. If the reasonableness of charges for towing and storage of a vehicle are contested through a hearing under this section, the municipal court shall enter an order setting forth the amount of towing and storage charges the court has determined to be reasonable.

H. The municipal court shall provide a written statement of the results of the hearing to the person requesting the hearing and to the city attorney's office.

I. The action of the municipal court is final and no appeal can be taken from it.
(Ord. No. 2019-007, § 2, 6-18-19)

Chapter 8.08

ALARM SYSTEMS*

Sections:

8.08.010 Definitions.

As used in this chapter:

"Alarm business" means the business by any individual, partnership, corporation, or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any alarm system in or on any building, structure, or facility.

"Alarm system" means any assembly of mechanical or electrical equipment arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which city police are expected to respond, provided, however, that automobile alarm systems are not included in this definition. All alarm systems installed in the city, except for medical alert alarms, shall include an external visual display.

"Alarm user" means the person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility in which an alarm system is maintained.

"Automatic dialing device" means a device which is connected to a telephone line and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.

"City" means the city of Sherwood.

"Dispatch center" means the city facility used to receive emergency and general information from the public.

"False alarm" means an alarm signal eliciting a response by city police when a situation actually requiring such a response does not in fact exist.

"Interconnect" means to connect an alarm system, including an automatic dialing device, to a telephone line, either directly or through a mechanical device that utilizes a telephone, for the purpose of using the telephone line to transmit a message upon the activation of the alarm system.

"Primary trunk line" means a telephone line serving the dispatch center that is designated to receive emergency calls.
(Ord. No. 2014-014, § 1, 8-5-2014)

8.08.020 User instructions.

Every alarm business selling, leasing, installing or furnishing alarm systems in the city shall provide the alarm user with instructions enabling the user to operate the alarm system properly, to disarm malfunctioning systems and to obtain service for a leased alarm system.
(Ord. No. 2014-014, § 1, 8-5-2014)

8.08.030 Automatic dialing device—Certain interconnections prohibited.

A. It is unlawful for any person to program an automatic dialing device to select a

*__Editor's note__—Ord. No. 2014-014, § 1, adopted August 5, 2014, amended the Code by, in effect, repealing former Ch. 8.08, §§ 8.08.010—8.08.110, and adding a new Ch. 8.08. Former Ch. 8.08 pertained to similar subject matter, and derived from Ord. 89-894 and Ord. 06-019.

[The next page is 97]

Chapter 8.20

SOLID WASTE MANAGEMENT

Sections:

8.20.010 Short title.

The ordinance codified in this chapter shall be known as the City of Sherwood solid waste management ordinance and may be so cited and shall be hereinafter referred to as "this chapter."

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 1)

8.20.020 Purpose, policy and scope.

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

1. Provide sufficient waste volume to sustain solid waste management facilities necessary to achieve resource recovery goals established by the city, county, state department of environmental quality and metro regional government;

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

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

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

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

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

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

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

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

10. Provide resource recovery by and through the franchisee.

B. No person shall:

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

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

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

C. Nothing in this chapter shall:

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

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

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

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

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

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

7. Prohibit a contractor employed to demolish, construction, or remodel a building or structure, including but not limited to land clearing operations and construction wastes, from hauling waste created in connection with such employment;

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

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

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

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

12. Require the franchisee to store, collect, transport, dispose of or resource recover any hazardous waste as defined by or pursuant to ORS Chapter 466.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 2)

8.20.030 Definitions.

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

"Charitable or nonprofit organization" means any person or persons organized and existing for charitable, benevolent, humane, patriotic, religious, philanthropic, recre-

ational, social, educational, civic, fraternal, or other nonprofit purpose, and who is exempt from federal and state income taxes as a nonprofit organization.

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

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

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

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

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

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

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

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

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

1. "Energy recovery," which means recovery in which all or a part of the solid waste materials are processed to utilize the heat content, or other forms of energy, of or from the material.

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

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

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

"Roll cart" means a wheeled, rigid plastic can provided by the franchisee to their customers.

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

"Solid waste" means:

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

ganic food waste, electronics and associated components, mattresses, junk and other wastes. Solid waste shall not include:

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

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

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

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

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

"Source separation" means the separation or setting aside of waste, by the source generator or producer of the waste, for recycling or reuse.

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

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 2013-001, § 1, 2-5-2013; Ord. 98-1049, § 4; Ord. 90-915, § 2; Ord. 89-899, § 3)

8.20.040 Franchises.

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

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

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 04-010, § 1 (Exh. A)(part); Ord. 89-899, § 4)

8.20.045 Franchise—Application, application approval, and statement of ownership.

A. Applicants for a solid waste management franchise under this chapter must file with the city manager an application in a format approved by the city manager which shall at least provide the following information:

1. Full name;

2. Permanent home and business address;

3. Trade and firm name;

4. If a joint venture, a partnership or limited partnership, the names of all partners and of their percentage of participation and their permanent addresses; if a corporation, the names and permanent addresses of all the officers;

5. Evidence showing that:

a. An applicant for a solid waste collection and transportation franchise has arranged for disposal of all solid waste collected or transported to an authorized

disposal site where it may legally be accepted and disposed of, and the location of that disposal site; or

b. An applicant for a curbside recycling collection and transportation franchise has arranged for the sanitary storage and recycling of the collected materials and proper disposal of any nonrecyclable residue;

6. Facts showing that the applicant is qualified to render efficient solid waste or curbside recyclables collection and transportation service;

7. Facts showing that the applicant has adequate experience in the collection and transportation of solid waste or curbside recyclables;

8. A description of all vehicles and equipment used or intended to be used by the franchisee or its subcontractors, including vehicle type, license number, age and condition;

9. A statement certifying that the vehicles and equipment identified are in compliance with the requirements of this chapter, the state minimum standards for solid waste handling and disposal, applicable provisions of the vehicle code, and other legal requirements;

10. Facts demonstrating that the applicant owns or has access to suitable facilities for the storage, maintenance and cleaning of vehicles and equipment;

11. Evidence showing that the issuance of a franchise is in the public interest; and

12. Such other facts or information as the city manager may require.

B. Upon receipt of a completed application for a franchise, the city manager will determine if the applicant meets all the requirements of this chapter and all applicable state and federal laws and regulations.

1. Decision. A decision to grant or not to grant the franchise will be made by the city council within one hundred twenty (120) days from the receipt of a complete application.

2. Acceptance. By signing the designated franchise acceptance, the applicant accepts all of the terms and conditions specified in the franchise.

3. Appeal. If the city council determines that a franchise will not be granted or if the decision to grant or not grant the franchise is not made within one hundred twenty (120) days, the applicant has the right to a hearing before the city council. A request for a hearing must be made by the applicant in writing to the city recorder within fifteen (15) calendar days after receipt of notice of denial or within fifteen (15) calendar days after the one hundred twenty (120) days have passed. Upon receipt of the written request for hearing, the city recorder will set the matter for hearing on a date not more than sixty (60) days after the receipt of the written request. The city recorder will give written notice of the time, date and place of hearing to the applicant and the public. At the hearing, the applicant has the burden of proof to show facts demonstrating that the applicant meets the requirements of this chapter and applicable state and federal laws and regulations, and that the granting of the franchise is required by the public safety, health, welfare, convenience or necessity. The city council will make its decision within fifteen (15) days after the close of the hearing on appeal. The decision of the city council is final.

C. Every franchisee must file a statement of ownership with the city manager by July 1st of each year and verify it as true and correct under the penalty of perjury. This statement must be made in a form acceptable to the city manager.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 04-010 § 1 (Exh. A)(part))

8.20.050 Franchise term.

A. The rights, privileges and initial franchise granted herein shall continue and be in full force for a period of ten years up to and including November 1, 1999, subject to terms, conditions and payment of franchise fees to the city as set forth in this chapter.

B. On November 1 of each year the franchise granted to franchisee shall be renewed for a ten-year period starting from that annual renewal date without any action from the council unless the council acts to terminate the franchise at the end of the ten-year period then in effect by giving written notice to franchisee prior to the annual renewal date.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 5)

8.20.060 Franchise fees.

A. As compensation for the franchise granted to the franchisee and for the use of city streets, the franchisee shall pay to the city a fee equal to five percent of gross cash receipts resulting from the solid waste services conducted under the franchise. Such fees shall be computed on a quarterly basis and paid within thirty (30) days following the end of each quarterly calendar year period. The franchisee shall maintain an adequate record of gross cash receipts resulting from the solid waste services conducted under the franchise and said records shall be open at all times for audit by authorized personnel designated by the city manager.

B. Willful misrepresentation of gross cash receipts by the franchisee shall constitute cause for immediate revocation of this franchise, pursuant to Section 8.20.090 of this chapter.

C. The franchise fee provided for in subsection A of this section shall not relieve the franchisee of the financial responsibility for any current or future revenue or regulatory fee, tax or charge imposed by the city. The franchise fee, however, shall not exceed that which is provided in subsection A of this section for the duration of this franchise and shall be considered in lieu of the present city business license.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 04-010 § 1 (Exh. A)(part); Ord. 89-899, § 6)

8.20.070 Franchisee responsibility.

The franchisee shall:

A. Resource recover or dispose of wastes at sites in compliance with Chapter 459 Oregon Revised Statutes and regulations promulgated thereunder. Any site for disposal or resource recovery within the city limits must be approved by the city.

B. Provide and keep in force public liability and automobile liability insurance with a thirty (30) day cancellation clause in the amount of not less than two million dollars ($2,000,000.00) relating to a single occurrence, which shall be evidenced by a certificate of insurance filed with the city recorder. This insurance shall indemnify and save the city harmless against liability or damage which may arise or occur from an injury to persons or property resulting from the franchisee's operation under this chapter.

C. Within fifteen (15) days of adoption of the resolution, file with the city recorder a written acceptance of the franchise.

D. Furnish sufficient collection vehicles, containers, facilities, personnel, finances, and scheduled days for collections in each area of the city as necessary to provide all types of service required under this chapter or subcontract with others to provide such service pursuant to Section 8.20.120 of this chapter. The franchisee shall maintain a collection system in conformance with all federal, state, regional and

local solid waste management regulations and ensure that every vehicle or container used for the transportation of solid waste over city streets shall be regularly cleaned and maintained in a sanitary condition.

E. Provide a cash security deposit or a performance bond of seven thousand five hundred dollars ($7,500.00) to guarantee reimbursement to the city if costs incurred because of work performed by the franchisee that does not conform with the requirements of this chapter or other ordinances of the city or because of failure of the franchisee to meet the terms and conditions of this chapter in a timely, regular and sanitary manner. The deposit or bond shall continue until one year after expiration or termination of the franchise or until all claims or demands made against the franchisee have been settled or secured.

F. Collect no single family residential solid waste before five a.m. or after seven p.m. unless this condition is waived by the city manager or his or her designee.

G. Make collections no less often than once each week, except for will-call collections and drop box operations, and except as provided in Section 8.20.110 of this chapter.

H. Allow inspection by the city of the franchisee's facilities, equipment and personnel during regular business hours.

I. Respond to all calls for special hauling requiring equipment regularly supplied by franchisee within ninety-six (96) hours of receiving said call unless a later pickup is agreeable to the customer, subject to availability of required containers or other equipment.

J. Provide telephone service so that the franchisee may be contacted during regular business hours, Monday through Friday, excepting holidays, and in addition, upon receipt of a written communication about service under this chapter, the franchisee shall, within seven days, reply in writing and furnish a copy of both pieces of correspondence to the city upon request.

K. Provide curbside yard debris collection every week by providing residential customers with a sixty-gallon roll cart for such purposes.

L. Provide the opportunity to recycle all residential, commercial and industrial sources of recyclable material in compliance with this chapter, other city ordinances, applicable metro regional government and State Department of Environmental Quality rules and regulations and the Oregon Recycling Opportunity Act (Chapter 729, Oregon Laws, 1983). The opportunity to recycle shall include but not be limited to, on-route or depot collection of source separated recyclable material, a public education and promotion program that encourages participation in recycling, and notification to all customers of the opportunity and terms of recycling service.

M. Maintain a record of customer complaints and of the franchisee's response to each complaint. Records pertaining to customer complaints must be made available to the city manager upon the city manager's written request. The franchisee shall retain all records for a minimum of three years.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 04-010, § 1 (Exh. A)(part); Ord. 94-986, § 1; Ord. 89-899, § 7)

8.20.080 Rates.

A. The council will by resolution set rates for all solid waste collection services provided by franchisees.

B. The rates to be charged to all persons by the franchisee shall be reasonable and uniform and shall be based upon the level of service rendered, or required by state or local laws and regulations, haul

distance, concentration of dwelling units, and other factors which the city council considers to justify variations in rates.

C. Nothing in this section is intended to prevent:

1. The reasonable establishment of uniform classes of rates based upon length of haul; type of waste stored, collected, transported, disposed of, salvaged or utilized; or the number, type and location of customers serviced; the type of service; the service required by laws and regulations; or upon other factors as long as such rates are reasonable based upon cost of the particular service and are approved by the city council in the same manner as other rates;

2. The franchisee from volunteering service at a reduced cost for civic, community, benevolent or charitable programs.

D. Rates to be charged by the franchisee under this chapter shall be set by the city council by resolution at such times as deemed necessary by the council, provided, however, that rates may not be amended more than once every twelve (12) months, except for instances where landfill disposal rates have been increased by the metro regional government. The council may consider rate amendments to account for increased operating costs directly attributable to landfill disposal costs at any time, or in any frequency. The franchisee shall provide the city with thirty (30) days written notice of any request to amend rates, other than a request pursuant to the annual rate adjustment procedure set out in subsection F below. In amending the rate schedule, the council shall give due consideration to the purposes of this chapter and the direct and indirect costs to the franchisee of doing business, as may be justified and quantified by the franchisee.

E. The franchisee shall be provided thirty (30) days prior written notice with accompanying justification for a city initiated amendment to the service rate schedule, other than an adjustment pursuant to the annual rate adjustment procedure set out in subsection F below.

F. Unless the council has approved a rate adjustment, other than an annual rate adjustment pursuant to this subsection F or a rate adjustment based solely on landfill disposal rate increases, within the prior twelve (12) months, rate adjustments shall be considered annually using the following procedure:

1. On or before March 15, the franchisee shall file an annual report, in a form established by the city manager, with the city manager for the year ending the immediately previous December 31. The report is required from the franchisee regardless of whether or not a rate adjustment is requested.

2. The city manager shall report to the council by April 15 regarding the franchisee reports and resulting proposed rate adjustments, if any. A copy shall be delivered to the franchisee.

3. Unless there is good cause shown and recorded in the minutes of the council, if a rate adjustment is proposed, the council shall set a hearing on the proposed rate adjustment within sixty (60) days of receiving the report from the city manager and shall either approve or disapprove the proposed rate adjustment within thirty (30) days of said hearing.

4. The rate adjustment to be proposed by the city manager under subsection 2 above shall be based on the following:

a. If the rate of return for the franchisee is less than eight percent or more than twelve (12) percent, then the city will undertake a rate study to recommend new rates. The study will be designed to recommend new rates that will be effective on the immediately following January 1 and intended to produce a rate of return of ten percent for

the calendar year beginning on that date. The study will also determine the expected rate of return for the franchisee during the current calendar year, and that information shall be reported to the franchisee. So long as the actual rate of return for that calendar year is within two percent more or less than the expected rate of return, no rate study or further rate adjustments will be needed based on that calendar year's report.

b. If the rate of return for the franchisee is between eight and twelve (12) percent, the proposed rate adjustment will be effective on the immediately following January 1 and will be indexed to the US Department of Labor, Bureau of Labor Statistics CPI-U Over-the-Year Percent Change Annual Average for Portland-Salem (the "index"). If the rate of return is eight to nine percent, then the proposed rate adjustment will be one and one-fourth (1.25) times the index. If the rate of return is greater than nine percent but less than eleven (11) percent, then the proposed rate adjustment will be equal to the Index. If the rate of return is greater than eleven percent but less than twelve percent, then the proposed rate adjustment will be three-fourths (0.75) times the index.

5. Notwithstanding the foregoing, cost of service studies will be conducted at a minimum of once every six years.

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

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

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

J. Any person who receives solid waste service from the franchisee shall be responsible for payment for such service and the franchisee shall be solely responsible for the billing, collection and accounting of said payments. The city shall not be responsible or liable for unpaid, delinquent or noncollectible payments for services.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 04-010 § 1 (Exh. A)(part); Ord. 01-1113 § 1; Ord. 00-1088 § 1; Ord. 94-986 § 2; Ord. 89-899, § 8)

8.20.090 Transfer, suspension, modification or revocation of franchise.

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

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

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

2. If franchisee fails to comply within the specified time or fails to comply with the order of the city council entered upon the basis of written findings at the public

hearing, the city council may suspend, modify or revoke franchise or make such action contingent upon continued noncompliance.

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

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 9)

8.20.100 Preventing interruption of service.

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

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 10)

8.20.110 Suspension of service.

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

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

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

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

D. Other than for non-payment for provided service, ninety (90) days written notice is given to the city council and to affected customers and written approval is obtained from the city council.

E. The customer does not comply with the service standards of Section 8.20.140 of this chapter, provided that the customer is given a thirty-day written notice to comply with the applicable service standards.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 04-010, § 1 (Exh. A)(part); Ord. 89-899, § 11)

8.20.120 Subcontracts.

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

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 12)

8.20.130 Enforcement officers; franchisee right of action; damages.

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

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

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

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

a. Lost customer revenue due the franchisee;

b. Franchise fees owed the city;

c. Five hundred dollars ($500.00) liquidated damages for each day that each violation of the Code occurred; and

d. Other appropriate legal or equitable remedy available to the franchisee and/or the city.

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

C. Indemnity. The city shall have no liability for franchisee's attorney fees and costs incurred pursuing enforcement under this section. Any franchisee electing to pursue its rights under subsection B above, shall indemnify and hold the city harmless for any and all costs, damages or liabilities incurred by the city arising as a result of franchisee's pursuit of an enforcement action.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 2013-001, § 2, 2-5-2013; Ord. 89-899, § 13)

8.20.140 Containers/collections limitations.

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

1. Solid waste roll carts will be provided by the franchisee.

2. Putrescible material shall be placed in plastic bags or securely wrapped in paper after being drained of liquids before placing in roll carts or containers.

3. Sunken refuse cans shall not be used.

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

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

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

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

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

8. Solid waste service customers shall place items not intended for pickup at least fifteen feet from solid waste roll carts(s) or container(s).

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

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

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

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

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

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

D. Any vehicle used by any person to transport wastes shall be so loaded and operated as to prevent the wastes from dripping, dropping, sifting, blowing, or otherwise escaping from the vehicle onto any public right-of-way or lands adjacent thereto. (Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 14)

8.20.150 Offensive waste prohibited.

No person shall have waste on his or her property that is offensive or hazardous to the health or safety of others or which creates offensive odors or a condition of unsightliness.

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 15)

8.20.160 Unauthorized deposit prohibited.

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

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 16)

8.20.170 Violation—Penalty.

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

(Ord. No. 2017-006, § 2, 12-5-2017; Ord. 89-899, § 18)

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Title 10

VEHICLES AND TRAFFIC

Chapters:

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

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

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

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

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

10.08.080 Disabled persons parking.

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

10.08.090 Repeat violation procedures.

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

A. First violation — Request to move vehicle posted on the vehicle itself. If vehicle is not relocated within a twenty-four- (24) hour period a second violation action will be taken.

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

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

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

Chapter 10.12

MISCELLANEOUS TRAFFIC REGULATIONS

Sections:

10.12.010 Authority to establish and implement traffic controls.

A. Subject to state law, the city council shall exercise all municipal traffic control authority except those powers specifically and expressly delegated herein or by ordinance.

B. The city manager or the city manager's designee is delegated the authority to perform the following actions, provided that, when state law prescribes a specific procedure before exercising the authority delegated to the city manager or city manager's designee in this subsection, or when state law expressly requires a city council action, the city manager or city manager's designee shall proceed as required by such laws:

1. Implement the ordinances, resolutions, and motions of the city council and the city manager's or city manager's designee's own orders by installing, maintaining, removing, and altering traffic control devices. Such work shall be based on the standards contained in the Manual on Uniform Traffic Control Devices for Streets and Highways, and the Oregon supplements.

2. Establish, remove, or alter the following classes of traffic controls:

a. Crosswalks, safety zones, loading zones, and traffic lanes;

b. Intersection channelization and areas where drivers of vehicles shall not make right, left, or U-turns, and the time when the prohibition applies;

c. Parking areas, lots, and time limitations, including the form of permissible parking (e.g., parallel or diagonal);

d. Designation of parking time zones; and

e. Traffic control signals, signs, markings, or other devices.

3. Issue oversize or overweight vehicle permits.

4. Temporarily block or close streets.

5. Establish, alter, and remove bicycle lanes and paths and traffic controls for such facilities.

6. Establish, alter, and remove restrictions on the use of certain streets by any class or kind of vehicle to protect the streets from damage.

7. Initiate proceedings to change speed zones.

8. Revise speed limits in parks.

9. Establish a temporary designated speed if necessary to protect any portion of a street from being unduly damaged, or to protect the safety of the public and workers when temporary conditions such as construction or maintenance activities constitute a danger.

10. Establish, remove, or alter any traffic control devices as necessary to respond to emergency circumstances.

C. Criteria. All traffic controls shall be established, installed, maintained, removed, and altered in accordance with and/or based upon consideration of the following:

1. Traffic engineering principles and traffic investigations;

2. Standards, limitations, and rules as may be established by the state transportation commission or the Oregon Department of Transportation;

3. Other recognized traffic control standards;

4. The city's adopted transportation-related plans and policies;

5. Existing state and local laws regulating use of public ways;

6. The efficient use of the public way by the public;

7. The use of abutting property;

8. The intensity of use of the street by vehicles and pedestrians;

9. The physical condition and characteristics of the street and abutting property;

10. Emergencies;

11. The public health, safety, and welfare;

12. Special events of community interest including parades and public gatherings;

13. Construction within or adjacent to the street;

14. When establishing conditions upon the use of parking in the public way and city-owned parking facilities:

a. Applicable and appropriate time limits;

b. The vehicle type and purpose;

c. The relative, seasonal and special event demands for parking spaces within the areas of the requested parking;

d. The other public uses for the property;

e. The location and physical characteristics of the parking area or facility;

f. The demand for operating revenues, and the costs of operations and enforcement;

g. The use of parking regulations to promote city adopted goals and policies;

h. The impact on nearby commercial uses;

i. The ease of enforcement; and

j. The availability of other parking spaces.

D. Public Notice of Traffic Control Change.

1. In the event any permanent traffic control change is being considered, the city manager or city manager's designee shall post a public notice at the location of the potential change and on the city's website for a period of not less than fifteen (15) calendar days prior to any final decision being made by the city manager, city manager's designee, or city council.

2. The public notices required by subsection 1 above shall include the following information:

a. The type of traffic control change proposed, the location, and the estimated date of implementation.

b. A statement that an individual may submit in writing to the city manager or city manager's designee any comments regarding the proposed change, and such comments must include the submitter's name, mailing address, and physical location relative to the proposed traffic control change.

c. The due date by which an individual must submit any such written comments, which date shall be not less than fourteen (14) calendar days after the date the notice is posted.

d. If a public hearing is to be held by city council regarding the traffic control change, the time, place, and date that the hearing is to be held and a statement that any interested person may appear and offer oral testimony at said hearing.

E. Public requests for traffic control changes.

1. Any interested person may submit a request for a traffic control change to the city manager or city manager's designee in accordance with this subsection.

2. To be considered, such requests must be submitted on the written application form provided by the city and must be accompanied by the signatures of seventy-five (75) percent of the property owners whose property meets both of the following criteria:

a. It abuts a street affected by the applicable traffic control; and

b. Any portion of the property is located within five hundred (500) feet of the proposed traffic control.

3. When a particular property has more than one owner, it shall be considered to have only one owner for purposes of calculating whether the signature requirement in subsection 2 above has been met, and the signature of only one of the owners shall be required.

4. The person submitting the request is responsible for gaining the approval of the property owners specified in subsection 2 above.

5. The city council may establish a fee for the processing of such requests, which fee must be paid at the time the request is submitted.

6. The public notice requirements specified in subsection D above apply to requests submitted pursuant to this subsection E, provided that the request is for a permanent traffic control change.

7. All requests for traffic control changes that meet the above requirements will be submitted to the city engineer and the chief of police. The city engineer will review the request and provide written comments with regard to whether the proposal meets the criteria specified in subsection C above. The chief of police will review the request and provide written comments with regard to any public safety issues relating to the proposal. The city engineer and the chief of police will each submit said comments to the city manager or city manager's designee.

8. The city manager or city manager's designee, by delegated authority from the city council, is the final decision-making authority for all such requests. The city manager's or city manager's designee's decision shall be based on the criteria specified in subsection C above.

9. If the city manager or city manager's designee approves the requested traffic control change, the applicant may be required to pay a fee, as may be set by city council, prior to implementation of the traffic control change.

(Ord. No. 2017-005, § 2, 7-25-2017; Ord. 06-015, § 1; Ord. 599, § IX(1), 1970)

10.12.020 Authority of police and fire officers.

A. It shall be the duty of the police department, through its officers, to enforce the provisions of this chapter.

B. In the event of a fire or other emergency, or to expedite traffic, or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of this chapter.

C. Members of the fire department, when at the scene of a fire, may direct, or assist the police in directing traffic thereat, or in the immediate vicinity. (Ord. 599 § IX(2), 1970)

10.12.030 Stop when traffic obstructed.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the opposite side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed. (Ord. 599 § IX(3), 1970)

10.12.040 Unlawful marking.

Except as provided by this chapter, it shall be unlawful for any person to letter, mark, or paint in any manner any letters, marks, or signs on any sidewalk, curb, or other portion of any street, or to post anything designed or intended to prohibit or restrict parking on any street. (Ord. 599 § IX(4), 1970)

10.12.050 Use of sidewalks.

Pedestrians shall not use any roadway for travel when abutting sidewalks are available. (Ord. 599 § IX(5), 1970)

10.12.060 Permits required for parades.

No procession or parade, except a funeral procession, the forces of the United States Armed Forces, and the military forces of this state shall occupy, march, or proceed along any street except in accordance with a permit issued by the chief of police. Such permit may be granted where it is found that such parade is not to be held for any unlawful purpose and will not, in any manner, tend to a breach of the peace, cause damage, or unreasonably interfere with the public use to the streets or the peace and quiet of the inhabitants of this city. (Ord. 98-1042 § 7: Ord. 599 § IX(6), 1970)

10.12.070 Funeral procession.

Vehicles in a funeral procession shall be escorted by at least one person authorized by the chief of police to direct traffic for such purpose, and shall follow routes established by the chief of police. (Ord. 599 § IX(7), 1970)

10.12.080 Drivers in procession.

Except when approaching a left turn, each driver in a funeral or other procession shall drive along the right-hand traffic lane, and shall follow the vehicle ahead as closely as is practical and safe. (Ord. 599 § IX(8), 1970)

10.12.090 Driving through procession.

No driver of a vehicle shall cross through a procession except where traffic is controlled by traffic control signals, or when so directed by a police officer. This provision shall not apply to authorized emergency vehicles. (Ord. 599 § IX(9), 1970)

10.12.100 Emerging from vehicle.

No person shall open the door of, or enter or emerge from any vehicle into the path of any approaching vehicle. (Ord. 599 § IX(10), 1970)

10.12.110 Boarding or alighting from vehicles.

No person shall board or alight from any vehicle while such vehicle is in motion. (Ord. 599 § IX(11), 1970)

10.12.120 Riding on motorcycles.

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto; and such operator shall not carry any other person, nor shall any other person ride on a motorcycle unless such motorcycle is equipped to carry more than one person. (Ord. 599 § IX(12), 1970)

10.12.130 Unlawful riding.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to a person or persons riding within truck bodies in space intended for merchandise. (Ord. 599 § IX(13), 1970)

10.12.140 Clinging to vehicles.

A. No person riding upon any bicycle, motorcycle, coaster, roller skates, sled, or any toy vehicle shall attach the same or himself or herself to any moving vehicle upon the streets.

B. No person driving any vehicle shall permit any of the articles listed in subsection A of this section to be attached to the vehicle for the purpose of pulling along the streets. (Ord. 599 § IX(14), 1970)

10.12.150 Crossing private property.

No operator of a vehicle shall proceed from one street to an intersecting street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring goods or services. (Ord. 87-858 § 1 (part): Ord. 599 § IX(15), 1970)

10.12.160 Driving in parks.

No person in a park shall drive any vehicle on any area except on park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the city manager. (Ord. 87-858 § 1 (part): Ord. 599 § IX(16), 1970)

10.12.170 Sleds, skis, toboggans and skateboards on streets.

No person shall use the streets for travelling on skis, toboggans, sleds, skate boards, roller skates, or similar devices, except where authorized. (Ord. 87-858 § 1 (part): Ord. 599 § IX(17), 1970)

10.12.180 Damaging sidewalks and curbs.

A. The driver of a vehicle shall not drive upon or within any sidewalk or parkway area except to cross at a permanent or temporary driveway.

B. A temporary driveway may be used only after first obtaining a written permit therefor from the city superintendent, who may impose such requirements as are necessary to protect the public improvements within the street at the temporary driveway.

C. Any person who damages or causes to be damaged any public improvement within the street by driving a vehicle upon or within any sidewalk or parkway area shall be liable for such damage regardless of whether or not the damage resulted from the authorized use of a temporary driveway. (Ord. 599 § IX(19), 1970)

10.12.190 Obstructing streets.

Except as provided by this chapter or any other ordinance of the city, no person shall place, park, deposit, or leave upon any

street or other public way, sidewalk, or curb any article or thing or material which in any way prevents, interrupts, or obstructs the free passage of pedestrian or vehicular traffic, or obstructs a driver's view of traffic control signs, and signals. (Ord. 599 § IX(20), 1970)

10.12.200 Removing glass and debris.

Any party to a collision or other vehicular accident, or any other person causing glass or other material or substance likely to injure any person, animal, or vehicle to be upon any street in this city, shall, as soon as possible, remove or cause to be removed from such street all such glass or other material or substance. (Ord. 599 § IX(21), 1970)

10.12.210 Illegal cancellation of traffic citations.

It is unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner except where approved by the municipal judge. (Ord. 599 § IX(22), 1970)

10.12.220 Existing traffic signs.

Except as the council may, by resolution or ordinance, change the traffic control regulations in accordance with the provisions of this chapter, all official traffic signs, signals, and markers existing at the time of adoption of this ordinance shall be considered official under the provisions of the ordinance codified in this chapter shall be considered official under the provisions of this chapter. (Ord. 599 § IX(24), 1970)

10.12.230 Bridle paths—Penalty.

A. No person shall ride, drive or lead one or more horses, mules, donkeys, or cattle upon any public sidewalk, bicycle path or pedestrian footpath within the city, unless the city council shall have by resolution first designated the sidewalk, bicycle path, or pedestrian footpath as also being a bridle path.

B. Any violation of the provisions of this section shall, upon conviction, be punishable by a fine of not more than two hundred fifty dollars ($250.00). (Ord. 764 §§ 1, 2, 1982)

10.12.235 Police, fire and public works exception.

Notwithstanding anything contrary in Title 10, on-duty members of the city's police and public works departments as well as on-duty members of Tualatin Valley Fire and Rescue, and any on-duty police officers and firefighters that may be assisting the above, may operate Class I and IV all-terrain vehicles upon public roadways, streets, highways, parks, trails, pathways and related areas within Sherwood in the performance of their duties.
(Ord. No. 2015-001, § 1, 1-6-2015)

10.12.240 Violation—Penalty.

Any violation of the provisions of any section of this chapter, or of any rule or regulation thereof, shall, upon conviction, be punishable by a fine of not more than five hundred dollars ($500.00). (Ord. 98-1042 § 6: Ord. 599 § 25, 1970)

Chapter 12.02

RIGHT-OF-WAY PERMITS*

Sections:

12.02.005 Purpose.

The provisions of this chapter are intended to protect public health and safety and to ensure the integrity and efficient use of existing streets, public utilities easements, and other public right-of-way.

The city has established standards to ensure the safety, quality and longevity of existing streets and other items in the public ROW. This chapter is established to protect the public investment in those improvements as well as to ensure the protection of the public.

(Ord. No. 2019-004, § 2, 5-21-2019)

12.02.010 Definitions.

Maintenance means:

1. Maintenance and repair of facilities or utilities located in the ROW that does not disturb the ROW or existing improvements, and does not adversely affect school zone traffic, or close a pedestrian way, bikeway, or travel lane during peak hours (7:00 a.m. to 9:00 a.m. and 3:00 p.m. to 6:00 p.m.).

2. Installation of an underground utility service pipe or conduit to a structure, of which five feet or less of its length is in the ROW, and which is located entirely outside hardscaped surface of any public street, and which is performed with minimal disturbance of the ROW and existing improvements, and which does not impact public travel as described in subsection 1 above.

3. Installation of wire through conduit which is existing and which does not impact public travel as described in subsection 1 above.

Private facilities means facilities owned and operated by an entity other than the city.

Public facilities means facilities owned and operated by the city.

ROW means streets, public utility easements, and other public rights-of-way.

Small wireless facilities means small wireless facilities as defined by FCC Rules and Regulations.

(Ord. No. 2019-004, § 2, 5-21-2019)

12.02.015 Applicability.

This chapter applies to all work in and use of the ROW that is performed by individuals, organizations, contractors, and utilities, with the exception of motor vehicle operations. This chapter does not apply to the city or its agents with regard to work it may perform in the ROW. The requirements of this chapter are in addition to any other requirements imposed by the Sherwood Municipal Code or other applicable law.

(Ord. No. 2019-004, § 2, 5-21-2019)

***Editor's note—**Ord. No. 2019-004, § 2, adopted May 21, 2019, amended the Code by repealing former ch. 12.02, §§ 12.02.005—12.02.035. Former ch. 12.02 pertained to similar subject matter, and derived from Ord. No. 02-020, § 1; and Ord. No. 07-007, § 1.

12.02.020 When permit required; general requirements.

A. A ROW construction permit is required for all construction of new facilities and additions to, and other work performed on, existing facilities located in the ROW (such as light poles), including utility work in a public utility easement, except maintenance as defined in this chapter.

B. A ROW use permit is required when there will be a temporary activity that will be utilizing or otherwise impacting the ROW such as for maintenance as defined in this chapter, use of the ROW for construction of facilities located outside the ROW, location of temporary debris containers in the ROW, and other similar activities.

C. Exemptions from ROW permit requirement:

1. No ROW permit shall be required for construction of a fence within a public utility easement consistent with SMC 16.58.

D. General requirements:

1. Unless otherwise provided in a specific permit, a permit shall automatically expire if the work authorized by the permit is not commenced within 60 days after issuance of the permit.

2. Unless otherwise provided in a specific permit, a permit shall automatically expire 90 days after work commences under the permit. If a permit holder submits a written request for an extension prior to the expiration of said 90-day period, the city engineer, or designee, may grant, in writing, one extension of no more than 90 additional days if the permit holder demonstrates that:

a. Substantial progress has been made during the initial 90-day period.

b. The need for the extension is based on factors outside the control of the permit holder.

3. If any damage occurs to any private facilities located within the ROW, including private facilities attached to public facilities, the owner of such private facilities must fully repair the facilities (including, if applicable, the public facilities to which the private facilities are attached) within 48 hours after such damage occurs, unless the city engineer determines that such repair is not reasonably feasible within such time period and provides written authorization for an extension of such time.

4. GIS data.

a. If any private facilities located in the ROW are not already included in the city's geographical information system (GIS) database, whether through provision of as-builts or any other mechanism, the owner of such facilities is required to provide to the city a GIS file for such facilities. For new facilities, the facility owner must provide such file to the city within 30 days after the completion of construction of the facility. For facilities existing as of the effective date of the ordinance enacting this section, the facility owner must provide such file to the city within 180 days after the effective date of said ordinance.

b. Data in the GIS file must include locational coordinates, facility type, support type, mounting height, installation date, PGE pole ID (where applicable), and any other data the city engineer may deem necessary for inventory management.

c. If any such facilities are abandoned or removed, the facility owner must notify the city within 30 days.

5. When a replacement light pole or new standalone pole is required in connection with installation of a small wireless facility, the applicant shall be responsible for the cost of the replacement light pole or standalone pole, including its installation. After installation, and acceptance by the city, such replacement light pole or standalone shall be owned by the city.

(Ord. No. 2019-004, § 2, 5-21-2019)

12.02.025 Authority delegated to the city engineer.

The city engineer or designee is authorized to develop and revise ROW permits, standard permit conditions, and construction and other standards necessary to ensure that all work performed in, and use of, the public ROW is conducted in a manner that minimizes disturbance to the public, controls quality of the construction and repairs, and otherwise protects the public interest.

(Ord. No. 2019-004, § 2, 5-21-2019)

12.02.030 Review process and criteria.

A. *Review process generally.*

1. All ROW permit applications must be submitted on a form designated by the city engineer. The city engineer, or designee, will review a submitted application based on the criteria set forth in this chapter and the Engineering Design and Standard Details Manual.

2. All ROW permits shall require that the safe flow of traffic and pedestrians is not negatively impacted. Alternate accommodations may be made or required as part of the permit to ensure that the safe flow of traffic and pedestrians is maintained. This requirement is met when:

a. Traffic control management conforms with requirements defined in the Manual of Uniform Traffic Control Devices (MUTCD) suitable for temporary lane impacts and restrictions, as approved by the city engineer;

b. A traffic management plan is submitted to the city engineer for review and approval prior to any ROW permit being issued, if traffic control impacts are anticipated; and

c. Staging and activities are conducted such that the disturbance and disruption to the public is minimized.

B. *Criteria for ROW construction permits.*

1. Construction techniques and materials are compliant with city's Engineering Design Standard Details Manual and will not unreasonably degrade the life or functionality of existing infrastructure.

2. The duration of construction activities is minimized to the maximum extent reasonably feasible.

3. Construction within a public utility easement is prohibited with the exception of:

a. Easily movable structures such as fences or landscaping elements constructed by the abutting property owner;

b. Underground utilities; and

c. Minor appurtenances necessary to serve underground utilities, not exceeding two feet by two feet by two feet in dimensions.

4. No other structures shall be permitted to be constructed within a public utility easement. When work within a public utility easement conducted by either the city or a utility requires the removal or deconstruction of a structure within the easement, the city or utility is under no obligation to reconstruct or replace the deconstructed privately owned structure.

5. Construction of, and other work relating to, small wireless facilities, including the modification of existing structures within the ROW, shall comply with the applicable provisions of the Engineering Design and Standard Details Manual.

C. *Criteria for ROW use permits.*

1. The use will occur for no more than two consecutive weeks unless otherwise approved based on demonstrated necessity.

2. If the use is related to a construction or moving activity on an abutting property, there is not room on the applicant's property to accommodate necessary equipment, materials, or containers.

3. If on-street parking is being eliminated as a result of the temporary use of the ROW, adjacent property owners have been notified in writing and the applicant has provided documentation that they do not object to the proposed temporary use of the ROW.

4. Portable toilets are not permitted in the ROW via a ROW permit but may be approved through other means such as a special event permit.

5. The use is compliant with any applicable city's Engineering Design and Standard Details Manual.
(Ord. No. 2019-004, § 2, 5-21-2019)

12.02.035 Insurance, bonds, and fees.

A. Other than as exempted in Section 12.02.035.D, an application for a ROW permit shall be accompanied by the permit review and inspection fees established by city council by resolution, as well as the required performance and maintenance bond and proof of insurance.

B. Bond requirements. Unless exempted pursuant to subsection D below, the applicant shall provide a performance and maintenance bond. The performance bond shall cover 125 percent of the estimated project cost. The maintenance bond shall be the greater of $1,000.00 or 50 percent of the project estimate.

C. Insurance requirements. Unless exempted pursuant to subsection D below, an applicant shall provide proof of general liability insurance, including personal injury, bodily injury, including death, and broad form property damage, including loss of use of property, in an amount not less than $2,000,000.00 combined single limit per occurrence and $2,000,000.00 aggregate, or the then-current limits of the Oregon Tort Claims Act, whichever is greater.

D. Exemptions.

1. The following types of work require a ROW permit but are exempt from insurance, permit fees and bond requirements:

a. Development work permitted under a valid compliance agreement;

b. Sidewalk or driveway repair (less than 20 lineal feet);

c. Relocation, installation or replacement of mailbox;

d. Ditch cleaning that does not involve regrading;

e. Weep-hole repair;

f. Curb repair or replacement (less than 30 lineal feet);

g. Lawn sprinkler system installation or repair;

h. Street tree pruning or planting;

i. Planter strip landscape maintenance;

j. Minor improvements valued less than $1,000.00 or as approved by the city engineer.

2. In addition to exemptions described in subsection 1 above, projects valued at less than $5,000.00 are exempt from bond requirements. If a specific project is valued at less than $5,000.00 but part of a larger project that is greater than this value, this exemption shall not apply.

3. Public utilities are exempt from posting performance and maintenance bonds if the project estimate is less than $100,000.00 and if the utility has provided a letter to the city demonstrating that it is both self-insured and bonded. The public utility is still required to pay all applicable fees. The utility must provide the city an exemption letter on a yearly basis in order to qualify for the exemption.

4. A franchise agreement entered under section 12.16.060.E of this Code may provide for requirements which vary from the requirements of this section.
(Ord. No. 2019-004, § 2, 5-21-2019)

12.02.040 Removal of facilities constructed within ROW.

A. No less than 30 days after written notice from the city, the owner of any private facilities located in the ROW (including private facilities attached to public facilities) shall, at its own expense, temporarily or permanently disconnect, remove, relocate, change, or alter the position of, any private facilities located within the ROW whenever the city has determined that such is reasonably necessary for the construction, repair, maintenance, or installation of any public improvement (regardless of whether the city or another entity is constructing said improvement) located in, or the operations of the city in, the ROW.

B. The city retains the right and privilege to temporarily or permanently disconnect, remove, relocate, change, or alter the position of any private facilities located within the ROW (including private facilities attached to public facilities) in the event of an emergency, as the city may determine to be necessary, appropriate, or useful in response to any imminent danger to public health, safety, or property.

C. If the owner of any private facilities located in the ROW (including private facilities attached to public facilities) ceases to use such private facilities for a period of 30 days, the owner shall immediately remove such facilities from the ROW and restore the ROW and any other facilities located in the ROW which may be impacted by such removal. The 30-day period set forth in this subsection may be extended by written approval of the city engineer for good cause.

D. If the owner of any private facilities located within the ROW fails to meet any of the obligations set forth in this section, in addition to any other available remedies, the city may take the actions that were the obligation of the facility owner. If the city elects to do so, the city will provide written notice to the facility owner of the action taken and the costs incurred by the city in so doing, and the facility owner will reimburse the city in full within 30 days.

E. This section 12.02.040 shall not apply to any facilities which are subject either to section 12.16.080 of this code or to alternative provisions pursuant to a franchise agreement entered under section 12.16.060(E) of this code.

(Ord. No. 2019-004, § 2, 5-21-2019)

12.02.045 Violations.

A. The city engineer, or designee, is authorized to revoke a ROW permit upon determining that the permit holder has violated this chapter, permit conditions, or any applicable construction or other standards.

B. Construction or use of the ROW as described in this chapter without a valid permit, and any other violation of this chapter, permit conditions, or any applicable construction or other standards, is a class B violation. Each day on which a violation occurs shall constitute a separate violation.

C. The municipal court may order a person responsible for a violation of this chapter to restore the property, damaged area, or street surface to the standards described in the Engineering Design and Standard Details Manual. The court may include in the order such other conditions the court deems necessary to ensure adequate and appropriate restoration. Alternatively, the municipal court may direct the city to perform, either directly or indirectly, the restoration with the costs of such restoration assessed against the person responsible for the violation.

D. Violations of this chapter may also constitute violations of other provisions of the Sherwood Municipal Code, including but not limited to SMC 10.12.190 (Obstructing Streets).

(Ord. No. 2019-004, § 2, 5-21-2019)

purposes, and to impound such vehicle and to impose and collect the fees for towing and storage.

E. It is unlawful for any person to store, park or leave standing unattended for a continuous period of more than twenty-four (24) hours, any motor vehicle, boat, trailer, conveyance or other personal property within any public area under the city's control.

(Ord. No. 2011-002, §§ 1, 2, 2-15-2011; Ord. 653 § 23, 1974)

Note—See editor's note, § 12.12.190.

12.12.250 Violation—Penalty.

Any person violating any provision of this chapter or any rule or regulation adopted pursuant hereto, upon conviction, shall be punishable by a fine of not more than five hundred dollars ($500.00).

(Ord. No. 2011-002, §§ 1, 2, 2-15-2011; Ord. § 98-1049 § 7: Ord. 653 § 24, 1974)

Note—See editor's note, § 12.12.190.

Chapter 12.16

UTILITY FACILITIES IN PUBLIC RIGHT-OF-WAY

Sections:

12.16.010 Title.

The ordinance codified in this chapter shall be known, and may be pleaded as the city of Sherwood utility facilities in public rights-of-way ordinance. (Ord. 08-011 § 1 (part))

12.16.020 Purpose and intent.

The purpose and intent of this chapter is to:

A. Permit and manage reasonable access to the public ROW of the city for utility purposes, encourage the most efficient use of the public ROW, and conserve the limited physical capacity of those public ROW held in trust by the city consistent with applicable state and federal law;

B. Assure that the city's current and ongoing costs of granting and regulating access to and the use of the public ROW are fully compensated by the persons seeking such access and causing such costs;

C. Secure fair and reasonable compensation to the city and its residents for permitting use of the public ROW;

D. Assure that all utility companies, persons and other entities owning or operating facilities and/or providing services within the city comply with the ordinances, rules and regulations of the city;

E. Assure that the city can continue to fairly and responsibly protect the public health, safety and welfare of its citizens;

F. Encourage the provision of advanced and competitive utility services on the widest possible basis to businesses and residents of the city on a competitively neutral basis; and

G. Comply with applicable provisions of state and federal law.

(Ord. No. 2018-010, § 2, 12-4-2018; Ord. 08-011, § 1 (part))

12.16.030 Jurisdiction and management of the public ROW.

A. The city has jurisdiction and exercises regulatory management over all public ROW within the city under authority of the city charter and state law.

B. The city has jurisdiction and exercises regulatory management over each public ROW whether the city has a fee, ease-

ment, or other legal interest in the ROW, and whether the legal interest in the ROW was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

C. The exercise of jurisdiction and regulatory management of a public ROW by the city is not official acceptance of the ROW, and does not obligate the city to maintain or repair any part of the ROW.

D. The provisions of this chapter are subject to and will be applied consistent with applicable state and federal laws, rules and regulations, and, to the extent possible, shall be interpreted to be consistent with such laws, rules and regulations. (Ord. 08-011 § 1 (part))

12.16.040 Regulatory fees and compensation not a tax.

A. The fees and costs provided for in this chapter, and any compensation charged and paid for use of the public ROW provided for in this chapter, are separate from, and in addition to, any and all federal, state, local, and city charges as may be levied, imposed, or due from a utility operator, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of utility services.

B. The city has determined that any fee provided for by this chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees are not imposed on property or property owners.

C. The fees and costs provided for in this chapter are subject to applicable federal and state laws.

D. The city reserves the right to waive fees for city facilities occupying the ROW. (Ord. 08-011 § 1 (part))

12.16.050 Definitions.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive.

"Cable service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of: (i) video programming, or (ii) other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"City" means the city of Sherwood, an Oregon municipal corporation, and individuals authorized to act on the city's behalf.

"City council" means the elected governing body of the city of Sherwood, Oregon.

"City facilities" means city or publicly-owned structures or equipment located within the ROW or public easement used for governmental purposes.

"License" means the authorization granted by the city to a utility operator pursuant to this chapter.

"Person" means and includes any individual, firm, sole proprietorship, corporation, company, partnership, co-partnership, joint-stock company, trust, limited liability company, association or other organization, including any natural person or any other legal entity.

"Private communications system" means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly. "Private com-

munications system" includes services provided by the state of Oregon pursuant to ORS 190.240 and 283.140.

"Public utility easement" means the space in, upon, above, along, across, over or under an easement for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of utilities facilities. "Public utility easement" does not include an easement solely for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of city facilities.

"Right-of-way" or "ROW" means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks or parkland. This definition applies only to the extent of the city's right, title, interest and authority to grant a license to occupy and use such areas for utility facilities.

"State" means the state of Oregon.

"Telecommunications services" means the transmission for hire, of information in electromagnetic frequency, electronic or optical form, including, but not limited to, voice, video or data, whether or not the transmission medium is owned by the provider itself and whether or not the transmission medium is wireline. Telecommunications service includes all forms of telephone services and voice, data and video transport, but does not include: (1) cable service; (2) open video system service, as defined in 47 C.F.R. 76; (3) private communications system services; (4) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and (5) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996.

"Utility facility" or "facility" means any physical component of a system, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plant, equipment and other facilities, located within, under or above the ROW, any portion of which is used or designed to be used to deliver, transmit or otherwise provide utility service.

"Utility operator" or "operator" means any person who owns, places, operates or maintains a utility facility within the city.

"Utility service" means the provision, by means of utility facilities permanently located within, under or above the ROW, whether or not such facilities are owned by the service provider, of electricity, natural gas, telecommunications services, cable services, water, sewer, and/or storm sewer to or from customers within the corporate boundaries of the city, and/or the transmission of any of these services through the city whether or not customers within the city are served by those transmissions.

"Work" means the construction, demolition, installation, replacement, repair, maintenance or relocation of any utility facility, including but not limited to any excavation and restoration required in association with such construction, demolition, installation, replacement, repair, maintenance or relocation. (Ord. 08-011 § 1 (part))

12.16.060 Licenses.

A. License Required.

1. Except those utility operators with a valid franchise agreement from the city, every person shall obtain a license from the city prior to constructing, placing or locating any utility facilities in the ROW.

2. Every person that owns or controls utility facilities in the ROW as of the effective date of this chapter shall apply for a

license from the city within forty-five (45) days of the later of: (1) the effective date of this chapter, or (2) the expiration of a valid franchise from the city, unless a new franchise is granted by the city prior to the expiration date or other date agreed to in writing by the city.

B. License Application. The license application shall be on a form provided by the city, and shall be accompanied by any additional documents required by the application to identify the applicant, its legal status, including its authorization to do business in Oregon, a description of the type of utility service provided or to be provided by the applicant, and the facilities over which the utility service will be provided, and other information reasonably necessary to determine the applicant's ability to comply with the terms of this chapter.

C. License Application Fee. The application shall be accompanied by a nonrefundable application fee or deposit set by resolution of the city council in an amount sufficient to fully recover all of the city's costs related to processing the application for the license.

D. Determination by City. The city shall issue, within a reasonable period of time, a written determination granting or denying the license in whole or in part. If the license is denied, the written determination shall include the reasons for denial. The license shall be evaluated based upon the provisions of this chapter, the continuing capacity of the ROW to accommodate the applicant's proposed utility facilities and the applicable federal, state and local laws, rules, regulations and policies.

E. Franchise Agreements. If the public interest warrants, the city and utility operator may enter into a written franchise agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this chapter, consistent with applicable state and federal law. The franchise may conflict with the terms of this chapter with the review and approval of city council. The franchisee shall be subject to the provisions of this chapter to the extent such provisions are not in conflict with the franchise.

F. Rights Granted.

1. The license granted hereunder shall authorize and permit the licensee, subject to the provisions of the Municipal Code and other applicable provisions of state or federal law, to construct, place, maintain and operate utility facilities in the ROW for the term of the license.

2. The license granted pursuant to this chapter shall not convey equitable or legal title in the ROW, and may not be assigned or transferred except as permitted in subsection K of this section.

3. Neither the issuance of the license nor any provisions contained therein shall constitute a waiver or bar to the exercise of any governmental right or power, police power or regulatory power of the city as may exist at the time the license is issued or thereafter obtained.

G. Term. Subject to the termination provisions in subsection M of this section, the license granted pursuant to this chapter will remain in effect for a term of five years.

H. License Nonexclusive. No license granted pursuant to this section shall confer any exclusive right, privilege, license or franchise to occupy or use the ROW for delivery of utility services or any other purpose. The city expressly reserves the right to grant licenses, franchises or other rights to other persons, as well as the city's right to use the ROW, for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the ROW. Nothing in the license shall be deemed

to grant, convey, create, or vest in licensee a real property interest in land, including any fee, leasehold interest or easement.

I. Reservation of City Rights. Nothing in the license shall be construed to prevent the city from grading, paving, repairing and/or altering any ROW, constructing, laying down, repairing, relocating or removing city water or sewer facilities or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any city facilities. If any of licensee's utility facilities interfere with the construction, repair, replacement, alteration or removal of any ROW, public work, city utility, city improvement or city facility, except those providing utility services in competition with a licensee, licensee's facilities shall be removed or relocated as provided in Section 12.16.080(C), (D) and (E) of this chapter, in a manner acceptable to the city, and subject to industry standard engineering and safety codes.

J. Multiple Services.

1. A utility operator that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and privilege tax requirements of this chapter for the portion of the facilities and extent of utility services delivered over those facilities.

2. A utility operator that provides or transmits more than one utility service over its facilities is not required to obtain a separate license for each utility service, provided that it gives notice to the city of each utility service provided or transmitted and pays the applicable privilege tax for each utility service.

K. Transfer or Assignment. To the extent permitted by applicable state and federal laws, the licensee shall obtain the written consent of the city prior to the transfer or assignment of the license. The license shall not be transferred or assigned unless the proposed transferee or assignee is authorized under all applicable laws to own or operate the utility system and the transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment. If a license is transferred or assigned, the transferee or assignee shall become responsible for all facilities of the licensee at the time of transfer or assignment. A transfer or assignment of a license does not extend the term of the license.

L. Renewal. At least ninety (90), but no more than one hundred eighty (180), days prior to the expiration of a license granted pursuant to this section, a licensee seeking renewal of its license shall submit a license application to the city, including all information required in subsection B of this section and the application fee required in subsection C of this section. The city shall review the application as required by subsection D of this section and grant or deny the license within ninety (90) days of submission of the application. If the city determines that the licensee is in violation of the terms of this chapter at the time it submits its application, the city may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the city, before the city will consider the application and/or grant the license. If the city requires the licensee to cure or submit a plan to cure a violation, the city will grant or deny the license application within ninety (90) days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

M. Termination.

1. Revocation or Termination of a License. The city council may terminate or revoke the license granted pursuant to this chapter for any of the following reasons:

a. Violation of any of the provisions of this chapter;

b. Violation of any provision of the license;

c. Misrepresentation in a license application;

d. Failure to pay taxes, compensation, fees or costs due the city after final determination of the taxes, compensation, fees or costs;

e. Failure to restore the ROW after construction as required by this chapter or other applicable state and local laws, ordinances, rules and regulations;

f. Failure to comply with technical, safety and engineering standards related to work in the ROW; or

g. Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance and/or operation of the utility facilities.

2. Standards for Revocation or Termination. In determining whether termination, revocation or some other sanction is appropriate, the following factors shall be considered:

a. The egregiousness of the misconduct;

b. The harm that resulted;

c. Whether the violation was intentional;

d. The utility operator's history of compliance; and/or

e. The utility operator's cooperation in discovering, admitting and/or curing the violation.

3. Notice and Cure. The city shall give the utility operator written notice of any apparent violations before terminating a license. The notice shall include a short and concise statement of the nature and general facts of the violation or noncompliance and provide a reasonable time (no less than twenty (20) and no more than forty (40) days) for the utility operator to demonstrate that the utility operator has remained in compliance, that the utility operator has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the utility operator is in the process of curing a violation or noncompliance, the utility operator must demonstrate that it acted promptly and continues to actively work on compliance. If the utility operator does not respond or if the city manager or designee determines that the utility operator's response is inadequate, the city manager or designee shall refer the matter to the city council, which shall provide a duly noticed public hearing to determine whether the license shall be terminated or revoked. (Ord. 08-011 § 1 (part))

12.16.070 Construction and restoration.

A. Construction Codes. Utility facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations, including the National Electrical Code and the National Electrical Safety Code.

B. Construction Permits. No person shall construct, install, or perform any work on utility facilities within the ROW without first obtaining all required permits, including the ROW permit required in Chapter 12.02 of this title, except in the event of an emergency or other exemption consistent with Chapter 12.02. The city shall not issue a permit for the construction, installation, maintenance or repair of utility facilities unless the utility operator of the facilities has applied for and received the license required by this chapter, or has a current franchise with the city, and all applicable fees have been paid.

C. Street Excavations and Restoration. Open cutting of pavement shall only be allowed in areas specifically approved by

the city engineer or designee. When a utility operator, or any person acting on its behalf, does any work in or affecting any public ROW, it shall, at its own expense, promptly restore the public ROW as required by the permit or as otherwise directed by the city engineer or designee.

D. A utility operator shall preserve and protect from injury other utility operators' facilities in the ROW, the public using the ROW and any adjoining property, and take other necessary measures to protect life and property, including but not limited to buildings, walls, fences, trees or utilities that may be subject to damage from the permitted work. A utility operator shall be responsible for all damage to public or private property resulting from its failure to properly protect people and property and to carry out the work.

E. Inspection. Every utility operator's facilities shall be subject to the right of periodic inspection and testing by the city to determine compliance with the provisions of this chapter and all other applicable state and city codes, ordinances, rules and regulations. Every utility operator shall cooperate with the city in permitting the inspection of utility facilities upon request of the city.

F. Coordination of Construction. All utility operators are required to make a good faith effort to both cooperate with and coordinate their construction schedules with those of the city and other users of the ROW.

1. Prior to January 1st of each year, utility operators shall provide the city with a schedule of known proposed construction activities for that year in, around or that may affect the ROW.

2. Utility operators shall meet with the city annually, or as determined by the city, to schedule and coordinate construction in the ROW.

3. All construction locations, activities and schedules within the ROW shall be coordinated as ordered by the city manager or designee, to minimize public inconvenience, disruption, or damages.

G. New Telecommunications and Cable Facilities. A utility operator proposing to install new telecommunications or cable facilities, other than poles, pole attachments, and other similar non-lineal facilities, in the public ROW in the city after January 3, 2019 must notify the city in writing prior to applying for any permits required for such installation. Such notification must describe the facilities proposed to be installed and specify the location of the proposed installation. The city may, if the city determines that it would further the purposes of this chapter, require the utility operator to install additional infrastructure to accommodate future utility facilities. If city determines to require such infrastructure installation, city shall so notify the utility operator within forty-five (45) days after receipt by the city of the notice from the utility operator; city shall be responsible for providing the required materials for such additional infrastructure and for any net additional costs documented and actually and reasonably incurred by the utility operator as a direct result of the required installation of such additional infrastructure; and city shall be the owner of the infrastructure so installed.

(Ord. No. 2018-010, § 2, 12-4-2018; Ord. 08-011 § 1 (part))

12.16.080 Location of facilities.

A. Location of Facilities. Unless otherwise agreed to in writing by the city, whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a ROW of the city, the utility operator with permission to occupy the same ROW shall locate its facil-

ities underground. This requirement shall not apply to facilities used for transmission of electric energy at nominal voltages in excess of thirty-five thousand (35,000) volts or to pedestals, cabinets or other above-ground equipment of any utility operator. The city reserves the right to require written approval of the location of any such above-ground equipment in the ROW.

B. Interference with the ROW. No utility operator or other person may locate or maintain its facilities so as to unreasonably interfere with the use of the ROW by the city, by the general public or by other persons authorized to use or be present in or upon the ROW. All use of the ROW shall be consistent with city codes, ordinances and regulations.

C. Relocation of Utility Facilities.

1. A utility operator shall, at no cost to the city, relocate its aerial utility facilities underground when requested to do so in writing by the city, consistent with applicable state and federal law.

2. A utility operator shall, at no cost to the city, temporarily or permanently remove, relocate, change or alter the position of any utility facility within a ROW when requested to do so in writing by the city. Nothing herein shall be deemed to preclude the utility operator from requiring or requesting reimbursement or compensation from a third party, pursuant to applicable laws, regulations, tariffs, agreements or otherwise, provided that such reimbursement or compensation shall not delay the utility operator's obligation to comply with this section in a timely manner.

3. The city shall provide written notice of the amount of time for removal, relocation, change, alteration or undergrounding. If a utility operator fails to remove, relocate, alter or underground any utility facility as requested by the city and by the date reasonably established by the city, the utility operator shall pay all costs incurred by the city due to such failure, including but not limited to project delays, and the city may cause the utility facility to be removed, relocated, altered or undergrounded at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within thirty (30) days.

D. Removal of Unauthorized Facilities.

1. Unless otherwise agreed to in writing by the city manager or designee, within thirty (30) days following written notice from the city, a utility operator and any other person that owns, controls, or maintains any abandoned or unauthorized utility facility within a ROW shall, at its own expense, remove the facility and restore the ROW.

2. A utility system or facility is unauthorized under any of the following circumstances:

a. The utility facility is outside the scope of authority granted by the city under the license, franchise or other written agreement. This includes facilities that were never licensed or franchised and facilities that were once licensed or franchised but for which the license or franchise has expired or been terminated. This does not include any facility for which the city has provided written authorization for abandonment in place.

b. The facility has been abandoned and the city has not provided written authorization for abandonment in place. A facility is abandoned if it is not in use and is not planned for further use. A facility will be presumed abandoned if it is not used for a period of one year. A utility operator may overcome this presumption by presenting plans for future use of the facility.

c. The utility facility is improperly constructed or installed or is in a location not permitted by the license, franchise or this chapter.

d. The utility operator is in violation of a material provision of this chapter and fails to cure such violation within thirty (30) days of the city sending written notice of such violation, unless the city extends such time period in writing.

E. Removal by City.

1. The city retains the right and privilege to cut or move the facilities of any utility operator or similar entity located within the public ROW of the city, without notice, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

2. If the utility operator fails to remove any facility when required to do so under this chapter, the city may remove the facility using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations, and the utility operator shall be responsible for paying the full cost of the removal and any administrative costs incurred by the city in removing the facility and obtaining reimbursement. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within thirty (30) days. The obligation to remove shall survive the termination of the license or franchise.

3. The city shall not be liable to any utility operator for any damage to utility facilities, or for any consequential losses resulting directly or indirectly therefrom, by the city or its contractor in removing, relocating or altering the facilities pursuant to subsection B, C or D of this section or undergrounding its facilities as required by subsection A of this section, or resulting from the utility operator's failure to remove, relocate, alter or underground its facilities as required by those subsections.

F. As Built Drawings. The utility operator shall provide the city with two complete sets of engineered plans in a form acceptable to the city showing the location of all its utility facilities in the ROW after initial construction and shall provide two updated complete sets of as built plans annually, upon request of the city. (Ord. 08-011 § 1 (part))

12.16.090 Leased capacity.

A utility operator may lease capacity on or in its systems to others, provided that, upon request, the utility operator provides the city with the name and business address of any lessee. (Ord. 08-011 § 1 (part))

12.16.100 Maintenance.

Every utility operator shall install and maintain all facilities in a manner that prevents injury to the ROW or public utility easements, the city's property or the property belonging to another person. The utility operator shall, at its own expense, repair and maintain facilities from time to time as may be necessary to accomplish this purpose. (Ord. 08-011 § 1 (part))

12.16.110 Vacation.

If the city vacates any ROW, or portion thereof, that a utility operator uses, the utility operator shall, at its own expense, remove its facilities from the ROW unless the city reserves a public utility easement, which the city shall make a reasonable effort to do provided that there is no cost or expense to the city, or the utility operator obtains an easement for its facilities. If the utility operator fails to remove its facilities within thirty (30) days after a ROW is vacated, or as otherwise directed or agreed to in writing by the city, the city may remove the facilities at the utility operator's sole expense. Upon receipt of an invoice from the city, the utility operator shall reimburse the city for the

costs the city incurred within thirty (30) days. (Ord. 08-011 § 1 (part))

12.16.120 Privilege tax.

A. Every utility operator shall pay the privilege tax set by resolution of the city council.

1. For utility operators providing utility service to customers within the city, the privilege tax shall be a percentage of gross revenues earned from the provision of service within the city. "Gross revenues" means any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectibles, unless the council, by resolution, determines otherwise.

2. For utility operators that do not provide utility service to customers within the city, the privilege tax shall be a flat fee per lineal foot of utility facilities in the city or such other fee determined by the city council.

3. For utility operators with no facilities in the ROW other than facilities mounted on structures within the right-of-way, which structures are owned by another person, and with no facilities strung between such structures or otherwise within, under or above the ROW, the privilege tax shall be a flat fee per structure or such other fee determined by the city council.

4. For utility operators subject to subsections (A)(1) or (A)(2) of this section, the privilege tax shall also include, in addition to the privilege taxes described in subsections (A)(1) and (A)(2) of this section, for all new facilities installed after January 3, 2019, a flat fee per lineal foot of such new utility facilities in the public ROW in the city or such other fee determined by the city council. Such fees will be set by the city council by resolution and may vary based on location, facility type, and other factors, in order to effectuate the purposes of this chapter.

B. Privilege tax payments required by this section shall be reduced by any franchise fee payments received by the city, but in no case will be less than zero dollar.

C. Unless otherwise agreed to in writing by the city, the tax set forth in subsection (A)(1) of this section shall be paid quarterly, in arrears, for each quarter during the term of the license within thirty (30) days after the end of each calendar quarter, and shall be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable. The tax set forth in subsections (A)(2), (A)(3), and (A)(4) of this section shall be paid annually, in arrears, for each year during the term of this license within thirty (30) days after the end of each calendar year, and shall be accompanied by a statement of the length of facilities in the ROW or number of structures occupied in the ROW, as applicable, and a calculation of the amount payable. The utility shall pay interest at the rate of nine percent per year for any payment made after the due date.

D. The calculation of the privilege tax required by this section shall be subject to all applicable limitations imposed by federal or state law.

(Ord. No. 2018-010, § 2, 12-4-2018; Ord. 08-011 § 1 (part))

12.16.130 Audits.

A. Within thirty (30) days of a written request from the city, or as otherwise agreed to in writing by the city, the provider of utility service shall:

1. Furnish the city with information sufficient to demonstrate that the utility operator is in compliance with all the requirements of this chapter and its franchise agreement, if any, including but not limited to the privilege tax payments required by Section 12.16.120 and the franchise fee required in any franchise.

2. Make available for inspection by the city at reasonable times and intervals all maps, records, books, diagrams, plans and other documents, maintained by the utility operator with respect to its facilities within the public ROW or public utility easements. Access shall be provided within the Portland, Oregon metropolitan area unless prior arrangement for access elsewhere has been made with the city.

B. If the city's audit of the books, records and other documents or information of the utility operator demonstrate that the utility operator has underpaid the privilege tax or franchise fee by five percent or more in any one year, the utility operator shall reimburse the city for the cost of the audit, in addition to any interest owed pursuant to Section 12.16.120(C) of this chapter or as specified in a franchise.

C. Any underpayment, including any interest or audit cost reimbursement, shall be paid within thirty (30) days of the city's notice to the utility service provider of such underpayment. (Ord. 08-011 § 1 (part))

12.16.140 Insurance and indemnification.

A. Insurance.

1. All utility operators shall maintain in full force and effect the following liability insurance policies that protect the utility operator and the city, as well as the city's officers, agents, and employees:

a. Comprehensive general liability insurance with limits not less than:

i. Two million dollars ($2,000,000.00) for bodily injury or death to each person;

ii. Two million dollars ($2,000,000.00) for property damage resulting from any one accident; and

iii. Two million dollars ($2,000,000.00) for all other types of liability.

b. Motor vehicle liability insurance for owned, nonowned and hired vehicles with a limit of one million dollars ($1,000,000.00) for each person and two million dollars ($2,000,000.00) for each accident.

c. Worker's compensation within statutory limits and employer's liability with limits of not less than one million dollars ($1,000,000.00).

d. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than two million dollars ($2,000,000.00).

2. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state of Oregon. The insurance shall be without prejudice to coverage otherwise existing and shall name, or the certificate of insurance shall name, as additional insureds the city and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The certificate of insurance shall provide that the insurance shall not be canceled or materially altered without thirty (30) days prior written notice first being given to the city. If the insurance is canceled or materially altered, the utility operator shall provide a replacement policy with the terms as outlined in this section. The utility operator shall maintain continuous uninterrupted coverage, in the terms and amounts required. The utility operator may self insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.

3. The utility operator shall maintain on file with the city a certificate of insurance, or proof of self-insurance acceptable to the city, certifying the coverage required above.

B. Financial Assurance. Unless otherwise agreed to in writing by the city, before a franchise granted or license issued pursuant to this chapter is effective, and as neces-

sary thereafter, the utility operator shall provide a performance bond or other financial security, in a form acceptable to the city, as security for the full and complete performance of the franchise, if applicable, and compliance with the terms of this chapter, including any costs, expenses, damages or loss the city pays or incurs because of any failure attributable to the utility operator to comply with the codes, ordinances, rules, regulations or permits of the city.

C. Indemnification.

1. Each utility operator shall defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all liability, causes of action, claims, damages, losses, judgments and other costs and expenses, including attorney fees and costs of suit or defense (at both the trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity in any way arising out of, resulting from, during or in connection with, or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failure to act, or other misconduct of the utility operator or its affiliates, officers, employees, agents, contractors, subcontractors, or lessees in the construction, operation, maintenance, repair, or removal of its facilities, and in providing or offering utility services over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this chapter or by a franchise agreement. The acceptance of a license under Section 12.16.060 shall constitute such an agreement by the applicant whether the same is expressed or not. Upon notification of any such claim the city shall notify the utility operator and provide the utility operator with an opportunity to provide defense regarding any such claim.

2. Every utility operator shall also indemnify the city for any damages, claims, additional costs or expenses assessed against or payable by the city arising out of or resulting, directly or indirectly, from the utility operator's failure to remove or relocate any of its facilities in the ROW or easements in a timely manner, unless the utility operator's failure arises directly from the city's negligence or willful misconduct. (Ord. 08-011 § 1 (part))

12.16.150 Compliance.

Every utility operator shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all applicable ordinances, resolutions, rules and regulations of the city, heretofore or hereafter adopted or established during the entire term of any license granted under this chapter. (Ord. 08-011 § 1 (part))

12.16.160 Confidential/proprietary information.

If any utility operator is required by this chapter to provide books, records, maps or information to the city that utility operator reasonably believes to be confidential or proprietary, the city shall take reasonable steps to protect the confidential or proprietary nature of the books, records or information, to the extent permitted by Oregon public records laws, provided that they are clearly designated as such by the utility operator at the time of disclosure to the city. The city shall not be required to incur any costs to protect such document, except as to the city's routine internal procedures for complying with Oregon public records law. (Ord. 08-011 § 1 (part))

12.16.170 Penalties.

A. Any person found guilty of violating any of the provisions of this chapter shall be fined not more than one thousand

dollars ($1,000.00). A separate and distinct offense shall be deemed committed each day on which a violation occurs.

B. Nothing in this chapter shall be construed as limiting any judicial or other remedies the city may have at law or in equity, for enforcement of this chapter. (Ord. 08-011 § 1 (part))

12.16.180 Severability and preemption.

A. The provisions of this chapter shall be interpreted to be consistent with applicable federal and state law, and shall be interpreted, to the extent possible, to cover only matters not preempted by federal or state law.

B. If any article, section, subsection, sentence, clause, phrase, term, provision, condition or portion of this chapter is for any reason declared or held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations or decision, the remainder of this chapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, clause, phrase, term, provision, condition, covenant and portion of this chapter shall be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules or regulations, the provision shall be preempted only to the extent required by law and any portion not preempted shall survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended or otherwise changed to end the preemption, such provision shall thereupon return to full force and effect and shall thereafter be binding without further action by the city. (Ord. 08-011 § 1 (part))

12.16.190 Application to existing agreements.

To the extent that this chapter is not in conflict with and can be implemented consistent with existing franchise agreements, this chapter shall apply to all existing franchise agreements granted to utility operators by the city. (Ord. 08-011 § 1 (part))

Chapter 12.17

Construction-Limited Streets

Sections:

12.17.005 Purpose.

The provisions of this Chapter are intended to protect the public investment, health and safety, and are intended to maintain the quality, integrity, and service life of recently constructed or reconstructed, paved or repaved, overlaid or surface treated streets within the City, for the longest practicable time period.
(Ord. No. 2011-008, § 1, 7-19-2011)

12.17.010 Definition.

A. A "construction-limited street" means any of the following City streets, as identified in the City Transportation System Plan, that has been constructed, reconstructed, paved, repaved, overlaid or surface treated, within the following time periods by the City, a City contractor, or a private party pursuant to a right-of-way or development permit.

TSP Street Classification	Length of Time
Arterial Streets	5 years
Collector Streets	3 years
Local and Neighborhood Streets	2 years
Downtown Streets (Asphalt)	2 years
Downtown Streets (Concrete)	Indefinite (Construction not allowed)

B. The "Engineering Design Manual" means the most recent City of Sherwood *Engineering Design and Standard Details Manual* as amended.
(Ord. No. 2011-008, § 1, 7-19-2011)

12.17.015 Duration of Limitation.

Except as provided in Section 12.17.025 and Section 12.17.027 below, the pavement of a construction-limited street may not be ground, drilled through, saw cut, or excavated through within the time period described in Section 12.17.010 above. The restrictions of this section shall commence on the day the street has been accepted by the City, as defined by the commencement of the maintenance period, and shall continue throughout the period described in Section 12.17.010 above.
(Ord. No. 2011-008, § 1, 7-19-2011)

12.17.020 Applicability.

Chapter 12.17 applies to all construction activity within the public right-of-way of a construction-limited street whether performed by public or private parties, including private utilities.
(Ord. No. 2011-008, § 1, 7-19-2011)

12.17.025 Exceptions.

A. The City Manager or the City Manager's designee may approve an exception to the limitations in Section 12.17.015 in order to facilitate development on adjacent properties, provide for emergency repairs to subsurface facilities, provide for under-

ground connections to adjacent properties, or to allow the upgrading of underground utilities.

An approved exception may include conditions determined necessary by the City Manager or designee to ensure the rapid and complete restoration of the street and surface paving, consistent with the purpose of this Chapter 12.17 to the greatest extent practicable. Pavement restoration requirements may include but are not limited to surface grinding, base and sub-base repairs, trench compaction, or other related work as needed, including up to full-width street pavement removal and replacement.

B. A person seeking an exception under this section shall submit an application to the City Manager or designee in a form acceptable to the city. The application must include sufficient information to demonstrate reasonable compliance with Section 210.20 (*Construction Limited Streets*) of the Engineering Design Manual.

The City Manager or designee will review the application and information and provide a written decision either approving or denying the application. The City Manager's or designee's decision may be appealed in the manner provided for a writ of review under ORS chapter 34.
(Ord. No. 2011-008, § 1, 7-19-2011)

12.17.027 Maintenance and Emergency Repairs.

Following notice to the Public Works Director and a demonstration of compliance with Section 210.18 (*Utilities and Other Work in the Public Right of Way)* and Section 210.19 (*Trenching and Street Cuts*) of the Engineering Design Manual, the City may authorize maintenance or emergency repairs to an underground utility service within the right-of-way of a construction-limited street provided the underground utility service is in existence on the effective date of this Ordinance.
(Ord. No. 2011-008, § 1, 7-19-2011)

12.17.030 Unauthorized Work and Repairs.

A. Violations of this Chapter 12.17 may be enforced by the City in the manner of a violation subject to the jurisdiction of the Sherwood Municipal Court. If the pavement of a construction-limited street is ground, drilled through, saw cut, or excavated through for any reason without authorization, the extent of the damages caused by such actions shall be determined by the City in its sole and exclusive discretion.

B. The Municipal Court may order a person responsible for a violation to restore the street surface to the standards described in Section 210.18 (*Utilities and Other Work in the Public Right of Way)* and Section 201.19 (*Trenching and Street Cuts*) of the Engineering Design Manual. The Court may include in the order such other conditions the Court deems necessary to ensure adequate and appropriate restoration of the street pavement section.

C. Alternatively, the Municipal Court may direct the City to perform, either directly or indirectly, the street restoration with the costs of such restoration assessed against the person responsible for the violation.
(Ord. No. 2011-008, § 1, 7-19-2011)

12.17.035 Technical Requirements.

Any restoration of a construction-limited street shall conform, at a minimum, to the requirements set forth in the most current edition of the City's Engineering Design Manual. The City Manager or designee may impose additional requirements as determined necessary by the City Manager or designee in the person's sole discretion in

order to meet the intent of maintaining the quality, integrity, and service life of the affected construction limited street to the greatest extent practicable.
(Ord. No. 2011-008, § 1, 7-19-2011)

Chapter 12.20

Street Tree—Homeowner's Association Authorization

Sections:

12.20.010 Purpose.

The purpose of this section is to allow an active homeowners association to regulate the assessment, removal and replacement of street trees within the boundaries of the association in a less regulatory manner than required under the Sherwood Development Code (SZCDC 16.142). It is intended by the city that a homeowners association that is delegated authority under this section will adopt, administer and enforce a system of regulations for the evaluation and, if necessary, removal and replacement of street trees in the public right-of-way that is substantially similar to the system of regulations set forth in the city development code. It is further intended that a street tree program administered by the HOA will allow greater flexibility to assess and craft solutions for the management of street trees within the boundaries of the HOA and at less cost to the property owner and the community.
(Ord. No. 2011-002, §§ 1, 2, 2-15-2011)

12.20.020 Authority of Homeowners Association to Adopt and Administer Program.

A. A homeowners' association (HOA) may apply to the City under SZCDC 16.142 for authority to adopt, administer and enforce a program for regulating the assessment, removal and replacement of street trees within the boundaries of the association. An HOA with an approved street tree program shall administer and enforce the program as approved by the city.

B. For purposes of this section 12.20, a "street tree" is a tree that is planted within the planter strip along a street. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or required by the city.
(Ord. No. 2011-002, §§ 1, 2, 2-15-2011)

12.20.030 Adoption into Bylaws.

An HOA that is approved to administer a program for street tree removal and replacement shall incorporate the program standards and procedures into its bylaws. A copy of the amended bylaws must be submitted to the city planning department on the January 1 immediately following adoption. In the event the provisions in the bylaws concerning the street tree program are amended, the HOA shall submit a copy of the amendments to the city planning department within ninety (90) days of the amendment.
(Ord. No. 2011-002, §§ 1, 2, 2-15-2011)

12.20.040 Final Decision by HOA; Appeal.

A. An HOA with an approved street tree program shall include in the program an opportunity to appeal a decision by the HOA. If the decision is made by a person or committee that is subordinate to the HOA Board, the program shall allow for an appeal to the Board. A final decision by the HOA Board must be in writing and must set forth the basis for the decision. A copy of the written decision must be provided to the

affected property owner and to the person who filed the appeal, if different, within five (5) business days of the date the decision.

B. A final decision by the HOA Board may be appealed to the City Manager within fourteen (14) days of the date of the final decision. The appeal shall be in writing and shall include a description of the error alleged in the Board's decision.

1. Upon receipt of an appeal, the City Manager shall set a date for the matter to be heard by the City Manager in the regular course of business. The person filing the appeal, the affected property owner, and the HOA Board may appear and submit written and verbal testimony and evidence. The person filing the appeal has the burden of proving by substantial evidence that the Board made a legal or factual error in its decision.

2. The City Manager may request testimony or evaluation of the evidence by the city planning manager for the purpose of substantiating the claims made by the parties. The person filing the appeal shall have an opportunity to rebut any evidence submitted by the planning manager.

3. The City Manager shall determine whether the HOA Board made a decision that is in substantial compliance with the street tree program as approved by the City. The City Manager may make an independent assessment of substantial compliance with the applicable standards and procedures and is not limited to the record that was before the HOA Board.

4. The City Manager shall issue a written decision within thirty (30) days of the date of the hearing. The decision shall set forth the basis for the decision and the evidence relied upon. The City Manager's decision is final, subject to review only as provided in ORS 34.010 to 34.100.

(Ord. No. 2011-002, §§ 1, 2, 2-15-2011)

Chapter 12.24

COUNCIL AUTHORITY - FEES, RATES AND CHARGES

Section:

12.24.010 Authority to establish fees, rates and other charges related to the construction, maintenance and operation of streets, sidewalks, pedestrian pathways, and other public places.

The City Council may by Resolution establish such fees, rates and other charges as it deems appropriate to fund construction, maintenance and operation of streets, sidewalks, pedestrian pathways and other public places, together with procedures for their imposition and collection. Any fees, rates or charges established pursuant to this Section shall be included on a schedule to be kept in the city recorder's office and available to the public for review. Such fees, rates and other charges may be altered, amended or modified from time to time by Resolution of the City Council. Any adoption or amendment of a fee, rate or charge shall be done consistent with applicable law. (Ord. No. 2011-007, § 1, 5-17-2011)

Chapter 15.04

CONSTRUCTION CODES

Sections:

Article I. Administration and Enforcement

15.04.010 Title.

These regulations shall be known as the city of Sherwood building code, may be cited as such and will be referred to herein as "this code." (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.010)

15.04.020 Purpose.

The purpose of this code is to establish uniform performance standards providing reasonable safeguards for health, safety, welfare, comfort and security of the residents of this jurisdiction who are occupants and users of buildings and for the use of modern methods, devices, materials, techniques and practicable maximum energy conservation. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.020)

15.04.030 Scope.

This code shall apply to the construction, alteration, moving, demolition, repair, maintenance and work associated with any building or structure except those located in a public way.

Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable.

Where, in any specific case, there is a conflict between this code and Oregon Revised Statute, the statute shall govern. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.030)

15.04.040 Definitions.

For the purpose of the code, the following definition shall apply:

"Building official" means the officer or other designated authority charged with the

administration and enforcement of this code, or the building official's duly authorized representative. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.040)

15.04.050 Alternate materials and methods.

The provisions of this code are not intended to prevent the use of any alternate material, design or method of construction not specifically proscribed by this code, provided such alternate has been approved and its use authorized by the building official.

The building official may approve any such alternate material, design or method, provided the building official finds that the proposed material, design or method complies with the provisions of this code and that it is, for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

The building official shall require that evidence or proof be submitted to substantiate any claims that may be made regarding its use. The details of any approval of any alternate material, design or method shall be recorded and entered in the files of the agency. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.050)

15.04.060 Modifications.

When there are practical difficulties in carrying out the provisions of this code, the building official may grant modifications provided the building official finds that the modification is in conformance with the intent and purpose of this code and that said modification does not lessen any fire-protection requirements nor the structural integrity of the building involved. Any action granting modification shall be recorded in the files of the code enforcement agency. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.060)

15.04.070 Tests.

Whenever there is insufficient evidence of compliance with the provisions of this code or that any material, method or design does not conform to the requirements of this code, the building official may require tests as proof of compliance to be made at no expense to this jurisdiction.

Test methods shall be as specified by this code or by other recognized test standards. If there are no recognized and accepted test methods for the proposed alternate, the building official shall determine test procedures.

All tests shall be made by an approved testing agency. Reports of such tests shall be retained by the building official for the period required for the retention of public records. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.070)

15.04.080 Powers and duties of building official.

A. General. There is established a code enforcement agency which shall be under the administrative and operational control of the building official. The building official is authorized to enforce all the provisions of this code.

The building official shall have the power to render written and oral interpretations of

b. No changes have been made or will be made in the original plans and specifications for such work.

c. The original permit expired less than one year from the request to reinstate. The fee for a reinstated permit shall be one-half the amount required for a new permit. Where the request for reinstatement does not comply with the preceding criteria, a new permit, at full permit fees, shall be required.

F. Work Without a Permit/Investigation Fees. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, may be collected whether or not a permit is then or subsequently issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.

G. Not Transferable. A permit issued to one person or firm is not transferable and shall not permit any other person or firm to perform any work thereunder.

H. Suspension/Revocation. The building official may, in writing, suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error on the basis of incorrect information supplied, or if its issuance (or activity thereunder) is in violation of any ordinance or regulation of any other provisions of the city code.

I. Inspections. It shall be the duty of the permit holder or authorized agent to request all inspections that may be necessary or otherwise required in a timely manner. The requester shall provide access to the site, and to provide all equipment as may be deemed necessary or appropriate by the building official. It shall be the duty of the permit holder to cause the work to remain accessible and exposed for inspection purposes. All work requiring inspection approval shall not be covered nor work proceed until approval is granted. All corrections required by the building official shall be completed and reinspected within twenty (20) days from first notice, no work shall proceed until corrections have been approved. Occupancy or use of any structure shall not be allowed until corrections are corrected and a final inspection is approved. Any expense incurred by the permit holder to remove or replace any material required for proper inspection shall be the responsibility of the permit holder or his or her agent.

Work requiring a permit shall not be commenced until the permit holder or an agent of the permit holder has posted or otherwise made available an inspection record card such as to allow the building official to conveniently make the required entries thereon regarding inspection of the work. This card shall be maintained available by the permit holder until final approval has been granted by the building official. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.100)

Article II. Various Codes

15.04.110 Oregon Structural Specialty Code.

The City of Sherwood shall use the 2014 Oregon Structural Specialty Code for administration, inspection and plan review. Any provision in this chapter inconsistent with the terms of that 2014 Code is hereby deemed ineffective and without force.
(Ord. No. 2014-018, § 1, 9-16-2014; Ord. No. 2010-009, § 1, 8-3-2010; Ord. 08-007, § 1)

15.04.120 Oregon Mechanical Specialty Code.

The City of Sherwood shall use the 2014 Oregon Mechanical Specialty Code

for administration, inspection and plan review. Any provision in this chapter inconsistent with the terms of that 2014 Code is hereby deemed ineffective and without force. (Ord. No. 2014-017, § 1, 9-16-2014; Ord. No. 2010-010, § 1, 8-3-2010; Ord. 08-009, § 1; Ord. 06-005, § 1; Ord. 02-1134, § 1; Ord. 98-1057, § 1 (part); Ord. 97-1028, § 9.02.020)

15.04.130 Plumbing code.

The city shall use the Oregon Plumbing Specialty Code as adopted by OAR 918-750-0100 (2017) for administration, inspection and plan review.
(Ord. No. 2017-007, § 2, 12-5-2017; Ord. No. 2014-021, § 1, 12-16-2014; Ord. No. 2011-004, § 1, 4-19-2011; Ord. 08-008, § 1; Ord. 06-006, § 1; Ord. 98-1057, § 1 (part); Ord. 97-1028, § 9.02.030)

15.04.140 Electrical code.

The city shall use the Oregon Electrical Specialty Code as adopted and described in OAR 918-305-0010 (2017).
(Ord. No. 2017-007, § 2, 12-5-2017; Ord. No. 2014-020, § 1, 12-16-2014; Ord. 06-003 § 1: Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.02.040)

15.04.150 Oregon Residential Specialty Code.

The city shall use the Oregon Residential Specialty Code as adopted by OAR 918-480-0005 (2017) for administration, inspection and plan review.
(Ord. No. 2017-007, § 2, 12-5-2017; Ord. No. 2014-022, § 1, 12-16-2014; Ord. No. 2011-013, § 1, 11-1-2011; Ord. 08-006, § 1; Ord. 06-007; § 1; Ord. 98-1057, § 1 (part); Ord. 97-1028, § 9.02.050)

15.04.160 Manufactured dwelling code.

A. Parks.

1. Enforcement of State Rules. The manufactured dwelling park and mobile home park rules adopted by OAR 918-600-0005 through 918-600-0110, except as modified in this code, are enforced as part of this code.

B. Manufactured Home Installations.

1. Enforcement of State Rules. The manufactured dwelling rules adopted by OAR 918-500-0000 through 918-500-0500 and OAR 918-520-0010 through 918-520-0020, except as modified in this code, are enforced as part of this code. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.02.060)

15.04.170 Recreational park and organizational camp regulations.

A. Enforcement of State Rules. The recreational park and organizational camp rules adopted by OAR 918-650-0000 through 918-650-0085, except as modified in this code, are enforced as part of this code. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.02.070)

15.04.180 Reserved.

Editor's note—Ord. No. 2017-007, § 2, adopted December 5, 2017, amended the Code by repealing former § 15.04.180 in its entirety. Former § 15.04.180 pertained to the Oregon Solar Installation Specialty Code, and derived from Ord. No. 2011-005, adopted April 19, 2011.

Article III. Fees

15.04.190 Fee policy.

Fees charged under this code shall be as provided by resolution of the city council, based upon the fee calculation methodology adopted by the Tri-County Building Services Board (amended by Ord. 2000-1098).

The building official may authorize the refunding of fees paid in accordance with the refund policy in effect in the jurisdiction.

The determination of value or valuation under any provisions of this code shall

be made by the building official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment. (Ord. 00-1099 § 1: amended during 1998 codification; Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.303)

Article IV. Penalties

15.04.200 Violation—Penalty.

Any person violating any of the provisions herein for which a special penalty has not been expressly provided shall, upon conviction thereof, be punished by a fine not to exceed one thousand dollars ($1,000.00) per violation. Each day that a violation exists is a separate offense. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.5)

Chapter 15.08

MOVING BUILDINGS

Sections:

15.08.010 Moving permit required—Application.

It is unlawful for any person to move any building over or upon any street, alley or thoroughfare within the city without having first obtained a moving permit from the city to do so. The fee for such moving permit shall be fifty dollars ($50.00), payable at the time of filing application. The application shall be filed with the building division and shall contain or have attached thereto the following:

A. The names and addresses of the applicant and owner of the building.

B. The present location, size and age of the building to be moved and the proposed site for relocation.

C. A request for a pre-move building inspection by the building department will be accompanied by a nonrefundable fee of twenty-five dollars ($25.00). If approved, this fee will be credited toward the moving permit fee.

D. Prior to issuance of moving permit, the applicant shall furnish written approval from the police department stating the date, time and route of the proposed move. Also a statement, that the applicant has made arrangements with the police department to provide, at the applicant's expense, for reasonable traffic controls during the course of the moving operation.

E. Prior to issuance of the permit, the applicant shall furnish written evidence that he or she made all necessary arrangements with all public utility companies or agencies having above-ground installations along the route of the move to provide the necessary assistance required.

F. Written evidence that the mover has liability insurance in the sum of at least one hundred thousand dollars ($100,000.00) per person and three hundred thousand dollars ($300,000.00) per accident for personal injuries, and fifty thousand dollars ($50,000.00) per occurrence for property damage, for any liability connected with or arising out of the moving operation.

G. A written agreement that prior to receiving a moving permit, the applicant will furnish the city a cash deposit sufficient to cover any costs estimated to be incurred by the city in rendering assistance in the move or in repairing or restoring city property. The amount of such deposit shall be fixed by the building official. The applicant shall also agree in writing to indemnify the city and to pay for any unforeseen costs or damages which might result from the move.

H. Any other information which the building division shall deem necessary for a fair determination of the financial responsibility of the mover, the adequacy of the mover's equipment, the mover's experience and capability, and the safety and practicability of the move. (Ord. 700 § 1, 1978)

15.08.020 Moving permit issuance and revocation.

Upon compliance with all of the aforemen-

Chapter 16.08

HEARINGS OFFICER*

Sections:

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.

***Editor's note**—Some sections may not contain a history.

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

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 words "will" and "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. 2018-009, § 2, 10-16-2018; 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.

Area of Special Flood Hazard: Is the land in the flood plain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1-30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard". See also, "Special flood hazard area."

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.

Elevated Building: Means, for insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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 not more than sixteen (16) 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 or **Flooding:** Means

(a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  (1) The overflow of inland or tidal waters.
  (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  (3) Mudslides (i.e. mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of morally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse of subsidence or land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforseeable event, which results in flooding are defined in paragraph (a)(1) of this definition.

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. Means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

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 Means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

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.

Flood Plain Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Floodway: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

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" though "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 that is either (1) registered by the Oregon Health Authority or (2) designated as an exclusively medical license holder by the Oregon Liquor Control Commission under ORS 475.B.131, and that is allowed under state law 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 medical marijuana dispensary is not a "recreational retailer" as defined in Section 3.25.010 or 5.30.010. A medical marijuana 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 Within the Flood Plain Overlay: 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. Means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

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.
   (a) Built on a single chassis;
   (b) 400 square feet or less than measured at the largest horizontal projection;
   (c) Designed to be self-propelled or permanently towable by a light duty truck; and
   (d) 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 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 Within the Flood Plain Overlay: 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. Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other

improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state 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; not does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units nor 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 (1) 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. Structure means for floodplain management purposes, 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:

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

Substantial Improvement Within the Floodplain Overlay: means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
(2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

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.

Variance Within the Floodplain Overlay: Means a grant of relief by a community from the terms of a floodplain management regulation.

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. 2018-009, § 2, 10-16-2018; Ord. No. 2018-008, § 2, 10-2-2018; Ord. No. 2018-007, § 2, 10-2-2018; 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)

Development Standard by Residential Zone-	VLDR	VLDR-PUD	LDR	MDRL	MDRH	HDR
• Between 18—24 ft. in height	X	X	X	X	7	7
• If over 24 ft. in height	X	X	X	X	§ 16.68 Infill	§ 16.68 Infill
• Corner lot street side						
• Single Family or Two Family	20	20	20	15	15	15
• Multi-Family	X	X	X	X	20	30
• Rear yard	20	20	20	20	20	20
Footnote: If the lot is an irregular shape see definition for Lot Line, Rear, Section 16.10 Definitions						

(Ord. No. 2018-007, § 2, 10-2-2018; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2014-006, § 2, 3-4-2014; Ord. No. 2012-006, § 2, 3-6-2012; Ord. No. 2011-003, § 2, 4-5-2011)

16.12.040 Community Design

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, *see* Divisions V, VIII, IX.
(Ord. No. 2011-003, § 2, 4-5-2011)

16.12.050 Flood Plain

Except as otherwise provided, Section 16.134.020 shall apply.
(Ord. No. 2011-003, § 2, 4-5-2011)

16.12.060 Amateur Radio Towers/Facilities

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

B. Definitions
   1. Amateur Radio Services: Radio communication services, including amateur-satellite service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in Title 47, Code of Federal Regulations, Part 97 and regulated there under.

2. Amateur Radio Facilities: The external, outdoor structures associated with an operator's amateur radio service. This includes antennae, masts, towers, and other antenna support structures.

(Ord. No. 2012-006, § 2, 3-6-2012)

Chapter 16.38

SPECIAL USES

Sections:

16.38.010 General Provisions

Special uses included in this Section are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These conditions and standards may differ from the development standards established for other uses in the same zoning district. When a dimensional standard for a special use differs from that of the underlying zoning district, the standard for the special use shall apply.
(Ord. 86-851, § 3)

16.38.020 Medical Marijuana Dispensary

A. Characteristics

1. A medical marijuana dispensary is defined in Section 16.10.020.
2. Registration and Compliance with Oregon Health Authority and Oregon Liquor Control Commission Rules. A medical marijuana dispensary must have a current valid registration with the Oregon Health Authority under ORS 475B.858 or a current valid designation as an exclusively medical license holder by the Oregon Liquor Control Commission under ORS 475B.131. Failure to comply with Oregon Health Authority and Oregon Liquor Control Commission regulations, as applicable, is a violation of this Code.

B. Approval Process

Where permitted, a medical marijuana dispensary is subject to approval under Section 16.72.010.A.2, the Type II land use process. A medical marijuana dispensary which has already obtained such approval and which is converting from Oregon Health Authority registration to Oregon Liquor Control Commission licensure with an exclusively medical designation, or vice versa, is not required to obtain additional land use approval from the City under this section solely as a result of such license conversion.

C. Standards

1. Hours of Operation. A medical marijuana dispensary may not be open to the public before 10:00 a.m. and not later than 8:00 p.m. all days of the week.
2. Security Measures Required
   a. Landscaping must be continuously maintained to provide clear lines of sight from a public right-of-way to all building entrances.
   b. Exterior lighting must be provided and continuously maintained.
   c. Any security bars installed on doors or windows visible from a public right-of-way must be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.

3. Co-location Prohibited
   a. A medical marijuana dispensary may not be located at the same address as a marijuana manufacturing facility, including a grow operation.
   b. A medical marijuana dispensary may not be located at the same address with any facility or business at which marijuana is inhaled or consumed
4. Mobile and Delivery Businesses Prohibited
   a. A dispensary may not operate as a mobile business as defined in Section 16.10.020.
   b. A dispensary may not operate to deliver marijuana.
5. Drive-Through and Walk-Up. A medical marijuana dispensary may not engage in product sales outside of the facility or building through means of a walk-up window or drive-through access.
6. Proximity Restrictions

   A medical marijuana dispensary may not be located within 1,000 feet of any of the uses listed below. For purposes of this paragraph, the distance specified is measured from the closest points between the property lines of the affected properties:
   a. An educational institution: public or private elementary, secondary, or career school that is attended primarily by children under 18 years of age.
   b. Another medical marijuana dispensary.
   c. A public park or plaza.

(Ord. No. 2018-008, § 2, 10-2-2018; Ord. No. 2015-005, § 2, 5-5-2015)

Chapter 16.44

TOWNHOMES*

Sections:

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

16.44.010 Townhome Standards

A. Generally

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

B. Standards

1. Each townhome shall have a minimum dwelling area of twelve-hundred (1,200) square feet in the MDRH zone, and one-thousand (1,000) square feet in the HDR zone. Garage area is not included within the minimum dwelling area.
2. Lot sizes shall average a minimum of two-thousand five-hundred (2,500) square feet in the MDRH zone, and one-thousand eight-hundred (1,800) square feet in the HDR zone, unless the property qualifies as "infill," and meets the criteria of Subsection D below. If proposed as a subdivision, lots shall be platted with a width of no less than twenty (20) feet, and depth no less than seventy (70) feet.
3. The townhome shall be placed on a perimeter foundation, the units must meet the front yard, street-side yard, and rear yard setbacks of the underlying zone, if abutting a residential zone designated for, or built as, single-family detached housing.
4. All townhomes shall include at least two (2) off-street parking spaces in the HDR zone, and two and one-half (2-½) spaces in the MDRH zone; garages and/or designated shared parking spaces may be included in this calculation. The City Engineer may permit diagonal or angle-in parking on public streets within a townhome development, provided that adequate lane width is maintained. All townhome developments shall include a parking plan, to be reviewed and approved with the Site Plan application.
5. All townhomes shall have exterior siding and roofing which is similar in color, material and appearance to siding and roofing commonly used on residential dwellings within the City, or otherwise consistent with the design criteria of Subsection E, Design Standards.
6. All townhomes in the MDRH zone shall have an attached or detached garage.
7. All other community design standards contained in Divisions V, VIII and IX relating to off-street parking and loading, energy conservation, historic resources, environmental

resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design that are not specifically varied by this Chapter, shall apply to townhome blocks.

8. All townhome developments shall accommodate an open space or park area no less than five percent (5%) of the total subject parcel (prior to exclusion of public right-of-way and environmentally constrained areas). Parking areas may not be counted toward this five percent (5%) requirement.
9. Side yard setbacks shall be based on the length of the townhome block; a minimum setback to the property line* on the end of each "townhome block" shall be provided relative to the size of the block, as follows:

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

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

C. Occupancy

1. No occupancy permit for any townhome shall be issued by the City until the requirements of site plan review and the conditions of the approved final site plan are met. Substantial alteration from the approved plan must be resubmitted to the City for review and approval, and may require additional site plan review before the original hearing authority.
2. The owner(s) of the townhomes, or duly authorized management agent, shall be held responsible for all alterations and additions to a townhome block or to individual homes within the block, and shall ensure that all necessary permits and inspections are obtained from the City or other applicable authority prior to the alterations or additions being made.

D. Infill Standard

The minimum lot size required for single-family, attached dwellings (townhomes) may be reduced by a maximum of 15% if the subject property is 1.5 acres or less, and the subject property is surrounded by properties developed at or in excess of minimum density for the underlying zone.

E. Design Standards

Each townhome block development shall require the approval of a site plan, under the provisions of Section 16.90.020, and in compliance with the standards listed below. The site plan shall indicate all areas of townhome units, landscaping, off-street parking, street and driveway or alley locations, and utility access easements. The site plan shall also include a building elevation plan, which show building design, materials, and architectural profiles of all structures proposed for the site.

1. Building Mass: The maximum number and width of consecutively attached townhomes shall not exceed six (6) units or one-hundred fifty (150) feet from end-wall to end-wall.
2. Designation of Access/Alleys: Townhomes shall receive vehicle access only from the front or rear lot line exclusively, not both. If alleys are used for access they shall be created at the time of subdivision approval and built to City standards as illustrated in the Transportation System Plan.

3. Street Access: Townhomes fronting on a neighborhood route, collector, or arterial shall use alley access, either public or private, and comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances and conflicts with other transportation users, slow traffic, improve appearance of the streets, and minimize paved surfaces for better stormwater management. Direct access to local streets shall only be used if it can be demonstrated that due to topography or other unique site conditions precludes the use of alleys.
   a. Alley loaded garages shall be set back a minimum five feet to allow a turning radius for vehicles and provide a service area for utilities.
   b. If garages face the street, the garage doors shall be recessed behind the front elevation (living area, covered porch, or other architectural feature) by a minimum of one (1) foot.
   c. The maximum allowable driveway width facing the street is two (2) feet greater than the width of the garage door. The maximum garage door width per unit is sixty percent (60%) of the total building width. For example, a twenty (20) foot wide unit may have one 12-foot wide recessed garage door and a fourteen (14) foot wide driveway. A 24-foot wide unit may have a 14-foot, 4-inch wide garage door with a 16-foot, 4-inch wide driveway.
4. Building Design: The intent of the following standards is to make each housing unit distinctive and to prevent garages and blank walls from being a dominant visual feature.
   a. The front facade of a townhome may not include more than forty percent (40%) of garage door area.
   b. The roofs of each attached townhome must be distinct from the other through either separation of roof pitches or direction, variation in roof design, or architectural feature. Hipped, gambrel, gabled, or curved (i.e. barrel) roofs are required. Flat roofs are not permitted.
   c. A minimum of fifty percent (50%) of the residential units within a block's frontage shall have a front porch in the MDRH zone. Front porches may encroach six (6) feet beyond the perimeter foundation into front yard, street-side yard, and landscape corridor setbacks for neighborhood routes and collectors, and ten (10) feet for arterials, and are not subject to lot coverage limitations, in both the MDRH and HDR zones. Porches may not encroach into the clear vision area, as defined in Section 16.58.010.
   d. Window trim shall not be flush with exterior wall treatment for all windows facing public right-of-ways. Windows shall be provided with architectural surround at the jamb, head and sill.
   e. All building elevations visible from the street shall provide doors, porches, balconies, windows, or architectural features to provide variety in facade. All front street-facing elevations, and a minimum of fifty percent (50%) of side and rear street-facing building elevations, as applicable, shall meet this standard. The standard applies to each full and partial building story. Alternatively, in lieu of these standards, the Old Town Design Standards in Chapter 16.162 may be applied.
   f. The maximum height of all townhomes shall be that of the underlying zoning district standard, except that: twenty-five percent (25%) of townhomes in the

MDRH zone may be 3-stories, or a maximum of forty (40) feet in height if located more than one-hundred fifty (150) feet from adjacent properties in single-family (detached) residential use.

5. Vehicular Circulation: All streets shall be constructed in accordance with applicable City standards in the Transportation System Plan. The minimum paved street improvement width shall be:
   a. Local Street: Twenty-eight (28) feet, with parking allowed on one (1) side.
   b. Neighborhood Route: Thirty-six (36) feet, with parking on both sides.
   c. Collector: Thirty-four (34) feet with parking on one side, fifty (50) feet with parking on both sides.
   d. In lieu of a new public street, or available connection to an existing or planned public street, a private 20 foot minimum driveway, without on-street parking, and built to public improvement standards, is allowed for infill properties as defined in Section 16.44.010(D). All townhome developments in excess of thirty (30) units require a secondary access.
   e. Any existing or proposed street within the townhome block that, due to volumes of traffic, connectivity, future development patterns, or street location, as determined by the City, functions as a neighborhood route or collector or higher functional classification street based on connectivity, shall be constructed to full City public improvement standards.

(Ord. No. 2017-001, § 1, 4-4-2017; Ord. No. 2011-009, § 2, 7-19-2011; Ord. 2002-1126, § 2)

its current value, as appraised by the Washington County Assessor. Except as otherwise provided for in Section 16.48.020, any subsequent use shall conform fully to all provisions of the zone in which it is located.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; Ord. 86-851)

16.48.070 Permitted Changes to Non-Conformities

A. Repairs and Maintenance

On any non-conforming structure or portion of a structure containing a non-conforming use, normal repairs or replacement on non-bearing walls, fixtures, wiring, or plumbing, may be performed in a manner not in conflict with the other provisions of this Section. Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof officially declared to be unsafe by any official charged with protecting the public safety.

B. A non-conforming use or structure may be enlarged or altered as per Sections 16.48.030A or 16.48.040A if, in the Commission's determination, the change will not have greater adverse impact on surrounding properties or will decrease its non-conformity considering the following:
   1. The character and history of the development and of development in the surrounding area.
   2. The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable at the property line.
   3. The comparative numbers and kinds of vehicular trips to the site.
   4. The comparative amount of nature of outside storage, loading and parking.
   5. The comparative visual appearance.
   6. The comparative hours of operation.
   7. The comparative effect on existing vegetation.
   8. The comparative effect on water drainage.
   9. The degree of service or other benefit to the area.
   10. Other factors which tend to reduce conflicts or incompatibility with the character or needs of the area.

C. Further exceptions to changes to non-conformities are permitted in the OT overlay zone, as per Section 16.162.060F.

(Ord. 91-922, § 3; Ord. 86-851, § 3)

16.48.080 Conditional Uses

A use existing before the effective date of this Code which is permitted as a conditional use shall not be deemed non-conforming if it otherwise conforms to the standards of the zone in which it is located. Enlargement, extension, reconstruction, or moving of such use shall only be allowed subject to Chapter 16.82.

(Ord. 86-851, § 3)

Chapter 16.50

ACCESSORY STRUCTURES, ARCHITECTURAL FEATURES AND DECKS*

Sections:

16.50.010 Standards and Definition

A. Reserved

B. Generally

For uses located within a residential zoning district, accessory uses, buildings, and structures shall comply with all requirements for principal uses, buildings, and structures except where specifically modified below; and shall also comply with the City of Sherwood Building Code as amended. Where this Code and the Building Code conflict, the most stringent shall apply.

C. Dimension and Setback Requirements

1. Any accessory building shall have not more than six hundred (600) square feet of ground floor area and shall be no taller than 15 feet in height.
2. No accessory building or structure over three (3) feet in height shall be allowed in any required front yard. Accessory buildings may be allowed in required side and rear building setbacks as described below.
3. When a Building Permit is not required and the structure is less than 100 square of ground floor area feet and less than six feet tall, no rear or side yard setbacks are required and the structure may abut the rear or side property line.
4. When a Building Permit is not required and the structure is over 100 square feet of ground floor area, but under 200 square feet and under ten (10) feet in height:
   a. Detached accessory structures shall maintain a minimum 3-foot distance from any side or rear property line.
   b. Attached accessory structures shall be setback a minimum of three (3) feet from any side property line and ten (10) feet from a rear property line.
5. When a Building Permit is required:
   a. No accessory building or structure over three (3) feet in shall be located closer than five (5) feet to any side property line and ten (10) feet from any rear property line.
   b. Any accessory building or structure attached by a common wall or permanent roof or foundation to the principal building or structure must comply with all setbacks for the principal building or structure.

***Editor's note—**Ord. No. 2011-003, § 2, adopted April 5, 2011, amended the Code by repealing former Ch. 16.50, §§ 16.50.010—16.50.030, and adding a new Ch. 16.50. Former Ch. 16.50 pertained to accessory uses, and derived from Ords. 86-851 and 2003-1151.

D. No accessory building or structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way, including but not limited to streets, alleys, and public and/or private easements.

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2011-003, § 2, 4-5-2011)

16.50.020 Conditional Uses

Any accessory use and/or structure associated with a conditional use shall be allowed only after approval in accordance with Chapter 16.82.

(Ord. No. 2011-003, § 2, 4-5-2011)

16.50.030 Conflicts of Interpretation

A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions of Chapter 16.88.

(Ord. No. 2011-003, § 2, 4-5-2011)

16.50.040 Accessory Structure Exemptions

The following are not considered accessory structures, for the purposes of this section:

A. Pergolas, arbors and trellises and other similar structures, if under ten (10) feet.

B. Play structure and swing sets if under ten (10) feet.

C. Flag poles limited to 20 feet

D. Temporary and seasonal above ground pools

E. Structures that are considered Accessory Dwelling Units and fall under the provisions of 16.52 Accessory Dwelling Units.

(Ord. No. 2011-003, § 2, 4-5-2011)

16.50.050 Architectural Features

Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to five (5) feet into a front or rear required yard setback and two and one half (2 ½) into the required side yard setback.

(Ord. No. 2011-003, § 2, 4-5-2011)

16.50.060 Decks

A. Uncovered decks which are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks shall not be allowed in the required front or side yard setbacks.

B. Uncovered decks 30 inches above grade that require a building permit placed on properties adjacent to wetland or open space tracts that are publicly dedicated or in public ownership, may project into the required rear yard, but shall not be closer than ten (10) feet from the rear property line. All other decks will comply with the required setbacks for the underlying zoning district.

(Ord. No. 2011-003, § 2, 4-5-2011)

16.50.070 In Ground Pools

A. In-ground pools/spas less than 3 feet in height that are not temporary or seasonal may be sited 5 feet from the side and 10 feet from the rear property lines. In-ground pools shall not be placed within the required front or street side setback.

(Ord. No. 2018-007, § 2, 10-2-2018)

Chapter 16.52

ACCESSORY DWELLING UNITS

Sections:

16.52.010 Purpose

An accessory dwelling unit (ADU) is a habitable living unit that provides the basic requirements for shelter, heating, cooking and sanitation. The purpose of an ADU is to provide homeowners with a means of obtaining rental income, companionship and security. ADUs provide Sherwood residents another affordable housing option and a means to live independently with relatives.
(Ord. No. 2019-003, § 2, 3-5-2019; Ord. 2000-1108, § 3)

16.52.020 Requirements for all accessory dwelling units

All accessory dwelling units must meet the following standards:

A. Creation: One accessory dwelling unit per single-family detached dwelling may only be created through the following methods:
   1. Converting existing living area, attic, basement or garage;
   2. Adding floor area;
   3. Constructing a detached ADU on a site with an existing house;
   4. Constructing a new house with an internal or detached ADU.

B. Owner occupancy: The property owner, which shall include the holders and contract purchasers, must occupy either the principal unit or the ADU as their permanent residence for at least six months out of the year, and at no time receive rent for the owner-occupied unit.

C. Number of residents: An ADU shall not be occupied by more than 3 persons.

D. Location of entrances: The entrance to a detached ADU shall not be visible from the street that the primary residence is addressed from.

E. Parking: Additional parking shall be in conformance with the off-street parking provisions for single-family dwellings. If the ADU has more than one bedroom conformance with the Multi-Family parking standards shall apply.

F. Floor area: The maximum gross habitable floor area (GHFA) of the ADU shall not exceed 800 square feet.

G. Setbacks and dimensional requirements: The ADU shall comply with the setback and dimensional requirements of the underlying zone. A detached ADU shall only be located in the rear yard or above a detached garage.

H. Design and appearance:

   Height: The height of a detached ADU shall be no higher than the primary residence.

   A detached and attached ADU shall meet the following standards for design and appearance.

Design and appearance standards: Detached ADUs must meet one option from each row below:

Exterior finish materials	Must be the same or visually match in type, size and placement, the exterior finish material of the primary structure	OR	Siding made from wood, composite boards, vinyl or aluminum products. Siding must be a shingle pattern or in a horizontal clapboard or shiplap pattern ≤ 6 inches in width
Roof pitch	Predominant roof pitch must be the same as the predominant roof pitch of the primary structure	OR	Roof pitch must be at least 6/12
Trim	Must be the same in type, size, and location as the trim used on the primary structure	OR	All windows and door trim must be at least 3.5 inches wide
Eaves	Same projection distance as primary structure	OR	All eaves project at least 1 foot from the building walls

(Ord. No. 2019-003, § 2, 3-5-2019; Ord. 2000-1108, § 3)

Chapter 16.54

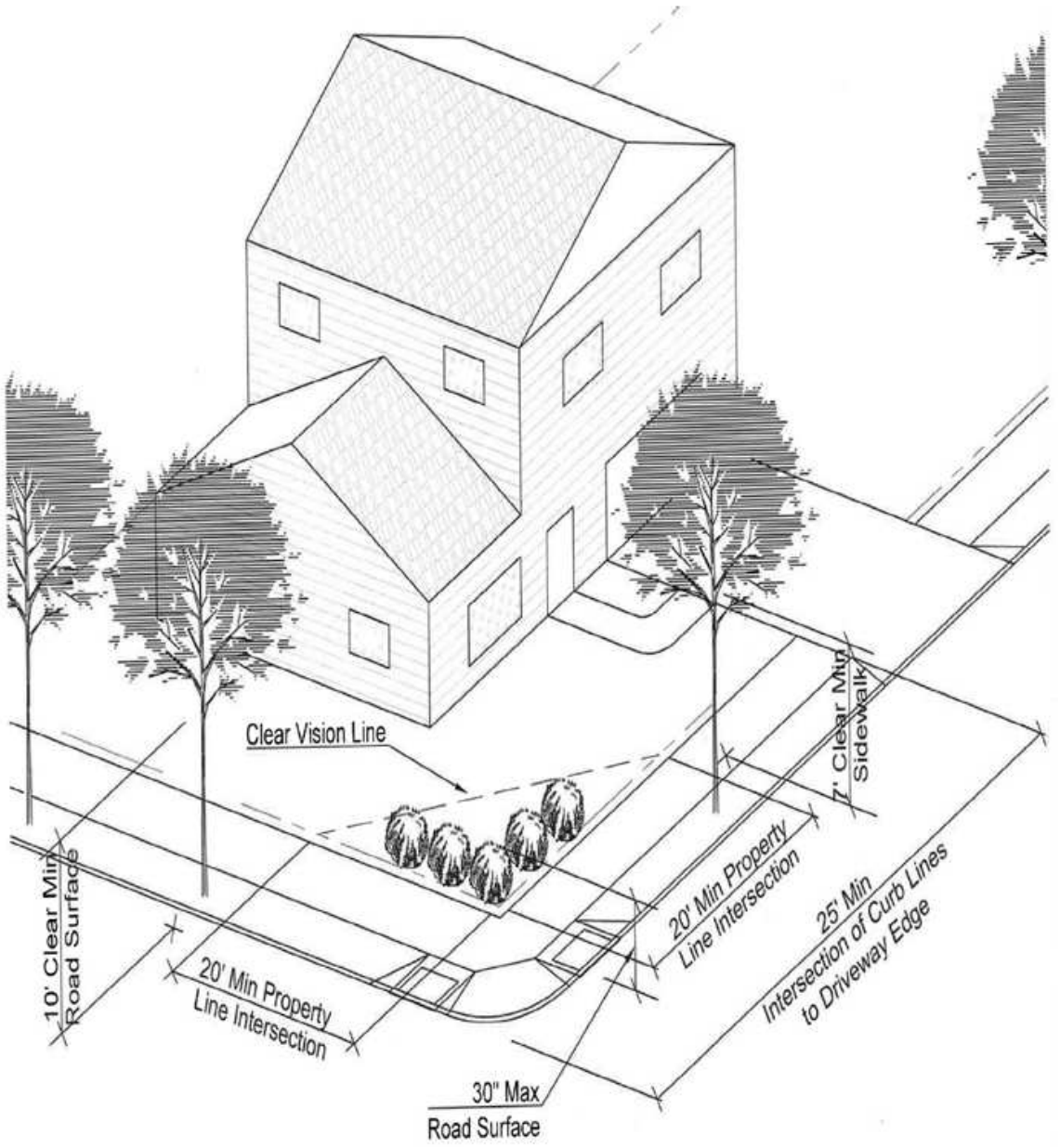
ADULT ENTERTAINMENT

Sections:

16.54.010 Adult entertainment

Where otherwise permitted by the provisions of this Code, an adult entertainment business shall not be located within one thousand (1,000) feet of an existing or previously approved adult entertainment business or within two hundred and fifty (250) feet of public parks, churches, schools, day care centers, or residentially zoned property. Both distances shall be measured in a straight line, without regard to intervening structures, from the closest structural wall of the adult entertainment business to either the closest structural wall of an existing or previously approved adult entertainment business, or to the closest property line of all impacted properties.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)



(Ord. No. 2018-007, § 2, 10-2-2018; Ord. No. 2011-003, § 2, 4-5-2011)

16.58.020 Fences, Walls and Hedges.

A. Purpose:

The fence standards promote the positive benefits of fences without negatively impacting the community or endangering public or vehicle safety. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property by providing attractive landscape materials. The negative effect of fences can

include the creation of street walls that inhibit police and community surveillance, decrease the sense of community, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones.

B. Reserved

C. Applicability: The following standards apply to walls, fences, hedges, lattice, mounds, and decorative toppers. The standards do not apply to vegetation, sound walls and landscape features up to four (4) feet wide and at least twenty (20) feet apart.

D. Location—Residential Zone:
   1. Fences up to forty-two (42) inches high are allowed in required front building setbacks.
   2. Fences up to six (6) feet high are allowed in required side or rear building setbacks, except fences adjacent to public pedestrian access ways and alleys shall not exceed forty-two (42) inches in height unless there is a landscaped buffer at least three (3) feet wide between the fence and the access way or alley.
   3. Fences on corner lots may not be placed closer than eight (8) feet back from the sidewalk along the corner-side yard.
   4. All fences shall be subject to the clear vision provisions of Section 16.58.010.
   5. A sound wall is permitted when required as a part of a development review or concurrent with a road improvement project. A sound wall may not be taller than twenty (20) feet.
   6. Hedges are allowed up to eight (8) feet tall in the required side and rear setbacks.

E. Location—Non-Residential Zone:
   1. Fences up to eight (8) feet high are allowed along front, rear and side property lines, subject to Section 16.58.010. (Clear Vision) and building department requirements.
   2. A sound wall is permitted when required as a part of a development review or concurrent with a road improvement project. A sound wall may not be taller than twenty (20) feet.
   3. Hedges up to twelve (12) feet tall are allowed, however, when the non-residential zone abuts a residential zone the requirements of section 16.58.030.d.6. shall apply.

F. General Conditions—All Fences:
   1. Fences must be structurally sound and maintained in good repair. A fence may not be propped up in any way from the exterior side.
   2. Chain link fencing is not allowed in any required residential front yard setback.
   3. The finished side of the fence must face the street or the neighboring property. This does not preclude finished sides on both sides.
   4. Buffering: If a proposed development is adjacent to a dissimilar use such as a commercial use adjacent to a residential use, or development adjacent to an existing farming operation, a buffer plan that includes, but is not limited to, setbacks, fencing, landscap-

Division III. ADMINISTRATIVE PROCEDURES

Chapter 16.70

GENERAL PROVISIONS

Sections:

16.70.010 Pre-Application Conference

Pre-application conferences are encouraged and shall be scheduled to provide applicants with the informational and procedural requirements of this Code; to exchange information regarding applicable policies, goals and standards of the Comprehensive Plan; to provide technical and design assistance; and to identify opportunities and constraints for a proposed land use action. An applicant may apply at one time for all permits or zone changes needed for a development project as determined in the pre-application conference.
(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; Ord. 86-851)

16.70.020 Neighborhood Meeting

A. The purpose of the neighborhood meeting is to solicit input and exchange information about the proposed development.
B. Applicants of Type III, IV and V applications are required to hold a meeting, at a public location for adjacent property owners and recognized neighborhood organizations that are within 1,000 feet of the subject application, prior to submitting their application to the City. Affidavits of mailing, sign-in sheets and a summary of the meeting notes must be included with the application when submitted. Applicants for Type II land use action are encouraged, but not required to hold a neighborhood meeting.
    1. Projects requiring a neighborhood meeting in which the City or Urban Renewal District is the property owner or applicant shall also provide published and posted notice of the neighborhood meeting consistent with the notice requirements in 16.72.020.

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

16.70.030 Application Requirements

A. Form

Any request for a land use action shall be made on forms prescribed and provided by the City and shall be prepared and submitted in compliance with this Code. A land use application shall be reviewed against the standards and criteria effective at the time of application submittal. Original signatures from all owners or their legal representative must be on the application form.

B. Copies

To assist in determining the compliance of proposed land use actions with the Comprehensive Plan and provisions of this Code, applicants shall submit one (1) complete electronic copy of the full application packet, one reduced (8½ × 11) copy of the full application packet and the required number of hard copies as outlined on the applicable forms prescribed and provided by the City.

C. Content

1. In addition to the required application form, all applications for Type II-V land use approval must include the following:
   a. Appropriate fee(s) for the requested land use action required based on the City of Sherwood Fee Schedule.
   b. Documentation of neighborhood meeting per 16.70.020.
   c. Tax Map showing property within at least 300 feet with scale (1" = 100' or 1" = 200') north point, date and legend.
   d. Two (2) sets of mailing labels for property owners of record within 1,000 feet of the subject site, including a map of the area showing the properties to receive notice and a list of the property owners, addresses and tax lots. Ownership records shall be based on the most current available information from the Tax Assessor's office.
   e. Vicinity Map showing a minimum radius of 500 feet around the property and the closest intersection of two Principal Arterial, Arterial, Collector or Neighborhood roads.
   f. A narrative explaining the proposal in detail and a response to the Required Findings for Land Use Review for the land use approval(s) being sought.
   g. Two (2) copies of a current preliminary title report.
   h. Existing conditions plan drawn to scale showing: property lines and dimensions, existing structures and other improvements such as streets and utilities, existing vegetation, any floodplains or wetlands and any easements on the property.
   i. Proposed development plans sufficient for the Hearing Authority to determine compliance with the applicable standards. Checklists shall be provided by the City detailing information typically needed to adequately review specific land use actions.
   j. A traffic study, if required by other sections of this Code.
   k. Other special studies or reports that may be identified by the City Manager or his or her designee to address unique issues identified in the pre-application meeting or during project review including but not limited to:
      1) Wetland assessment and delineation;
      2) Geotechnical report;
      3) Traffic study;
      4) Verification of compliance with other agency standards such as CWS, DSL, Army Corps of Engineers, ODOT, PGE, BPA, Washington County.
   l. Plan sets must have:
      1) The proposed name of the development. If a proposed project name is the same as or similar to other existing projects in the City of Sherwood, the applicant may be required to modify the project name.

2) The name, address and phone of the owner, developer, applicant and plan producer.
3) North arrow,
4) Legend,
5) Date plans were prepared and date of any revisions
6) Scale clearly shown. Other than architectural elevations, all plans must be drawn to an engineer scale.
7) All dimensions clearly shown.

2. Exemptions can be made when items in 16.70.030.C.1 are not necessary in order to make a land use decision, such as for text amendments to the development code. Additional written documentation may be necessary to adequately demonstrate compliance with the criteria.

(Ord. No. 2018-007, § 2, 10-2-2018; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3)

16.70.040 Application Submittal

A. Acceptance

An application for land use will not be accepted by the City without the required forms, the required fee(s), the signature of the applicant and authorization from the property owner of record.

B. Completeness

Within thirty (30) calendar days of the date of initial submission, the City shall determine whether the application is complete and so notify the applicant in writing. The application will not be deemed complete unless the minimum application requirements are met as described on the application form provided by the City. Applicants will receive written notification of any application deficiencies. Information outlined in the letter of incompleteness must be submitted within 180 days of the date of the letter. Alternatively, within 14 days of the date of the letter, the applicant may submit a statement indicating refusal to submit the required items. If a refusal statement is provided, the application is considered complete on the 31st day from the date the application was submitted.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 98-1053, § 1; 91-922)

16.70.050 Availability of Record for Review

A. Public Inspection

1. Except as provided herein, all application materials to be relied upon in public hearings on land use actions required by this Code shall be available for public inspection twenty (20) calendar days in advance of the initial hearing before the Commission or Council. If two (2) or more hearings are required on a land use action, all application materials shall be available for public inspection at least ten (10) calendar days in advance of the initial hearing before the Hearing Authority. All application materials to be relied upon for Type II decisions as indicated in Section 16.72.010 shall be available for public inspection fourteen (14) calendar days in advance of the staff decision on the application.

2. Application materials shall be available to the public for inspection at no cost. Copies of application materials will be provided to the public, upon request, at a cost defined by the City's fee schedule.

B. Continuance

If additional materials are provided in support of an application later than twenty (20) calendar days in advance of the initial hearing before the Hearing Authority, or later than ten (10) calendar days in advance of the initial hearing before the Commission or Council if two (2) or more hearings are required, or if the City or the applicant fails to meet any requirements of Chapter 16.72, any party to the application, or party notified of the hearing as per Section 16.72.020, may make request to the City, either verbally at the initial hearing or in writing at any time before the close of the hearing, for a hearing continuance. Any continuance or extension of the record requested by an applicant shall result in a corresponding extension of the time limitations. If, in the City's determination, there is a valid basis for the continuance request, said request shall be granted.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 99-1079, § 3; 98-1053; 91-922)

16.70.060 Application Resubmission

A land use application denied in accordance with this Code, shall not be accepted for resubmission for one-hundred eighty (180) calendar days following the date of the denial, unless the application has been sufficiently modified to abrogate the reason for denial, as determined by the City. All applications resubmitted after being denied in accordance with this Code shall be required to provide new application materials, pay new fees, and shall be subject to the review process required by this Code for the land use action being considered.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 98-1053 § 1)

Chapter 16.72

PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

Sections:

16.72.010 Generally

A. Classifications

Except for Final Development Plans for Planned Unit Developments, which are reviewed per Section 16.40.030, all quasi-judicial development permit applications and legislative land use actions shall be classified as one of the following:

1. Type I

   The following quasi-judicial actions shall be subject to a Type I review process:

   a. Signs;
   b. Property line adjustments;
   c. Interpretation of similar uses;
   d. Temporary uses;
   e. Final subdivision and partition plats;
   f. Final site plan review;
   g. Time extensions of approval, per Sections 16.90.020; 16.124.010;
   h. Class A home occupation permits;
   i. Interpretive decisions by the city manager or his/her designee;
   j. Tree removal permit—Street trees over five inches DBH, per section 16.142.050.B.2 and 3;
   k. Adjustments;
   l. Re-platting, lot consolidations and vacations of plats;
   m. Minor modifications to approved site plans;
   n. Accessory dwelling units.

2. Type II

   The following quasi-judicial actions shall be subject to a Type II review process:

   a. Land Partitions
   b. Expedited Land Divisions - The Planning Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of the Zoning and Community

Development Code. Conditions may be imposed by the Planning Director if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code.

c. "Fast-track" Site Plan review, defined as those site plan applications which propose less than 15,000 square feet of floor area, parking or seating capacity of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to a Conditional Use Permit, except as follows: auditoriums, theaters, stadiums, and those applications subject to Section 16.72.010.A.4.
d. "Design Upgraded" Site Plan review, defined as those site plan applications which propose between 15,001 and 40,000 square feet of floor area, parking or seating capacity and which propose a minimum of eighty percent (80%) of the total possible points of design criteria in the "Commercial Design Review Matrix" found in Section 16.90.020.D.6.d.
e. Industrial "Design Upgraded" projects, defined as those site plan applications which propose between 15,001 and 60,000 square feet of floor area, parking or seating capacity and which meet all of the criteria in Section 16.90.020.D.7.b.
f. Homeowner's association street tree removal and replacement program extension.
g. Class B Variance
h. Street Design Modification
i. Subdivisions between 4—10 lots
j. Medical marijuana dispensary permit

3. Type III

The following quasi-judicial actions shall be subject to a Type III review process:

a. Conditional Uses
b. Site Plan Review — between 15,001 and 40,000 square feet of floor area, parking or seating capacity except those within the Old Town Overlay District, per Section 16.72.010.A.
c. Subdivisions between 11—50 lots.

4. Type IV

The following quasi-judicial actions shall be subject to a Type IV review process:

a. Site Plan review and/or "Fast Track" Site Plan review of new or existing structures in the Old Town Overlay District.
b. All quasi-judicial actions not otherwise assigned to a Hearing Authority under this section.
c. Site Plans — Greater than 40,000 square feet of floor area, parking or seating capacity.
d. Site Plans subject to Section 16.90.020.D.6.f.
e. Industrial Site Plans subject to Section 16.90.020.D.7.b.
f. Subdivisions — over 50 lots.
g. Class A Variance

5. Type V

The following legislative actions shall be subject to a Type V review process:

a. Plan Map Amendments

b. Plan Text Amendments

c. Planned Unit Development — Preliminary Development Plan and Overlay District.

B. Hearing and Appeal Authority

1. Each Type V legislative land use action shall be reviewed at a public hearing by the Planning Commission with a recommendation made to the City Council. The City Council shall conduct a public hearing and make the City's final decision.

2. Each quasi-judicial development permit application shall potentially be subject to two (2) levels of review, with the first review by a Hearing Authority and the second review, if an appeal is filed, by an Appeal Authority. The decision of the Hearing Authority shall be the City's final decision, unless an appeal is properly filed within fourteen (14) days after the date on which the Hearing Authority took final action. In the event of an appeal, the decision of the Appeal Authority shall be the City's final decision.

3. The quasi-judicial Hearing and Appeal Authorities shall be as follows:

a. The Type I Hearing Authority is the Planning Director and the Appeal Authority is the Planning Commission.

(1) The Planning Director's decision shall be made without public notice or public hearing. Notice of the decision shall be provided to the applicant.

(2) The applicant may appeal the Planning Director's decision.

b. The Type II Hearing Authority is the Planning Director and the Appeal Authority is the Planning Commission.

(1) The Planning Director's decision shall be made without a public hearing, but not until at least fourteen (14) days after a public notice has been mailed to the applicant and all property owners within 1,000 feet of the proposal. Any person may submit written comments to the Planning Director which address the relevant approval criteria of the Zoning and Development Code. Such comments must be received by the Planning Department within fourteen (14) days from the date of the notice.

(2) Any person providing written comments may appeal the Planning Director's decision.

c. The Type III Hearing Authority is the Hearings Officer and the Appeal Authority is the Planning Commission.

(1) The Hearings Officer shall hold a public hearing following public notice in accordance with Sections 16.72.020 through 16.72.080.

(2) Any person who testified before the Hearings Officer at the public hearing or submitted written comments prior to the close of the record may appeal the Hearings Officer's decision.

d. The Type IV Hearing Authority is the Planning Commission and the Appeal Authority is the City Council.

(1) The Planning Commission shall hold a public hearing following public notice in accordance with Sections 16.72.020 through 16.72.080.

(2) Any person who testified before the Planning Commission at the public hearing or submitted written comments prior to the close of the record may appeal the Planning Commission's decision.

e. The Type V Hearing Authority is the City Council, upon recommendation from the Planning Commission and the Appeal Authority is the Land Use Board of Appeals (LUBA).

C. Approval Criteria

1. The approval criteria for each development permit application shall be the approval standards and requirements for such applications as contained in this Code. Each decision made by a Hearing Authority or Appeal Authority shall list the approval criteria and indicate whether the criteria are met. It is the applicant's burden to demonstrate to the Hearing Authority and Appeal Authority how each of the approval criteria are met. An application may be approved with conditions of approval imposed by the Hearing Authority or Appeal Authority. On appeal, the Appeal Authority may affirm, reverse, amend, refer, or remand the decision of the Hearing Authority.
2. In addition to Section 1 above, all Type IV quasi-judicial applications shall also demonstrate compliance with the Conditional use criteria of Section 16.82.020.

(Ord. No. 2019-003, § 2, 3-5-2019; Ord. No. 2015-005, § 2, 5-5-2015; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2011-011, § 1, 10-4-2011; Ord. No. 2011-003, § 2, 4-5-2011; Ord. No. 2011-001, §§ 1, 2, 2-15-2011; Ord. No. 2010-015, § 2, 10-5-2010; Ord. No. 2010-05, § 2, 4-6-2010; Ord. No. 2009-005, § 2, 6-2-2009; Ord. 2003-1148, § 3; 2001-1119; 99-1079; 98-1053)

16.72.020 Public Notice and Hearing

A. Newspaper Notice

Notices of all public hearings for Type III, IV and V land use actions required by this Code shall be published in a newspaper of general circulation available within the City two (2) calendar weeks prior to the initial scheduled hearing before the Hearing Authority and shall be published one additional time in the Sherwood Archer, Sherwood Gazette or similarly local publication, no less than 5 days prior to the initial scheduled hearing before the hearing authority.

B. Posted Notice

1. Notices of all Type II, III, IV and V land use actions required by this Code shall be posted by the City in no fewer than five (5) conspicuous locations within the City, not less than fourteen (14) calendar days in advance of the staff decision on Type II applications or twenty (20) calendar days in advance of the initial hearing before the Hearing Authority for Type III, IV and V applications.
2. Signage must be posted on the subject property fourteen (14) calendar days in advance of the staff decision on Type II applications and twenty (20) calendar days in advance of the initial hearing before the Hearing Authority for Type III, IV and V applications.
   a. on-site posted notice shall provide a general description of the land use action proposed, the project number and where additional information can be obtained.
   b. On-site posted notice shall be designed to be read by motorists passing by; the exact size and font style to be determined by the City.
   c. On-site posted notice shall be located on the property in a manner to be visible from the public street. For large sites or sites with multiple street frontages, more than one sign may be required.

	Minimum Parking Standard	Maximum Permitted Parking Zone A[1]	Maximum Permitted Parking Zone B[2]
Warehouse (gross square feet; parking ratios apply to warehouses 150,000 gsf or greater)	0.3	0.4	0.5

[1] Parking Zone A reflects the maximum number of permitted vehicle parking spaces allowed for each listed land use. Parking Zone A areas include those parcels that are located within one-quarter (¼) mile walking distance of bus transit stops, one-half (½) mile walking distance of light rail station platforms, or both, or that have a greater than twenty-minute peak hour transit service.

[2] Parking Zone B reflects the maximum number of permitted vehicle parking spaces allowed for each listed land use. Parking Zone B areas include those parcels that are located at a distance greater than one-quarter (¼) mile walking distance of bus transit stops, one-half (½) mile walking distance of light rail station platforms, or both.

[3] If the street on which the house has direct access does not permit on-street parking or is less than twenty-eight (28) feet wide, two (2) off-street parking spaces are required per single-family residential unit. (includes single-family detached or attached, two-family dwelling or a manufactured home on an individual lot) If the abutting street is twenty-eight (28) feet or wider, one (1) standard (9 ft. × 20 ft.) parking space is required.

[4] Visitor parking in residential developments: Multi-family dwelling units with more than ten (10) required parking spaces shall provide an additional fifteen (15) percent of the required number of parking spaces for the use of guests of the residents of the development. The spaces shall be centrally located or distributed throughout the development. Required bicycle parking facilities shall also be centrally located within or evenly distributed throughout the development.

B. Dimensional and General Configuration Standards

1. Dimensions For the purpose of this Chapter, a "parking space" means a stall nine (9) feet in width and twenty (20) feet in length. Up to twenty five (25) percent of required parking spaces may have a minimum dimension of eight (8) feet in width and eighteen (18) feet in length so long as they are signed as compact car stalls.

2. Layout

   Parking space configuration, stall and access aisle size shall be of sufficient width for all vehicle turning and maneuvering. Groups of more than four (4) parking spaces shall be served by a driveway so as to minimize backing movements or other maneuvering within a street, other than an alley. All parking areas shall meet the minimum standards shown in the following table and diagram.

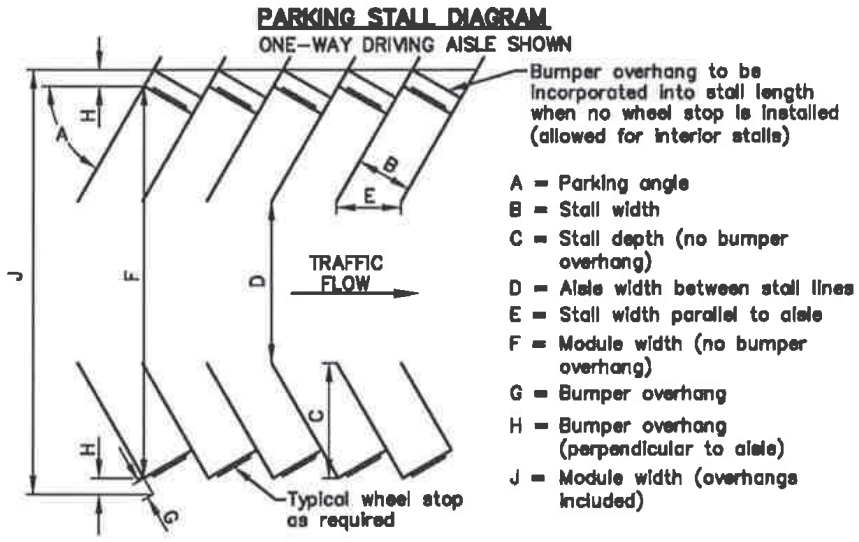


Table 2: Minimum Parking Dimension Requirements

One-Way Driving Aisle (Dimensions in Feet)

A	B	C	D	E	F	G	H	J
45°	8.0	16.5	13.0	11.3	46.0	3.0	2.5	51.0
	9.0	18.5	12.0	12.7	49.0	3.0	2.5	54.0
60°	8.0	17.0	18.0	9.2	52.0	3.0	2.5	57.0
	9.0	19.5	16.0	10.4	55.0	3.0	2.5	60.0
75°	8.0	16.5	26.0	8.3	59.0	3.0	3.0	65.0
	9.0	19.0	23.0	9.3	61.0	3.0	3.0	67.0
90°	8.0	18.0	26.0	8.0	56.0	3.0	3.0	62.0
	9.0	20.0	24.0	9.0	58.0	3.0	3.0	64.0

Table 3: Two-Way Driving Aisle

(Dimensions in Feet)

A	B	C	D	E	F	G	H	J
45°	8.0	16.5	24.0	11.3	57.0	3.0	2.5	62.0
	9.0	18.5	24.0	12.7	61.0	3.0	2.5	66.0
60°	8.0	17.0	24.0	9.2	58.0	3.0	2.5	63.0
	9.0	19.5	24.0	10.4	63.0	3.0	2.5	68.0
75°	8.0	16.5	26.0	8.3	59.0	3.0	3.0	65.0
	9.0	19.0	24.0	9.3	62.0	3.0	3.0	68.0
90°	8.0	18.0	26.0	8.0	56.0	3.0	3.0	62.0
	9.0	20.0	24.0	9.0	58.0	3.0	3.0	64.0

3. Wheel Stops
   a. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four (4) inches high, located three (3) feet back from the front of the parking stall as shown in the above diagram.
   b. Wheel stops adjacent to landscaping, bio-swales or water quality facilities shall be designed to allow storm water runoff.
   c. The paved portion of the parking stall length may be reduced by three (3) feet if replaced with three (3) feet of low lying landscape or hardscape in lieu of a wheel stop; however, a curb is still required. In other words, the traditional three-foot vehicle overhang from a wheel stop may be low-lying landscaping rather than an impervious surface.
4. Service Drives

   Service drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers, and shall have minimum vision clearance area formed by the intersection of the driveway center line, the street right-of-way line, and a straight line joining said lines through points fifteen (15) feet from their intersection.
5. Credit for On-Street Parking
   a. On-Street Parking Credit. The amount of off-street parking required shall be reduced by one (1) off-street parking space for every on-street parking space adjacent to the development. On-street parking shall follow the established configuration of existing on-street parking, except that angled parking may be allowed for some streets, where permitted by City standards.
   b. The following constitutes an on-street parking space:
      (1) Parallel parking, each twenty-four (24) feet of uninterrupted curb;
      (2) Forty-five (45)/sixty (60) degree diagonal, each with ten (10) feet of curb;
      (3) Ninety (90) degree (perpendicular) parking, each with eight (8) feet of curb;
      (4) Curb space must be connected to the lot which contains the use;
      (5) Parking spaces that would not obstruct a required clear vision area, nor any other parking that violates any law or street standard; and;
      (6) On-street parking spaces credited for a specific use may not be used exclusively by that use, but shall be available for general public use at all times. No signs or actions limiting general public use of on-street spaces is permitted.
6. Reduction in Required Parking Spaces

   Developments utilizing Engineered storm water bio-swales or those adjacent to environmentally constrained or sensitive areas may reduce the amount of required parking spaces by ten (10) percent when twenty-five (25) through forty-nine (49) parking spaces are required, fifteen (15) percent when fifty (50) and seventy-four (74) parking spaces are required and twenty (20) percent when more than seventy-five (75) parking spaces are required, provided the area that would have been used for parking is maintained as a habitat area or is generally adjacent to an environmentally sensitive or constrained area.

7. Parking Location and Shared Parking

   Owners of off-street parking facilities may post a sign indicating that all parking on the site is available only for residents, customers and/or employees, as applicable.

C. Bicycle Parking Facilities
   1. General Provisions
      a. Applicability. Bicycle parking spaces shall be provided for new development, changes of use, and major renovations, defined as construction valued at twenty-five (25) percent or more of the assessed value of the existing structure.
      b. Types of Spaces. Bicycle parking facilities shall be provided in terms of short-term bicycle parking and long-term bicycle parking. Short-term bicycle parking is intended to encourage customers and other visitors to use bicycles by providing a convenient and readily accessible place to park bicycles. Long-term bicycle parking provides employees, students, residents, commuters, and others who generally stay at a site for at least several hours a weather-protected place to park bicycles.
      c. Minimum Number of Spaces. The required total minimum number of bicycle parking spaces for each use category is shown in Table 4, Minimum Required Bicycle Parking Spaces.
      d. Minimum Number of Long-term Spaces. If a development is required to provide eight (8) or more required bicycle parking spaces in Table 4, at least twenty-five (25) percent shall be provided as long-term bicycle with a minimum of one (1) long-term bicycle parking space.
      e. Multiple Uses. When there are two or more primary uses on a site, the required bicycle parking for the site is the sum of the required bicycle parking for the individual primary uses.
   2. Location and Design.
      a. General Provisions
         (1) Each space must be at least two (2) feet by six (6) feet in area, be accessible without moving another bicycle, and provide enough space between the rack and any obstructions to use the space properly.
         (2) There must be an aisle at least five (5) feet wide behind all required bicycle parking to allow room for bicycle maneuvering. Where the bicycle parking is adjacent to a sidewalk, the maneuvering area may extend into the right-of-way.
         (3) Lighting. Bicycle parking shall be at least as well lit as vehicle parking for security.
         (4) Reserved Areas. Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.
         (5) Bicycle parking in the Old Town Overlay District can be located on the sidewalk within the right-of-way. A standard inverted "U shaped" or staple design is appropriate. Alternative, creative designs are strongly encouraged.
         (6) Hazards. Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards.
      b. Short-term Bicycle Parking
         (1) Provide lockers or racks that meet the standards of this section.

(2) Locate inside or outside the building within thirty (30) feet of the main entrance to the building or at least as close as the nearest vehicle parking space, whichever is closer.

c. Long-term Bicycle Parking
   (1) Provide racks, storage rooms, or lockers in areas that are secure or monitored (e.g., visible to employees or customers or monitored by security guards).
   (2) Locate the outside bicycle parking spaces within one hundred (100) feet of the entrance that will be accessed by the intended users.
   (3) All of the spaces shall be covered.

d. Covered Parking (Weather Protection)
   (1) When required, covered bicycle parking shall be provided in one (1) of the following ways: inside buildings, under roof overhangs or awnings, in bicycle lockers, or within or under other structures.
   (2) Where required covered bicycle parking is not within a building or locker, the cover must be permanent and designed to protect the bicycle from rainfall and provide seven-foot minimum overhead clearance.
   (3) Where required bicycle parking is provided in lockers, the lockers shall be securely anchored.

Table 4: Minimum Required Bicycle Parking Spaces

Use Categories	Minimum Required Spaces
Residential Categories	
Household living	Multi-dwelling — 2 or 1 per 10 auto spaces. All other residential structure types — None
Group living	1 per 20 auto spaces
Commercial Categories	
Retail sales/service office	2 or 1 per 20 auto spaces, whichever is greater
Drive-up vehicle servicing	None
Vehicle repair	None
Commercial parking facilities, commercial, outdoor recreation, major event entertainment	4 or 1 per 20 auto spaces, whichever is greater
Self-service storage	None
Industrial Categories	
Industrial	2 or 1 per 40 spaces, whichever is greater
Public and Institutional Categories	
Park and ride facilities	2 or 1 per 20 auto spaces
Community service essential service providers parks and open areas	2 or 1 per 20 auto spaces, whichever is greater
Schools	High schools — 4 per classroom

Use Categories	Minimum Required Spaces
	Middle schools — 2 per classroom
	Grade schools — 2 per 4th & 5th grade classroom
Colleges, medical centers, religious institutions, daycare uses	2 or 1 per 20 auto spaces whichever is greater

(Ord. No. 2018-007, § 2, 10-2-2018; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2014-012, § 3, 7-17-2014; Ord. No. 2012-008, § 2, 7-17-2012; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; 2005-009 § 8; Ord. 2000-2001 § 3; Ord. 86-851 § 3)

16.94.030 Off-Street Loading Standards

A. Minimum Standards

1. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers shall be located on the site of any school, or other public meeting place, which is designed to accommodate more than twenty five (25) persons at one time.
2. The minimum loading area for non-residential uses shall not be less than ten (10) feet in width by twenty-five (25) feet in length and shall have an unobstructed height of fourteen (14) feet.
3. Multiple uses on the same parcel or adjacent parcels may utilize the same loading area if it is shown in the development application that the uses will not have substantially overlapping delivery times.
4. The following additional minimum loading space is required for buildings in excess of twenty thousand (20,000) square feet of gross floor area:
   a. Twenty thousand (20,000) to fifty (50,000) sq. ft. - five hundred (500) sq. ft.
   b. Fifty (50,000) sq. ft. or more - seven hundred fifty (750) sq. ft.

B. Separation of Areas

Any area to be used for the maneuvering of delivery vehicles and the unloading or loading of materials shall be separated from designated off-street parking areas and designed to prevent the encroachment of delivery vehicles onto off-street parking areas or public streets. Off-street parking areas used to fulfill the requirements of this Chapter shall not be used for loading and unloading operations.

C. Exceptions and Adjustments.

The review authority, through Site Plan Review, may approve loading areas within a street right-of-way in the Old Town Overlay District when all of the following conditions are met:

1. Short in duration (i.e., less than one (1) hour);
2. Infrequent (less than three (3) operations occur daily between 5:00 a.m. and 12:00 a.m. or all operations occur between 12:00 a.m. and 5:00 a.m. at a location that is not adjacent to a residential zone);
3. Does not unreasonably obstruct traffic; [or] Does not obstruct traffic during peak traffic hours;
4. Does not obstruct a primary emergency response route; and

5. Is acceptable to the applicable roadway authority.

(Ord. No. 2014-012, § 3, 7-17-2014; Ord. No. 2012-008, § 2, 7-17-2012; Ord. No. 2010-015, § 2, 10-5-2010; Ord. No. 2009-005, § 2, 6-2-2009; Ord. 86-851, § 3)

Chapter 16.96

ON-SITE CIRCULATION

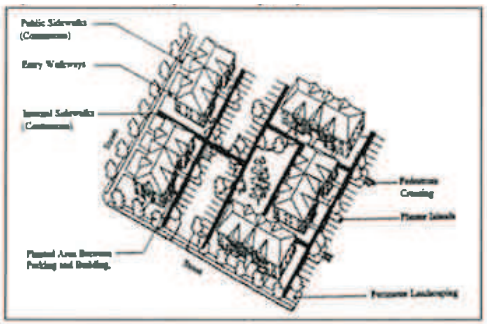
Sections:

16.96.010 On-Site Pedestrian and Bicycle Circulation

A. Purpose

On-site facilities shall be provided that accommodate safe and convenient pedestrian access within new subdivisions, multi-family developments, planned unit developments, shopping centers and commercial districts, and connecting to adjacent residential areas and neighborhood activity centers within one-half mile of the development. Neighborhood activity centers include but are not limited to existing or planned schools, parks, shopping areas, transit stops or employment centers. All new development, (except single-family detached housing), shall provide a continuous system of private pathways/sidewalks.

On-Site Circulation System (Multi-Family Example)



B. Maintenance

No building permit or other City permit shall be issued until plans for ingress, egress and circulation have been approved by the City. Any change increasing any ingress, egress or circulation requirements, shall be a violation of this Code unless additional facilities are provided in accordance with this Chapter.

C. Joint Access

Two (2) or more uses, structures, or parcels of land may utilize the same ingress and egress when the combined ingress and egress of all uses, structures, or parcels of land satisfied the other requirements of this Code, provided that satisfactory legal evidence is presented to the City in the form of deeds, easements, leases, or contracts to clearly establish the joint use.

D. Connection to Streets

1. Except for joint access per this Section, all ingress and egress to a use or parcel shall connect directly to a public street, excepting alleyways with paved sidewalk.

d. Area: The maximum sign area for all commercial zones shall not exceed thirty-six (36) square feet per sign face with a maximum of two (2) sign faces permitted except that in those areas identified in 16.100.030.B.1.b.1-5, the sign area for one (1) sign may be increased up to one hundred (100) square feet for a commercial center or up to one hundred fifty (150) square feet for a commercial plaza.

e. Location: No free-standing sign or any portion of any free-standing sign shall be located within a public right-of-way. Free-standing signs must comply with the Clear Vision Area requirements of Section 16.58.010.

2. Wall Signs

a. Wall signs in combination with projecting signs shall not exceed twenty (20) percent of the gross area face of the building to which the sign is attached. Signs placed on or within one (1) foot of display windows and designed to be viewed from the exterior of the building shall be included in determining the amount of signage. A minimum of thirty (30) square feet is guaranteed and the maximum shall be two-hundred fifty (250) square feet. Wall signs may not project more than one and one-half (1½) feet from the wall to which they are attached. Wall signs shall be constructed of rigid materials. No banner sign shall be framed or encased in a manner to be constructed as a wall sign.

3. Projecting Signs

a. Projecting signs supported by a wall of a building or structure shall be permitted under the following conditions:

(1) Only one (1) projecting sign will be permitted per store front. Projecting signs are attached so that they hang perpendicular to the façade of the building, and are limited in size by the provisions of 16.100.030.B.2.a above.

(a) In addition, businesses within commercial districts with a porch or awning, will be permitted to have one (1) additional awning sign that is perpendicular to the building and oriented to pedestrians provided that they are:

(i) Hung from the roof of the porch or awning;

(ii) No more than six (6) square feet in area; and

(iii) The bottom of the sign is at least eight (8) feet above the grade of the sidewalk.

(2) No projecting sign shall be permitted on the same premises where there is a free-standing sign.

(3) No projecting sign shall extend more than three (3) feet above the roof line at the wall or the top of a parapet wall, whichever is higher.

(4) When a projecting sign is used no angle irons guy wires or braces shall be visible except those that are an integral part of the overall design such as decorative metals or woods or unless they are required for safety.

(5) No sign shall project to within two (2) feet of the curb of a public street or beyond five (5) feet from the building face, whichever is less.

4. Directional Signs

a. The requirements of chapter 16.102 shall apply.

C. Industrial Zones

No permanent sign requiring a permit shall be allowed in industrial zones except for the following:

1. Free Standing Signs
    a. Industrial zoned properties that have an approved PUD and approval for permitted commercial uses, shall apply requirements in Section 16.100.030.8.1—4.
    b. Other than allowed under (a) above, a property in an industrial zone may have one (1) multi-faced free-standing sign per street frontage provided the height does not exceed six (6) feet and the sign face does not exceed thirty-six (36) square feet per sign face for a maximum of seventy-two (72) square feet.
2. Directional Signs
    a. The requirements of Chapter 16.102 shall apply.
3. Wall Signs
    a. The requirements of Section 16.100.030.B.2, Commercial Signs shall apply.

(Ord. No. 2018-007, § 2, 10-2-2018; Ord. No. 2012-009, § 2, 8-7-2012)

Chapter 16.102

TEMPORARY, PORTABLE AND BANNER SIGNS*

Sections:

16.102.010 Temporary and Portable Signs—Purpose

Temporary, portable, and banner signs regulated by this code are intended to allow the City of Sherwood citizens to exercise their right to free speech while ensuring that the City's streets remain clear of visual clutter and safe for travel. Signs that are not clearly regulated by the provisions of this chapter are subject to the standards for permanent signs in Chapter 16.100. Definitions for permanent, temporary, and portable signs can be found in Section 16.100.010.I. All temporary, portable, and banner signs are subject to the time, place, and manner regulations of this chapter
(Ord. No. 2012-009, § 2, 8-7-2012)

16.102.020 Temporary and Portable Signs—General Regulations

A. Temporary and portable signs are prohibited in the following locations:
   1. Within any ODOT right-of-way, including but not limited to Highway 99.
   2. Within any Washington County right-of-way, including but not limited to Roy Rogers Road, Edy Road, and Tualatin-Sherwood Road. However, if the city or county right of way extends more than 50 feet beyond the outermost point of road paving, curb or sidewalk, a banner or other temporary sign may be displayed at 50 feet or more from the curb or edge of pavement, subject to authorization from the entity with jurisdiction over the right of way.
   3. Within any clear vision area as defined in Section 16.58.010
B. The following temporary, portable, and banner signs are exempt from the provisions of this chapter.
   1. Public notice signs as required by Section 16.72.020, or by any federal, state or local law.
   2. Federal, state, and other flags not exceeding twenty-four (24) square feet in all residential zones, and forty (40) square feet in all other zones.
   3. Signs that have been approved in association with a City of Sherwood Special Event Permit.
   4. A public-necessity sign such as safety and instructional signs, for public facilities and public parks, City sponsored community events installed by or with permission of the City of Sherwood.

***Editor's note—**Ord. No. 2012-009, § 2, adopted August 7, 2012, amended the Code by, in effect, repealing former Ch. 16.102, §§ 16.102.010—16.102.080, and added a new Ch. 16.102. Former Ch. 16.102 pertained to signs, and derived from Ord. No. 86-851; Ord. No. 2002-1132; Ord. No. 2005-002; Ord. No. 2006-021; and Ord. No. 2009-003, adopted February 17, 2009.

C. Temporary and portable signs on private property do not require a permit, but are subject to all of the applicable standards within this section.
D. Signs shall not be placed on private property without the express permission of the property owner.
E. Signs shall not be illuminated and may not include pennant strings, balloons, streamers, spinners, propellers, search lights, or other items that involve motion to attract attention.
F. Signs shall not obstruct vehicular or pedestrian traffic.
G. It is the responsibility of the person posting a temporary or portable sign to remove it.
H. In the event that a sign is requested by a business whose regular access is blocked due to road construction and/or road closures, signs may be permitted to remain in the public right-of-way, at an approved location, until construction is completed. Such signs do not require a permit. Such signs may be located in ODOT, City of Sherwood or Washington County right-of-ways if approved by the agency.

(Ord. No. 2012-009, § 2, 8-7-2012)

16.102.030 Temporary Sign Regulations

A. The following regulations apply to all temporary signs as defined in Section 16.100.015.
   1. Temporary signs on properties zoned VLDR, LDR, and MDRL, may be double sided, but are limited to a maximum height of six (6) feet, and a maximum sign width of three (3) feet. The actual sign face of each side of the sign shall not exceed six (6) square feet. The sign must be constructed of wood or vinyl in the colonial post style and is allowed one (1) rider not to exceed six (6) inches in height.
   2. Temporary signs in all other zones may be double sided, and are limited to a maximum height of eight and one-half (8½) feet, and a maximum width of four (4) feet. The actual sign face of each side of the sign shall not exceed thirty-two (32) square feet.
   3. No more than one (1) temporary sign is permitted on any one (1) lot unless the property fronts more than one (1) street or has more than three hundred (300) feet of frontage along a street. In these limited cases up to two (2) temporary signs may be allowed.
   4. Where multiple temporary signs are placed on the same property, as authorized above, the signs shall be spaced at least fifty (50) feet apart.
   5. Temporary signs are not permitted in the public right-of-way.

(Ord. No. 2018-007, § 2, 10-2-2018; Ord. No. 2012-009, § 2, 8-7-2012)

16.102.040 Portable Sign Regulations

A. The following regulations apply to all portable signs as defined in Section 16.100.I.13 and 14 in all zones.
   1. No more than four (4) portable signs are allowed on any residentially zoned lot, except that properties over an acre in size that are developed with an approved nonresidential use may place one (1) portable sign every fifty (50) feet for the length of the sites frontage along a public street.
   2. No more than (1) portable sign per business is allowed in all other zones, except the Institutional and Public (I-P) zone
   3. Properties zoned Institutional and Public (I-P) may place one (1) portable sign, every fifty (50) feet for the length of the sites frontage along a public street.

Chapter 16.106

TRANSPORTATION FACILITIES*

Sections:

16.106.010 Generally

A. Creation

Public streets shall be created in accordance with provisions of this Chapter. Except as otherwise provided, all street improvements and rights-of-way shall conform to standards for the City's functional street classification, as shown on the Transportation System Plan (TSP) Map (Figure 17) and other applicable City standards. The following table depicts the guidelines for the street characteristics.

Type of Street	Right of Way Width	Number of Lanes	Minimum Lane Width	On Street Parking Width	Bike Lane Width	Sidewalk Width	Landscape Strip (exclusive of Curb)	Median Width
Principal Arterial (99W)	122'	4-6	12'	Prohibited	6'	6'	5'	14'
Arterial	60-102'	2-5	12'	Limited	6 feet	6-8'	5'	14' if required
Collector	58-92'	2-3	11'	8' optional	6'	6-8'	5'	14' median turn lane
40' Commercial/ Industrial Not Exceeding 3000 vehicles per day	64'	2	20'	8'	none	6'	5'	none
50' Commercial/ Industrial Exceeding 3000 vehicles per day	64'	2	12'	8'	5'	6'	5'	none
Neighborhood 1,000 vehicles per day	64'	2	18'	8'	None	8'	5' with 1' buffer	none

***Editor's note—**Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the Code by repealing former Ch. 16.106, §§ 16.106.010—16.106.040, and adding a new Ch. 16.106. Former Ch. 16.106 pertained to improvement plan review, and derived from Ord. 86-851; Ord. 91-922; and Ord. No. 2010-015, adopted October 5, 2010.

Type of Street	Right of Way Width	Number of Lanes	Minimum Lane Width	On Street Parking Width	Bike Lane Width	Sidewalk Width	Landscape Strip (exclusive of Curb)	Median Width
Local	52'	2	14'	8' on one side only	None	6'	5' with 1' buffer	none
Alley	16-25'	1-2	10-12'	One side if 20'	none	none	none	none
Downtown Street Standard	60'	2	11'	7'	none	12' pedestrian zone	4' (included in pedestrian zone)	none

B. Street Naming
   1. All streets created by subdivision or partition will be named prior to submission of the final plat.
   2. Any street created by a public dedication shall be named prior to or upon acceptance of the deed of dedication.
   3. An action to name an unnamed street in the City may be initiated by the Council or by a person filing a petition as described in this Section.
   4. All streets named shall conform to the general requirements as outlined in this Section.
   5. At the request of the owner(s), the City may approve a private street name and address. Private streets are subject to the same street name standards as are public streets. All private street signs will be provided at the owner(s) expense.

C. Street Name Standards
   1. All streets named or renamed shall comply with the following criteria:
      a. Major streets and highways shall maintain a common name or number for the entire alignment.
      b. Whenever practicable, names as specified in this Section shall be utilized or retained.
      c. Hyphenated or exceptionally long names shall be avoided.
      d. Similar names such as Farview and Fairview or Salzman and Saltzman shall be avoided.
      e. Consideration shall be given to the continuation of the name of a street in another jurisdiction when it is extended into the City.
   2. The following classifications (suffixes) shall be utilized in the assignment of all street names:
      a. Boulevards: North/south arterials providing through traffic movement across the community.
      b. Roads: East/west arterials providing through traffic movement across the community.
      c. Avenues: Continuous, north/south collectors or extensions thereof.
      d. Streets: Continuous, east-west collectors or extensions thereof.
      e. Drives: Curvilinear collectors (less than 180 degrees) at least 1,000 feet in length or more.
      f. Lanes: Short east/west local streets under 1,000 feet in length.
      g. Terraces: short north/south local streets under 1,000 feet in length.
      h. Court: All east/west cul-de-sacs.

i. Place: All north/south cul-de-sacs.
j. Ways: All looped local streets (exceeding 180 degrees).
k. Parkway: A broad landscaped collector or arterial.

3. Except as provided for by this section, no street shall be given a name that is the same as, similar to, or pronounced the same as any other street in the City unless that street is an extension of an already-named street.
4. All proposed street names shall be approved, prior to use, by the City.

D. Preferred Street Names

Whenever practicable, historical names will be considered in the naming or renaming of public roads. Historical factors to be considered shall include, but not be limited to the following:

1. Original holders of Donation Land Claims in Sherwood.
2. Early homesteaders or settlers of Sherwood.
3. Heirs of original settlers or long-time (50 or more years) residents of Sherwood.
4. Explorers of or having to do with Sherwood.
5. Indian tribes of Washington County.
6. Early leaders and pioneers of eminence.
7. Names related to Sherwood's flora and fauna.
8. Names associated with the Robin Hood legend.

(Ord. No. 2018-003, § 2, 3-20-2018; Ord. No. 2014-012, § 3, 7-17-2014; Ord. No. 2011-011, § 1, 10-4-2011)

16.106.020 Required Improvements

A. Generally

Except as otherwise provided, all developments containing or abutting an existing or proposed street, that is either unimproved or substandard in right-of-way width or improvement, shall dedicate the necessary right-of-way prior to the issuance of building permits and/or complete acceptable improvements prior to issuance of occupancy permits. Right-of-way requirements are based on functional classification of the street network as established in the Transportation System Plan, Figure 17.

B. Existing Streets

Except as otherwise provided, when a development abuts an existing street, the improvements requirement shall apply to that portion of the street right-of-way located between the centerline of the right-of-way and the property line of the lot proposed for development. In no event shall a required street improvement for an existing street exceed a pavement width of thirty (30) feet.

C. Proposed Streets

1. Except as otherwise provided, when a development includes or abuts a proposed street, in no event shall the required street improvement exceed a pavement width of forty (40) feet.
2. Half Streets: When a half street is created, a minimum of 22 feet of driving surface shall be provided by the developer.

D. Extent of Improvements

1. Streets required pursuant to this Chapter shall be dedicated and improved consistent with Chapter 6 of the Community Development Plan, the TSP and applicable City

specifications included in the City of Sherwood Construction Standards. Streets shall include curbs, sidewalks, catch basins, street lights, and street trees. Improvements shall also include any bikeways designated on the Transportation System Plan map. Applicant may be required to dedicate land for required public improvements only when the exaction is directly related to and roughly proportional to the impact of the development, pursuant to Section 16.106.090.

2. If the applicant is required to provide street improvements, the City Engineer may accept a future improvements guarantee in lieu of street improvements if one or more of the following conditions exist, as determined by the City:
   a. A partial improvement is not feasible due to the inability to achieve proper design standards;
   b. A partial improvement may create a potential safety hazard to motorists or pedestrians.
   c. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity;
   d. The improvement would be in conflict with an adopted capital improvement plan;
   e. The improvement is associated with an approved land partition on property zoned residential use and the proposed land partition does not create any new streets; or
   f. Additional planning work is required to define the appropriate design standards for the street and the application is for a project that would contribute only a minor portion of the anticipated future traffic on the street.

E. Transportation Facilities Modifications
   1. A modification to a standard contained within this Chapter and Section 16.58.010 and the standard cross sections contained in Chapter 8 of the adopted TSP may be granted in accordance with the procedures and criteria set out in this section.
   2. A modification request concerns a deviation from the general design standards for public facilities, in this Chapter, Section 16.58.010, or Chapter 8 in the adopted Transportation System Plan. The standards that may be modified include but are not limited to:
      a. Reduced sight distances.
      b. Vertical alignment.
      c. Horizontal alignment.
      d. Geometric design (length, width, bulb radius, etc.).
      e. Design speed.
      f. Crossroads.
      g. Access policy.
      h. A proposed alternative design which provides a plan superior to these standards.
      i. Low impact development.
      j. Access Management Plans
   3. Modification Procedure
      a. A modification shall be proposed with the application for land use approval.
      b. A modification is processed as a Type II application. Modification requests shall be processed in conjunction with the underlying development proposal.

c. When a modification is requested to provide a green street element that is not included in the Engineering Design Manual, the modification process will apply, but the modification fee will be waived.

4. Criteria for Modification: Modifications may be granted when criterion 4a and any one of criteria 4b through 4e are met:
   a. Consideration shall be given to public safety, durability, cost of maintenance, function, appearance, and other appropriate factors to advance the goals of the adopted Sherwood Comprehensive Plan and Transportation System Plan as a whole. Any modification shall be the minimum necessary to alleviate the hardship or disproportional impact.
   b. Topography, right-of-way, existing construction or physical conditions, or other geographic conditions impose an unusual hardship on the applicant, and an equivalent alternative which can accomplish the same design purpose is available.
   c. A minor change to a specification or standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship. Self- imposed hardships shall not be used as a reason to grant a modification request.
   d. An alternative design is proposed which will provide a plan equal to or superior to the existing street standards.
   e. Application of the standards of this chapter to the development would be grossly disproportional to the impacts created.

(Ord. No. 2018-003, § 2, 3-20-2018; Ord. No. 2014-012, § 3, 7-17-2014; Ord. No. 2011-011, § 1, 10-4-2011)

16.106.030 Location

A. Generally

The location, width and grade of streets shall be considered in their relation to existing and planned streets, topographical conditions, and proposed land uses. The proposed street system shall provide adequate, convenient and safe traffic and pedestrian circulation, and intersection angles, grades, tangents, and curves shall be adequate for expected traffic volumes. Street alignments shall be consistent with solar access requirements as per Chapter 16.156, and topographical considerations.

B. Street Connectivity and Future Street Systems

1. Future Street Systems. The arrangement of public streets shall provide for the continuation and establishment of future street systems as shown on the Local Street Connectivity Map contained in the adopted Transportation System Plan (Figure 16).
2. Connectivity Map Required. New residential, commercial, and mixed use development involving the construction of new streets shall be submitted with a site plan that implements, responds to and expands on the Local Street Connectivity map contained in the TSP.
   a. A project is deemed to be consistent with the Local Street Connectivity map when it provides a street connection in the general vicinity of the connection(s) shown on the map, or where such connection is not practicable due to topography or other physical constraints; it shall provide an alternate connection approved by the decision-maker.

b. Where a developer does not control all of the land that is necessary to complete a planned street connection, the development shall provide for as much of the designated connection as practicable and not prevent the street from continuing in the future.
c. Where a development is disproportionately impacted by a required street connection, or it provides more than its proportionate share of street improvements along property line (i.e., by building more than 3/4 width street), the developer shall be entitled to System Development charge credits, as determined by the City Engineer.
d. Driveways that are more than 24 feet in width shall align with existing streets or planned streets as shown in the Local Street Connectivity Map in the adopted Transportation System Plan (Figure 17), except where prevented by topography, rail lines, freeways, pre-existing development, or leases, easements, or covenants.

3. Block Length. For new streets except arterials, block length shall not exceed 530 feet. The length of blocks adjacent to arterials shall not exceed 1,800 feet.
4. Where streets must cross water features identified in Title 3 of the Urban Growth Management Functional Plan (UGMFP), provide crossings at an average spacing of 800 to 1,200 feet, unless habitat quality or length of crossing prevents a full street connection.
5. Where full street connections over water features identified in Title 3 of the UGMFP cannot be constructed in centers, main streets and station communities (including direct connections from adjacent neighborhoods), or spacing of full street crossings exceeds 1,200 feet, provide bicycle and pedestrian crossings at an average spacing of 530 feet, unless exceptional habitat quality or length of crossing prevents a connection.
6. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways consistent with cross section standards in Figure 8-6 of the TSP shall be provided on public easements or right- of-way when full street connections are not possible, with spacing between connections of no more than 300 feet. Multi-use paths shall be built according to the Pedestrian and Bike Master Plans in the adopted TSP.
7. Exceptions. Streets, bike, and pedestrian connections need not be constructed when any of the following conditions exists:
   a. Physical or topographic conditions make a street or accessway connection impracticable. Such conditions include but are not limited to freeways, railroads, steep slopes, wetlands or other bodies of water where a connection could not reasonably be provided.
   b. Buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or
   c. Where streets or accessways would violate provisions of leases, easements, covenants, restrictions or other agreements existing as of May 1, 1995, which preclude a required street or accessway connection.

C. Underground Utilities

All public and private underground utilities, including sanitary sewers and storm water drains, shall be constructed prior to the surfacing of streets. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.

D. Additional Setbacks

d. Arterials and Highway 99W - Points of ingress or egress to and from Highway 99W and arterials designated on the Transportation Plan Map, attached as Figure 1 of the Community Development Plan, Part II, shall be limited as follows:

(1) Single and two-family uses and manufactured homes on individual residential lots developed after the effective date of this Code shall not be granted permanent driveway ingress or egress from Highway 99W or arterials. If alternative public access is not available at the time of development, provisions shall be made for temporary access which shall be discontinued upon the availability of alternative access.

(2) Other private ingress or egress from Highway 99W and arterial roadways shall be minimized. Where alternatives to Highway 99W or arterials exist or are proposed, any new or altered uses developed after the effective date of this Code shall be required to use the alternative ingress and egress. Alternatives include shared or crossover access agreement between properties, consolidated access points, or frontage or backage roads. When alternatives do not exist, access shall comply with the following standards:

(a) Access to Highway 99W shall be consistent with ODOT standards and policies per OAR 734, Division 51, as follows: Direct access to an arterial or principal arterial will be permitted provided that Point 'A' of such access is more than six hundred (600) feet from any intersection Point 'A' or other access to that arterial (Point 'C').

(b) The access to Highway 99W will be considered temporary until an alternative access to public right-of-ways is created. When the alternative access is available the temporary access to Highway 99W shall be closed.

(3) All site plans for new development submitted to the City for approval after the effective date of this Code shall show ingress and egress from existing or planned local, neighborhood route or collector streets, including frontage or backage roads, consistent with the Transportation Plan Map and Chapter 6 of the Community Development Plan.

3. Exceptions to Access Criteria for City-Owned Streets

a. Alternate points of access may be allowed if an access management plan which maintains the classified function and integrity of the applicable facility is submitted to and approved by the City Engineer as the access management plan must be included as part of the land use submittal or an application for modification as described in § 16.106.020 E. (Transportation Facilities Modifications).

b. Access in the Old Town (OT) Overlay Zone

Access points in the OT Overlay Zone shown in an adopted plan such as the Transportation System Plan, are not subject to the access spacing standards and do not need a variance. However, the applicant shall submit a partial access management plan for approval by the City Engineer. The approved plan shall be implemented as a condition of development approval.

N. Private Streets

1. The construction of a private street serving a single-family residential development is prohibited unless it provides principal access to two or fewer residential lots or parcels (i.e. flag lots).
2. Provisions shall be made to assure private responsibility for future access and maintenance through recorded easements. Unless otherwise specifically authorized, a private street shall comply with the same standards as a public street identified in the Community Development Code and the Transportation System Plan.
3. A private street shall be distinguished from public streets and reservations or restrictions relating to the private street shall be described in land division documents and deed records.
4. A private street shall also be signed differently from public streets and include the words "Private Street".

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2014-012, § 3, 7-17-2014; Ord. No. 2011-011, § 1, 10-4-2011)

16.106.060 Sidewalks

A. Required Improvements

1. Except as otherwise provided, sidewalks shall be installed on both sides of a public street and in any special pedestrian way within new development.
2. For Highway 99W, arterials, or in special industrial districts, the City Manager or designee may approve a development without sidewalks if alternative pedestrian routes are available.
3. In the case of approved cul-de-sacs serving less than fifteen (15) dwelling units, sidewalks on one side only may be approved by the City Manager or designee.

B. Design Standards

1. Arterial and Collector Streets

   Arterial and collector streets shall have minimum six (6) or eight (8) foot wide sidewalks/multi-use paths, located as required by this Code. Residential areas shall have a minimum of a six (6) foot wide sidewalk and commercial industrial areas shall have a minimum of an eight (8) foot wide sidewalk.

2. Local Streets

   Local streets shall have minimum five (5) foot wide sidewalks, located as required by this Code.

3. Handicapped Ramps

   Sidewalk handicapped ramps shall be provided at all intersections.

C. Pedestrian and Bicycle Paths

Provide bike and pedestrian connections on public easements or right-of-way when full street connections are not possible, with spacing between connections of no more than 330 feet except where prevented by topography, barriers such as railroads or highways, or environmental constraints such as rivers and streams.

(Ord. No. 2018-007, § 2, 10-2-2018; Ord. No. 2011-011, § 1, 10-4-2011)

16.116.030 Miscellaneous Requirements

A. Timing of Installation

When fire protection facilities are required, such facilities shall be installed and made serviceable prior to or at the time any combustible construction begins on the land unless, in the opinion of the Fire District, the nature or circumstances of said construction makes immediate installation impractical.

B. Maintenance of Facilities

All on-site fire protection facilities, shall be maintained in good working order. The Fire District may conduct periodic tests and inspection of fire protection and may order the necessary repairs or changes be made within ten (10) days.

C. Modification of Facilities

On-site fire protection facilities, may be altered or repaired with the consent of the Fire District; provided that such alteration or repairs shall be carried out in conformity with the provisions of this Chapter.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)

Chapter 16.118

PUBLIC AND PRIVATE UTILITIES*

Sections:

16.118.010 Purpose

Public telecommunication conduits as well as conduits for franchise utilities including, but not limited to, electric power, telephone, natural gas, lighting, and cable television shall be installed to serve all newly created lots and developments in Sherwood.

16.118.020 Standard

A. Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with this Code, and applicable utility company and City standards.

B. Public utility easements shall be a minimum of eight (8) feet in width unless a reduced width is specifically exempted by the City Engineer. An eight-foot wide public utility easement (PUE) shall be provided on private property along all public street frontages. This standard does not apply to developments within the Old Town Overlay.

C. Where necessary, in the judgment of the City Manager or his designee, to provide for orderly development of adjacent properties, public and franchise utilities shall be extended through the site to the edge of adjacent property(ies).

D. Franchise utility conduits shall be installed per the utility design and specification standards of the utility agency.

E. Public Telecommunication conduits and appurtenances shall be installed per the City of Sherwood telecommunication design standards.

F. Exceptions: Installation shall not be required if the development does not require any other street improvements. In those instances, the developer shall pay a fee in lieu that will finance installation when street or utility improvements in that location occur.

(Ord. No. 2018-007, § 2, 10-2-2018; Ord. No. 2009-005, § 2, 6-2-2009)

16.118.030 Underground Facilities

Except as otherwise provided, all utility facilities, including but not limited to, electric power, telephone, natural gas, lighting, cable television, and telecommunication cable, shall be placed underground, unless specifically authorized for above ground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the City.

***Editor's note**—Some sections may not contain a history.

16.118.040 Exceptions

Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high capacity electric and communication feeder lines, and utility transmission lines operating at fifty thousand (50,000) volts or more may be located above ground. The City reserves the right to approve location of all surface-mounted transformers.
(Ord. 2005-17 § 5; 91-922)

16.118.050 Private Streets

The construction of new private streets, serving single-family residential developments shall be prohibited unless it provides principal access to two or fewer residential lots or parcels i.e. flag lots. Provisions shall be made to assure private responsibility for future access and maintenance through recorded easements. Unless otherwise specifically authorized, a private street shall comply with the same standards as a public street identified in the Community Development Code and the Transportation System Plan. A private street shall be distinguished from public streets and reservations or restrictions relating to the private street shall be described in land division documents and deed records. A private street shall also be signed differently from public streets and include the words "Private Street".
(Ord. No. 2009-005, § 2, 6-2-2009; Ord. No. 2009-005, § 2, 6-2-2009; Ord. 2005-009 § 5; Ord. 86-851)

Division VII. LAND DIVISIONS, SUBDIVISIONS, PARTITIONS, LOT LINE ADJUSTMENTS AND MODIFICATIONS*

Chapter 16.120

SUBDIVISIONS†

Sections:

16.120.010 Purpose

Subdivision regulations are intended to promote the public health, safety and general welfare; lessen traffic congestion; provide adequate light and air; prevent overcrowding of land; and facilitate adequate water supply, sewage and drainage.
(Ord. No. 2011-011, § 1, 10-4-2011)

16.120.020 General Subdivision Provisions

A. Approval of a subdivision occurs through a two-step process: the preliminary plat and the final plat.
   1. The preliminary plat shall be approved by the Approval Authority before the final plat can be submitted for approval consideration; and
   2. The final plat shall reflect all conditions of approval of the preliminary plat.

B. All subdivision proposals shall conform to all state regulations set forth in ORS Chapter 92, Subdivisions and Partitions.

C. Future re-division

When subdividing tracts into large lots, the Approval Authority shall require that the lots be of such size and shape as to facilitate future re-division in accordance with the requirements of the zoning district and this Division.

D. Future Partitioning

When subdividing tracts into large lots which may be resubdivided, the City shall require that the lots be of a size and shape, and apply additional building site restrictions, to allow for the subsequent division of any parcel into lots of smaller size and the creation and extension of future streets.

***Editor's note**—Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the title of Div. VII.

†Editor's note—Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the Code by, in effect, repealing former Ch. 16.120, §§ 16.120.010 and 16.120.020, and adding a new Ch. 16.120. Former Ch. 16.120 pertained to general provisions, and derived from Ord. 86-851; Ord. 98-1053; and Ord. No. 2010-015, adopted October 5, 2010.

Chapter 16.130

RESERVED*

*__Editor's note__—Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the Code by, in effect, repealing former Ch. 16.130, §§ 16.130.010 and 16.130.020. Former Ch. 16.130 pertained to property land adjustments, and derived from Ord. 86-851; and Ord. No. 2010-015, adopted October 5, 2010.

Division VIII. ENVIRONMENTAL RESOURCES

Chapter 16.132

GENERAL PROVISIONS

Sections:

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

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 October 19, 2018, 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. 2018-009, § 2, 10-16-2018; Ord. No. 2018-006, § 2, 10-2-18; 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.
D. In areas where a regulatory floodway has not been designated, and where the Flood Insurance Study indicates that it is possible to calculate a floodway, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 2018-009, § 2, 10-16-2018Ord. 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. 2018-009, § 2, 10-16-2018Ord. 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 and Floodplain Administrator Duties

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. The floodplain administrator shall review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 16.134.070.F are met.

F. Where base flood elevation data is provided through the Flood Insurance Study, FIRM or required under Section 16.134.020.C the local Floodplain Administrator shall:
1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and
2. If the structure has been floodproofed in accordance with Sections 16.134.090.A.3 and D.1.a, then obtain the elevation (in relation to mean sea level) to which the structure was floodproofed, and
3. Maintain all elevation and floodproofing certificates required under Section 16.134.040.D, and
4. Maintain for public inspection all records pertaining to the provisions of this ordinance.

G. Where elevation data is not available as per subsection D 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.

H. The floodplain administrator shall:
1. Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration as required in Section 16.134.100.C.
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

I. The floodplain administrator shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal

the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).

J. Variances to any standard within the floodplain overlay shall comply with the provisions of the Code of Federal Regulations (CFR) section 44 CFR 60.6(a)(1)—(7).

(Ord. No. 2018-009, § 2, 10-16-2018Ord. 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. 2018-009, § 2, 10-16-2018Ord. 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. 2018-009, § 2, 10-16-2018Ord. 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 professional engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the use, activity, or encroachment will not result in any increase to flood levels during the occurrence of the base flood discharge.

a. If paragraph F of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard provisions of Sections 16.134.080 and .090, or ASCE 24, whichever is more stringent.

G. The storage of recreational vehicles. This is the most restrictive provision wherein.

(Ord. No. 2018-009, § 2, 10-16-2018Ord. 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 16.134.030. 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. 2018-009, § 2, 10-16-2018Ord. 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 dwellings, 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.
5. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

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 (not prohibited under section 16.134.070.B 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.
    a. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with Washington County Health Authority and Oregon Department of Environmental Quality.

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.

E. Manufactured Dwellings

1. Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with paragraph C.2 of this section;
2. The bottom of the longitudinal chassis frame beam in A zones (excluding coastal A zones), shall be at or above BFE;
3. The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
4. Electrical crossover connections shall be a minimum of 12 inches above BFE.

F. Recreational Vehicles

Except where prohibited under Section 16.134.070.G Recreational vehicles placed on sites are required to:

1. Be on the site for fewer than 180 consecutive days, and
2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
3. Meet the requirements of paragraph E of this section and the elevation and anchoring requirements for manufactured dwellings.

(Ord. No. 2018-009, § 2, 10-16-2018Ord. 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. 2018-009, § 2, 10-16-2018Ord. 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)

Chapter 16.146

NOISE*

Sections:

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

16.146.010 Generally

All otherwise permitted commercial, industrial, and institutional uses in the City shall comply with the noise standards contained in OAR 340-35-035. The City may require proof of compliance with OAR 340-35-035 in the form of copies of all applicable State permits or certification by a professional acoustical engineer that the proposed uses will not cause noise in excess of State standards.
(Ord. 91-922, § 3)

16.146.020 Noise Sensitive Uses

When proposed commercial and industrial uses do not adjoin land exclusively in commercial or industrial zones, or when said uses adjoin special care, institutional, or parks and recreational facilities, or other uses that are, in the City's determination, sensitive to noise impacts, then:

A. The applicant shall submit to the City a noise level study prepared by a professional acoustical engineer. Said study shall define noise levels at the boundaries of the site in all directions.
B. The applicant shall show that the use will not exceed the noise standards contained in OAR 340-35-035, based on accepted noise modeling procedures and worst case assumptions when all noise sources on the site are operating simultaneously.
C. If the use exceeds applicable noise standards as per subsection B of this Section, then the applicant shall submit a noise mitigation program prepared by a professional acoustical engineer that shows how and when the use will come into compliance with said standards.

(Ord. 91-922, § 3)

16.146.030 Exceptions

This Chapter does not apply to noise making devices which are maintained and utilized solely as warning or emergency signals, or to noise caused by automobiles, trucks, trains, aircraft, and other similar vehicles when said vehicles are properly maintained and operated and are using properly designated rights-of-way, travel ways, flight paths or other routes. This Chapter also does not apply to noise produced by humans or animals. Nothing in this Chapter shall preclude the City from abating any noise problem as per applicable City nuisance and public safety ordinances.
(Ord. 91-922, § 3)

Chapter 16.148

VIBRATIONS*

Sections:

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

16.148.010 Generally

All otherwise permitted commercial, industrial, and institutional uses shall not cause discernible vibrations that exceed a peak of 0.002 gravity at the property line of the originating use, except for vibrations that last five (5) minutes or less per day, based on a certification by a professional engineer. (Ord. 91-922, § 3)

16.148.020 Exceptions

This Chapter does not apply to vibration caused by construction activities including vehicles accessing construction sites, or to vibrations caused by automobiles, trucks, trains, aircraft, and other similar vehicles when said vehicles are properly maintained and operated and are using properly designated rights-of-way, travelways, flight paths or other routes. Nothing in this Chapter shall preclude the City from abating any vibration problem as per applicable City nuisance and public safety ordinances. (Ord. 91-922, § 3)

Chapter 16.150

AIR QUALITY*

Sections:

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

16.150.010 Generally

All otherwise permitted commercial, industrial, and institutional uses shall comply with applicable State air quality rules and statutes:

A. All such uses shall comply with standards for dust emissions as per OAR 340-21-060.

B. Incinerators, if otherwise permitted by Section 16.140.020, shall comply with the standards set forth in OAR 340-25-850 through 340-25-905.

C. Uses for which a State Air Contaminant Discharge Permit is required as per OAR 340-20-140 through 340-20-160 shall comply with the standards of OAR 340-220 through 340-20-276. (Ord. 91-922, § 3)

16.150.020 Proof of Compliance

Proof of compliance with air quality standards as per Section 16.150.010 shall be in the form of copies of all applicable State permits, or if permits have not been issued, submission by the applicant, and acceptance by the City, of a report certified by a professional engineer indicating that the proposed use will comply with State air quality standards. Depending on the nature and size of the use proposed, the applicant may, in the City's determination, be required to submit to the City a report or reports substantially identical to that required for issuance of State Air Contaminant Discharge Permits. (Ord. 91-922, § 3)

16.150.030 Exceptions

Nothing in this Chapter shall preclude the City from abating any air quality problem as per applicable City nuisance and public safety ordinances. (Ord. 91-922, § 3)

Chapter 16.152

ODORS*

Sections:

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

16.152.010 Generally

All otherwise permitted commercial, industrial, and institutional uses shall incorporate the best practicable design and operating measures so that odors produced by the use are not discernible at any point beyond the boundaries of the development site. (Ord. 91-922, § 3)

16.152.020 Standards

The applicant shall submit a narrative explanation of the source, type and frequency of the odorous emissions produced by the proposed commercial, industrial, or institutional use. In evaluating the potential for adverse impacts from odors, the City shall consider the density and characteristics of surrounding populations and uses, the duration of any odorous emissions, and other relevant factors. (Ord. 91-922, § 3)

16.152.030 Exceptions

Nothing in this Chapter shall preclude the City from abating any odor problem as per applicable City nuisance and public safety ordinances. (Ord. 91-922, § 3)

Chapter 16.154

HEAT AND GLARE*

Sections:

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

16.154.010 Generally

Except for exterior lighting, all otherwise permitted commercial, industrial, and institutional uses shall conduct any operations producing excessive heat or glare entirely within enclosed buildings. Exterior lighting shall be directed away from adjoining properties, and the use shall not cause such glare or lights to shine off site in excess of one-half (0.5) foot candle when adjoining properties are zoned for residential uses. (Ord. 93-966, § 3; 91-922)

16.154.020 Exceptions

Nothing in this Chapter shall preclude the City from abating any heat and glare problem as per applicable City nuisance and public safety ordinances. (Ord. 93-966, § 3; 91-922)

Chapter 16.156

ENERGY CONSERVATION*

Sections:

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

16.156.010 Purpose

This Chapter and applicable portions of Chapter 5 of the Community Development Plan provide for natural heating and cooling opportunities in new development. The requirements of this Chapter shall not result in development exceeding allowable densities or lot coverage, or the destruction of existing trees. (Ord. 91-922, § 3)

16.156.020 Standards

A. Building Orientation - The maximum number of buildings feasible shall receive sunlight sufficient for using solar energy systems for space, water or industrial process heating or cooling. Buildings and vegetation shall be sited with respect to each other and the topography of the site so that unobstructed sunlight reaches the south wall of the greatest possible number of buildings between the hours of 9:00 AM and 3:00 PM, Pacific Standard Time on December 21st.

B. Wind - The cooling effects of prevailing summer breezes and shading vegetation shall be accounted for in site design. The extent solar access to adjacent sites is not impaired vegetation shall be used to moderate prevailing winter wind on the site. (Ord. 91-922, § 3)

16.156.030 Variance to Permit Solar Access

Variances from zoning district standards relating to height, setback and yard requirements approved as per Chapter 16.84 may be granted by the Commission where necessary for the proper functioning of solar energy systems, or to otherwise preserve solar access on a site or to an adjacent site. (Ord. 91-922, § 3)

Division IX. HISTORIC RESOURCES

Chapter 16.158

GENERAL PROVISIONS*

Sections:

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

16.158.010 Purpose

This Division is intended to protect, preserve, and otherwise properly manage the City's historic and cultural resources for the benefit and education of the general public, to retain and strengthen the community's historic heritage and unique identity, 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 historic and cultural resources. (Ord. 94-990 § 1; 92-946; Ord. 86-851)

Chapter 16.160

SPECIAL RESOURCE ZONES*

Sections:

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

16.160.010 Generally

Special resource zones are established to provide for the preservation, protection, and management of unique historic and cultural resources in the City that are deemed to require additional standards beyond those contained elsewhere in this Code. Special resource zones may be implemented as underlying or overlay zones depending on patterns of property ownership and the nature of the resource. A property or properties may be within more than one (1) resource zone. In addition, the City may identify special resource areas and apply a PUD overlay zone in advance of any development in order to further protect said resources. (Ord. 94-990 § 1; 92-946; Ord. 86-851)

Chapter 16.162

OLD TOWN (OT) OVERLAY DISTRICT*

Sections:

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

16.162.010 Purpose

The Old Town (OT) Overlay District is intended to establish objectives and define a set of development standards to guide physical development in the historic downtown of the City consistent with the Community Development Plan and this Code.

The OT zoning district is an overlay district generally applied to property identified on the Old Town Overlay District Map, and applied to the Sherwood Plan and Zone Map in the Smockville Subdivision and surrounding residential and commercial properties, generally known as Old Town. The OT overlay zone recognizes the unique and significant characteristics of Old Town, and is intended to provide development flexibility with respect to uses, site size, setbacks, heights, and site design elements, in order to preserve and enhance the area's commercial viability and historic character. The OT overlay zone is designated a historic district as per Chapters 16.166 and 16.168. Furthermore, the OT District is divided into two distinct areas, the "Smockville" and the "Old Cannery Area," which have specific criteria or standards related to architectural design, height, and off-street parking. (Ord. 2006-009 § 2; 2002-1128 § 3; 94-990; 92-946; 87-859)

16.162.020 Objectives

Land use applications within the Old Town Overlay District must demonstrate substantial conformance with the standards and criteria below:

A. Encourage development that is compatible with the existing natural and man-made environment, existing community activity patterns, and community identity.
B. Minimize or eliminate adverse visual, aesthetic or environmental effects caused by the design and location of new development, including but not limited to effects from:
    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) on property zoned RC in the Old Cannery area subject to Chapter 16.44 and the HDR standards. 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. 2017-001, § 1, 4-4-2017; 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)

STATUTORY REFERENCES FOR OREGON CITIES

The statutory references listed below refer the code user to state statutes applicable to Oregon cities. They are current with the 2017 Regular Session of the State legislature effective through Oct. 6, 2017, pending classification of undesignated material and text revision by the Oregon Reviser.

General Provisions

Incorporation of cities
ORS § 221.005 et seq.

City charters
Oregon Const. Art. XI, § 2

Charter amendments
ORS § 221.210

Boundary changes
ORS ch. 222

Ordinances
ORS § 221.275 et seq.

Enforcement of ordinances
ORS §§ 30.315 and 221.315

Procedures for infractions, violations and traffic offenses
ORS ch. 153

Elections
ORS §§ 221.180, 221.200, 221.230

Initiative and referendum
ORS §§ 221.210 and 250.255 et seq.

Administration and Personnel

City officers
ORS § 221.110 et seq.

Municipal courts
ORS §§ 221.140, 221.336 et seq.

Public meetings
ORS § 192.610 et seq.

Emergency management and services
ORS ch. 401

Planning commissions
ORS § 227.010 et seq.

Revenue and Finance

Financial administration
ORS ch. 294

Public contracts and purchasing
ORS chs. 279A—279C

Assessments for local improvements
ORS ch. 223

Limitations on powers of city to assist corporations
Oregon Const. Art. XI § 9

Revenue sharing for cities
ORS § 221.770

Business Licenses and Regulations

Taxation of liquor prohibited
ORS § 473.190

Animals

Animal control
ORS ch. 609

Rabies control
ORS § 433.340 et seq.

Health and Safety

General authority
ORS § 221.410

Health Hazard Abatement Law
ORS § 222.840 et seq.

Camping by homeless
ORS § 203.077 et seq.

Fireworks
ORS § 480.111 et seq.

Public Peace, Morals and Welfare

General authority
ORS § 221.410

State penal code
ORS title 16

Curfew
ORS § 419C.680

Firearms regulation
ORS § 166.170 et seq.

Public intoxication
ORS § 430.402

Vehicles and Traffic

Oregon vehicle code
ORS title 59

Local authority
ORS §§ 801.038, 801.040

Rules of the road
ORS ch. 811

Driving under influence of intoxicants
ORS ch. 813

Off-road vehicles
ORS ch. 821

Abandoned vehicles
ORS ch. 819

Parking offenses
ORS § 221.275 et seq.

Bicycles
ORS § 814.400 et seq.

Streets, Sidewalks and Public Places

City improvements and works
ORS ch. 223

City parks, memorials and cemeteries
ORS ch. 226

Public Services

Municipal utilities
ORS ch. 225

Regulation of public utilities
ORS § 221.420 et seq.

City sewers and sanitation
ORS ch. 224

System development charges
ORS § 223.297 et seq.

Buildings and Construction

State building code
ORS ch. 455

Adoption of codes by reference
ORS § 221.330

Radio antennas
ORS § 221.295

Subdivisions

Subdivisions and partitions
ORS ch. 92

Zoning

City planning and zoning
ORS ch. 227

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
2016-016	3-21-2017	Rezoning		Omit
2017-001	4- 4-2017	Townhomes in the Old Town Overlay District	1	16.44.010
			2	16.162.040
2017-002	4- 4-2017	Annexation		Omit
2017-003	4- 4-2017	Approving Springs Senior Living Facility Planned Unit Development		Omit
2017-004	7-25-2017	Annexation		Omit
2017-005	7-25-2017	Powers of city council and city manager to establish traffic controls	2	10.12.010
2017-006	12- 5-2017	Solid waste management	2	8.20.010—8.20.170
2017-007	12-5-2017	Adoption of plumbing, electrical and residential code; repeal of solar installation code	2	15.04.130—15.04.150
			Rpld	15.04.180
2017-008	12-20-2017	Sherwood High School concept plan		Omit
2018-001	2-20-2018	Willamette Intake Facilities Commission		Omit
2018-002	3- 6-2018	Annexation		Omit
2018-003	3-20-2018	Amendments to 2014 Transportation System Plan	2	16.106.010, 16.106.020

Ordinance Number	Date	Description	Section	Section this Code
2018-004	3- 6-2018	Denali Lane Planned Unit Development and Subdivision		Omit
2018-005	6-19-2018	Telecommunications utility	1 Rpld	4.04.040—4.04.090
2018-006	10- 2-2018	Adopts 2018 Washington County Flood Insurance Study and associated maps	2	16.134.010
2018-007	10- 2-2018	Zoning and community development code	2	16.10.020 16.12.030.C 16.58.010.B 16.70.030.C.1 16.94.020.B 16.100.030.C.1.a 16.102.030.A 16.106.060.B 16.118.020.A
			Added	16.50.070
2018-008	10- 2-2018	Regulation of medical marijuana dispensaries	2	16.10.020, 16.38.020
2018-009	10-16-2018	Development within the floodplain	2	16.10.010, 16.10.020 16.134.010—16.134.100
2018-010	12- 4-2018	Utility facilities in public right-of-way	2	12.16.020, 12.16.070, 12.16.120
2019-001	4- 2-2019	Truck routes	2	10.20.010—10.20.080
2019-002	2-19-2019	Local transient lodging tax	1 Added	3.30.010—3.30.220
2019-003	3- 5-2019	Accessory dwelling units	2	16.52.010, 16.52.020, 16.72.010
2019-004	5-21-2019	Right-of-way permits	2 Rpld	12.02.005—12.02.035
			Added	12.02.005—12.02.045
2019-005	6-18-2019	Citizen boards and commissions	2 Rpld	2.08.010, 2.10.010—2.10.060 2.12.010—2.12.060 2.16.010—2.16.060
			Added	2.08.010—2.08.090
2019-007	6-18-19	Abandoned, stored and hazardous vehicles	2 Rpld	8.04.010—8.04.140
			Added	8.04.010—8.04.090
2019-008	8- 6-2019	Animal endangerment	2 Added	6.08.010—6.08.050
2019-009	8- 6-2019	Annexation		Omit
2019-010	9- 3-2019	Rezoning		Omit

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