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SHERWOOD CITY CHARTER

CHAPTER I

INTRODUCTORY PROVISIONS

Section 1.1 Title. This enactment shall be referred to as the City of Sherwood Charter of 1984.

Section 1.2 Corporate Name and Capacity. The inhabitants of the City of Sherwood have been and are hereby constituted a municipal corporation by the name of City of Sherwood and by that name have perpetual succession.

Section 1.3 Boundaries. The corporate limits of the City shall include all territory encompassed by its boundaries as they now exist or hereafter are modified. Unless mandated by State Law, annexations, delayed or otherwise, to the City of Sherwood, may only be approved by a prior majority vote among the electorate. The repository of city records shall include at least two copies of this Charter, each containing an accurate, up-to-date description of the boundaries. The copies and description shall be available for public inspection during regular office hours.

CHAPTER II

POWERS

Section 2.1 Vesting, Granting, and Construction of Powers.

(1) Except as this Charter provides to the contrary, all power of the City is vested in the Council, which is the representative legislative body of the City.

(2) The City has all powers that the Constitution or laws of the United States and of this State expressly or impliedly grant or allow cities, as fully as if this Charter specifically stated each of those powers.

(3) In this Charter failure to mention a particular power may not be construed to be exclusive or to restrict the scope of the powers that the City would have if the particular power were mentioned. The Charter shall be liberally construed to the end of its affairs, including all powers that cities may assume under state laws and the provisions of the state constitution regarding municipal home rule.

CHAPTER III

FORM OF GOVERNMENT

Section 3.0 Where Powers Vested. Except as this Charter provides otherwise, all powers of the City shall be vested in the Council.

Section 3.1 Council Membership. Six councilors and the mayor shall be members of the City Council. (Ord. 00-083 § 1, approved at 5-16-00 election)

Section 3.2 Mayor: Election. A Mayor shall be elected at the first general election after the Charter is adopted. The Mayor will be elected for a two year term and hold office until a successor is elected or appointed.

Section 3.3 Councilors: Election. The term of office of each Councilor in office when this Charter is adopted shall continue until the expiration of the current elected term. At the first general election after the Charter is adopted, three Councilors shall be elected to the three open positions. At each subsequent general election, three Councilors shall be elected, each for a term of four years.

Section 3.4 Council: President. At the first regular meeting of the Council in January following the general election, or as soon thereafter as practical, the Council shall choose one of its members to preside over the Council and perform the duties of Mayor in the absence of the Mayor from the City or in case of the Mayor's inability to act as such. In functioning as Mayor while he or she is absent from the City on leave granted by the Council or after the Mayor is absent from the City for 30 days, the President of the Council has the legal powers and is subject to the legal limitations of the Mayor. The President of the Council shall function as the Mayor until the Mayor resumes office.

Section 3.5 Council: Meetings. The Council shall prescribe times and places for its meetings. It shall meet regularly at least once each month. At a meeting it may adjourn to the next succeeding regular meeting or to some specified time prior thereto. The Mayor or a majority of the Councilors may call special meetings of the Council.

Section 3.6 Mayor: Functions at Council Meetings. The Mayor shall be chairman of the Council and preside over its deliberations. The Mayor shall have a vote on all questions before the Council. The Mayor shall have authority to preserve order, enforce the rules of the Council, and determine the order of business under the rules of the Council.

Section 3.7 Council: Quorum. A majority of the Council constitutes a quorum for the transaction of Council business, except that a lesser number may meet and compel the attendance of the absent members. The Mayor shall be included in the Council for the purpose of a quorum.

Section 3.8 Council: Vote Required. Except as this Charter otherwise provides, the concurrence of a majority of the members of the Council present at a Council meeting shall be necessary to decide any question before the Council.

Section 3.9 Council: Record of Proceedings. The Council shall cause a record of its proceedings to be kept. Upon the request of any of its members, the ayes and nays upon any question before it shall be taken and entered in the record. No action by the Council shall have legal effect unless the motion for the action and the vote by which it is disposed of take place at proceedings open to the public.

Section 3.10 Council: Committees, Commissions, and Boards. Advisory and statutory commissions, committees, and boards that the Council may establish shall be appointed by the City Council.

CHAPTER IV

CITY MANAGER

Section 4.1 City Manager: Appointment and Qualifications. The Council shall hire a City Manager for an indefinite term who shall hold office during the pleasure of the Council and may be removed at any time by a three-fifths vote of the entire Council. The City Manager shall be chosen without regard to political considerations and solely on the basis of executive and administrative qualifications. The City Manager need not be a resident of the City or state at the time of appointment, but within one year thereafter shall become and remain a resident of the City while in office. No Councilor or Mayor may be hired as City Manager until one year after the expiration of that person's service in the office of Councilor or Mayor.

Section 4.2 City Manager: Vacancy. If the office of the City Manager becomes vacant or if the City Manager is absent from the City or disabled, the Council may designate a City Manager Pro Tem.

Section 4.3 City Manager: Pro Tem. The City Manager Pro Tem shall perform the duties of City Manager, but may appoint or dismiss a department head only with the approval of the Council. The term of office of the City Manager Pro Tem ends when the City Manager returns to the City or takes office.

Section 4.4 City Manager: Powers and Duties. The City Manager shall be the chief executive officer of the City government and shall be responsible to the Council for the proper performance of his or her duties. The City Manager shall:

(a) Supervise and control all administrative and business affairs of the City;

(b) Enforce all ordinances;

(c) See that the provisions of all franchises, contracts, leases, permits and privileges granted by the City are fully observed and enforced;

(d) Except for municipal court judges, generally supervise and control all employees of the City including, but not limited to employing, disciplining and discharging employees, assigning duties and accounting for performances as prescribed by ordinance;

(e) Organize, disband or reorganize departments;

(f) Prepare the annual budget;

(g) Make all purchases;

(h) Execute all contracts with Council approval;

(i) Prepare and furnish reports requested by the Council;

(j) Devote full time to the office of the City Manager, and

(k) Perform other duties as the Council directs.

Section 4.5 City Manager: Council Meetings. The City Manager and such other officers of the City as the Council designates may sit with the Council, but may not vote on questions before the Council. The City Manager may take part in all Council discussions.

Section 4.6 City Manager: Interference in Administration. No member of the council shall directly or indirectly, by suggestion or otherwise, attempt to influence or coerce the City Manager in the making of any appointment or in the removal of any officer or employee. No Councilor shall attempt to exact any promise relative to any appointment from any candidate for City Manager. If the Council finds, upon a hearing, that a member of the Council has violated the foregoing provisions of this section, the office of the offending member shall be forfeited. Nothing in this section shall be construed, however, as prohibiting the Council, while in session, from fully and freely discussing with or suggesting to the Manager anything pertaining to City affairs or the interests of the City. Neither the Manager nor any person in the employ of the City shall take part in securing, or contributing any money toward, the nomination or election of any candidate for a municipal office.

Section 4.7 City Manager: Ineligible Persons. Neither the Manager's spouse nor any person related to the Manager or the Manager's spouse by consanguinity or affinity within the third degree may hold appointive office or employment with the City.

Section 4.8 City Manager: Ineligible to be City Recorder. While service as City Manager, the City Manager shall not serve as City Recorder or City Recorder Pro Tem. (Ord. 00-1095 § 1, approved at 11-7-00 election)

CHAPTER V

RECORDER

Section 5.1 Recorder. The Recorder shall be appointed by the City Council. The Recorder shall serve as Clerk of the Council, attend all its meetings unless excused therefrom by the Council, keep

an accurate record of its proceedings, and sign all orders on the treasury. The City Recorder need not be a resident of the City or state at the time of appointment, but within one year thereafter shall become and remain a resident of the City while in office.

Section 5.2 Elections. The City Recorder shall act as the City officer in charge of elections.

Section 5.3 Absence. In the Recorder's absence, the City Council shall appoint a Recorder Pro Tem who, while acting in that capacity, shall have all the authority and duties of the Recorder, including serving as Clerk of the Council. (Ord. 00-1096 § 1, approved at the 11-7-00 election)

CHAPTER VI

MUNICIPAL COURT AND JUDGE

Section 6.1 Municipal Court: Creation and Jurisdiction. The Council may continue the court known as the Municipal Court. The jurisdiction and proceedings of the Municipal Court are governed by the general laws of the State of Oregon for Justices of the Peace and Justice Courts, except as city ordinance prescribes to the contrary. The Municipal Court has original jurisdiction over all offenses defined and made punishable, and over all actions to recover or enforce forfeitures or penalties defined or authorized, by the ordinances of the City.

Section 6.2 Municipal Court: Powers.

(1) The Municipal Court has the jurisdiction and authority of a Justice of the Peace in and for Washington County, in both civil and criminal matters and, when exercising that jurisdiction and authority is subject to the general laws of the State of Oregon prescribing the duties of a Justice of the Peace and the mode of performing them.

(2) The Municipal Judge may:

(a) Render judgments and impose sanctions for the enforcement thereof on persons and property within its jurisdiction;

(b) Cause the arrest of any person accused of an offense against the City;

(c) Commit to jail, pending trial, any person accused of an offense against the City;

(d) Issue and compel obedience to subpoenas;

(e) Compel witnesses to appear and testify or jurors to serve in the trial of any cause before the Municipal Court;

(f) Punish witnesses and others for contempt of court;

(g) Issue any process necessary to carry into effect the judgment of the Municipal Court; and

(h) Perform other judicial or quasi-judicial functions as the Council prescribes by general ordinance.

Section 6.3 Municipal Judge: Appointment. The Council may appoint a Municipal Judge and such Pro Tem judges as it deems necessary to serve for indefinite terms to hold office at the pleasure of the Council and may remove any of them at any time, with or without cause, by three-fifths vote of the entire Council.

Section 6.4 Municipal Judge: Vacancy. If the office of Judge is absent from the City or disabled, the City Council may appoint an acting Municipal Judge. The term of acting Municipal Judge shall end when the Municipal Judge returns to the City or takes office.

CHAPTER VII

MUNICIPAL OFFICERS AND EMPLOYEES

Section 7.1 Qualifications. No person may hold an elective city office unless that person is a legal elector under the laws and Constitution of the State of Oregon; a resident of the city for one year immediately before being elected or appointed to the office; a resident of the city when nominated, elected or appointed and when assuming the office and unless that person received the highest number of votes cast for candidates for the office at the election at which the office is to be filled.

Section 7.2 Certificate of Election. Immediately after the votes at a municipal election for filling an elective office have been canvassed, the City Recorder shall issue a certificate of election to each person declared by the canvassers to have been elected at the election. The certificate shall be prima facie evidence of the facts therein stated, but the Council shall be the judge of the election and qualifications of the Mayor and Councilors, and in case of a contest between two or more persons claiming an elective city office shall determine the contest.

Section 7.3 Terms. The term of city elective offices shall commence upon the swearing in of the officers at the first regular meeting in January following the election.

Section 7.4 Oath of Office. Each elective officer, the City Manager and Municipal Judge, before entering upon the duties of office, shall take an oath or affirmation to support the Constitution and laws of the United States and of the State of Oregon and to faithfully perform the duties of the office. The oath of office will be administered at the first regularly scheduled meeting in January following the officer’s election.

Section 7.5 Offices: Vacancies.

(1) An office becomes vacant upon its incumbent's death, adjudication of incompetence, conviction of a felony, forfeiture of office by action of the Council, resignation or ceasing to be a qualified elector of the City. An elective city office may be declared vacant whenever its incumbent is absent from the City for forty-five (45) consecutive days without the consent of the Council or whenever the elected city officer has been absent from three regular meetings of the Council without the Council's consent or whenever a Councilor removes his primary residence from the City.

(2) The Council shall judge when an office becomes vacant.

(3) In the event the office of mayor or councilor becomes vacant before the normal expiration of its term, an election shall be held to fill the vacancy for the unexpired term, provided that the unexpired term remaining is not less than thirteen (13) months from the election date described herein. Such election shall be held on the next special, primary or general election date that is not less than 90 days from the date the position is declared vacant. The council may appoint a person to fill a vacancy until the vacancy is filled by the election described herein or for the unexpired term if no election is required. A majority vote of the remaining Council members shall be required to validate the appointment. The appointee's term of office shall begin immediately upon that person's appointment and shall continue until the term expires or the vacancy is filled by the election described herein, whichever occurs first. (Ord. 00-1094 § 1, approved at 11-7-00 election)

Section 7.6 Compensation. Councilors and the Mayor shall receive no pay for their services, but may be reimbursed for actual expenses they incur when performing their duties. The compensation of other officers shall be prescribed by the Council.

Section 7.7 Liability for Unauthorized Expenditures.

(1) A City officer who participates in, advises, consents to, or allows city money to be diverted to any purpose other than the one for which it is raised is guilty of malfeasance and is removable from office as provided by law.

(2) If any city money is diverted from the purpose for which it is raised, if any money is unlawfully used or if any void evidence of debt is paid, any qualified elector or taxpayer of the city may bring a civil action in the name of the city against any officer voting for, approving of, or in any way directing the diversion, unlawful use, or void payment, to recover the amount, with interest, for the benefit of the City.

CHAPTER VIII

ELECTIONS

Section 8.1 Elections. City elections, insofar as not governed by this Charter or by city ordinance, shall be conducted as prescribed by Oregon State law governing popular elections.

Section 8.2 Voter's Qualifications. No person may vote at a city election who is not a qualified voter of the state.

Section 8.3 Notice. The City Recorder shall give ten days public notice of each City election. The notice shall state the officers to be elected and the measures to be submitted at the election. The notice shall also state the places for the election.

Section 8.4 Nomination. The Council shall provide by ordinance the mode for nominating elective officers.

Section 8.5 Tie Votes. In the event of a tie vote for candidates for an elective office, the successful candidate shall be determined by a public drawing of lots in a manner prescribed by Council. (Ord. 00-1093 § 1, approved at 11-7-00 election)

CHAPTER IX

ORDINANCES

Section 9.1 Ordaining Clause. The ordaining clause of an ordinance shall read: "The City of Sherwood ordains as follows:"

Section 9.2 Mode of Enactment.

(1) Except as paragraph (2) of this section provides to the contrary, every ordinance of the Council shall, before being put upon its final passage, be read fully and distinctly once in open Council meeting.

(2) Any reading may be by title only (A) if no Council member present at the meeting requests to have the ordinance read in full, or (B) if a copy of the ordinance is provided for each Council member and three copies are provided for public inspection in the office of the City Recorder not later than one week before the first reading of the ordinance, and notice of their availability is given forthwith upon the filing, by (I) written notice posted at the City Hall and two other public places in the City, or (II) advertisement in a newspaper of general circulation in the City.

(3) An Ordinance enacted after being read by title alone may have no legal effect if it differs substantially from its terms as it was thus filed prior to such reading, unless each section incorporating such difference is read fully and distinctly in open Council meeting as finally amended prior to being approved by the Council.

(4) Upon the final vote on an ordinance, the ayes and nays of the members shall be taken and recorded in the journal.

Section 9.3 Attestation and Approval. Upon the enactment of an ordinance the Recorder shall sign it with the date of its passage and the Recorder's name and title of office and submit the ordinance to the Mayor for approval. If the Mayor approves the ordinance, the Mayor shall sign and date his or her signature on the ordinance.

Section 9.4 Veto. If not approving an ordinance so submitted, the Mayor shall, within ten days after receiving it, return it to the City Recorder, with written reasons for not approving it. If not so returned, the ordinance shall have legal effect as if so approved.

Section 9.5 Overriding of Veto. At the first meeting of the Council after the Mayor returns an ordinance not so approved, the City Recorder shall present the ordinance to the Council with the objections of the Mayor. The ordinance shall then be submitted for adoption again and if four-fifths of the entire Council vote in favor of the ordinance, it shall take effect in accordance with Section 9.6 of the Charter.

Section 9.6 Times of Effect. An ordinance takes effect thirty (30) days after its adoption by the Council and approval by the Mayor, or passage over the Mayor's veto, unless it is necessary to have immediate effect for the preservation of the peace, health, and safety of the City, and so states in a separate section the reasons why it is necessary, and is approved by the affirmative vote of three-fifths of the entire Council. In that event, it takes effect immediately upon its adoption by the Council and approval by the Mayor or passage over his or her veto at whatever subsequent time the ordinance specifies.

CHAPTER X

PUBLIC IMPROVEMENTS

Section 10.1 Procedure.

(1) Except as provided in this section, the procedure for making, altering, vacating or abandoning a public improvement shall be governed, by the applicable general laws of the State of Oregon.

(2) If, within fifteen (15) days of first publication of notice of intention to make an improvement, the owners of 65% or more in area of the property within the assessment district make and file written objection or remonstrance against the proposed improvement, said remonstrance shall be a bar to further proceedings in making such improvement under the authority granted by this Section, for a period of one (1) year, unless within that period the owners of one-half (1/2) or more of the property affected shall subsequently petition therefore. Further proceedings to make the improvement after expiration of the period of bar shall require republication of notice of intention to make the improvement, and those proceedings shall likewise be subject to bar by remonstrance pursuant to this section.

Section 10.2 Assessments. The procedure for levying, collecting and enforcing the payment of special assessments for public improvements or other services to be charged against real property shall be governed by general ordinance.

Section 10.3 Liens. The docket of city liens is a public writing, and the original of a certified copy of any matter authorized to be entered in the docket shall have the force and affect of a judgment. From the time of the Council's authorization of an improvement on account of which an assessment is entered in the docket, the sum so entered is a lien against the property. The lien has priority over all other liens and encumbrances upon the property and may be enforced in the manner authorized by the Council. The Council must notify the property owner by certified mail or process server, thirty (30) days prior to taking action to foreclose a lien.

CHAPTER XI

MISCELLANEOUS PROVISIONS

Section 11.1 Indebtedness: Limits.

(1) Indebtedness of the city may not exceed the limits on city indebtedness under state law.

(2) Approval by the voters of city indebtedness need not be in the form of a charter amendment.

Section 11.2 Terms, Proceeds, and Retirement of Bonds. Bonds issued as evidence of indebtedness shall have such terms and provisions as shall be prescribed by the Council. Bond sale proceeds shall be kept, invested, disbursed and accounted for and the indebtedness retired in the manner prescribed by the Council.

Section 11.3 Presumption of Validity of City Action. In every proceeding in any court concerning the exercise of enforcement by the City of any of its officers or agencies of any power by this act given to the City or any of its officers or agencies, all acts by the City or any of its officers or agencies shall be presumed to be valid and no error or omission in any such act invalidates it, unless the person attacking it alleges and proves that he or she has been misled by the error or omission to his or her damage. The court shall disregard every error or omission which does not affect a substantial right of the person. Any action by this Charter Committed to the discretion of the Council, when taken, shall be final and shall not be reviewed or called into question elsewhere.

Section 11.4 Existing Ordinances Continued. All ordinances of the City consistent with this Charter and in force when it takes effect shall remain in effect until amended or repealed.

Section 11.5 Repeal of Previously Enacted Provisions. All Charter provisions of the City enacted prior to the time that this Charter takes effect are hereby repealed. All prior acts of the City pursuant to the Charter provisions hereby repealed, giving rise to vested rights and obligations, are ratified, confirmed, and unaffected by repeal of said prior Charter provisions.

Section 11.6 Initial Elected Officers. The duly elected officers of the City of Sherwood under the Charter provisions repealed hereby shall, upon the effective date of this Charter, become the initial elected officers under this Charter, to serve the remainder of their respective terms of office.

Section 11.7 Time of Effect of Charter. This Charter shall take effect on July 1, 1984.

Section 11.8 Solid Waste Incinerators. The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the City. For the purposes of this Section, solid waste is defined as per ORS 459.005(24), and includes infectious wastes as per ORS 459.386(2). Provided said incineration or burning is otherwise properly permitted, this prohibition shall not apply to furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a byproduct on-site and used for energy recovery purposes only. Said small-scale specialized incinerators must be integral to and part of, but clearly ancillary, secondary, and incidental to, a permitted or conditionally permitted use in the City, and cannot utilize infectious wastes or any fuels derived from infectious wastes. This prohibition shall also not apply to solid waste incinerators lawfully permitted to operate prior to September 5, 1990, but shall apply to any expansion, alteration, or modification of such a use or any applicable permits.

Section 11.9 City Attorney. The City Attorney is an officer of the City. The City Attorney shall be appointed and may be removed by majority vote of all members of the Council. The City Attorney shall perform all professional services incidental to the office and shall, when required, furnish opinions upon any subject pertaining to the affairs of the City. He or she shall also advise with and counsel all City officers in respect to their official duties and attend the regular meetings of the Council and of such committees and boards as shall request his or her assistance. (Ord. 00-1097 § 1, approved at 11-7-00 election)

Section 11.10 Use of Willamette River for Residential Drinking Water. Use of Willamette River water as a residential drinking water source within the city is prohibited except when such use has previously approved by a majority vote of the city's electors. (Ord. 01-1121 § 1, approved at 11-6-01 election)

I. HOW TO USE YOUR CODE

This code is organized to make the laws of the city as accessible as possible to city officials, city employees and private citizens. Please take a moment to familiarize yourself with some of the important elements of this code.

Numbering System.

The numbering system is the backbone of a code of ordinances; Matthew Bender & Company, Inc. uses a unique and versatile numbering structure that allows for easy expansion and amendment of this code. It is based on three tiers, beginning with title, then chapter, and ending with section. Each part is represented in the code section number. For example, Section 2.04.010 is Section .010, in Chapter 2.04 of Title 2.

Title.

A title is a broad category under which ordinances on a related subject are compiled. This code contains about 15 to 20 titles. For example, the first title is Title 1, General Provisions, which may contain ordinances about the general penalty, code adoption and definitions. The titles in this code are separated by tabbed divider pages for quick reference. Some titles are Reserved for later use.

Chapter.

Chapters deal with more specific subjects, and are often derived from one ordinance. All of the chapters on a related subject are grouped in one title. The chapters are numbered so that new chapters which should logically be placed near certain existing chapters can be added at a later time without renumbering existing material. For example, Chapter 2.06, City Manager, can be added between 2.04, City Council, and Chapter 2.08, City Attorney.

Section.

Each section of the code contains substantive ordinance material. The sections are numbered by "tens" to allow for expansion of the code without renumbering.

Tables of Contents.

There are many tables of contents in this code to assist in locating specific information. At the beginning of the code is the main table of contents listing each title. In addition, each title and chapter has its own table of contents listing the chapters and sections, respectively.

Ordinance History Note.

At the end of each code section, you will find an "ordinance history note," which lists the underlying ordinances for that section. The ordinances are listed by number, section (if applicable) and year. (Example: (Ord. 272 § 1, 1992).) This note will be updated by Matthew Bender & Company, Inc. as

each section is amended, with the most recent amendment added to the beginning. The notation "(part)" is used when the code section contains only part of the ordinance (or section of the ordinance) specified; this indicates that there are other areas of the code affected by the same ordinance (or section of the ordinance). If the code section was derived from an earlier codification, the last entry in the note indicates the old or "prior code" section number.

Statutory References.

The statutory references direct the code user to those portions of the state statutes that are applicable to the laws of the municipality. As the statutes are revised, these references will be updated by Matthew Bender & Company, Inc.

Cross-Reference Table.

When a code is based on an earlier codification, the cross-reference table will help users find older or "prior" code references in the new code. The cross-reference table is located near the end of the code, under the tabbed divider "Tables." This table lists the prior code section in the column labeled "Prior Code Section" and the new code section in the column labeled "Herein." This table will be updated as prior code sections are renumbered or repealed.

Ordinance List and Disposition Table.

To find a specific ordinance in the code, turn to the section called "Tables" for the Ordinance List and Disposition Table. This very useful table tells you the status of every ordinance reviewed by Matthew Bender & Company, Inc. The table is organized by ordinance number and provides a brief description and the disposition of the ordinance. If the ordinance is codified, the chapter (or chapters) will be indicated. (Example: (2.04, 6.12, 9.04).) If the ordinance is of a temporary nature or deals with subjects not normally codified, such as budgets, taxes, annexations or rezones, the disposition will be "(Special)." If the ordinance is for some reason omitted from the code, usually at the direction of the municipality, the disposition will be "(Not codified)." When an ordinance is repealed, the disposition will be changed by Matthew Bender & Company, Inc. to "(Repealed by Ord.)" with the appropriate ordinance number. Other dispositions sometimes used are "(Tabled)," "(Pending)," "(Number Not Used)" or "(Missing)."

Index.

If you're not certain where to look for a particular subject in this code, start with the index. This is an alphabetical multi-tier subject index which uses section numbers as the reference, and cross-references where necessary. Look for the main heading of the subject you need, then the appropriate subheadings:

BUSINESS LICENSE

See also BUSINESS TAX
Fee 5.04.030
Required when 5.04.010

The index will be updated as necessary when the code text is amended.

Insertion Guide.

Each supplement to the new code will be accompanied by an Insertion Guide. This guide will tell the code user the date of the most recent supplement and the last ordinance contained in that supplement. It will then list the pages that must be pulled from the code and the new pages that must be inserted. Following these instructions carefully will assure that the code is kept accurate and current.

Page Numbers.

When originally published, this code was numbered with consecutive page numbers. As it is amended, new material may require the insertion of new pages that are numbered with hyphens. (Example: 31, 32, 32-1.) Backs of pages that are blank (in codes that are printed double-sided) are left unnumbered but the number is "reserved" for later use.

If you have any questions about this code or our services, please contact your editor at 1-800-446-3410 or your customer care representative at 1-866-501-5155, or write to us at the following address:

LexisNexis Municipal Codes
Matthew Bender & Company, Inc.
701 East Water Street
Charlottesville, VA 22902

II. DRAFTING AND SENDING YOUR ORDINANCES TO LEXISNEXIS

In drawing up ordinances, it is important to designate in the ordinance text what specific portions of the code are affected. The history note in parentheses at the end of each code section documents those ordinance(s) underlying the section being changed. Clearly indicate whether the ordinance adds, amends, repeals and replaces, or simply repeals the affected section.

The title of an ordinance and any introductory language appearing before the ordaining clause has no legal effect. The title (or the summary words appearing with it) may state that the ordinance repeals (or amends or adds) certain provisions, but in order for these changes to be effective, the intended repeal, amendment or addition must be set out following the ordaining clause. If you have any questions as to the proper placement of a new provision, please contact us.

When Amending Existing Code Material.

Amend the code section specifically. The underlying ordinance section may also be included.

Examples:
§ 3.04.020 of the _____ Municipal Code is amended to read as follows:
§ 3 of Ord. 319 and § 3.04.020 of the _____ Municipal Code are amended to read as follows:

If only a portion of a section is being amended, designate the specific portion:

Example:
§ 3.04.050(A)(2) of the _____ Municipal Code is amended to read as follows:

When Repealing Existing Code Material.

When repealing material, designate the specific portion of the code to be repealed. Include the underlying ordinance section if you wish; however, we consider both code section and underlying ordinance to be repealed whether you mention the underlying ordinance or not.

Examples:
§ 3.04.020 of the _____ Municipal Code is repealed.
§ 3 of Ord. 319 and § 3.04.020 of the _____ Municipal Code are repealed.
Subsection B of § 3.04.030 of the _____ Municipal Code is repealed.

When Adding New Material to Code.

When new provisions are to be added to the code, determine where the material would best fit within the subject matter of the existing section, chapter or title. If there is no existing section, chapter or title, you should assign a new section, chapter or title number. Our expandable decimal num-

bering system is designed to allow for the incorporation of new material without disturbing the numbering system of existing material.

The following language is sufficient to locate new material in the code:

Examples:
Subsection D is added to § 5.10.040 of the _____ Municipal Code, to read as follows:
§ 5.10.033 is added to the _____ Municipal Code, to read as follows:
Chapter 12.07 is added to the _____ Municipal Code, to read as follows:

Formatting.

For every page please create a footer which contains: the ordinance no., attachment/exhibit no. (if any) and the page number. Don't use shadow bars, borders or other highlighting. It helps if you can format the ordinance as much like the codebook page as possible.

Electronic Submission.

In the interests of accuracy and speed, we encourage you to submit your ordinances electronically if at all possible. We can accept most any file format, including Word, WordPerfect or text files. If you have a choice, we prefer Word, any version. You can send files to us as an e-mail attachment, by FTP, on a diskette or CD-ROM. Electronic files enable us not only to get you your code quicker but also ensure that it is error-free. Our e-mail address is: ordinances@lexisnexis.com.

For hard copy, send two copies of all ordinances passed to:

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Our editorial staff is always willing to provide assistance should there be any difficulty in amending the code. Please call your editor at 1-800-446-3410 or your customer care representative at 1-866-501-5155.

SUPPLEMENT NO. 5

INSERTION GUIDE

SHERWOOD MUNICIPAL CODE

March, 2006

(Covering Ordinances through 06-008)

This supplement consists of reprinted pages replacing existing pages in the Sherwood Municipal Code.

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This Guide for Insertion should be retained as a permanent record of pages supplemented and should be inserted in the front of the code.

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402	(Repealed by 588)
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404	(Missing)
405	Grants franchise to West Coast Telephone Co. (Special)
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407	Delinquent sewer service charges (13.12)
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409	Sewer improvement (Special)
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501	Special election (Special)
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504	Bond issuance (Special)
505	Grants franchise to Portland Gas and Coke Co. (Special)
506	(Repealed by 546)
507	Amends Ord. 403, sewer facility charges (Not sent)
508	(Repealed by 584)
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510	Street name change (Special)
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512	Grants franchise to West Coast Telephone Co. (Repealed by 607)
513	Amends Ord. 403, sewer facility charges (Not sent)
514	Water service (Repealed by 01-1115)
515	(Repealed by 588)
516	(Repealed by 588)
517	Swimming pools, fishponds and other decorative bodies of water (15.12)
518	(Repealed by 652)
519	House numbering (Not sent)
520	(Repealed by 567)
521	City Hall sinking fund (Special)

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522	Special election (Special)
523	Special election (Special)
524	(Repealed by 588)
525	Annexation (Special)
526	Repeals Ords. 2, 3, 6, 11, 13, 16, 17, 18, 19, 21, 24, 25, 26, 27, 29, 32, 33, 34, 35, 36, 40, 43, 45, 48, 49, 53, 54, 56, 60, 201, 406, 500, 503, 511, 516 (Repealer)
527	(Repealed by 641)
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530	Sewer system (13.08)

Ordinance Number	
531	(Repealed by 641)
532	Amends Ord. 124, pinball games, game tables, electronic and other game devices (Not codified)
533	(Repealed by 599)
534	Amends Ord. 514, water service (Not sent)
535	(Repealed by 641)
536	Repeals Ords. 1, 4, 5, 7, 8, 10, 12, 14, 20, 46, 101, 102, 104, 107, 140, 200, 411 (Repealer)
537	Bond issuance (Special)
538	Annexation (Special)
539	Annexation (Special)
540	Annexation (Special)
541	(Special)
542	(Repealed by 588)
543	Special election (Special)
544	Special election (Special)
545	(Repealed by 611)
546	(Repealed by 644)
547	Annexation (Special)
548	Annexation (Special)
549	Business licenses and regulation (5.04)
550	Public library (Repealed by 88-889)
551	Amends Ord. 514, water service (Not sent)
552	Withdraws certain parcels from rural fire protection district (Special)
553	Amends Ord. 403, sewer facility charges (13.12)
554	Grants garbage disposal franchise (Special)
555	Adds § 11 to Ord. 549, business licenses and regulation (Not codified)
556	Grants garbage disposal franchise (Special)
557	Annexation (Special)
558	Annexation (Special)
559	Annexation (Special)
560	Dumping (9.36)
561	(Repealed by 629)
562	Special election (Special)
563	Annexation (Special)
564	(Repealed by 588)
565	Annexation (Special)
566	Zone change, annexation and boundary change fees (Repealed by

Ordinance Number	
	98-1049)
567	Adds §§ 415, 417, 418 and 419 to and amends §§ 401 and 413 of Ord. 530, sewer system (13.08)
568	(Repealed by 588)
569	Annexation (Special)
570	(Repealed by 588)
571	Annexation (Special)
572	(Repealed by 652)
573	Fire prevention (Repealed by 98-1049)
574	Annexation (Special)
575	(Repealed by 588)
576	Annexation (Special)
577	Special election (Special)
578	Annexation (Special)
579	Bond issuance (Special)
580	Bond issuance (Special)
581	Annexation (Special)
582	Special election (Special)
583	Special election (Special)
584	(Repealed by 658)
585	(Repealed by 644)
586	(Repealed by 588)
587	(Repealed by 588)
588	Repeals Ords. 586 and 587 (Repealed by 726)
589	Easement vacation (Special)
590	Annexation (Special)
591	City supervisor (Repealed by 98-1049)
592	Sewer improvement (Special)
593	Water line repair and replacement sinking fund (Special)
594	Sewer line repair and replacement sinking fund (Special)
595	(Repealed by 644)
596	Adds § 416 to Ord. 530, sewer system (13.08)
597	Sewer improvement (Special)
598	(Repealed by 644)
599	Vehicles and traffic; repeals Ord. 533 (10.08, 10.12)
600	Standard specifications for street construction (Not codified)
601	Bond issuance (Special)
602	Amends §§ 4 and 5 of Ord. 514, water service (Repealed by 01-1115)
603	(Superseded by 816)

Ordinance Number	
604	Sewer improvements (Special)
605	Criminal procedure (Repealed by 98-1043)
606	Sewer improvements (Special)
607	Grants franchise to General Telephone Co. of the Northwest, Inc. (Special)
608	Adopts and ratifies the fire prevention code adopted by Tualatin rural fire protection district (Repealed by 98-1049)
609	Bond issuance (Special)
610	Rezone (Special)
611	Planning commission (Repealed by 98-1049)
612	Special election (Special)
613	Bond issuance (Special)
614	Amends Ord. 599, vehicles and traffic (Repealed by 86-837)
615	(Superseded by 816)
616	Bond issuance (Special)
617	Amends §§ 4 and 5 of Ord. 514, water service (Repealed by 01-1115)
618	Garbage collection rates (Special)
619	Right-of-way acquisition (Special)
620	(Repealed by 726)
621	(Repealed by 726)
622	(Repealed by 726)
623	Grants franchise to Portland General Electric Co. (Special)
624	Annexation (Special)
625	Annexation (Special)
626	Budget and tax levy (Special)
627	Grants franchise to Portland General Electric Co. (Special)
628	Annexation (Special)
629	Adds § 8 to Ch. VIII of Ord. 599, vehicles and traffic (10.08)
630	Rezone (Special)
631	Amends § 6 of Ord. 549, business licenses and regulation (5.04)
632	Budget and tax levy (Special)
633	Budget and tax levy (Special)
634	(Repealed by 726)
635	(Repealed by 726)
636	Amends Ord. 599, vehicles and traffic (Repealed by 86-837)
637	Amends Ord. 600, standard specifications for street construction (Not codified)
638	Annexation (Special)
639	Rezone (Special)

Ordinance Number	
640	Amends §§ 3 and 4 of Ord. 549, business licenses and regulation (5.04)
641	Police code; repeals Ords. 527, 531, 535 and §§ 2, 4, 5 and 17 of Ord. 529 (9.04, 9.08. 9.12, 9.16, 9.20, 9.24, 9.28, 9.32, 9.36, 9.44)
642	Amends Ord. 599, vehicles and traffic (Repealed by 86-837)
643	Amends §§ 2--5 of Ord. 611, planning commission (Repealed by 98-1049)
644	(Repealed by 742)
645	Budget and tax levy (Special)
646	(Repealed by 726)
647	Budget and tax levy (Special)
648	Water hookup outside city for certain private residence (Special)
649	Budget and tax levy (Special)
650	Special election (Special)
651	Budget and tax levy (Special)
652	(Repealed by 726)
653	Public areas and parks (12.12)
654	Rezone (Special)
655	Sewer assessment (Special)
656	Special election (Special)
657	Amends §§ 3--6, 10 and 11 of Ord. 514, water service (Repealed by 01-1115)
658	Dog control; repeals Ord. 584 (6.04)
659	Authorizes condemnation proceedings for acquisition of park land (Special)
660	Dispenses with fund established by Ord. 593 (Special)
661	Budget and tax levy (Special)
662	Grants franchise to Northwest Natural Gas Co. (Special)
663	Annexation (Special)
664	Public contract procedure (Repealed by 94-993)
665	Equipment rental (Special)
666	Budget and tax levy (Special)
667	Amends Ord. 599, vehicles and traffic (10.08)
668	Amends §§ 3--6 and repeals § 8 of Ord. 500, public library (Repealed by 88-889)
669	Special election (Special)
670	Amends Ord. 599, vehicles and traffic (Repealed by 86-837)
671	Amends Ord. 599, vehicles and traffic (Repealed by 86-837)
672	Amends §§ 1 and 4 of Ord. 591, city supervisor (Repealed by 98-1049)

Ordinance Number	
673	Garbage disposal (Repealed by 816)
674	Amends § 417 of Ord. 530, sewer service (Repealed by 91-927)
675	Garbage rates (Special)
676	Annexation (Special)
677	Annexation (Special)
678	(Repealed by 726)
679	Amends §§ 3 and 4 of Ord. 549, business licenses and regulation (5.04)
680	(Repealed by 742)
681	Equipment rental (Repealed by 05-004)
682	Sidewalks (12.08)
683	(Special)
684	Rezone (Special)
685	Rezone (Special)
686	Personnel system (Repealed by 02-1129)
687	(Repealed by 726)
688	(Repealed by 726)
689	(Superseded by 726)
690	Grants certain conditional use (Special)
691	Adds § 7A to Ord. 514, water system (Repealed by 99-1076)
692	(Special)
693	Grants certain conditional use (Special)
694	Rezone (Special)
695	Rezone (Special)
696	Grants certain conditional use (Special)
697	Building reserve fund (Special)
698	Amends Ord. 673, garbage disposal (Repealed by 816)
699	(Repealed by 726)
700	Moving buildings (15.08)
701	Rezone (Special)
702	Annexation (Special)
703	Amends § 9(a)(2) of Ch. 8 of Ord. 599, vehicles and traffic (10.08)
704	Rezone (Special)
705	(Repealed by 726)
706	(Repealed by 726)
707	Rezone (Special)
708	Grants certain conditional use (Special)
709	Elects to receive state revenue sharing funds (Special)
710	Establishes Rock Creek water and sewer improvement district (Special)

Ordinance Number	
711	Rezone (Special)
712	Adds § 9(a)(7) to Ch. 8 of Ord. 599, vehicles and traffic (10.08)
713	(Repealed by 726)
714	Rezone (Special)
715	(Repealed by 747)
716	Establishes Willamette Street sewer improvement district (Special)
717	Rezone (Special)
718	Amends Ord. 673, garbage disposal (Repealed by 816)
719	Special election (Special)
720	Elects to receive state revenue sharing funds (Special)
721	Amends § 5 of Ord. 514, water service (Repealed by 01-1115)
722	Rezone (Special)
723	Grants certain conditional use (Special)
724	Special election (Special)
725	Special election (Special)
726	Adopts comprehensive plan; repeals Ords. 509, 588, 652, 699 and 706 (Repealed by 86-851)
727	Grants certain conditional use (Special)
728	Storm drainage systems development charge (Repealed by 91-927)
729	Grants certain conditional use (Special)
730	Water and sewer improvement assessment (Special)
731	Water and sewer improvement assessment (Special)
732	Annexation (Special)
733	Amends Ord. 731, water and sewer improvement assessment (Special)
734	Land use decision (Special)
735	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
735A	Grants franchise to General Telephone Company of the Northwest, Inc. (Special)
736	Annexation (Special)
737	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
738	Local improvement procedures (3.04)
739	Elects to receive state revenue sharing funds (Special)
740	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
741	Amends §§ 1--8 of Ord. 124, pinball games, game tables, electronic and other game devices (5.08)
742	Buildings and construction; repeals Ord. 644 (Repealed by 90-912)
743	(Vetoed)
744	Amends § 3 of Ord. 550, public library (Repealed by 88-889)
745	Street vacation (Special)

Ordinance Number	
746	Rezone (Special)
747	Cable communications; repeals Ord. 715 (Repealed by 2003-1143)
748	Annexation (Special)
749	Street vacation (Special)
750	Annexation (Special)
751	Grants certain conditional use (Special)
752	Annexation (Special)
753	Grants certain conditional use (Special)
754	Grants certain land use permit (Special)
755	Rezone (Special)
756	Rezone (Special)
757	Annexation (Special)
758	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
759	Water and sewer improvement assessment (Special)
760	Water and sewer improvement assessment (Special)
761	Establishes Cedar Creek sanitary sewer improvement district (Special)
762	Grants certain land use permit (Special)
763	Grants certain conditional use (Special)
764	Bridle paths (10.12)
765	Annexation (Special)
766	Bond issuance (Special)
767	Elects to receive state revenue sharing funds (Special)
768	Amends § 4 of Ord. 514, water service (Repealed by 91-927)
769	Rezone (Special)
770	Special election (Special)
770A	Rezone (Special)
771	Establishes Murdock Road street and sanitary sewer improvement district (Special)
772	Establishes Sunset Boulevard street improvement district (Special)
773	Establishes Highland-Willamette street improvement district (Special)
774	Water and sewer improvement assessment (Special)
775	Street improvement assessment (Special)
776	Street and sewer improvement assessment (Special)
777	Street improvement assessment (Special)
778	Sewer improvement assessment (Special)
779	Bond issuance (Special)
780	Rezone (Special)
781	Grants certain conditional use (Special)

Ordinance Number	
782	Adds § 12A to Ord. 738, local improvement procedures (3.04)
783	Annexation (Special)
784	Annexation (Special)
785	Rezone (Special)
786	Reapportions certain sewer improvement assessment (Special)
787	Grants certain conditional use (Special)
788	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
789	Rezone (Special)
790	Amends § 4(a) of Ord. 591, city supervisor (Repealed by 98-1049)
791	Taxicab services (5.24)
792	Bonding of assessments in certain local improvement districts (Special)
793	Bond issuance (Special)
793A	Amends Ord. 673, garbage disposal (Repealed by 816)
794	Amends §§ 4 and 5 of Ord. 514, water service (Repealed by 01-1115)
795	Amends § 417 of Ord. 530, sewer service (Repealed by 91-927)
796	Reapportions certain water and sewer improvement assessment (Special)
797	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
798	Establishes Edy Road water and sewer improvement district (Special)
799	Disposition of abandoned or unclaimed property (2.28)
800	Special election (Special)
801	Special election (Special)
802	Special election (Special)
803	Amends § 4 of Ord. 514, water service (Repealed by 91-927)
804	Elects to receive state revenue sharing funds (Special)
805	Special election (Special)
806	Street vacation (Special)
807	Nomination of candidates to elective offices (Repealed by 05-008)
808	Amends Ord. 806, street vacation (Special)
809	Water and sewer improvement assessment (Special)
810	Bonding of assessments in certain local improvement districts (Special)
811	Special election (Special)
812	Special election (Special)
813	Amends Ord. 599, vehicles and traffic (Repealed by 86-837)
814	Parks and recreation board (2.16)
815	Bingo and lotto games (Repealed by 88-872)

Ordinance Number	
816	Solid waste management; repeals Ords. 673 and 793A (Repealed by 89-899)
817	Rezone (Special)
818	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
819	Interim financing for repair and improvement of streets (Special)
820	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
821	Amends § 5 of Ord. 514, water service (Repealed by 01-1115)
822	(Not passed)
823	Street light service charge (Expired)
824	Special election (Special)
825	Reapportions certain sewer improvement assessments (Special)
826	Elects to receive state revenue sharing funds (Special)
827	Rezone (Special)
828	Reapportions certain sewer improvement assessment (Special)
829	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
830	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
831	Changes city boundaries and corporate limits (Special)
832	Amends § 417 of Ord. 530, sewer service (Repealed by 91-927)
833	Parking regulations (Not sent)
86-834	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
86-835	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
86-836	Amends Ord. 726, comprehensive plan (Repealed by 86-851)
86-837	Motor vehicle code; amends §§ 1--7 of Ch. VIII of Ord. 599; repeals Chs. I--VII and § 26 of Ch. IX of Ord. 599 (10.04, 10.08)
86-838	Grants garbage disposal franchise (Special)
86-839	Special election (Special)
86-840	(Number not used)
86-841	Parking regulations (10.08)
86-842	Rezone (Special)
86-843	Segregation of assessment (Special)
86-844	Election to receive state revenues (Special)
86-845	Amends §§ 3 and 4 of Ord. 549, business licenses and regulation (5.04)
86-846	Amends community development code Ch. 1, § 5.01 (Repealed by 86-851)
86-847	Special election (Special)
86-848	Approves certain planned unit development (Special)
86-849	Special election (Special)
86-850	(Failed)
86-851	Adopts revised zoning and community development code (16.02,

Ordinance Number	
	16.04, 16.06, 16.08, 16.10, 16.12, 16.14, 16.16, 16.18, 16.20, 16.22, 16.24, 16.26, 16.28, 16.30, 16.32, 16.34, 16.36, 16.38, 16.40, 16.42, 16.44, 16.46, 16.48, 16.50, 16.52, 16.54, 16.56, 16.58, 16.60, 16.62, 16.64, 16.66, 16.68, 16.70, 16.72, 16.74, 16.76, 16.78, 16.80, 16.82, 16.84, 16.86, 16.88, 16.90, 16.92, 16.94, 16.96, 16.98, 16.100, 16.102, 16.104, 16.106, 16.108, 16.110, 16.112, 16.114, 16.116, 16.118, 16.120, 16.122, 16.124, 16.126, 16.128, 16.130, 16.132, 16.134, 16.136)
86-852	Parking regulations (10.08)
86-853	Rezone (Special)
86-854	Rezone (Special)
87-855	Authorizes extension of city water service to certain property outside the city limits (Special)
87-856	(Failed)
87-857	Vehicle impoundment (Repealed by 95-1000)
87-858	Renumbers §§ 17--26 to be 18--27, adds new § 17 and repeals and replaces §§ 15 and 16 of Ch. IX of Ord. 599, vehicles and traffic (10.12)
87-859	Incorporates the Old Town overlay zone into the zoning and community development code (Repealed by 92-946)
87-860	Amends zoning map to implement Old Town overlay zone (Special)
87-861	Adds subsections (g) and (h) to and amends §§ 5 and 11 of Ord. 514, water service (Repealed by 01-1115)
87-862	Amends § 11(a) of Ord. 514, water service (Repealed by 01-1115)
87-863	Amends § 6 of Ord. 816, solid waste management (Repealed by 98-1049)
87-864	Amends §§ 8(4) and 8(5) of Ord. 816, solid waste management (Repealed by 89-899)
87-865	Amends § 5(f) of Ord. 514, water service (Repealed by 01-1115)
87-866	Elects to receive state revenue sharing funds (Special)
87-867	Repeals and replaces §§ 1.202.40 through 1.202.52 and 2.114 of the community development code, floodplain regulations (16.08)
87-868	Fees and charges for city services (Repealed by 98-1049)
87-869	Repeals and replaces § 5.803.01 of the community zoning and development code (16.120)
87-870	Adds definitions to § 1.202; repeals and replaces §§ 2.107--2.109 and repeals § 2.106 of and deletes all references to office commercial zone in community zoning and development code (16.08, 16.22, 16.24, 16.26)
87-871	Rezone (Special)

Ordinance Number	
88-872	Bingo, lotto and raffle games; repeals Ord. 815 (5.12)
88-873	Zones certain property (Special)
88-874	Special election (Special)
88-875	Rezone (Special)
88-876	Rezone (Special)
88-877	Rezone (Special)
88-878	Rezone (Special)
88-879	Repeals and replaces § 2.114 of the zoning and community development code (16.108)
88-880	Adds § 3(f) to Ord. 549, business licenses and regulations (5.04)
88-881	Special election (Special)
88-882	Elects to receive state revenue sharing funds (Special)
88-883	Rezone (Special)
88-884	Rezone (Special)
88-885	Special election (Special)
88-886	Approves certain planned unit development overlay zoning district (Special)
88-887	Segregation of assessments (Special)
88-888	Amends solid waste collection rates (Repealed by 98-1049)
88-889	Library board; repeals Ord. 550 (Repealed by 03-1142)
88-890	Rezone (Special)
89-891	Approves certain planned unit development overlay zoning district (Special)
89-892	Rezone (Special)
89-893	Solid waste collection rates (Repealed by 98-1049)
89-894	Alarm systems (8.08)
89-895	Adds § 5(c) to Ord. 549, business licenses and regulation (5.04)
89-896	Elects to receive state revenue sharing funds (Special)
89-897	Solid waste collection rates (Repealed by 98-1049)
89-898	Amends §§ 2.205 and 2.206 of, repeals §§ 1.202.01 and 7.600 of and deletes references to manufactured home subdivisions in § 2.101.02B in the zoning and community development code (16.40)
89-899	Solid waste management; repeals Ords. 673, 793A, 816, 864 and § 4 of Ord. 893 (8.20)
89-900	Amends §§ 5.602, 6.302 and 6.602 of the zoning and community development code (Repealed by 91-927)
89-901	Adds § 5.504 to and amends § 5.503 of the zoning and community development code (16.74)
89-902	Amends § 5 of Ord. 514, water system (Repealed by 01-1115)
89-903	Approves certain planned unit development plan and district (Re-

Ordinance Number	
	pealed by 90-909)
89-904	Rezone (Special)
90-905	Bond issuance (Special)
90-906	Amends Ch. 3, §§ 4.100, 4.603 and 5.102 of and repeals § 4.200.02 of zoning and community development code (16.48, 16.50, 16.52, 16.54, 16.64, 16.66, 16.98)
90-907	Special election (Special)
90-908	Adopts agreements between city and unified sewerage agency for sanitary sewerage and surface water services (13.16)
90-909	Approves certain planned unit development plan and overlay zoning district; repeals Ord. 89-903 (Special)
90-910	Amends §§ 7 and 8 of Ord. 735 [735A], telephone franchise fees (Special)
90-911	Special election (Special)
90-912	Buildings and construction; repeals Ord. 742 (Repealed by 93-958)
90-913	Elects to receive state revenue sharing funds (Special)
90-914	Street vacation (Special)
90-915	Amends Ord. 89-897, solid waste collection rates; amends § 3(13)(a) of Ord. 89-899, solid waste management (8.20)
90-916	Segregation of assessments (Special)
90-917a	Utility easement vacation (Special)
90-917	Special election (Special)
90-918	Special election (Special)
90-919	Transfer of assessments (Special)
90-920	Adopts comprehensive revision of city zoning map (Special)
90-921	Adds § 2.106 to and amends § 2.101 of zoning and community development code (16.10, 16.20)
91-922	Adopts update of comprehensive land use plan (Not codified)
91-923	Amends §§ 5(a) and (b) and repeals § 5(f) of Ord. 514, water service (Repealed by 01-1115)
91-924	Special election (Special)
91-925	Amends §§ 3 and 4 of Ord. 549, business licenses and regulations (5.04)
91-926	Amends § 4(d) of Ord. 88-889, library board (2.12)
91-927	System development charges; repeals § 4 of Ord. 514, §§ 417, 418 and 419 of Ord. 530, Ord. 728, and §§ 6.302, 6.602 and 8.304.02 of zoning and community development code (13.08, 15.16)
91-928	Rezone (Special)
91-929	Amends Ord. 90-915, solid waste collection rates (Repealed by 98-1049)

Ordinance Number	
91-930	Grants franchise to General Telephone Company of the Northwest, Inc. (Special)
91-931	Elects to receive state revenue sharing funds (Special)
91-932	Fees and charges for miscellaneous city services (Repealed by 98-1049)
91-933	Amends Ord. 91-930, franchise grant (Special)
91-934	Amends Ord. 91-929, solid waste collection rates (Repealed by 98-1049)
91-935	Zones certain annexed property (Special)
91-936	Zones certain annexed property (Special)
91-937	Zones certain annexed property (Special)
91-938	Zones certain annexed property (Special)
91-939	Street name change (Special)
91-940	Rezone (Special)
91-941	Repeals and replaces § 19 of Art. VIII of Ord. 641, police code (9.36)
92-942	Public records (2.20)
92-943	Approves certain legislative amendments to the zoning and development code (16.60, 16.116)
92-944	Special election (Special)
92-945	Amends §§ 5(a) and (b) of Ord. 514, water service (Repealed by 01-1115)
92-946	Repeals and replaces Ch. 9 of zoning and community development code, historic preservation (Repealed by 94-990)
92-947	Adds § 6.301.02 to zoning and community development code, street naming (16.82)
92-948	Election to receive state revenue sharing funds (Special)
92-949	Amends Ord. 91-929, solid waste collection rates (Repealed by 98-1049)
92-950	Zones certain annexed property (Special)
92-951	Grants franchise to Portland General Electric (Special)
92-952	Zones certain annexed property (Special)
92-953	Special election (Special)
92-954	Advisory board members (2.08)
92-955	Amends § 4(d) of Ord. 814, parks and recreation board (2.16)
93-956	Street name change (Special)
93-957	Adopts Tualatin Valley fire and rescue fire codes; repeals Res. 91-492 (Repealed by 98-1049)
93-958	Buildings and construction; repeals Ord. 90-912 (Repealed by 96-1015)

Ordinance Number	
93-959	Zones certain annexed property (Special)
93-960	Utility easement vacation (Special)
93-961	Amends §§ 5(a) and (b) of Ord. 514, water service (Repealed by 01-1115)
93-962	Connection to city water system (Repealed by 01-115)
93-963	Special election (Special)
93-964	Approves certain legislative amendments to zoning and development code (16.26, 16.28, 16.30, 16.46)
93-965	Approves certain planned unit development district (Special)
93-966	Approves certain legislative amendments to zoning and development code (16.08, 16.28, 16.30, 16.114, 16.118, 16.124)
93-967	Fees and charges for city services (Repealed by 98-1049)
93-968	Election to receive state revenue sharing funds (Special)
93-969	Amends § 15(d) of Ord. 514, water service (Repealed by 01-1115)
93-970	Amends § 5(a) and (b) of Ord. 514, water service (Repealed by 01-1115)
93-971	Amends § 3 of Ord. 549, business licenses and regulation (5.04)
93-972	Stormwater master plan (Special)
93-973	Amends Ord. 92-949, solid waste collection rates (Repealed by 98-1049)
93-974	Approves certain planned unit development district (Special)
93-975	Zones certain annexed property (Special)
94-976	Special election (Special)
94-977	Zones certain annexed property (Special)
94-978	Special election (Special)
94-979	Approves certain planned unit development district (Special)
94-980	Zones certain annexed property (Special)
94-981	Rezone (Special)
94-982	Approves certain planned unit development district (Special)
94-983A	Approves certain legislative amendments to community development code (16.10, 16.12, 16.14, 16.16, 16.18)
94-983B	Approves certain legislative amendments to community development code (16.10, 16.12, 16.14, 16.16, 16.18)
94-983C	Approves certain legislative amendments to community development code (16.42)
94-984	Approves certain planned unit development district (Special)
94-985	Special election (Special)
94-986	Amends Ord. 93-973, solid waste collection rates; repeals and replaces § 7(1)(1) of Ord. 89-899, solid waste management (8.20)
94-987	Election to receive state revenue sharing funds (Special)

Ordinance Number	
94-988	Amends § 5(a) of Ord. 514, water service; repeals § 5(b) of Ord. 514 (Repealed by 01-1115)
94-989	(Defeated)
94-990	Repeals and replaces Ch. 9 of the zoning and community development code, historic preservation (16.128, 16.130, 16.132, 16.134, 16.136)
94-991	Amends Ch. 8 of the zoning and community development code, protection of trees (16.08, 16.36, 16.68, 16.96, 16.116)
94-992	Street vacation (Special)
94-993	Public contracting and purchasing; repeals Ord. 664 (Repealed by 99-1070)
95-994	Approves certain planned unit development district (Special)
95-995	Amends §§ 2.104.04.B.2.b, 2.105.04.A.1 and 2.105.04.B.2.b of the zoning and community development code (16.16, 16.18)
95-996	Special election (Special)
95-997	Approves certain planned unit development district (Special)
95-998	Amends § 5(a) of Ord. 514, water service (Repealed by 01-1115)
95-999	Election to receive state revenue sharing funds (Special)
95-1000	Repeals and replaces Ord. 87-857, vehicle impoundment (Repealed by 96-1010)
95-1001	Building official appeals board (Repealed by 96-1015)
95-1002	Repeals and replaces Art. VII, § 12, of Ord. 641, curfew (9.40)
95-1003	(Pending)
95-1004	Road vacation (Special)
96-1005	Approves certain planned unit development district (Special)
96-1006	Amends § 5(a) of Ord. 514, water service (Repealed by 01-1115)
96-1007	Rezone (Special)
96-1008	Election to receive state revenue sharing funds (Special)
96-1009	Submits ballot question (Special)
96-1010	Repeals and replaces Ord. 95-1000, vehicle impoundment (Repealed by 97-1032)
96-1011	Submits ballot question (Special)
96-1012	Submits ballot question (Special)
96-1013	Road vacation (Special)
96-1014	Amends §§ 2.301.01 and 2.303.01 of zoning and community development code (16.46)
96-1015	Buildings and construction; repeals Ords. 93-958 and 95-1001 (Repealed by 97-1028)
96-1016	Right-of-way vacation (Special)
96-1017	Road vacation (Special)

Ordinance Number	
96-1018	Amends § 5(a) of Ord. 514, water service (Repealed by 01-1115)
97-1019	Amends §§ 1.200, 2.109, 2.110, 2.111, 2.113, 2.306 and 4.302.03 of zoning and community development code (16.08, 16.26, 16.28, 16.30, 16.32, 16.46, 16.58)
97-1020	Amends §§ 2.109.01 and 2.109.02 of zoning and community development code (16.26)
97-1021	Amends § 3.103.02 of and repeals § 3.103.01 of zoning and community development code (16.48)
97-1022	Adds § 2.305.05 to zoning and community development code (16.46)
97-1023	Adds § 3(7) to Ord. 94-993, public contracting and purchasing (Not codified)
97-1024	Property maintenance code (8.16)
97-1025	Election to receive state revenue sharing funds (Special)
97-1026	Amends §§ 4(17) and 17(2) of Art. VIII of Ord. 641, police code (9.36)
97-1027	Fire code (Repealed by 00-1084)
97-1028	Buildings and construction; repeals Ords. 93-958, 95-1001 and 96-1015 (Repealed by 06-008)
97-1029	Road vacation (Special)
97-1030	Amends § 19 of Art. VIII of Ord. 641, police code (9.36)
97-1031	Adds §§ 2(6), 3(1)(h), 3(2)(c)--(g) and 4 to Ord. 94-993, local contract review board (Not codified)
97-1032	Repeals and replaces Ord. 96-1010, vehicle impoundment (8.04)
97-1033	Street vacation (Special)
97-1034	Amends Ord. 560, dumping (9.36)
98-1035	Amends §§ 1.102.01, 2.107 of the zoning and community development code (16.04, 16.22)
98-1036	Street vacation (Special)
98-1037	Amends Ord. 97-1024 § 303.9, property maintenance code (8.16)
98-1038	Repeals and replaces Ord. 400, initiative and referendum powers (1.08)
98-1039	Amends Ord. 529 §§ 5, 13 and 26; repeals Ord. 529 § 15, alcoholic liquors (5.20)
98-1040	Amends Ord. 530 §§ 402, 413 and 802, sewers (13.08)
98-1041	Adds Ord. 549 § 3(f); amends Ord. 549 §§ 6(c) and 9, business licenses and regulation (5.04)
98-1042	Amends Ord. 86-837 § 2 and Ord. 599 Ch. VIII §§ 6, 8 and 9(b) and Ch. IX §§ 6 and 24; repeals Ch. IX § 17, vehicles and traffic (10.04, 10.08, 10.12)

Ordinance Number	
98-1043	Offense procedure; repeals Ord. 605 (9.48)
98-1044	Adds Ord. 641 Art. VIII § 19(d); amends Ord. 641 Art. I, Art. II §§ 1, 3, 4 and 8, Arts. III, IV and V, Art. VI §§ 4, 11, 12, 13, 14, 15, 16, 17, 19(2) and 20, Art. VII, Art. VIII §§ 1, 4, 5, 6, 7, 8, 10(3), 11(3), 12(11), 13(2), 14(3), 16, 17(2), 18(d) and 20(2), Art. IX §§ 4, 5 and 6; repeals Ord. 641 Art. VI § 18, Art. VIII §§ 2, 3, 9 and 15, police code (9.04, 9.08, 9.12, 9.16, 9.20, 9.24, 9.28, 9.32, 9.36, 9.40, 9.44)
98-1045	Amends Ord. 738 §§ 1, 4, 7 and 9, public improvements and assessments (3.04)
98-1046	Adds § 3(f) to Ord. 799; amends Ord. 799 § 6, disposition of abandoned or unclaimed property (2.28)
98-1047	Amends Ord. 807 §§ 6 and 9, nomination of candidates to elective offices (Repealed by 05-008)
98-1048	General provisions (1.04)
98-1049	Amends Ord. 517 § 4, Ord. 653 § 24, Ord. 658 § 2(6), Ord. 682 §§ 9 and 11, Ord. 700 § 4, Ord. 747 § 7(a), Ord. 899 § 3(13)(a)(ii) and zoning and development code § 8.308.01(C); repeals Ords. 566, 573, 591, 608, 611, 643, 672, 790, 863, 868, 888, 893, 897, 915 § 1, 929, 932, 934, 949, 957, 967 and 973, various subjects (6.04, 8.20, 12.08, 12.12, 15.08, 15.12, 16.122)
98-1050	Road vacation (Special)
98-1051	Amends §§ 2.111 and 2.112, zoning and development code (16.28, 16.30)
98-1052	Amends zoning and development code (16.08, 16.18, 16.24)
98-1053	Amends and zoning and development code (16.08, 16.34, 16.36, 16.38, 16.48, 16.50, 16.60, 16.62, 16.64, 16.66, 16.70, 16.76, 16.94, 16.96, 16.98, 16.100, 16.102)
98-1054	Construction standards for commercial and residential driveways (12.04)
98-1055	Elects to receive state revenues for fiscal year 1998-99 (Special)
98-1056	Amends §§ 3 and 4 of Ord. 700, moving buildings (15.08)
98-1057	Amends Ord. 97-10287 § 1, city code and code administration (Repealed by 06-008)
98-1058	Amends § 8 of Ord. 514, water service (Repealed by 01-1115)
98-1059	Special election (Special)
98-1060	Code adoption (1.01)
98-1061	Amends §§ 2 and 3 of Ord. 98-1059, special election (Special)
98-1062	(Number not used)
98-1063	Amends Ord. 98-1050, property vacation (Special)
98-1064	(Number not used)

Ordinance Number	
98-1065	Adopts city construction drawing standards (Repealed by 06-002)
98-1066	Property assessment for nuisance abatement (Special)
98-1067	Property assessment for nuisance abatement (Special)
99-1068	Rezone (Special)
99-1069	Extends franchise (Special)
99-1070	Adopts rules of city local contract review board; repeals Ord. 94-993 (Repealed by 01-1120)
99-1071	Amends § 5a of Ord. 514, water service (Repealed by 01-1115)
99-1072	Approves PUD (Special)
99-1073	Amends §§ 2--5 of Ord. 814, parks and recreation advisory board (2.16)
99-1074	Rezone (Special)
99-1075	Extends franchise (Special)
99-1076	Establishes provisions for water conservation; repeals § 13.04.070 (13.20)
99-1077	Adopts city construction standards (Repealed by 06-002)
99-1078	Declares election to receive state revenues (Special)
99-1079	Amends zoning and development code (Not codified)
99-1080	Extends franchise (Special)
00-1081	Annexation (Special)
00-1082	Rezone (Special)
00-1083	Amends Charter § 3.1, council membership (Charter)
00-1084	Adopts Tualatin Valley Fire and Rescue Fire Codes; repeals Ord. 97-1027, fire prevention code (8.12)
00-1085	Approves Appendix Ch. 9, Division III of the Uniform Building Code (Not codified)
00-1086	Adds § 10.08.080, disabled persons parking (10.08)
00-1087	Amends § 13.04.200, water charges (Repealed by 01-1115)
00-1088	Amends Table 8.20.080, solid waste collection rates (8.20)
00-1089	Amends §§ 2.12.020(A), (B) and (D), 2.12.030(A) and (B), 2.12.040(B) and 2.12.060, library advisory board (Repealed by 03-1142)
00-1090	Annexation (Special)
00-1091	Provides for city council to act as urban renewal agency (Not codified)
00-1092	Approves amendments to comprehensive plan and zoning code to comply with Titles 3 and 4 of Metro urban growth management plan (16.88, 16.108, 16.118)
00-1093	Adds Charter § 8.5, tie votes (Charter)
00-1094	Amends Charter § 7.5(3), filling council vacancies (Charter)

Ordinance Number	
00-1095	Adds Charter § 4.8, city manager ineligible to be city recorder (Charter)
00-1096	Amends Charter § 5.3, recorder's absence (Charter)
00-1097	Adds Charter § 11.9, city attorney (Charter)
00-1098	Adopts urban renewal plan (Not codified)
00-1099	Amends § 15.04.190, fee policy (15.04)
00-1100	(Number not used)
00-1101	(Number not used)
00-1102	Annexation (Special)
00-1103	Approves amendments to comprehensive plan and zoning code to comply with Title 6 of Metro urban growth management plan (16.82, 16.100, 16.116)
00-1104	Adopts Highway 99W capacity allocation program; amends zoning and development code (16.20, 16.22, 16.24, 16.26, 16.58, 16.66, 16.83)
00-1105	Adopts Highway 99W capacity improvement funding program (Not codified)
00-1106	(Number not used)
00-1107	Adopts cross-connection and backflow program; repeals §§ 13.04.150(A) and (D), water service system (13.04, 13.05)
00-1108	Approves amendments to comprehensive plan and zoning code to comply with Title 1 of Metro urban growth management plan (16.08, 16.10, 16.12, 16.14, 16.16, 16.18, 16.34)
00-1109	Annexation (Special)
00-2000	Amends Ord. 73-631 [631], business license requirements (5.04)
00-2001	Approves amendments to comprehensive plan and zoning code to comply with Title 2 of Metro urban growth management plan (16.70, 16.130)
01-1110	Annexation (Special)
01-1111	(Pending)
01-1112	Amends Ord. 99-1073, parks and recreation advisory board (2.16)
01-1111	Animal noise disturbance (6.04)
01-1113	Amends Ord. 89-889 [89-899], solid waste management (8.20)
01-1114	Public improvement reimbursement districts (13.24)
01-1115	Repeals Ord. 514, water service (13.04)
01-1116	Prohibiting of noise (9.52)
01-1117	Prohibits use of tobacco products on city property (9.56)
01-1118	Parks and recreation system development charges in new development; amends Ord. 91-927 (15.16, 15.20)
01-1119	Amends §§ 2.111 [2.110], 2.202, 3.200, 3.400, 4.300, 8.305 and

Ordinance Number	
	Appendix J of Chapter 8 of the zoning and development code (16.28, 16.36, 16.50, 16.52, 16.58, 16.116 and 16.118)
01-1120	Adopts rules of city local contract review board; repeals Ord. 99-1070 (Repealed by 05-003)
01-1121	Adds § 11.10, use of Willamette River for residential drinking water (Charter)
01-1122	Amends Ord. 91-927, system development charges (15.16)
01-1123	Adds prior code § 2.204; amends prior code §§ 2.104 and 2.105, zoning and community development code (16.16, 16.39)
01-1124	Amends § 16.76.030(C), signs (16.76)
02-1125	Adds Ch. 5.28, liquor licenses (Repealed by 04-009)
02-1126	Amends § 16.39.020, townhome standards (16.39)
02-1127	Rezone (Special)
02-1128	Amends Ch. 16.130, special resource zones (16.130)
02-1129	Repeals and replaces Ord. 686, personnel system (2.36)
02-1130	Amends Ch. 16.38, home occupations (16.38)
02-1131	Tax levy (Special)
02-1132	Amends zoning code (Special)
02-1133	Approves planned unit development (Special)
02-1134	Amends Ord. 98-1057, mechanical code (15.04)
02-1135	Noxious weeds abatement (9.46)
02-1136	Changes use designations in zoning districts (Special)
02-1137	Annexation (Special)
02-1138	(Number not used)
02-1139	Adds Ch. 5.28 [5.30], public utility fees (5.30)
02-1140	Tax levy (Special)
02-1141	Approves planned unit development (Special)
03-1142	Repeals Ords. 550, 88-889 and 2000-189; adds Ch. 2.12, library advisory board (2.12)
03-1143	Repeals and replaces Ch. 5.16, telecommunications facilities (5.16)
03-1144	Amends urban renewal plan (Special)
03-1145	Special election (Special)
03-1146	Annexation (Special)
03-1147	Approves planned unit development (Special)
03-1148	Amends comprehensive plan (Special)
03-1149	Adds § 1.04.075, attorneys fees (1.04)
03-1150	Repeals and replaces Ch. 2.32, administrative fees (2.32)
03-1151	Right-of-way vacation (Special)
03-1152	Adopts creations of exempt classes of public contracts (Special)
03-1153	Amends §§ 16.10.040, 16.12.040, 16.14.040, 16.16.040, 16.18.040,

Ordinance Number	
	16.76.020 and Ch. 16.44, zoning and community development code (16.10, 16.12, 16.14, 16.16, 16.18, 16.44, 16.76)
03-1154	Adds Ch. 9.50, possession, manufacture or delivery of drug paraphernalia (9.50)
04-001	Approves plan map amendment (Special)
04-002	Amends § 16.46.050, zoning and community development code (16.46)
04-004	Amends Ch. 10.08, state vehicle code statutes, parking (10.08)
04-005	Amends Ch. 8.04, abandoned, discarded and hazardously located vehicles (8.04)
04-006	Amends 16.08.020 and Ch. 16.76, zoning and community development code (16.08, 16.76)
04-007	Amends §§ 2.200 and 2.202 of the zoning and community development code (16.34, 16.36)
04-008	Approves planned unit development and comprehensive plan map (Special)
04-009	Repeals and replaces Ch. 5.28, process and fees for liquor licenses (5.28)
04-010	Adds § 8.20.045; amends §§ 8.20.040, 8.20.060, 8.20.070, 8.20.080 and 8.20.110, solid waste management (8.20)
04-011	Approves planned unit development and comprehensive plan map (Special)
04-012	Amends Ords. 98-1057 and § 15.04.110, construction codes (Repealed by 06-008)
04-013	Amends § 5.04.030, business licenses (5.04)
04-014	Adds §§ 6.04.040 and 6.04.100, dogs (6.04)
04-015	Amends Ch. 2.16, parks and recreation board (2.16)
04-017	Adds Ch. 3.10, measure 37 claims procedure (3.10)
05-001	Approves plan map amendment (Special)
05-002	Approves plan text amendment (Special)
05-003	Repeals Ch. 2.24 (Repealer)
05-004	Repeals Ch. 3.08 (Repealer)
05-005	Amends § 13.12.010, sewer service rate and charges (13.12)
05-006	Adds Ch. 1.10, public contracting rules (1.10)
05-007	Adds Ch. 4.04, city telecommunications utility (4.04)
05-008	Repeals and replaces Ch. 2.04, elections (2.04)
05-009	Approves text amendment (Special)
05-010	Renames certain streets (Special)
05-011	Renames certain streets (Special)
05-012	Renames certain streets (Special)

Ordinance Number	
05-013	Renames certain streets (Special)
05-014	Approves plan text amendment (Special)
05-015	Adds § 6.04.050, dogs (6.04)
05-016	Approves plan map amendment (Special)
05-017	Amends Ch. 6 of the zoning and community development code (16.78, 16.80, 16.82, 16.83, 16.84, 16.86, 16.88, 16.90, 16.92)
06-001	Street vacation (Special)
06-002	Repeals Ords. 98-1065 and 99-1077 (Repealer)
06-003	Amends § 15.04.140, construction codes (15.04)
06-004	Amends § 8.12.010, fire prevention code (8.12)
06-005	Amends § 15.04.120, construction codes (15.04)
06-006	Amends § 15.04.130, construction codes (15.04)
06-007	Amends § 15.04.150, construction codes (15.04)
06-008	Repeals § 15.04.110 (Repealer)

PREFACE

The Sherwood 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.

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 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 2.04.010 is Section .010, located in Chapter 2.04 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.

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 06-008, passed February 21, 2006.

LexisNexis Municipal Codes
Matthew Bender & Company, Inc.
701 East Water Street
Charlottesville, VA 22902
866-501-5155

RESOLUTION LIST

Resolution Number	
03-015	Approves indebtedness of the agency in the form of an intergovernmental agreement (Special)
03-080	Authorizes loan and enters into contract (Special)
03-086	Declares to acquire certain property (Special)
03-087	Authorizes city manager to enter into an agreement (Special)
03-088	Set fees for certain traffic violations (Special)
03-089	Approves intergovernmental agreement (Special)
03-090	Appoints Mr. Cam Durrell to the planning advisory committee (Special)
03-091	Adopts procedures for disposition of surplus municipal property (Special)
03-096	Authorizes city manager to sign the agreement (Special)
04-001	Amends Ord. 2003-089, intergovernmental agreement (Special)
04-002	Appoints John Urban to the library advisory board (Special)
04-003	Authorizes city manager to enter into contract (Special)
04-004	Appoints Lisa Thoele to the Sherwood cultural arts commission (Special)
04-005	Approves financing agreement (Special)
04-006	Amends parks, recreation and open space master plan (Special)
04-007	Grants permanent road easement (Special)
04-008	Authorizes city manager to enter into contract (Special)
04-009	Authorizes city manager to enter into contract (Special)
04-010	Authorizes sale of general obligation refunding bonds (Special)
04-011	Adopts supplemental budget and making appropriations (Special)
04-012	Approves $610,000 of indebtedness for an indoor soccer field public facility (Special)
04-013	Authorizes city manager to sign an amendment to a well protection easement (Special)
04-014	Revises membership of the Sherwood urban renewal planning advisory committee (Special)
04-015	Declares April 5, 2004 through April 10, 2004 as court amnesty week (Special)
04-016	Authorizes city manager to enter into an agreement (Special)
04-017	Authorizes city manager to enter into design contract (Special)

Resolution Number	
04-018	Appoints Mr. Dan Balza to a four-year term on planning commission (Special)
04-019	Establishes policy for neighborhood traffic management devices and superseding Res. 2001-975 (Special)
04-020	Appoints Matt Nolan to the planning commission (Special)
04-021	Awards the bid for the Oregon-Murdock roundabout landscape improvements (Special)
04-022	Approves 2004 council goals (Special)
04-023	Authorizes issuance of a request for proposals (Special)
04-024	Reappoints Mr. Patrick Allen to the planning commission (Special)
04-025	Updates the parks and recreation system development charges methodology and rates (Special)
04-026	Authorizes issuance of a request for proposals (Special)
04-027	Authorizes the city manager to sign contract documents with Portland General Broadband (Special)
04-028	Appoints the budget officer for fiscal year 2004-05 (Special)
04-029	Appoints Dan King to the planning commission (Special)
04-030	Adjusts solid waste collection rates (Special)
04-031	Authorizes the city manager to enter into a design contract (Special)
04-032	Appoints Stacie Gordon to the Sherwood cultural arts commission (Special)
04-033	Appoints independent auditors for fiscal years ending 2004-06 (Special)
04-034	Approves the contract with Portland general broadband (Special)
04-035	Awards contract for upgrade of the high school football field to Field Turfbuilders (Special)
04-036	Establishes voluntary water conservation campaign (Special)
04-037	Authorizes city manager to sign an intergovernmental agreement (Special)
04-038	Adopts schedule of fees (Special)
04-039	Establishes telecommunications fund (Special)
04-040	Appoints Marilyn Smith to the Sherwood cultural arts commission (Special)
04-041	Approves the adoption of maintenance standards (Special)
04-042	Authorizes city manager to enter into contract (Special)
04-043	Confirms names of city parks and naming of pioneer park (Special)
04-044	Amends Res. 2001-983, to ratify the tentative agreement (Special)
04-045	Awards bid for 2004 street slurry seal program for fiscal year 2004-2005 (Special)

Resolution Number	
04-046	Adopts 2004-05 budget (Special)
04-047	Declares election to receive state revenues (Special)
04-048	Disburses funds to cities (Special)
04-050	Approves annexation proposal (Special)
04-051	Establishes percentage public utility fee (Special)
04-052	Adopts supplemental budget and making appropriations (Special)
04-054	Approves increase fund for senior center classroom addition project (Special)
04-056	Appoints Andrea Hackett to the library advisory board (Special)
04-057	Approves the Sherwood civic building design (Special)
04-058	Authorizes city manager to enter into a design contract (Special)
04-059	Authorizes city manager to enter into a design contract (Special)
04-060	Authorizes city manager to sign a renewal of the intergovernmental agreement (Special)
04-061	Grants solid waste collection franchise (Special)
04-062	Authorizes city manager to enter into agreement (Special)
04-063	Authorizes city manager to enter into contract (Special)
04-065	Special election (Special)
04-066	Approves intergovernmental agreement (Special)
04-067	Authorizes change of banks for selected services (Special)
04-068	Approves substandard cul-de-sac within the Darlakay court preliminary subdivision plat (Special)
04-069	Updates signers for transactions with financial institutions (Special)
04-070	Designates the urban renewal district manager Jim Patterson city manager pro tem (Special)
04-071	Appoints Jeffrey Crapper to the parks and recreation board (Special)
04-072	Appoints Joel Thompson to the parks and recreation board (Special)
04-073	Authorizes city manager to enter into contract (Special)
04-074	Opposes the formation of electric people's utility districts (Special)
04-075	Adopts findings for the city council denial of an appeal (Special)
04-077	Updates the parks and recreation system development charges methodology and rates (Special)
04-078	Amends the parks and recreation system development charges rates (Special)
04-079	Authorizes an interfund loan (Special)
04-080	Authorizes city manager to enter into an agreement (Special)
04-081	Authorizes city manager to enter into contract (Special)
04-082	Establishes the telecommunication advisory board (Special)
04-089	Expresses its opposition to state ballot measure 37 (Special)

Resolution Number	
04-090	Authorizes the formation of the Area 59 citizen's advisory committee (Special)
04-091	Appoints to the cannery site development advisory committee (Special)
04-092	Awards the bid for Sunset Park - Phase 3 (Special)
04-093	Approves contract for upgrade of the high school lights (Special)
04-094	Amends schedule of fees (Special)
04-095	Updates the parks system development charges (Special)
04-096	Proclaims November, 2004 election results and directing the record (Special)
04-097	Appoints Councilor Lee Weislogel and Mayor Mark Cottle to a two years term to the Sherwood urban renewal planning advisory committee (Special)
04-098	Appoints an Area 59 citizen's advisory committee (Special)
04-099	Grants the raindrops to refuge (R2R) organization (Special)
04-100	Appoints telecommunications advisory board (Special)
04-101	Adopts storm sewer system (MS4) permit renewal (Special)
04-102	Authorizes city manager to enter into contract (Special)
04-103	Adopts salary schedules for AFSCME (Special)
04-104	Authorized city manager to proceed with final design (Special)
05-001	Appoints Debbi Canepa and reappointing Jan Chambers, Liz Myers and Holli Robinson to the library advisory board (Special)
05-002	Appoints the budget officer for fiscal year 2005-2006 (Special)
05-003	Approves amendments to a financing agreement (Special)
05-004	Adopts supplemental budget and making appropriations (Special)
05-005	Authorizes the mayor or his designee to sign an intergovernmental agreement (Special)
05-006	Adopts public contracting rules (1.10)
05-007	Approves a settlement with DLR group architects relative to the design and construction (Special)
05-008	Calls for an election to submit a new home rule charter (Special)
05-009	Authorizes city manager to enter into contract (Special)
05-010	(Failed)
05-011	Appoints Mark Batemand and Ron Kachergius to the budget committee (Special)
05-012	Approves minor change to planned unit development (Special)
05-013	Authorizes city manager to enter into contract (Special)
05-014	Renames Wapato Street to Roellich Avenue (Repealed by 05-017)

Resolution Number	
05-015	Reappoints Patrick Allen and Matt Nolan to a four-year term on planning commission (Special)
05-016	Authorizes the city to enter into an agreement (Special)
05-017	Repeals Res. 05-014 (Repealer)
05-018	Authorizes the reappointment of Kristyana Lationalis and the appointment of Jeff Munro, Glen Foster, Julie Lebrun and Blake Hasley to the parks and recreation board (Special)
05-019	Appoints Todd Skelton to an eleven-month term and Russell Griffin to a four-year term on planning commission (Special)
05-020	Reappoints Karen Tasker Mathews and Bernie Danylchuk to a two-year term to the Sherwood cultural arts commission (Special)
05-021	Awards the Sherwood fieldhouse re-roof, re-bid contract (Special)
05-022	Authorizes Robinson construction (Special)
05-023	Adopts 2005 city council goals (Special)
05-024	Approves change of funding source for the Sherwood high school turf field (Special)
05-025	Directs staff to prepare appropriate legislation (Special)
05-026	Reappoints Robyn Folsom and Shelly Lamb and appointing Pamela McCormick to the Sherwood cultural arts commission (Special)
05-027	Ratifies city of Sherwood police department's intergovernmental agreement (Special)
05-028	(Failed)
05-029	Supports grant application for the Brookman addition concept plan (Special)
05-030	Supports grant application for the quarry area concept plan (Special)
05-031	Approves intergovernmental agreement (Special)
05-032	Imposes a requirement for the mandatory prequalification for all persons desiring to bid on the contract for acting as general contractor for building the downtown streetscape improvements project - Phase A (Special)
05-033	Adopts supplemental budget and making appropriations (Special)
05-034	Adopts schedule of fees as authorized by the city zoning and community development code (Special)
05-035	Adopts 2005-2006 budget (Special)
05-036	Declares election to receive state revenues (Special)
05-037	Disburses funds to cities (Special)
05-038	Approves financing agreement (Special)
05-039	Authorizes an interfund loan (Special)
05-040	Ratifies intergovernmental agreement (Special)

Resolution Number	
05-041	Awards bid for city Slurry seal services for fiscal year 2005-2006 (Special)
05-042	Authorizes city manager to enter into an agreement (Special)
05-043	Calls for an election for Willamette river water (Special)
05-044	Authorizes city manager to sign updated intergovernmental agreement (Special)
05-045	Authorizes transfer of real property (Special)
05-046	(Number not used)
05-047	Amends intergovernmental agreement (Special)
05-048	Authorizes city manager to enter into an agreement (Special)
05-049	Appoints Ann Roseberry and Colin Woodbury library advisory board (Special)
05-050	Adjusts solid waste collection rates (Special)
05-051	Directs city recorder to publish notice of selling real property (Special)
05-052	Awards downtown streetscape improvements - Phase A contract (Special)
05-053	Authorizes city manager to execute a contract (Special)
05-054	Sets out a proposed ballot title for a measure (Special)
05-055	Sets out a draft ballot title for a measure (Special)
05-056	Authorizes city manager to enter into a contract (Special)
05-057	Accepts water system master plan (Special)
05-058	Calls for an election on November 8, 2005 (Special)
05-059	Authorizes participation in a study of the SE Sherwood study area (Special)
05-060	Authorizes city manager to execute a lease agreement (Special)
05-061	Designates oversight to the parks and recreation board (Special)
05-062	Approves cooperative library advisory board structure and governance changes (Special)
05-063	Authorizes city manager to complete the sale (Special)
05-064	Approves issuance of city purchasing card (Special)
05-066	Authorizes city manager to complete the sale of library (Special)
05-068	Approves local matching grant to Metro for the Tonquin Creek Trail (Special)
05-069	Disapproves method for distribution of funds (Special)
05-070	Supports code assistance application for the creation of infill standards (Special)
05-071	Approves the Washington County cooperative library advisory board structure and governance changes (Special)

Resolution Number	
05-072	Authorizes the city manager to enter into a contract (Special)
05-073	Repeals Res.2001-962 (Repealer)
05-074	Adopts construction standards for installation of conduit and splice (Special)
05-075	Vacates a portion of highland street (Special)
05-076	Grants authority to city manager to waive development and construction fees (Special)
05-077	Authorizes lines of credit to finance water rights and improvements (Special)
06-001	Adopts salary schedule for non-represented employees (Special)
06-002	Establishes utilization and management of parking spaces behind the new city hall library (Special)
06-003	Authorizes city manager to enter into standardize service contract (Special)
06-004	Authorizes the city manager to enter into an agreement (Special)
06-005	Changes fees for parks systems development charges (Special)
06-006	Approves renewal of the agreement with Sherwood Senior Citizens, Inc. (Special)
06-007	Updates Sherwood water system development charges methodology and rates (Special)
06-008	Approves annexation proposal (Special)
06-009	Renames Sunset Park to Snyder Park (Special)
06-010	Appoints budget officer for fiscal year 2006-07 (Special)
06-011	Appoints Perry Francis and re-appoints Steve Munsterman to the budget committee (Special)

STATUTORY REFERENCES
FOR
OREGON CITIES

The statutory references listed below refer the code user to state statutes applicable to Oregon cities. They are up to date through June, 2005.

General Provisions

Incorporation of cities
ORS §§ 221.005--221.106

City charters
Oregon Const. Art. XI

Charter amendments
ORS § 221.210

Boundary changes
ORS § 222.005 et seq.

Ordinances
ORS §§ 221.275--221.330

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--250.355

Administration and Personnel

City officers
ORS §§ 221.110--221.230
Municipal courts
ORS §§ 221.140, 221.336--221.390

Public meetings
ORS §§ 192.610--192.710

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 Ch. 279

Assessments for local improvements
ORS Ch. 223

Limitations on powers of city to assist corporations
Oregon Const. Art. XI § 9

Business Licenses and Regulations

Licensing and taxation
ORS § 221.410 et seq.

Taxation of liquor prohibited
ORS § 473.190
Animals

Animal control
ORS Ch. 609

Rabies control
ORS §§ 433.340--433.390

Health and Safety

General authority

ORS § 221.410

State and local enforcement of health laws
ORS Ch. 431

Health hazard abatement
ORS Ch. 222

Camping by homeless
ORS § 203.077 et seq.

Oregon Fireworks Law
ORS § 480.110 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 § 430.325

Vehicles and Traffic

Oregon Vehicle Code
ORS Title 59

Local authority
ORS § 801.040

Driving while intoxicated
ORS Ch. 813

Off-road vehicles
ORS Ch. 821

Abandoned vehicles
ORS Ch. 819

Procedures for traffic infractions
ORS § 153.500 et seq.

Parking offenses
ORS § 221.277, 221.285, 221.287, 221.333

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--223.314

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

Title 1

GENERAL PROVISIONS

Chapters:

1.01 Code Adoption
1.04 General Provisions
1.08 Initiative and Referendum
1.10 Public Contracting Rules

Chapter 1.01

CODE ADOPTION

Sections:

1.01.010 Adoption.
1.01.020 Title--Citation--Reference.
1.01.030 Reference applies to all amendments.
1.01.040 Title, chapter and section headings.
1.01.050 Reference to specific ordinances.
1.01.060 Ordinances passed prior to adoption of the code.
1.01.070 Effect of code on past actions and obligations.
1.01.080 Constitutionality.
1.01.090 References to prior code.
1.01.100 Emergency clause.

1.01.010 Adoption.

There is adopted the “Sherwood Municipal Code,” as compiled, edited and published by Book Publishing Company, Seattle, Washington. (Ord. 98-1060 § 1)

1.01.020 Title--Citation--Reference.

This code shall be known as the “Sherwood Municipal Code” and it shall be sufficient to refer to said code as the “Sherwood Municipal Code” in any prosecution for the violation of any provision of this code or in any proceeding at law or equity. It is sufficient to designate any ordinance adding to, amending, correcting or repealing all or any part or portion of this code as an addition to, amendment to correction or repeal of the “Sherwood Municipal Code.” References may be made to the titles,

chapters, sections and subsections of the "Sherwood Municipal Code" and such references shall apply to those titles, chapters, sections or subsections as they appear in the code. (Ord. 98-1060 § 2)

1.01.030 Reference applies to all amendments.

Whenever a reference is made to this code as the "Sherwood Municipal Code" or to any portion thereof, or to any ordinance of the city of Sherwood Oregon, codified herein, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 98-1060 § 3)

1.01.040 Title, chapter and section headings.

Title, chapter and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions or any title, chapter or section in this code. (Ord. 98-1060 § 4)

1.01.050 Reference to specific ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code. (Ord. 98-1060 § 5)

1.01.060 Ordinances passed prior to adoption of the code.

The last ordinance included in this code was Ordinance 98-1057, passed July 28, 1998. The following ordinances passed subsequent to Ordinance 98-1057, but prior to adoption of this code, are adopted and made a part of this code: Ordinances 98-1058 and 98-1059. (Ord. 98-1060 § 6)

1.01.070 Effect of code on past actions and obligations.

The adoption of this code does not affect prosecutions for ordinance violations committed prior to the effective date of this code, does not waive any fee or penalty due and unpaid on the effective date of this code, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance. (Ord. 98-1060 § 7)

1.01.080 Constitutionality.

If any section, subsection sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the code. (Ord. 98-1060 § 8)

1.01.090 References to prior code.

References in city forms, documents and regulations to the chapters and sections of the former city code shall be construed to apply to the corresponding provisions contained within this code. (Ord. 98-1060 § 9)

1.01.100 Emergency clause.

In order to ensure the code of the city is accurate in form and function so as to protect the interest of public health, safety and welfare, an emergency is declared to exist. This ordinance shall be effective upon its passage by the council and approval by the mayor. (Ord. 98-1060 § 10)

Chapter 1.04

GENERAL PROVISIONS

Sections:

1.04.010 Definitions.
1.04.020 Interpretation of language.
1.04.030 Grammatical interpretation.
1.04.040 Acts by agents.
1.04.050 Prohibited acts include causing and permitting.
1.04.060 Computation of time.
1.04.070 Construction.
1.04.075 Attorneys fees.
1.04.080 Repeal shall not revive any ordinances.

1.04.010 Definitions.

The following words and phrases, whenever used in the ordinances of the city of Sherwood, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

"City" means the city of Sherwood or the area within the territorial limits of the city, and such territory outside the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

"Council" means the city council of the city of Sherwood. "All its members" or "all councilmembers" means the total number of councilmembers holding office.

"County" means the county of Washington.

"Law" denotes applicable federal law, the Constitution and statutes of the state of Oregon, the ordinances of the city, and when appropriate, any and all rules and regulations which may be promulgated thereunder.

"May" is permissive.

"Month" means a calendar month.

"Must" and "shall" are each mandatory.

"Oath" includes an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

"Owner," applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

"Person" means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, limited liability company, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

"Personal property" means and includes money, goods, chattels, things in action and evidences of debt.

"Preceding" and "following" mean next before and next after, respectively.

"Property" means and includes real and personal property.

"Real property" means and includes lands, tenements and hereditaments.

"Sidewalk" means that portion of a street between the curbline and the adjacent property line intended for the use of pedestrians.

"State" means the state of Oregon.

"Street" means and includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in the city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

"Tenant" and "occupant," applied to a building or land, mean and include any person who occupies the whole or a part of such building or land, whether alone or with others.

"Written" means and includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

"Year" means a calendar year. (Ord. 98-1048 § 1)

1.04.020 Interpretation of language.

All words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning. (Ord. 98-1048 § 2)

1.04.030 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the city unless it is apparent from the context that a different construction is intended:

A. Gender. Each gender includes the masculine, feminine and neuter genders.

B. Singular and Plural. The singular number includes the plural and the plural includes the singular.

C. Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable. (Ord. 98-1048 § 3)

1.04.040 Acts by agents.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed to include all such acts performed by an authorized agent. (Ord. 98-1048 § 4)

1.04.050 Prohibited acts include causing and permitting.

Whenever in the ordinances of the city any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. (Ord. 98-1048 § 5)

1.04.060 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it shall also be excluded. (Ord. 98-1048 § 6)

1.04.070 Construction.

The provisions of the ordinances of the city, and all proceedings under them, are to be construed with a view to effect their objects and to promote justice. (Ord. 98-1048 § 7)

1.04.075 Attorneys fees.

In the event the city brings an action in either law or equity in any of the courts of this state (including the U.S. District Court for the District of Oregon) other than its municipal court for the enforcement of any of its ordinances, resolutions or any right(s) afforded it by its charter or state statute, the city shall be entitled to the award of its reasonable attorneys fees in the event it is the prevailing party. (Ord. 03-1149 § 1)

1.04.080 Repeal shall not revive any ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance which has been repealed thereby. (Ord. 98-1048 § 8)

Chapter 1.08

INITIATIVE AND REFERENDUM

Sections:

1.08.010 Filing of petitions.
1.08.020 Proposed charter amendments.
1.08.030 Penalty for false or duplicate signatures.
1.08.040 Voting.
1.08.050 Publication of adopted measures.
1.08.060 Effective date of ordinances.

1.08.010 Filing of petitions.

Initiative and referendum proceedings for city measures shall be conducted in the manner and using the forms and procedures as prescribed by Oregon Revised Statutes Chapter 250, Section 250.005, et seq., as therein made applicable to cities in the state of Oregon. The recorder of the city shall accept for filing any petition for the initiative or for the referendum, subject to the verification of the number and genuineness of the signatures and voting qualifications of the persons signing the same by reference to the registration books in the office of the county clerk or county elections officer of Washington County, and if a sufficient number of qualified voters be found to have signed said petition, the recorder shall file same within ten days after presentation thereof to him or her.

Initiative petitions must be signed by not less than fifteen (15) percent of the electors registered in the city at the time the prospective petition is filed. A petition to refer a city measure must be signed by not less than ten percent of the electors registered in the city at the time the prospective petition is filed. The petition must be filed with the city elections officer not later than the thirtieth day after adoption of the city legislation sought to be referred. (Ord. 98-1038 §§ 2, 3)

1.08.020 Proposed charter amendments.

An amendment to the charter of the city may be proposed and submitted to the legal voters thereof by ordinance of the council without an initiative petition; said ordinance shall be filed with the recorder for submission sufficiently in advance of the election date to meet the deadlines established by the county elections officer or inclusion on the election ballot for the election at which the amendment is to be voted upon. No amendment to the charter shall be effective until it is approved by a majority of the votes cast thereon by the legal voters of said city.

Where an amendment to the charter of the city may be proposed and submitted to the legal voters thereof by ordinance of the council without an initiative petition, the said ordinance shall therein state the date of the regular municipal election, or the date of a special election at which said amendment will be submitted to be voted on, and shall call and make provision for the holding of said election. (Ord. 98-1038 §§ 4, 5)

1.08.030 Penalty for false or duplicate signatures.

Legal voters of the city are qualified to sign a petition for the referendum or for the initiative for any measure which he or she is entitled to vote upon. Any person signing any name other than his or her own to a petition, or knowingly signing his or her name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter of the city of Sherwood, or any officer or other person violating any of the provisions of this chapter, shall upon citation and conviction thereof be punished by a civil penalty not exceeding five hundred dollars ($500.00) in the discretion of the municipal court. (Ord. 98-1038 § 6)

1.08.030

1.08.040 Voting.

The manner of voting upon measures submitted to the legal voters shall be the same as now is or may hereafter be provided by law. No measure shall be adopted unless it shall receive the affirmative majority of the total number of legal votes cast on such measure and entitled to be counted thereon. If two or more laws on the same subject or containing provisions that are conflicting shall be approved

by the voters at the same election, the measure receiving the greatest number of affirmative votes shall be proclaimed to be the law adopted.

The votes on measures and charter amendments shall be counted, canvassed and returned as votes for candidates are counted, canvassed and returned. (Ord. 98-1038 §§ 7, 8)

1.08.050 Publication of adopted measures.

The mayor shall, within ten days from the time of such election, proclaim by publication once in a newspaper published in the city, the adoption of such measure and amendment which shall have received the affirmative majority of the total number of votes cast thereon, and upon such proclamation, such measures and amendments shall become in full force and effect, except in cases provided for in Section 1.08.040 of this chapter with reference to two or more laws on the same subject or containing provisions that are conflicting. In cases of ordinances which have been passed by the council and voted upon by referendum, proclamation of the result of such vote shall also be made, and such ordinance shall continue in effect or cease to be in effect, according to such result from the time of such proclamation. (Ord. 98-1038 § 9)

1.08.060 Effective date of ordinances.

No ordinance shall take effect and become operative until thirty (30) days after its passage by the council and approval by the mayor, or passage by four-fifths vote over the veto of the mayor, except emergency measures necessary for the immediate preservation of the peace, health or safety of the city; and no such emergency shall become immediately operative until same is passed by a three-fifths majority of all the members of the council and also approved by the mayor. (Ord. 98-1038 § 10)

Chapter 1.10

PUBLIC CONTRACTING RULES

Sections:

1.10.010 General provisions.
1.10.020 Personal service contracts.
1.10.030 Authority to electronically advertise solicitations for goods and services.
1.10.040 Authority to electronically advertise solicitations for public improvements.
1.10.050 Small procurements.
1.10.060 Sole-source procurements.
1.10.070 Notice of intent to award certain contracts.
1.10.080 Procedure for surplus property.

1.10.010 General provisions.

A. Except as provided within these rules, city public contracting is governed by the code and the model rules.

B. The Sherwood city council is the city's contract review board (board). Except as otherwise provided in these rules, the powers and duties of the board under the code and model rules will be exercised by the board and the powers and duties given or assigned to contracting agencies by the code or model rules will be exercised by the city manager acting as the city's contracting agent.

C. For the purposes of these rules, "City Manager" means the city manager for the city of Sherwood, or the city manager's designee. (Res. 05-006 § 1 (part))

1.10.020 Personal service contracts.

A. "Personal service contract" means a contract for personal or professional services performed by an independent contractor, primarily for the provision of services that require specialized technical, creative, professional or communication skills or talents, unique and specialized knowledge, or the exercise of discretionary judgment skills, and for which the quality of the service depends on attributes that are unique to the service provider. Such services include, but are not limited to, the services of attorneys, accounting and auditing services, information technology services, planning and development services, artists, designers, performers, property managers and consultants. The city manager has discretion to determine whether a particular contract or service falls within this definition. For the purposes of this section, personal services contracts do not include such contracts for architectural, engineering and land surveying services. The procedures for those contracts are found in the model rules, OAR 137, Division 48.

B. The following formal selection procedure will be used when the estimated payment to the contractor exceeds twenty-five thousand dollars ($25,000.00).

1. Announcement. The city will give notice of its intent to procure personal services through the League of Oregon Cities, and any other means the city deems appropriate, including contacting prospective contractors directly. Announcements will include:

a. A description of the proposed project;

b. The scope of the services required;

c. The project completion dates;

d. A description of special requirements;

e. When and where the application may be obtained and to whom it must be returned;

f. The closing date; and

g. Other necessary information.

2. Application. Applications will include a statement that describes the prospective contractor's credentials, performance data, examples of previous work product or other information sufficient to establish contractor's qualification for the project, references, and other information identified by the city as necessary to make its selection.

3. Initial Screening. The city manager will evaluate the qualifications of all applicants and select a prospective contractor or prospective contractors whose application demonstrates that the contractor is best qualified to meet the city's needs.

4. Final Selection.

a. The city manager will interview the finalists selected from the initial screening. At the city manager's discretion, the interviews may be conducted before the board.

b. After the interview process concludes, the city manager will make the final selection. If the interviews are conducted before the board, the board will make the final selection.

c. The final selection will be based upon applicant capability, experience, project approach, compensation requirements, references and any other criteria identified by the city as necessary for the city to select a contractor.

C. The following informal selection procedure may be used when the estimated payment to the contractor is under twenty-five thousand dollars ($25,000.00) or when the city manager determines that the informal procedures will not interfere with competition among prospective contractors, reduce the quality of services or increase costs. The city manager will contact a minimum of three prospective contractors qualified to offer the services sought. The city manager will request an estimated fee, and make the selection consistent with the city's best interests. If three quotes are not received, the city manager will make a written record of efforts to obtain the quotes.

D. The city manager may enter personal service contracts not exceeding an estimated five thousand dollars ($5,000.00) without following the procedures under subsection A or B of this section. However, the city manager must make reasonable efforts to choose the most qualified contractor to meet the city's needs. The amount of a given contract may not be manipulated to avoid the informal or formal selection procedures.

E. The city manager may negotiate with a single source for personal services if the services are available from only one contractor, or the prospective contractor has special skills uniquely required for the performance of the services. The city must make written finds to demonstrate why the proposed contractor is the only contractor who can perform the services desired.

F. The city manager may select a contractor without following any procedures when conditions require immediate action to protect life or property. In such instances, the city manager must make written declarations of the circumstances that justify the emergency appointments. (Res. 05-006 § 1 (part))

1.10.020

1.10.030 Authority to electronically advertise solicitations for goods and services.

A. The city manager is authorized to develop an "electronic procurement system" in accordance with OAR 137-047-0300(2)(b). As described in OAR 137-046-0110(15), this is an information system accessible through the internet that allows the city to post electronic advertisements and receive electronic offers for goods and services. When an electronic procurement system is in place, the model rules allow procurement solicitations to be advertised exclusively on the internet. This saves the city time and money over newspaper advertisements.

B. Prior to any development of an electronic procurement system, the city may advertise solicitations for goods and services on the internet in addition to newspaper advertisements. (Res. 05-006 § 1 (part))

1.10.030

1.10.040 Authority to electronically advertise solicitations for public improvements.

A. For all public improvement contracts with an estimated cost not exceeding one hundred twenty-five thousand dollars ($125,000.00), the city manager may electronically advertise solicitations in a manner deemed appropriate. This method of advertising will save the city time and money, may be used exclusively, and is allowed under ORS 279C.360(l).

B. An advertisement for a public improvement contract with an estimated cost over one hundred twenty-five thousand dollars ($125,000.00) must be published at least once in a trade newspaper of general statewide circulation, such as the Daily Journal of Commerce. (Res. 05-006 § 1 (part))

1.10.050 Small procurements.

A. As provided by ORS 279B.065, any procurement of goods or services not exceeding five thousand dollars ($5,000.00) may be awarded in any manner the city manager finds practical or convenient, including direct selection or award.

B. A small procurement contract may be amended in accordance with OAR 137-047-0800, but the cumulative amendments may not increase the total contract price to greater than six thousand dollars ($6,000.00).

C. A procurement may not be artificially divided or fragmented to qualify for this section. (Res. 05-006 § 1 (part))

1.10.060 Sole-source procurements.

A. Pursuant to ORS 279B.075(l), the city manager is authorized to declare in writing certain goods and services to be available from only one source.

B. The determination of a sole source must be based on findings required by ORS 279B.075(2), and otherwise be processed in accordance with OAR 137-047-0275. (Res. 05-006 § 1 (part))

1.10.070 Notice of intent to award certain contracts.

A. At least seven days before the award of a public contract solicited under a traditional invitation to bid or request for proposals, the city will post or provide to each bidder or proposer notice of the city's intent to award a contract.

B. If stated in the solicitation document, the city may post this notice electronically or through nonelectronic means and require the bidder or proposer to determine the status of the city's intent.

C. As an alternative, the city may provide written notice to each bidder or proposer of the city's intent to award a contract. This written notice may be provided electronically or through nonelectronic means.

D. The city may give less than seven days notice of its intent to award a contract if the city determines in writing that seven days is impracticable as allowed by ORS 279B.135.

E. This section does not apply to goods and services contracts awarded under small procurements under these rules, or other goods and services contracts awarded in accordance with ORS 279B.070, 279B.075, 279B.080 or 279B.085.

F. This section does not apply to any public improvement contract or class of public improvement contracts exempted from competitive bidding requirements.

G. A protest of the city's intent to award a contract may only be filed in accordance with OAR 137-047-0740 or OAR 137-049-0450, as applicable. (Res. 05-006 § 1 (part))

1.10.070

1.10.080 Procedure for surplus property.

A. Surplus property is property owned by the city such as, office furniture, computers, equipment, vehicles, excluding real property, the city manager determines is surplus and no longer useful to the city.

B. For surplus property deemed by the city manager to have a value of five thousand dollars ($5,000.00) or less, the city manager may authorize the property to be sold, to be donated, or to be destroyed. For surplus property deemed by the city manager to have a value of more than five thousand dollars ($5,000.00), the city council may authorize the property to be sold, to be donated, or to be destroyed.

C. Surplus property may be sold through the informal solicitation of bids or through an auction, including an online auction. The city manager has the discretion to advertise the sale of surplus property in a newspaper of city-wide circulation.

D. City employees may purchase surplus property, so long as at least three individuals or entities have bid on the property and the employee's bid is the highest bid. (Res. 05-006 § 1 (part))

Title 2

ADMINISTRATION AND PERSONNEL

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2.08 Boards and Commissions Generally
2.12 Library Advisory Board
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2.20 City Records
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Chapter 2.04

ELECTIONS

Sections:

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2.04.044 Measure referred by council.
2.04.045 Withdrawal, adoption or election.
2.04.046 Election notice and results.

Article I. Introduction

2.04.010 State law applies.

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

2.04.012 Definitions.

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

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

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

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

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

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

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

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

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

"Recorder" means the city recorder or authorized representative.

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

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

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

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

2.04.012

Article II. Candidates

2.04.020 Eligibility.

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

2.04.021 Nomination petition or declaration of candidacy.

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

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

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

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

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

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

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

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

2.04.022 Petition or declaration contents.

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

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

2. The residence address of the candidate;

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

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

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

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

7. The signature of the candidate.

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

2.04.023 Filing.

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

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

C. A nomination petition or declaration of candidacy will be filed not sooner than the first day of January of the election year and not later than seventy-five (75) days before the election date. (Ord. 05-008 § 1 (Exh. A)(part))

2.04.023

2.04.024 Deficient petitions.

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

2.04.025 Withdrawal of candidacy--Refund of filing fee.

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

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

2.04.026 Certificate of nomination.

The recorder will certify the nominations to the county clerk in accordance with the time requirements of state law stating the offices and the terms of office for which the candidates are nominated. (Ord. 05-008 § 1 (Exh. A)(part))

Article III. Vacancies in Office

2.04.030 Vacancy in office.

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

2.04.032 Filling of vacancy.

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

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

2.04.034 Appointment by council.

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

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

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

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

3. Appointment from those applicants nominated and seconded for consideration by members of the council. The recorder will announce the results of each ballot and will record each councilor's ballot. An applicant who receives a majority of the votes by the current council members will be appointed to the vacant position. If no applicant receives a majority vote on the first ballot, the council will continue to vote on the two applicants who receive the most votes until an applicant receives a majority of the councilors voting. (Ord. 05-008 § 1 (Exh. A)(part))

2.04.034

Article IV. Initiative and Referendum

2.04.040 Prospective petition.

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

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

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

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

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

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

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

2.04.041 Ballot title--Appeal.

A. Prior to the end of the fifth business day after a prospective initiative petition is filed and meets all legal requirements, the recorder will review the text of the proposed initiative to determine if it complies with the single subject requirement and if it proposes city legislation.

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

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

D. If the proposed initiative meets the requirements of subsection A of this section or a referendum petition is certified for circulation, the recorder will send two copies of the prospective petition to the city attorney. The city attorney has five business days after receipt to prepare a ballot title for the proposed measure and an explanatory statement for the voter's pamphlet. The ballot title must conform to the requirements of state law.

1. The explanatory statement must consist of an impartial, simple and understandable statement of not more than five hundred (500) words explaining the measure and its effect.

2. After preparing the ballot title and explanatory statement, the city attorney will return one copy of the prospective petition, ballot title and explanatory statement to the recorder and one copy to one of the chief petitioners.

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

F. After receiving the prospective petition, ballot title and explanatory statement from the city attorney, the recorder must write the date of receipt on it. Within seven business days after that date, any city elector may petition in circuit court to challenge the ballot title prepared by the city attorney. After the seven-day period, or following the final adjudication of any legal review, the recorder must certify the ballot title as prepared by the city attorney or as prescribed by the court to one of the chief petitioners.

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

H. The procedures in subsections A through G of this section also apply to referendum measures. However, the completion of these procedures is not a prerequisite to the circulation of petitions for referendum measures under Section 2.04.042 of this chapter. Ballot titles need not be stated on petitions circulated to propose referendum measures. (Ord. 05-008 § 1 (Exh. A)(part))

2.04.041

2.04.042 Petition and circulation requirements.

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

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

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

D. No signature sheet may be circulated by more than one person. Each signature sheet must contain a statement signed by the circulator that each elector who signed the sheet did so in the circulator's presence, and, to the best of the circulator's knowledge, each such elector is a legal elector of

the city and that the information placed on the sheet by each such elector is correct. (Ord. 05-008 § 1 (Exh. A)(part))

2.04.043 Filing and percentage requirements--Verification.

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

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

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

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

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

F. Upon the acceptance of a petition, the recorder must verify the signatures. The verification may be performed by random sampling in a manner approved by the Secretary of State. Within thirty (30) days after the recorder's acceptance of a petition, the recorder must certify to the council whether the petition contains a sufficient number of qualified signatures to require the submission of the proposed measure to city electors. The recorder must state in the certificate the number of qualified signatures prescribed by subsections G, H or I of this section to require the proposed city legislation to be submitted to city electors. The petition is considered filed as of the date of the recorder's certification.

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

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

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

2.04.043

2.04.044 Measure referred by council.

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

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

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

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

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

2.04.045 Withdrawal, adoption or election.

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

B. Unless a petition is withdrawn, after receiving a certification from the recorder that a petition has sufficient signatures to require the proposed city legislation to be submitted to the electors under Section 2.04.043(F) of this chapter, the council may either adopt the proposed legislation by ordinance, or call an election to submit the legislation to the electors. The council may also call an election to submit matters to the electors upon referral under Section 2.04.044 of this chapter.

C. The council 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. 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

BOARDS AND COMMISSIONS GENERALLY

Sections:

2.08.010 Appointments.
2.08.020 Incumbents.

2.08.010 Appointments.

Except for replacing board and commission members who resign or are removed from office in mid-term, appointments to the planning commission, budget committee, parks advisory board and library advisory board shall be made in the month of March of each calendar year, and be effective on April 1st of each calendar year. (Ord. 92-954 § 1)

2.08.020 Incumbents.

The terms of all incumbent board and commission members as of the effective date of the ordinance codified in this chapter shall be extended to March 31, 1993. (Ord. 92-954 § 2)

Chapter 2.12

LIBRARY ADVISORY BOARD

Sections:

2.12.010 Board established.
2.12.020 Membership.
2.12.030 Terms of office.
2.12.040 Rules of order.
2.12.050 Staff assistance.
2.12.060 Duties and responsibilities.

2.12.010 Board established.

Library advisory board, hereinafter referred to as the “board,” is established for the purposes of advising the city council and the city administration on library policies, planning, and management, and shall have the duties and responsibilities described in this chapter. (Ord. 03-1142 § 1: Ord. 88-889 § 1)

2.12.020 Membership.

A. The board shall consist of nine voting members who shall be appointed by the mayor and with the consent of the city council. Board members serve at the pleasure of the city council and may be removed by the council in its sole discretion.

B. Eight of the board members shall be and remain during their terms, residents of the city of Sherwood. One member may be a non-resident of Sherwood, but must be a resident of both Washington County and the Sherwood Public Library service area as currently designated.

C. Members of the board shall serve without compensation except for reimbursement for duly authorized expenses.

D. The mayor, with the consent of the city council shall appoint a council representative to the board. The council representative shall be a non-voting member. The city council shall also appoint a high school representative as one of the nine voting members of the board. The term of office of the high school representative shall be for two years. (Ord. 03-1142 § 2: Ord. 00-1089 § 1A; Ord. 88-889 § 2)

2.12.030 Terms of office.

A. The terms of office of board members shall be four years and members may be reappointed to serve two or more consecutive terms. Appointments to the board shall become effective on the date of the board's first regular meeting of each calendar year.

B. The nonvoting council representative to the board shall be appointed for a term coincident with the length of his or her term on the city council.

C. Upon resignation, permanent disqualification, or removal of any board member by the city council, a successor shall be appointed by the mayor, with the consent of the city council, to fill the remainder of that member's unexpired term. Board members missing three consecutive regular meetings, without the prior consent of the board, shall be disqualified and removed from office. (Ord. 03-1142 § 3: Ord. 00-1089 § 1B; Ord. 88-889 § 3)

2.12.040 Rules of order.

A. The board shall elect a chairperson, vice-chairperson, secretary and any other officers from among its members at the board's first regular meeting in each calendar year.

B. Five members of the board shall constitute a quorum for the conduct of business.

C. The board shall act by a majority vote of the members present at a meeting, excluding members present but abstaining.

D. The board shall hold at least six meetings per calendar year and may hold other meetings as are necessary to perform its functions.

E. Before any meeting of the board, public notice shall be given as required by law and common practice. Minutes shall be taken of each meeting and filed with the city recorder.

F. The board may adopt rules of procedure to regulate the conduct of meetings. In the absence of such rules, proceedings of the board shall be conducted in accordance with the current edition of Robert's Rules of Order. (Ord. 03-1142 § 4: Ord. 00-1089 § 1C; Ord. 91-926 § 1; Ord. 88-889 § 4)
2.12.040

2.12.050 Staff assistance.

The library staff may be assigned from time to time by the library director or the city manager, to advise and assist the board. However, the board shall not preempt any departmental or administrative prerogative as established by the City Charter, City Code of Ordinances, or the city council. (Ord. 03-1142 § 5: Ord. 88-889 § 5)

2.12.060 Duties and responsibilities.

The board shall:

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

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

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

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

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

F. Advise on library rules, regulations and other matters relative to the city library. (Ord. 03-1142 § 6: Ord. 00-1089 § 1D; Ord. 88-889 § 6)

Chapter 2.16

PARKS AND RECREATION BOARD

Sections:

2.16.010 Board established.
2.16.020 Membership.
2.16.030 Terms of office.
2.16.040 Rules of order.
2.16.050 Staff assistance.
2.16.060 Duties and responsibilities.

2.16.010 Board established.

A parks and recreation advisory board, hereinafter referred to as the "board," is established for the purposes of advising the city council and the city administration on parks and recreation policies, planning and management, and shall have the duties and responsibilities described in this chapter. (Ord. 04-015 § 1 (Exh. A)(part): Ord. 814 § 1, 1985)

2.16.020 Membership.

A. The board shall consist of nine voting members appointed by the mayor with the consent of city council.

B. All voting members shall be and remain during their terms, residents of the city of Sherwood.

C. Members of the board shall serve without compensation except for reimbursement for duly authorized expenses.

D. The mayor, with the consent of the city council, shall appoint a council representative to the board, who shall be a nonvoting member thereof. (Ord. 04-015 § 1 (Exh. A)(part): Ord. 01-1112 § 1(a); Ord. 99-1073 § 1(a); Ord. 814 § 2, 1985)

2.16.030 Terms of office.

A. Except as provided in subsection B of this section, board members shall serve two-year terms and may be reappointed at the close of their initial term to serve one additional two-year term if recommended by the board chair and council liaison and approved by the council. Members wishing to serve a third or subsequent term must re-apply and be considered along with other applicants. Each board member serves at the pleasure of the council and may be removed by council if the council, in the exercise of its discretion, deems that to be appropriate.

B. To provide for the orderly transition of board business, the four most senior members of the board will continue to serve until March, 2005 and the remaining five members will serve terms ending in March 2006. All appointments to the board made by the mayor from and after January 1, 2005 will be for a two-year term with terms ending in March; therefore, during even-numbered years, four members' terms will expire and during odd-numbered years, five board members' terms will expire. Members appointed as replacements in between full terms will fill the remainder of their predecessor's term and have the option to be reappointed at the close of their initial term.

C. The nonvoting council representative to the board shall serve a two-year term and can be reappointed for a second two-year term by the mayor with the concurrence of council.

D. Upon resignation, disqualification or removal of any board member by the council, a successor shall be appointed to fill the remainder of the unexpired term. Board members missing three consecutive regular meetings, without the prior consent of the board, shall be disqualified and removed from office. (Ord. 04-015 § 1 (Exh. A)(part): Ord. 01-1112 § 1(b); Ord. 99-1073 § 1(b); Ord. 814 § 3, 1985)

2.16.040 Rules of order.

A. At its first meeting following the March appointments each year, the board shall elect a chair and vice-chair and other officers deemed necessary for the effective conduct of board business.

B. Five members of the board shall constitute a quorum for the conduct of business.

C. The board shall act by a majority vote of the members present at a meeting, excluding members present but abstaining.

D. The board may adopt rules to regulate the conduct of meetings. In the absence of such rules, proceedings of the board shall be conducted in accordance with Robert's Rules of Order. (Ord. 04-015 § 1 (Exh. A)(part): Ord. 01-1112 § 1(c); Ord. 99-1073 § 1(c); Ord. 92-955 § 1; Ord. 814 § 4, 1985)

2.16.050 Staff assistance.

The city manager may advise and assist the board when requested, and within the resources of the city staff, provided, however, that the board shall not preempt any departmental or administrative prerogative as established by the City Charter, City Code of Ordinances, or the city council. (Ord. 04-015 § 1 (Exh. A)(part): Ord. 99-1073 § 1(d); Ord. 814 § 5, 1985)

2.16.060 Duties and responsibilities.

The board shall:

A. Recommend to council, 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 to the city;

B. Recommend to council long-range plans, goals and objectives for the acquisition and development of new city parklands and the improvement and maintenance of existing parks;

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

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

E. 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;

F. Provide for liaison between the city and corporate, civic, fraternal, nonprofit or other groups in the scheduling and conduct of community-wide events and activities;

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

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

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

J. Act on parks rules and regulations, consider parks activity and use permits and undertake other matters relative to city parks and public areas;

K. The board shall meet with local sports organizations to identify needs and concerns and forward their findings and recommendations to council in time for council consideration during annual budget hearings. (Ord. 04-015 § 1 (Exh. A)(part): Ord. 814 § 6, 1985)

Chapter 2.20

CITY RECORDS

Sections:

2.20.010 Records officer--Duties.
2.20.020 Records management program.

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.
2.28.020 Surrender to true owner.
2.28.030 Sale of property.
2.28.040 Certificate of sale.
2.28.050 Dangerous or perishable property.
2.28.060 Scope.
2.28.070 Storage and preservation charges.
2.28.080 Disposal of property.

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.

F. In lieu of the procedures set forth in subsections A through E of this section, the city police department may dispose of unclaimed property as defined in ORS 98.245(b) in the manner set forth in ORS 98.245(2). (Ord. 98-1046 § 1; Ord. 799 § 1, 1984)

2.28.040 Certificate of sale.

At the time of payment of the purchase price of the property the chief of police shall sign a certificate of sale in duplicate, the original to be delivered to the purchaser and a copy to be kept on file in the office of the city recorder, which certificate shall contain the date of sale, the consideration paid, a brief description of the property, and a stipulation that the city does not warrant the condition of title of the property other than return of the purchase price in the event title should prove to be invalid. The certificate of sale shall be in substantially the form attached to the ordinance codified in this chapter and on file in the office of the city manager marked Exhibit A, and by this reference incorporated herein. (Ord. 799 § 4, 1984)

2.28.050 Dangerous or perishable property.

The chief of police may order the destruction or other disposal of any property coming into his or her possession which is in his or her judgment dangerous or perishable. (Ord. 799 § 5, 1984)

2.28.060 Scope.

This chapter shall apply to all personal property except motor vehicles now or hereafter in the custody of the city, weapons subject to ORS 166.280, property the disposition of which is subject to court order, and intangible personal property presumed abandoned pursuant to ORS 98.302 to 98.436. (Ord. 98-1046 § 2; Ord. 799 § 6, 1984)

2.28.070 Storage and preservation charges.

The charges and expenses for storage, preservation and custody of property shall be five dollars ($5.00) per item plus one dollar ($1.00) per day that each item is in storage, provided that the total charge for each item shall not exceed twenty-five dollars ($25.00) for items valued under one hundred dollars ($100.00) or a total of fifty dollars ($50.00) for items valued one hundred dollars ($100.00) or over. (Ord. 799 § 7, 1984)

2.28.080 Disposal of property.

If the chief of police by appraisal or other suitable means determines that the property is of a value of less than twenty-five dollars ($25.00) and is not suitable for sale pursuant to this chapter or remains unsold at auction, he or she may destroy or otherwise dispose of the property by donation of same to a charitable organization willing to accept the item. (Ord. 799 § 8, 1984)

Chapter 2.32

ADMINISTRATIVE FEES AND CHARGES

Sections:

2.32.010 Authority to create administrative fees, rates and other charges.
2.32.020 Financial security.

2.32.010 Authority to create administrative fees, rates and other charges.

The council may establish a schedule of fees, rates and other charges together with procedures for their imposition and collection for matters deemed by the city to require oversight and/or administration by city staff, agents and/or consultants, including but not limited to outside engineers, attorneys and accountants. The schedule shall be kept in the city recorder's office and available to the public for review. It may be altered, amended or modified from time to time by resolution of the city council. (Ord. 03-1150 § 1(part))

2.32.020 Financial security.

The city may require a person or entity subject to the payment of a fee, rate or charge established under the terms of SMC Section 2.23.010 to provide financial security (in a manner and form deemed appropriate by the city manager or his or her designee) so that the city is assured of payment of the fee, rate or other charge prior to completion of the event or task for which the fee, rate or charge is being imposed. The financial security may include (but is not limited to) the provision of a bond, promissory note, letter of credit or cash deposit by the affected person or entity. In the appropriate case, a fee, rate or other charge may also be made an "assessment lien" on affected property in the city. (Ord. 03-1150 § 1(part))

Chapter 2.36

PERSONNEL SYSTEM

Sections:

2.36.010 Title.
2.36.020 Purpose.
2.36.030 Adoption and amendment of rules.
2.36.040 Administration of the rules.

2.36.010 Title.

The title of the ordinance codified in this chapter shall be the personnel ordinance of the city of Sherwood. (Ord. 02-1129 § 1 (part))

2.36.020 Purpose.

The ordinance codified in this chapter is adopted to establish an equitable and uniform procedure for dealing with personnel matters; to attract to municipal service and to retain the best and most competent persons available; and to assure that appointments and promotions of employees will be based on merit and fitness. (Ord. 02-1129 § 2)

2.36.030 Adoption and amendment of rules.

An Employee Manual shall be adopted and amended by the city manager on an annual basis based on the policy decisions made by the city council; budget committee directives; state and federal legislation; general housekeeping, and the best business interest of the city of Sherwood. The manual shall provide means to recruit, select, develop and maintain an effective and responsive work force and shall include policies and procedures for employee hiring and advancement, training and career development, job classification, salary administration, discipline, discharge and other related activities. All appointments and promotions shall be made in accordance with the personnel rules without regard to race, color, religion, gender, national origin, age or disability, and shall be based on merit and fitness. (Ord. 02-1129 § 3)

2.36.040 Administration of the rules.

The city manager shall be responsible for:

A. Administering all the provisions of this chapter and of the employee manual not specifically reserved to the city council or police chief, or otherwise addressed in labor or employment contracts.

B. Approving employee manual and revisions and amendments to such manual.

C. The police chief shall be responsible for administering the rules applicable to the police department. (Ord. 02-1129 § 1 (part))

Title 3

REVENUE AND FINANCE

Chapters:
3.04 Local Improvement Procedures
3.10 Measure 37 Claims Procedure

Chapter 3.04

LOCAL IMPROVEMENT PROCEDURES

Sections:
3.04.010 Definitions.
3.04.020 Description of real property.
3.04.030 Unknown owners, mistake in names of owners.
3.04.040 Council powers.
3.04.050 Formation of district, declaration of intention to make an improvement.
3.04.060 Notice.
3.04.070 Remonstrance.
3.04.080 Ordering improvement.
3.04.090 Bids.
3.04.100 Assessment.
3.04.110 Spreading assessment, liens.
3.04.120 Deficit assessments and excess assessments.
3.04.130 Reapportionment of assessments.
3.04.140 Abandonment of proceedings.
3.04.150 Curative provisions.
3.04.160 Filing of documents required.

3.04.010 Definitions.

As used in this chapter, (a) unless the context requires otherwise, the words used in this chapter shall have the meaning as defined in ORS 223.001; (b) the term “engineer” or “city engineer” means by the person or firm designated or engaged by the city to be in charge of engineering and related work for the city. (Ord. 98-1045 § 1; Ord. 738 § 1, 1981)

3.04.020 Description of real property.

Real property may be described by giving the subdivision according to the United States survey when coincident with the boundaries thereof, or by lots, blocks and addition names, or by giving the boundaries thereof by metes and bounds, or by reference to the book and page of any public record of the county where the description may be found, or by designation of tax lot number referring to a record kept by the assessor of descriptions of real properties of the county, which record shall constitute a public record, or in such other manner as to cause the description to be capable of being made certain. Initial letters, abbreviations, figures, fractions and exponents, to designate the township, range, section, or part of a section, or the number of any lot or block or part thereof, or any distance, course, bearing or direction, may be employed in any such description of real property.

Any description of real property which conforms substantially to the requirements of this section shall be a sufficient description in all proceedings of assessment for a special improvement district, foreclosure and sale of delinquent assessments, and in any other proceeding related to or connected with levying, collecting and enforcing special assessments for special benefits to such property. (Ord. 738 § 2, 1981)

3.04.030 Unknown owners, mistake in names of owners.

If the owner of any land is unknown, such land may be assessed to "unknown owner" or "unknown owners." If the property is correctly described, no assessment shall be invalidated by a mistake in the name of the owner of the real property assessed or by the omission of the name of the owner or the entry of a name other than that of the true owner.

Where the name of the true owner, or the owner of record, of any parcel of real property is given, the assessment shall not be held invalid on account of any error or irregularity in the description if the description would be sufficient in a deed of conveyance from the owner, or is such that, in a suit to enforce a contract to convey employing such description a court of equity would hold it to be good and sufficient. (Ord. 738 § 3, 1981)

3.04.040 Council powers.

Subject to the limitations provided by Chapter X of the Charter of the city, the city council, whenever it may deem it expedient, is authorized and empowered to order any improvement, to determine the character, kind and extent of the improvement to levy and collect an assessment upon all lots of land specially benefited by the improvement, and to determine what lands are specially benefited and the amount to which each lot is benefited, and to select a manner and method of assessment which the council finds has a reasonable relationship to the benefits derived by the property assessed. (Ord. 98-1045 § 2; Ord. 738 § 4, 1981)

3.04.050 Formation of district, declaration of intention to make an improvement.

Whenever the city council shall deem it expedient or necessary to order any improvement, it shall require from the city engineer preliminary plans and specifications for the improvement and estimates of the work to be done and the probable cost thereof, together with a statement of the lots, parts of lots and parcels of land to be benefited and the percentage of the total cost of the improvement which each of such lots, parts of lots, and parcels of land should pay on account of the benefits to be derived. The recorder shall have such plans and specifications available for inspection. If the city council shall find such plans, specifications and estimates to be satisfactory, it shall approve the same and shall determine the boundaries of the district benefited and proposed to be assessed for such improvement. The city council shall, by resolution or ordinance, declare its intention to make such improvement, describing the probable total cost and also defining the boundaries of the assessment district to be benefited and assessed.

The action of the city council in creating such an assessment district, declaring its intention to make any improvement therein, directing the publication of notice approving and adopting the plans and specifications and estimates of the city engineer, and determining the district benefited and to be assessed, may all be done in one and the same resolution or enactment. (Ord. 738 § 5, 1981)

3.04.060 Notice.

The resolution of the city council declaring its intention to make the proposed improvement shall be published at least twice in a newspaper of general circulation published in the city, provided that the first publication shall be not less than fifteen (15) days prior to the time when all persons interested may present their objections to the improvement. Such notice shall specify the time and place where the council will hear and consider objections or remonstrances to the proposed improvement by any parties aggrieved thereby. (Ord. 738 § 6, 1981)

3.04.070 Remonstrance.

Within fifteen (15) days from the date of first publication of the notice required to be published in Section 3.04.060 of this chapter, the owners of sixty-five (65) percent or more in area of the property within the assessment district may make and file with the recorder written objections or remonstrances against the proposed improvement, and such objections or remonstrances shall be a bar to any further proceeding in the making of such improvement pursuant to this chapter for a period of one year, unless the owners of one-half or more of the property affected shall subsequently petition therefor. Further proceedings to make the improvement after expiration of the period of bar shall require republication of notice of intention to make the improvement and those reinstituted proceedings shall likewise be subject to bar by remonstrance pursuant to this section (Charter Chapter X). (Ord. 98-1045 § 3: Ord. 738 § 7, 1981)

3.04.080 Ordering improvement.

If no such remonstrance as described in Section 3.04.070 of this chapter is made or filed with the recorder within the time designated, the city council shall be deemed to have acquired jurisdiction to

order the improvements to be made, and the city council shall thereafter provide by ordinance for the making of such improvements, which shall substantially conform in all reasonable particulars to the plans and specifications previously adopted. (Ord. 738 § 8, 1981)

3.04.090 Bids.

When any improvement is ordered, the city administrator or recorder, upon instructions from the city council, shall obtain from the engineer final plans and specifications for bidding and shall invite proposals for making the same. The contract shall be awarded to the lowest responsible bidder for either the whole of the improvement or such part as will not materially conflict with the completion of the remainder. The city council shall have the right to reject any or all proposals received. If all proposals shall be rejected, the city council shall have the power by resolution duly adopted to order that such improvement, or any portion thereof, may be made under the direction of the city council by purchasing the materials and hiring the labor.

The city council shall have the power to provide for the proper inspection and supervision of all work done and to do any other act to secure the faithful carrying out and the completion of all contracts, and the making of all improvements in strict compliance with the ordinances and specifications therefor, and shall have power to direct that the cost of the improvement or any portion thereof shall be paid for by the city generally.

The requirements of Oregon Revised Statutes Chapter 279, and Ordinance 94-993 (Chapter 2.24 of this code), insofar as applicable to the work proposed to be done in the city, shall govern the bidding, contracting and performance of the work, including prequalification of bidders, payment and performance bonds, and enforcement of the provisions thereof. (Ord. 98-1045 § 4; Ord. 738 § 9, 1981)

3.04.100 Assessment.

Upon signing a contract or upon a determination by the city council to make the improvement under its own supervision by purchasing the material and hiring labor, or as soon thereafter as is reasonably convenient, the city council shall determine whether the property benefited shall bear all or a portion of the cost and shall direct the city engineer to apportion and assess the cost of making such improvement upon the lots, parts of lots, and parcels of land within the assessment district in accordance with the special and peculiar benefits derived by each lot, part of lot, and parcel of land.

The recorder shall cause to have mailed, or cause to have personally delivered to the owner of each lot proposed to be assessed, a notice of such proposed assessment, which notice shall state the amount of the assessment proposed on that property and shall state a date by which time objections shall be filed with the recorder. Such notice shall further require that any such objection shall state the grounds thereof. The city council shall consider the city engineer's estimates of assessments and all objections thereto filed with the recorder, and without any further notice may adopt, correct, modify or revise the proposed assessments, and shall determine the amount to be charged against each lot within the district according to the special and peculiar benefits accruing thereto from the improvement.

If there be no contract let for the accomplishment of the work, the total estimate of the city engineer shall be considered to be the contract price for the improvement district.

In any event, whether there be a contract price arising from a bona fide contract, or whether the estimate of the city engineer be used as hereinabove provided, there shall be added to said contract price the cost of right-of-way and expenses of condemning the land, all costs of engineering, superintendence, advertising, and legal expenses, and also any and all other necessary and proper expenses incurred, which additional amounts shall be and do become a part of the amounts to be assessed against each lot, part of lot, and parcel of land benefited by the improvement. (Ord. 738 § 10, 1981)

3.04.110 Spreading assessment, liens.

The assessment as adopted by the city council against each lot or parcel of land shall be declared by ordinance and the recorder shall thereupon enter the same in the lien docket of the city, each improvement district estimate and assessment being maintained in a separate docket from other prior or subsequent estimates and assessments. Assessments shall thereupon become a lien upon the property assessed from and after the passage of the ordinance spreading the same and entry in the appropriate city lien docket. The city may thereafter enforce collection of such assessments as provided by Oregon Revised Statutes, Sections 223.505 to 223.650. (Ord. 738 § 11, 1981)

3.04.120 Deficit assessments and excess assessments.

If the initial assessment has been made on the basis of estimated cost and upon completion of the work the cost is found to be greater than the estimate, the city council may make a deficit assessment for the additional cost. Proposed assessments upon respective lots within the assessment district for the proportionate share of the deficit shall be made, and notices of such assessments shall be given as provided with respect to the original assessment as hereinabove set forth, and all objections filed with the city clerk within the time limited therefor shall be considered and determination of the deficit assessment against each particular lot, block or parcel of land shall be made as in the case of the initial assessment, and the deficit assessment with respect to each lot and block shall be finally determined by the city council and spread by ordinance as in the case of the initial assessment.

If assessments have been made on the basis of estimated cost and upon completion of the work the cost is found to be less than the estimate, the excess assessment shall be reapportioned and credited to each lot and block according to the manner in which the original assessment was computed. (Ord. 738 § 12, 1981)

3.04.120

3.04.130 Reapportionment of assessments.

Property in single ownership at the time of the initial hearing at which the city acquires jurisdiction to perform a public improvement need not be divided by the city for the purpose of levying assessments except when the city receives actual notice of the division of ownership of such property prior to the enactment of the assessment ordinance. After an assessment has been levied upon contiguous property in single ownership as provided in this chapter, there shall be no division or reapportionment of the assessment lien except under the following procedure:

A. The owner of all or any portion of a parcel of contiguous land subject to a single assessment may make application to the city recorder for a division and reapportionment of the assessment; and such application shall contain a legal description of each parcel of land into which the property is proposed to be divided together with the name and address of each of the owners and other parties having an interest in such property.

B. After receipt of the application the city recorder shall mail notice to each owner and party having an interest in such property of the application and the date and time of the meeting of the city council at which the matter shall be considered, which meeting shall not be earlier than ten days from the mailing of written notice.

C. At or prior to the meeting of the city council at which the application will be considered the city administrator shall make a report and recommendation to the council for the apportioning of the assessment lien between portions of the property to be divided, describing the effect of such division upon the security of the city.

D. At the designated meeting of the city council the applicant and any owner or party having an interest in such property may be heard, and the council may make a decision at such meeting, or the council may defer its decision to a meeting to be held within forty-five (45) days.

E. The council shall make no reapportionment of an assessment which will impair the security of the city for the collection of the assessments upon the property, and the council may impose conditions upon such reapportionment for the protection of the city.

F. A reapportionment of assessments shall become effective only after enactment of an ordinance declaring such reapportionment and provision for the amendment of the docket of city liens to conform with the ordinance. (Ord. 782 § 2, 1982)

3.04.140 Abandonment of proceedings.

The city council shall have full power and authority to abandon and rescind proceedings for projects hereunder at any time prior to the final consummation of such proceedings, and if liens have been assessed upon any property under this procedure, they shall be cancelled and any payments made thereon shall be refunded to the payer, his or her assigns or legal representative. (Ord. 738 § 13, 1981)

3.04.150 Curative provisions.

No assessment shall be invalid by reason of a failure to give in any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket, or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land, or the name of any person having a lien upon or interest therein, or by a mistake in the name of any such person having a lien upon or interest in the property, or by reason of any error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinbefore specified, unless it appears that reasonable notice has not been given of the hearing upon the proposed improvement or that the assessment as made, insofar as it affects the person complaining, is unfair and unjust, and the city council shall have the power and authority to remedy and correct all such matters by suitable action and proceedings. (Ord. 738 § 14, 1981)

3.04.160 Filing of documents required.

All official specifications, plans, bids, acceptances, copies of purchase orders, and other documents forming part of the "public improvement file" shall be maintained at all times in the office of the city recorder and be available for public inspection. (Ord. 738 § 15, 1981)

Chapter 3.10

MEASURE 37 CLAIMS PROCEDURE

Sections:

3.10.010 Purpose.
3.10.020 Definitions.
3.10.030 Pre-filing conference.
3.10.040 Claim requirements.
3.10.050 Claim review process.
3.10.060 Conditions, revocation and transfer.
3.10.070 Waiver of claims.
3.10.080 Costs and attorney fees.
3.10.090 Availability of funds to pay claims.
3.10.100 Review of a decision.
3.10.110 Private cause of action.
3.10.120 Compensation by other.
3.10.130 Severability.
3.10.140 Applicable state law, no independent rights.

3.10.010 Purpose.

The purpose of this chapter is to accomplish the following regarding claims for compensation under ORS Chapter 197, as amended by Ballot Measure 37, adopted November 2, 2004:

Process claims for compensation quickly, openly, thoroughly, and consistently with the law; enable present real property owners making claims for compensation to have an adequate and fair opportunity to present their claims to the City; provide the City with the factual and analytical information necessary to adequately and fairly consider claims for compensation, and take appropriate action under the alternatives provided by law; preserve and protect limited public funds; preserve and protect the interests of the community by providing for public input into the process of reviewing claims; and establish a record of decisions capable of withstanding legal review.
(Ord. 04-017 § 1 (part))

3.10.020 Definitions.

For purposes of this chapter, the following definitions apply:

"Appraisal" means a written statement prepared by an appraiser licensed by the Appraiser Certification and Licensure Board of the state of Oregon under ORS Chapter 674. For commercial or industrial property, the term "appraisal" also means a written statement prepared by an appraiser holding the MAI qualification and evidenced by written certificate.

"Ballot Measure 37" means the provisions added to ORS Chapter 197 by Ballot Measure 37 as approved by Oregon voters on November 2, 2004.

"City manager" means the city manager or designee.

"Claim" means the written demand for compensation made by an owner of real property in accordance with Ballot Measure 37 and this chapter.

Exceptions to Land Use Regulation. The following land use regulations are excluded from the application of this chapter:

1. A regulation restricting or prohibiting activities commonly and historically recognized as public nuisances under common law, and the criminal laws of Oregon and the city; See Appendix A to this chapter.

2. A regulation restricting or prohibiting activities for the protection of public health and safety such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;

3. A regulation required for compliance with federal law;

4. A regulation restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing; or

5. A regulation enacted prior to the date of acquisition of the real property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.

"Family member" means the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the real property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the real property.

"Land use regulation" means any city comprehensive plan, zoning ordinance, land division ordinance or transportation ordinance. A land use regulation does not include any land use regulation excepted from this chapter, any city system development charge, or any other city development fees or charges.

"Owner" means the present owner of real property that is the subject of the claim for compensation, or any interest therein. The owner must be a person who is the sole fee simple owner of the real property or all joint owners whose interests add up to a fee simple interest in property including all persons who represent all recorded interests in property, such as co-owners, holders of less than fee simple interests, leasehold owners, and security interest holders.

"Property" means any private real property or interest therein. It includes only a single parcel or contiguous parcels in single ownership. It does not include any parcels that are under different ownerships, regardless of contiguity.

"Reduction in value" means the difference in the fair market value of the property before and after enactment, enforcement or application of a land use regulation as defined in this chapter. (Ord. 04-017 § 1 (part))

3.10.020

3.10.030 Pre-filing conference.

See Appendix A of this chapter.

(Ord. 04-017 § 1 (part))

3.10.040 Claim requirements.

A. Form, Completeness and Review.

1. A claim must be submitted and accepted for filing only using the forms provided by the city manager. A claim must consist of all materials required by this chapter. A claim will not be considered filed under Ballot Measure 37 until the city accepts the claim after the requirements of this chapter are fulfilled by the owner of real property.

2. The city manager will conduct a completeness review within fifteen (15) days after submittal of the claim and will advise the owner in writing of any material remaining to be submitted. The owner must submit the material needed for completeness within thirty (30) days of the written notice that additional material is required. If the owner fails to provide the additional materials within the thirty (30) day period, the claim will not be accepted for filing.

3. The one hundred eighty (180) day period required before accrual of a cause of action for compensation in circuit court under Ballot Measure 37 begins on the date the city manager deems the claim complete, and accepts it for filing. The city manager will mark the date of completeness and filing on theclaim form and provide a copy to the claimant.

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

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

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

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

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

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

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

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

7. Title Report. A title report demonstrating the title history, the date the owner acquired ownership of the property, and the ownership interests of all owners. The title report must also specify any restrictions on use of the property unrelated to the land use regulation including, but not limited to, any restrictions established by covenants, conditions and restrictions (CC&Rs), other private restrictions, or other regulations, easements or contracts.

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

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

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

11. Narrative. See Appendix A of this chapter.

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

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

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

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

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

3.10.040

3.10.050 Claim review process.

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

1. Denied;

2. Investigated further;

3. Declared valid, in which case the recommendation will further state whether the land use regulation at issue should be removed, waived or modified, or that the claimant should be compensated; or

4. Evaluated in another manner not inconsistent with this chapter or Ballot Measure 37, including possible city condemnation of the property.

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

C. Notice of the public hearing will be provided to the claimant and to all record owners of the subject property, and to all owners of property within three hundred (300) feet of the subject proper-

ty. Additional notice may be sent to the Oregon Department of Land Conservation and Development, Metro and such others as the city may designate.

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

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

1. Determine that the claim does not meet the requirements of this chapter and Ballot Measure 37, and deny the claim; or

2. Adopt an order with appropriate findings that supports a determination that the claim is valid and directs that the claimant be compensated in an amount set forth in the order, or remove, waive or modify the challenged land use regulation as applied to the subject property.

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

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

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

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

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

3.10.050

3.10.060 Conditions, revocation and transfer.

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

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

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

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

E. A land use regulation waived under this chapter will create a Measure 37 nonconforming use, or a nonconforming structure, as appropriate, on the property benefiting from the waiver, which is

defined separately from any nonconforming uses in Title 16 of this code. All valid claims and subsequent waivers shall be recorded with the property. (Ord. 04-017 § 1 (part))

3.10.070 Waiver of claims.

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

3.10.080 Costs and attorney fees.

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

3.10.090 Availability of funds to pay claims.

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

3.10.100 Review of a decision.

A writ of review under ORS 34.010 to 34.102 is the exclusive means to contest a final decision of the city council under Section 3.10.050, and must be filed within sixty (60) days of the notice provided under Section 3.10.050 of this chapter. The owner of the real property that is the subject of the claim under this chapter is a necessary party in such a proceeding. (Ord. 04-017 § 1 (part))
3.10.100
3.10.110 Private cause of action.

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

3.10.120 Compensation by other.

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

3.10.130 Severability.

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

3.10.140 Applicable state law, no independent rights.

For all claims filed, the applicable state law is those portions of ORS Chapter 197 added by Ballot Measure 37, or as amended, modified or clarified by subsequent amendments or rules adopted by the Oregon Legislature or Oregon Administrative Agencies. Any claim that has not been processed com-

pletely under this chapter will be subject to any such amendments, modifications, clarifications or other state actions. This chapter is adopted solely to address claims filed under the ORS Chapter 197 provisions added by Ballot Measure 37. This chapter does not create any rights independent of those provisions. (Ord. 04-017 § 1 (part))

Appendix A
Measure 37 Claims Ordinance
Possible Additions

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

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

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

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

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

2. 3.10.030 - Pre-filing Conference

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

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

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

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

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

3. 3.10.040 -- Claim Requirements

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

(i) Narrative. The owner must provide a narrative describing the history of the owner and any family member's ownership of the property, the history of land use regulations applicable to the claim, and how the enactment, enforcement or application of the land use regulation restricts the use of the property, or any interest therein, and has the effect of reducing the fair market value of the property, or any interest therein.

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

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

Title 4

CITY TELECOMMUNICATIONS UTILITY

Chapters:
4.04 City Telecommunications Utility

Chapter 4.04

CITY TELECOMMUNICATIONS UTILITY

Sections:
4.04.010 Definitions.
4.04.020 Utility creation.
4.04.030 Operations.
4.04.040 Advisory board.
4.04.050 Membership.
4.04.060 Terms of office.
4.04.070 Board organization.
4.04.080 Staff assistance.
4.04.090 Board duties.

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 broadband governing body and by resolution may adopt rules for its operations. (Ord. 05-007 § 1 (part))

4.04.030 Operations.

A. Broadband will operate as a department of the city under the administrative authority of the city manager. 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. 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. Broadband may provide services to customers outside of city boundaries.

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

4.04.040 Advisory board.

A broadband advisory board (board) is created to make recommendations to the city council and the city manager on broadband policies, planning and services, and to perform other duties assigned by the city council. (Ord. 05-007 § 1 (part))

4.04.050 Membership.

A. The board consists of seven voting members appointed by the mayor with the consent of the city council. Board members serve at the pleasure of the city council and may be removed in its sole discretion.

B. At least three board members will be residents of the city. At least three other board members will be owners or employees of businesses or institutions located within the city.

C. Board members serve without compensation except for reimbursement for authorized expenses.

D. With city council consent, the mayor will appoint a council representative to the board. The council representative will be a nonvoting member. (Ord. 05-007 § 1 (part))

4.04.060 Terms of office.

A. Board members will serve two year terms, and members may be reappointed to serve two consecutive terms.

B. The council representative will be appointed for a board term equal to the length of the representative's term on the city council.

C. Upon resignation, disqualification, or removal of any board member by the city council, a successor will be appointed by the mayor with the consent of the city council to fill the remainder of the unexpired term. Board members who miss three consecutive regular meetings will be disqualified and removed from office. (Ord. 05-007 § 1 (part))

4.04.060

4.04.070 Board organization.

A. The board will elect a chair, vice-chair and secretary from among its members at the board's first regular meeting of each fiscal year.

B. Four members of the board constitute a quorum for the conduct of business.

C. The board will act by a majority vote of the members present at a meeting.

D. The board will hold at least six meetings each fiscal year and may hold other meetings as necessary to perform its duties.

E. Before any meeting of the board, public notice must be given as required by law. Minutes must be taken for each meeting and filed with the city recorder.

F. The board may adopt bylaws to regulate the conduct at its meetings. In the absence of bylaws, board meetings will be conducted in accordance with the current edition of Robert's Rules of Order. (Ord. 05-007 § 1 (part))

4.04.080 Staff assistance.

City staff may be assigned from time to time by the city manager to advise and assist the board. However, the board may not direct the assignment or activities of city staff. (Ord. 05-007 § 1 (part))

4.04.090 Board duties.

The board will:

A. Establish long-range plans, goals and objectives for broadband and the improvement and maintenance of city telecommunications services;

B. Evaluate community needs and resources on a regular basis and incorporate relevant findings into a statement of purpose guiding the provision of city telecommunications services;

C. Regularly review and advise the city council and city manager on specific services and practices as they relate to broadband goals and objectives;

D. Promote public participation and awareness programs designed to increase the use of broadband;

E. Undertake additional responsibilities relative to broadband as requested by the city council or city manager. (Ord. 05-007 § 1 (part))

Title 5

BUSINESS LICENSES AND REGULATIONS

Chapters:

5.04 Business Licenses Generally
5.08 Amusement Games
5.12 Bingo, Lotto and Raffle Games
5.16 Telecommunications Facilities
5.20 Liquor Establishments
5.24 Taxicabs
5.28 Process and Fees for Liquor Licenses
5.30 Public Utility Fee

Chapter 5.04

BUSINESS LICENSES GENERALLY

Sections:

5.04.010 Definitions.
5.04.020 Purpose.
5.04.030 Basic fees.
5.04.040 Itinerant merchants.
5.04.050 Multiple businesses.
5.04.060 Exemptions.
5.04.070 Procedure for obtaining licenses.
5.04.080 Violation--Penalty.

5.04.010 Definitions.

As used in this chapter, “business” means professions, trades, occupations, shops, and all and every kind of calling carried on for profit or livelihood.

As used in this chapter, “person” means all domestic and foreign corporations, associations, syndicates, partnerships of every kind, joint adventurers, societies, and individuals transacting and carrying on any business in the city of Sherwood, Oregon.

No person whose income is based solely on an hourly, daily, weekly, monthly, or annual wage or salary shall, for the purpose of this chapter, be deemed a person transacting and carrying on any business in the city of Sherwood, Oregon.

The agent or agents of a nonresident proprietor engaged in any business for which a license is required by this chapter shall be liable for the payment of the fee thereon as herein provided and for the

penalties for failure to pay the same or to comply with the provisions of this chapter to the extent and with like effect as if such agent or agents were themselves proprietors. (Ord. 549 § 1, 1967)

5.04.020 Purpose.

A. This chapter is enacted, except as hereinafter otherwise specified, to provide revenue for municipal purposes and to provide revenue to pay for the necessary expenses required to issue the license for and regulate the business licensed.

B. The license fees levied by this chapter shall be independent and separate of any license or permit fees now or hereafter required of any person to engage in any business by any ordinance of the city regulating any business herein required to be licensed and all such businesses shall remain subject to the regulatory provisions of any such ordinances or ordinance now or hereafter in effect and the persons engaged therein liable to the payment of any license fees therein provided for.

C. Nothing in this chapter shall be construed to apply to any person transacting and carrying on any business within the city, which is exempt from taxation or regulation by the city by virtue of the constitutions of the United States or of the state of Oregon, or applicable statutes of the United States or of the state of Oregon.

D. The levy or collection of a license fee upon any business shall not be construed to be a license or permit of the city to the person engaged therein, to engage therein in the event such business shall be unlawful, illegal or prohibited by the laws of the state of Oregon or the United States, or ordinances of the city. (Ord. 549 § 2, 1967)

5.04.030 Basic fees.

A. There is imposed upon the business trades, shops, professions, callings and occupations specified in this chapter a basic license fee of sixty-five dollars ($65.00), and it is unlawful for any person to transact and carry on any such business in the city without first having obtained the license therefor for the current calendar year as herein provided or complying with any and all application provisions of this chapter.

B. In addition to the basic license fee, there shall be an additional fee of five dollars for each full-time employee employed by the business and working within the city. For purposes of this chapter, "full-time employee" means any employee working more than twenty (20) hours per week for the business. The number of employees shall be determined on the basis of those persons employed during the last full work week of December or, in the event of a new business, the number of employees expected to be employed during the first year of the business' operation.

C. All fees imposed by this chapter are due and payable prior to December 31st for the subsequent calendar year or for new businesses began during the calendar year, due and payable prior to the first day the trade, shop business, occupation or profession is conducted within the city.

D. Each branch establishment of business or location of a business conducted by any person shall, for the purposes hereof, be a separate business and subject to the license fee herein provided, but warehouses used solely incidental in conjunction with a business licensed pursuant to this chapter and operated by the person conducting such business shall not be separate places of business or branch establishments.

E. Whenever a partnership or firm is established in any of the various professions in which two or more members of the firm are licensed under state law to practice such profession, the basic license fee for such partnership or firm shall be one hundred thirty dollars ($130.00).

F. Contractors, as defined by ORS 701.005 and landscape contractors, as defined by ORS 701.015(6)(c), may be exempt from a city business license through the issuance by the Metropolitan Service District of a contractor's and landscape contractor's business license pursuant to ORS 701.015 through 701.020 and applicable service district ordinances and intergovernmental agreements. (Ord. 04-013 § 1: Ord. 98-1041 § 1; Ord. 93-971 § 1; Ord. 91-925 § 1; Ord. 88-880 § 1; Ord. 86-845 § 1: Ord. 679 § 1, 1977; Ord. 640 § 1, 1973; Ord. 549 § 3, 1967)

5.04.030

5.04.040 Itinerant merchants.

Inasmuch as certain trades, shops, businesses, professions or callings are conducted within the corporate limits of the city, by persons operating from vehicles within the city who pay no city ad valorem taxes, but nevertheless receive the benefit of police and fire protection, public streets and sidewalks, street lighting and other city services, the city council of the city finds that such trades, shops, businesses, professions, or callings having no business sites within the city or being operated from vehicles, and who pay no city ad valorem taxes upon real or personal property, shall pay a license fee of ninety-seven dollars and fifty cents ($97.50) and such fee of fifty (50) percent in excess of the basic fee of sixty-five dollars ($65.00) is a fair, equitable and nondiscriminatory charge fixed in recognition of the circumstances herein recited. (Ord. 93-971 § 2: Ord. 91-925 § 2: Ord. 86-845 § 2: Ord. 679 § 2, 1977; Ord. 640 § 2, 1973; Ord. 549 § 4, 1967)

5.04.050 Multiple businesses.

If any person be engaged in operating or carrying on in the city, more than one trade, shop, profession, occupation, business, or calling, then such person shall pay the license fee herein prescribed for as many of said trades, shops, professions, occupations, businesses, or callings as are carried on by such persons, except as herein otherwise specifically provided. (Ord. 549 § 5(a), 1967)

5.04.060 Exemptions.

A. Producers of farm products raised in Oregon, produced by themselves or their immediate families, shall not be subject to license fees prescribed herein that may apply to the selling of such products in the city by themselves or their immediate families.

B. Any bona fide charitable, religious, or fraternal organization conducting a business in the city for the purposes of raising funds for said organization may request, and the city council may grant, a waiver of the city's business licensing requirements, provided however, that said business must be temporary in nature and may not operate more than seven days in any calendar year. (Ord. 89-895 § 1; Ord. 549 § 5(b), 1967)

5.04.070 Procedure for obtaining licenses.

A. All licenses shall be issued by the city recorder of the city, upon written application therefor, and not otherwise. All licenses and permits are subject to revocation at any time by the council for cause.

B. The application for such license shall contain the following information:

1. A description of the trade, shop, business, profession, occupation or calling to be carried on within the city;

2. The name of the applicant with a statement of all persons having an interest in said business either as proprietors or owners of said business;

3. The location of the place where the business is carried on;

4. Date of application;

5. Amount of money tendered with application;

6. Signature of the applicant;

7. Any applicant for an initial business license for a business which will utilize and occupy a premises located within the corporate limits of the city shall, in addition to the foregoing requirements:

a. Show that the premises has been approved for occupancy by business of the type stated on the application by the fire chief, fire marshal or his or her agent,

b. Show that the premises has been inspected and approved for occupancy by a business of the type stated in the application by the city building inspector,

c. Show that any permits or licenses required by state statute or city ordinance have been obtained,

d. Obtain the approval of the city recorder;

8. Licenses for trades, businesses or callings, being carried on in the city by persons not operating from or utilizing a business premises within the corporate limits of the city, may be issued by the recorder without the applicant complying with the provisions of subsection (B)(7) of this section.

C. Change of Business Name, Sale or Transfer of Business.

1. Change of Business Name. If a business changes only its name, but continues to be owned by the same persons or entity, the name change shall be made upon the city business license records for an administrative fee of ten dollars.

2. Change of Ownership. If ownership of a business changes, though continuing with a same or different name, the new owners shall obtain a new business license for the business. (Ord. 00-2000 § 1; Ord. 98-1041 § 2; Ord. 631, 1973; Ord. 549 § 6, 1967)

5.04.080 Violation--Penalty.

A. It is unlawful for any person wilfully to make any false or misleading statement to the city recorder for the purpose of determining the amount of any license fee herein provided to be paid by any such person, or to fail or refuse to comply with any of the provisions of this chapter to be complied with or observed by such person, or to fail or refuse to pay before the same shall be delinquent any license fee or penalty required to be paid by any such person.

B. In the event any person required to obtain a license shall fail or neglect to obtain the same before it shall become delinquent, the city recorder shall collect upon the payment therefor and in addi-

tion thereto a penalty of five percent of the fee therefor for each calendar month or fraction thereof the same shall be delinquent.

C. Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the city as to the amount of the fee hereunder. Other or additional taxes or fees and the fees herein provided for may be increased or decreased and additional or other fees provided for and levied in any and all instances at any time by the said city and any business may be reclassified or subclassified at any time and other or additional fees levied upon any thereof or parts thereto.

D. The conviction of any person for violation of any of the provisions of this chapter shall not operate to relieve such person from paying any fee or penalty thereupon for which such person shall be liable, nor shall the payment of any such fee be a bar to or prevent any prosecution in the city court of any complaint for the violation of any of the provisions of this chapter.

E. Any person violating any provision of this chapter shall, upon conviction thereof, be subject to a fine of not to exceed one hundred dollars ($100.00). (Ord. 98-1041 § 3: Ord. 549 §§ 7--9, 1967)

Chapter 5.08

AMUSEMENT GAMES

Sections:

5.08.010 Definitions.
5.08.020 License--Application.
5.08.030 License--Investigation.
5.08.040 License--Fee.
5.08.050 Permit required.
5.08.060 Posting of license and permit required.
5.08.070 License--Revocation.
5.08.080 Violation--Penalty.

5.08.010 Definitions.

Wherever the word “person” appears in this chapter, it shall mean and include a natural person, a firm, a corporation or co-partnership, and the singular number shall include the plural and the masculine gender the feminine and neuter, and vice versa in each case.

Wherever the word “proprietor” is used herein it shall mean any person, firm, corporation, partnership or other entity having on its premises any game, machine, or device herein described. (Ord. 741 § 1 (part), 1981; Ord. 124 § 1, 1937)

5.08.020 License--Application.

Any proprietor having or desiring to locate for use and operation in the city any pinball game, electronic game, pool tables, game tables, or other game, device or machine, the playing or operation of

which involves an element of skill, shall make written application for license to do so, and file the same with the city recorder. Such application shall show the name, address and place of business of the applicant, a description of the machines, devices or game sufficient to identify the same, and the total number of such machines, devices or games desired to be covered by the application, and shall also set forth the addresses and locations of the places where the applicant desires to place or locate such tables, machines, devices or games.

The application shall be accompanied by deposit of one-quarter's license fee for each machine, device or game as set forth in the application. Such application filed with the recorder shall be referred by the recorder to the city council. (Ord. 741 § 1 (part), 1981; Ord. 124 § 2, 1937)

5.08.030 License--Investigation.

The city council shall investigate the applicant and the machines, devices or games the applicant desires to have licensed and the places the applicant desires to place or locate such machines, devices or games. If upon investigation the city council shall approve the granting of the licenses applied for, they shall return the application to the recorder with its endorsement of approval, and the recorder shall thereupon issue the necessary license as approved. However, the city council may, in its discretion, approve such application for a lesser number of machines, devices or games than the number set forth in the application and shall in such case return the application to the recorder with its approving endorsement of number of machines, devices or games approved, and thereupon the recorder shall issue a license as provided herein. In case the proprietor does not desire a license for the reduced number of machines, devices or games, the deposit by him or her made at the time of filing his or her application shall be returned to him or her by the recorder. If the applicant accepts the license for the reduced number of machines, the recorder shall return to the applicant the deposit covering the number of machines, devices or games rejected by the council. When any application is rejected or disapproved by the council, they shall return the application to the recorder, with its endorsement or disapproval, and the recorder shall thereupon return the applicant his or her deposit. The council may in its discretion reject any or all applications for any reason or cause deemed sufficient by the council. (Ord. 741 § 1 (part), 1981; Ord. 124 § 3, 1937)

5.08.040 License--Fee.

The proprietor's license shall be issued for a period of one calendar year, and the license fee shall be twenty-five dollars ($25.00) for each machine, device or game hereinbefore mentioned, placed or located as hereinbefore provided, which twenty-five dollar ($25.00) fee shall license the operation of each machine for the period from January 1st through December 31st of each year, and such license must be renewed every year if the proprietor desires to continue the same. In the event the proprietor applies after July 1st of the current license year, the license fee for the balance of the license year shall be one-half the annual license fee. (Ord. 741 § 1 (part), 1981; Ord. 124 § 4, 1937)

5.08.050 Permit required.

At time the recorder issues the proprietor's license as hereinbefore provided, the recorder shall issue to the licensee a written permit for all of the machines, devices or games licensed and written permit shall be securely posted, in a conspicuous location, to the premises where the games, machines or devices are located. (Ord. 741 § 1 (part), 1981; Ord. 124 § 5, 1937)

5.08.060 Posting of license and permit required.

It is unlawful to maintain, keep or operate on the premises any such machine or device in condition or position that the same may be operated, played or used unless first a license and a permit issued pursuant hereto for such machine or device has been posted in a conspicuous place on the premises. It shall be a violation of this chapter for the owner, licensee or person in charge of any place or premises in the city to permit the use or operation of any such machine or device or game in his or her place or upon his or her premises unless such machine or device has been licensed hereunder. (Ord. 741 § 1 (part), 1981; Ord. 124 § 6, 1937)

5.08.070 License--Revocation.

The city council of the city reserves the right to revoke any and all licenses issued hereunder at its discretion, either with or without notice to the licensee; provided that if such revocation is made without notice, the unexpired portion of the license therefor paid for shall be refunded or shall be deposited with the recorder to the credit of the licensee. (Ord. 741 § 1 (part), 1981; Ord. 124 § 7, 1937)

5.08.080 Violation--Penalty.

Any person violating any provisions of this chapter shall upon conviction thereof be punished by a fine of not to exceed two hundred fifty dollars ($250.00) for each machine, game, or device on the premises in violation of this chapter. (Ord. 741 § 1 (part), 1981; Ord. 124 § 8, 1937)

Chapter 5.12

BINGO, LOTTO AND RAFFLE GAMES

Sections:

5.12.010 State bingo regulations adopted.
5.12.020 City exceptions.
5.12.030 City permit.
5.12.040 Issuance and renewal of city permit.
5.12.050 Suspension, revocation of permits.
5.12.060 Final determination of permits--Denial, suspension or revocation--Appeals.
5.12.070 Violation--Penalty.

5.12.010 State bingo regulations adopted.

ORS 167.117 through 167.118, and OAR 137-025-0020 through 137-025-0340, adopted by the Department of Justice pursuant to Chapter 464 Oregon Revised Statutes, and any amendments and additional regulations adopted by the Department of Justice pursuant thereto regulating bingo, lotto, and raffle games, are adopted by reference, except as specifically varied by this chapter. (Amended during 1998 codification; Ord. 88-872 § 1)

5.12.020 City exceptions.

The following additional restrictions, as permitted by ORS 464.430, shall be applied to bingo, lotto and raffle games operating within the city:

A. No organization shall maintain, conduct or operate any bingo, lotto or raffle games for more than two days in any week (Monday through Sunday) nor shall any such bingo, lotto or raffle game activities be conducted for more than five hours on any one day (12:01 a.m. through midnight); nor shall any single structure be used as the location of bingo, lotto or raffle games on more than two days in any week except when conducted at an annual bazaar, open house or meeting that occurs only once in a twelve (12) month period and does not last longer than seven days.

B. Persons who have not reached their eighteenth birthday shall not be permitted to participate in any bingo, lotto or raffle game as a player unless accompanied by a parent or lawful guardian who authorizes such participation. (Ord. 88-872 § 2)

5.12.030 City permit.

Notwithstanding the requirements of state law, any person operating a bingo, lotto or raffle game within the city shall annually make application for a permit to operate within the city, on forms prescribed by the city, and pay an application fee of forty dollars ($40.00). The applicant shall submit proof of compliance with state law, and copies of all applicable state permits, along with their application to operate a bingo, lotto, or raffle game within the city. (Ord. 88-872 § 3)

5.12.040 Issuance and renewal of city permit.

A. Upon the filing of an application for issuance or renewal of a bingo, lotto and raffle permit, and payment of the required fee, the chief of police shall cause the applicant to be investigated to ascertain the applicant's suitability to operate or conduct such activities. The permit shall be issued as soon as practicable by the city recorder unless grounds for denial as noted herein are established.

B. The application shall be denied by the city recorder if:

1. The applicant, any principal managing individual thereof, or any individual who will be directly engaged in the management or operation of such activities has previously:

a. Engaged in the management or operation of a bingo or lotto game and the permit or license therefore has been suspended or revoked; or

b. Committed any crime involving theft, fraud or gambling activities.

2. Such games as proposed by the application would not comply with all the applicable requirements of this chapter or state law.

3. Any statement in the application is found to be false.

4. The proposed location of such games would be a detriment to the immediate vicinity thereof due to an unreasonable congregation of pedestrian or vehicular traffic.

5. Any individual directly engaged in the management or operation of such activities commits any crime involving any provision of this chapter, in connection with the game activities for which a permit had been issued pursuant to this chapter.

6. The applicant does not hold all required state permits.

C. The permit shall be for a term of one year, shall be nontransferable, shall expire on the first anniversary of its issuance, and shall be valid only for a single location. If the permittee wished to change the location, a written request for such change, including the address of the new location, shall be provided at least ten days prior to such change for approval by the city recorder. (Ord. 88-872 § 4)

5.12.050 Suspension, revocation of permits.

A. Any permit issued pursuant to this chapter may be suspended or revoked by the city recorder for any cause which would be grounds for denial of a permit application, or when an investigation reveals any material violation of the provisions of this chapter.

B. Any permit may be suspended or revoked by the city recorder when an investigation reveals that the game activities cause, because of persons frequenting the premises, litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other neighborhood locational problems, in the area around the premises where such games are conducted.

C. The suspension or revocation of any permit issued pursuant to this chapter may only be made by providing the permittee written notice of such action and the reasons therefor. Refusal of service by the permittee is prima facie evidence of receipt of such notice. Service of such notice upon the person in charge of such game activities, during the operation thereof, shall constitute service upon the permittee. (Ord. 88-872 § 5)

5.12.060 Final determination of permits--Denial, suspension or revocation--Appeals.

A. Any denial, suspension or revocation shall become effective and final ten days after the giving of such written notice, as required by Section 5.12.050C of this chapter, unless it is appealed, within that time period, to the council by the filing of a written notice of appeal with the city recorder.

B. The filing of a timely appeal of a denial, suspension or revocation shall stay the effect of such order until the appeal has been determined by the council.

C. Upon receipt of notice of the appeal, the city recorder shall give notice to the chief of police and city manager, and the city recorder shall set a date for a council hearing on the matter. At the hearing, the manager and the chief or their designees shall report to the council concerning the matter and the reason(s) for denying, suspending or revoking the permit. The applicant or permittee shall have an opportunity to present evidence, heard by the council, and file a written statement. At the

conclusion of the hearing, the council shall determine the appeal; the decision of the council shall be final and effective immediately. (Ord. 88-872 § 6)

5.12.070 Violation--Penalty.

The penalties provided in the state statutes and regulations which are adopted by reference in this chapter, shall also be the sanctions and penalties applicable to the violation of the additional restrictions and regulations adopted by the city, as set forth in this chapter. (Ord. 88-872 § 7)

Chapter 5.16

TELECOMMUNICATIONS FACILITIES

Sections:

5.16.010 Jurisdiction and management of the public rights-of-way.
5.16.020 Regulatory fees and compensation not a tax.
5.16.030 Definitions.
5.16.040 Registration of telecommunications carriers.
5.16.050 Telecommunications franchise.
5.16.060 Construction standards.
5.16.070 Location of telecommunications facilities.
5.16.080 General franchise terms.
5.16.090 General provisions.

5.16.010 Jurisdiction and management of the public rights-of-way.

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

B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.

C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.

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

F. The city retains the right and privilege to cut or move any telecommunications facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency. (Ord. 03-1143 § 1 (Exh. A)(part))

5.16.020 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 rights-of-way 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 telecommunications carrier, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of telecommunications 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. (Ord. 03-1143 § 1 (Exh. A)(part))

5.16.030 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. Words not defined herein shall be given the meaning set forth in the Communications Policy Act of 1934, as amended, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996. If not defined there, the words shall be given their common and ordinary meaning.

"Aboveground facilities." See "Overhead or aboveground facilities."

"Affiliated interest" shall have the same meaning as ORS 759.010.

"Cable act" shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. § 521, et seq., as now and hereafter amended.

"Cable service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of video programming, or 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.

"Control" or "controlling interest" means actual working control in whatever manner exercised.

"City property" means and includes all real property owned by the city, other than public rights-of-way and utility easements as those are defined herein, and all property held in a proprietary capacity by the city, which are not subject to right-of-way franchising as provided in this chapter.

"Conduit" means any structure, or portion thereof, containing one or more ducts, conduits, manholes, handholes, bolts, or other facilities used for any telegraph, telephone, cable television, electri-

cal, or communications conductors, or cable right-of-way, owned or controlled, in whole or in part, by one or more public utilities.

"Construction" means any activity in the public rights-of-way resulting in physical change thereto, including excavation or placement of structures, but excluding routine maintenance or repair of existing facilities.

"Days" means calendar days unless otherwise specified.

"Duct" means a single enclosed raceway for conductors or cable.

"Emergency" has the meaning provided for in ORS 401.025.

"Federal Communications Commission" or "FCC" means the federal administrative agency, or its lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"Franchise" means an agreement between the city and a grantee which grants a privilege to use public right-of-way and utility easements within the city for a dedicated purpose and for specific compensation.

"Grantee" means the person to whom a franchise is granted by the city.

"Gross revenues" means any and all revenue, of any kind, nature or form, without deduction for expense.

"Oregon Public Utility Commission" or "OPUC" means the statutorily created state agency in the state of Oregon responsible for licensing, regulation and administration of certain telecommunications carriers as set forth in Oregon law, or its lawful successor.

"Overhead or aboveground facilities" means utility poles, utility facilities and telecommunications facilities above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means an individual, corporation, company, association, joint stock company or association, firm, partnership, or limited liability company.

"Private telecommunications network" 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 telecommunications network" includes services provided by the state of Oregon pursuant to ORS 190.240 and 283.140.

"Public rights-of-way" include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements, and all other public ways or areas, including the subsurface under and air space over these areas. This definition applies only to the extent of the city's right, title, interest or authority to grant a franchise to occupy and use such areas for telecommunications facilities. "Public rights-of-way" shall also include utility easements as defined below.

"State" means the state of Oregon.

"Telecommunications act" means the Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C. 151 et seq.) and as hereafter amended.

"Telecommunications carrier" means any provider of telecommunications services and includes every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the city.

"Telecommunications facilities" means the plant and equipment, other than customer premises equipment, used by a telecommunications carrier.

"Telecommunications service" means the transmission for hire, of information in electromagnetic frequency, electronic or optical form, including but not limited to, voice or data, whether or not the transmission medium is owned by the provider itself. Telecommunications service includes all forms of telephone service and voice and data transport, but does not include: (1) cable service; (2) OVS service; (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; or (5) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act of 1996.

"Telecommunications system." See "Telecommunications facilities" above.

"Telecommunications utility" has the same meaning as ORS 759.005(1).

"Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for "overhead facilities."

"Usable space" means all the space on a pole, except the portion below ground level, the twenty (20) feet of safety clearance space above ground level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that six feet of a pole is buried below ground level.

"Utility easement" means any easement granted to or owned by the city and acquired, established, dedicated or devoted for public utility purposes.

"Utility facilities" means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cable, wires, plant and equipment located under, on, or above the surface of the ground within the public right-of-way of the city and used or to be used for the purpose of providing utility or telecommunications services. (Ord. 03-1143 § 1 (Exh. A)(part))

5.16.040 Registration of telecommunications carriers.

A. Purpose.

1. To assure that all telecommunications carriers who have facilities and/or provide services within the city comply with the ordinances, rules and regulations of the city.

2. To provide the city with accurate and current information concerning the telecommunications carriers who offer to provide telecommunications services within the city, or that own or operate telecommunications facilities within the city.

3. To assist the city in the enforcement of this code and the collection of any city franchise fees or charges that may be due the city.

B. Registration Required. Except as provided in subsection D of this section, all telecommunications carriers having telecommunications facilities within the corporate limits of the city, and all telecommunications carriers that offer or provide telecommunications service to customer premises within the city, shall register. The appropriate application and license from: a) the Oregon Public Utility Commission (OPUC); or b) the Federal Communications Commission (FCC) qualify as necessary registration information. Applicants also have the option of providing the following information:

1. The identity and legal status of the registrant, including the name, address, and telephone number of the duly authorized officer, agent, or employee responsible for the accuracy of the registration information.

2. The name, address, and telephone number for the duly authorized officer, agent, or employee to be contacted in case of an emergency.

3. A description of the registrant's existing or proposed telecommunications facilities within the city, a description of the telecommunications facilities that the registrant intends to construct, and a description of the telecommunications service that the registrant intends to offer or provide to persons, firms, businesses, or institutions within the city.

4. Information sufficient to determine whether the transmission, origination or receipt of the telecommunications services provided, or to be provided by the registrant constitutes an occupation or privilege subject to any business license requirements. A copy of the business license or the license number must be provided.

C. Registration Fee. Each application for registration as a telecommunications carrier shall be accompanied by a nonrefundable registration fee in the amount of thirty-five dollars ($35.00), or as otherwise established by resolution of the city council.

D. Exceptions to Registration. The following telecommunications carriers are excepted from registration:

1. Telecommunications facilities that are owned and operated exclusively for its own use by the state or a political subdivision of this state.

2. A private telecommunications network, provided that such network does not occupy any public rights-of-way of the city. (Ord. 03-1143 § 1 (Exh. A)(part))

5.16.050 Telecommunications franchise.

A. Telecommunications Franchise. A telecommunications franchise shall be required of any telecommunications carrier who desires to occupy public rights-of-way of the city.

B. Application. Any person that desires a telecommunications franchise must register as a telecommunications carrier and shall file an application with the city which includes the following information:

1. The identity of the applicant;

2. A description of the telecommunications services that are to be offered or provided by the applicant over its telecommunications facilities;

3. Engineering plans, specifications, and a network map in a form customarily used by the applicant of the facilities located or to be located within the public rights-of-way in the city, including the location and route requested for applicant's proposed telecommunications facilities;

4. The area or areas of the city the applicant desires to serve and a preliminary construction schedule for build-out to the entire franchise area;

5. Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services proposed;

6. An accurate map showing the location of any existing telecommunications facilities in the city that applicant intends to use or lease.

C. Application and Review Fee.

1. Subject to applicable state law, applicant shall reimburse the city for such reasonable costs as the city incurs in entering into the franchise agreement.

2. An application and review fee of five hundred dollars ($500.00) shall be deposited with the city as part of the application filed pursuant to subsection B of this section. Expenses exceeding the deposit will be billed to the applicant or the unused portion of the deposit will be returned to the applicant following the determination granting or denying the franchise.

D. Determination by the City. The city shall issue a written determination granting or denying the application in whole or in part. If the application is denied, the written determination shall include the reasons for denial. The city's decision shall be based on the following criteria:

1. The continuing capacity of the public rights-of-way to accommodate the applicant's proposed facilities;

2. A written statement signed by a duly authorized representative of the applicant, acknowledging the requirements of this code and the franchise agreement, and its statement that the applicant will fully comply with same at all times throughout the term of the franchise agreement;

3. Applicable federal, state and local telecommunications laws, rules and policies;

4. Such other factors as may demonstrate that the grant to use the public rights-of-way will serve the public interest.

E. Rights Granted. No franchise granted pursuant to this chapter shall convey any right, title or interest in the public rights-of-way, but shall be deemed a grant to use and
occupy the public rights-of-way for the limited purposes and term stated in the franchise agreement.

F. Term of Grant. Unless otherwise specified in a franchise agreement, a telecommunications franchise granted hereunder shall be in effect for a term of five years.

G. Franchise Territory. Unless otherwise specified in a franchise agreement, a telecommunications franchise granted hereunder shall be limited to a specific geographic area of the city to be served by the franchise grantee, and the public rights-of-way necessary to serve such areas, and may include the entire city.

H. Franchise Fee. Each franchise granted by the city is subject to the city's right, which is expressly reserved, to fix a fair and reasonable compensation to be paid for the privileges granted; provided nothing in this code shall prohibit the city and a grantee from agreeing to the compensation to be paid. The compensation shall be subject to the specific payment terms and conditions contained in the franchise agreement and applicable state and federal laws. Any late payment of a fee owed shall bear interest at the rate of nine percent per annum until paid.

I. Amendment of Grant. Conditions for amending a franchise:

1. A new application and grant shall be required of any telecommunications carrier that desires to extend or locate its telecommunications facilities in public rights-of-way of the city which are not included in a franchise previously granted under the ordinance codified in this chapter.

2. If ordered by the city to locate or relocate its telecommunications facilities in public rights-of-way not included in a previously granted franchise, the city shall grant an amendment without further application.

3. A new application and grant shall be required of any telecommunications carrier that desires to provide a service which was not included in a franchise previously granted under this chapter.

J. Renewal Applications. A grantee that desires to renew its franchise under this chapter shall, not less than one hundred eighty (180) days before expiration of the current agreement, file an application with the city for renewal of its franchise which shall include the following information:

1. The information required pursuant to subsection 5.16.050(B) of this code;

2. Any information required pursuant to the franchise agreement between the city and the grantee.

K. Renewal Determinations. Within ninety (90) days after receiving a complete application, the city shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for non-renewal. The city agrees to negotiate in good faith toward a renewal of franchises on similar terms if the grantee is not in default under the franchise at its expiration.

L. Obligation to Cure as a Condition of Renewal. No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the agreement, or of the requirements of this code, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the city.

M. Assignments or Transfers of System or Franchise. Ownership or control of a majority interest in a telecommunications system or franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the prior consent of the city, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent. Grantee and the proposed assignee or transferee of the franchise or system shall agree, in writing, to assume and abide by all of the provisions of the franchise.

1. Unless otherwise provided in a franchise agreement, the grantee shall reimburse the city for all direct and indirect fees, costs, and expenses reasonably incurred by the city in considering a request to transfer or assign a telecommunications franchise.

2. Any transfer or assignment of a telecommunications franchise, system or integral part of a system without prior approval of the city under this code or pursuant to a franchise agreement shall be void and is cause for revocation of the franchise.

N. Revocation or Termination of Franchise. A franchise to use or occupy public rights-of-way of the city may be revoked for the following reasons:

1. Construction or operation in the city or in the public rights-of-way of the city without a construction permit;

2. Construction or operation at an unauthorized location;

3. Failure to comply with subsection M of this section with respect to sale, transfer or assignment of a telecommunications system or franchise;

4. Misrepresentation by or on behalf of a grantee in any application to the city;

5. Abandonment of telecommunications facilities in the public rights-of-way;

6. Failure to relocate or remove facilities as required in this code;

7. Failure to pay taxes, compensation, fees or costs when and as due the city under this code;

8. Insolvency or bankruptcy of the grantee;

9. Violation of material provisions of this code;

10. Violation of the material terms of a franchise agreement.

O. Notice and Duty to Cure. In the event that the city believes that grounds exist for revocation of a franchise, the city shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time, not exceeding thirty (30) days, to furnish evidence that:

1. Corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;
2. Rebuts the alleged violation or noncompliance; and/or
3. It would be in the public interest to impose some penalty or sanction less than revocation.

P. Public Hearing. In the event that a grantee fails to provide evidence reasonably satisfactory to the city of its compliance with the franchise or with this code, the city staff shall refer the apparent violation or non-compliance to the city council. The council shall provide the grantee with notice and a reasonable opportunity to be heard concerning the matter.

Q. Standards for Revocation or Lesser Sanctions. If persuaded that the grantee has violated or failed to comply with material provisions of this code, or of a franchise agreement, the city council shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent, and gravity of the violation as reflected by one or more of the following factors. Whether:

1. The misconduct was egregious.
2. Substantial harm resulted.
3. The violation was intentional.
4. There is a history of prior violations of the same or other requirements.
5. There is a history of overall compliance.
6. The violation was voluntarily disclosed, admitted or cured.

R. Other City Costs. All grantees shall, within thirty (30) days after written demand therefor, reimburse the city for all reasonable direct and indirect costs and expenses incurred by the city in connection with any modification, amendment, renewal or transfer of the franchise or any franchise agreement consistent with applicable state and federal laws. (Ord. 03-1143 § 1 (Exh. A)(part))

5.16.060 Construction standards.

A. General. No person shall commence or continue with the construction, installation or operation of telecommunications facilities within a public right-of-way except as provided in this code and in compliance with all applicable codes, rules, and regulations.

B. Construction Codes. Telecommunications 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.

C. Construction Permits. No person shall construct or install any telecommunications facilities within a public right-of-way without first obtaining a construction permit, and paying the construction permit fee established pursuant to subsection G of this section. No permit shall be issued for the construction or installation of telecommunications facilities within a public right-of-way:

1. Unless the telecommunications carrier has first filed a registration statement with the city pursuant to subsection 5.16.040(B) of this code; and if applicable,

2. Unless the telecommunications carrier has first applied for and been granted a franchise pursuant to Section 5.16.050 of this code.

D. Permit Applications. Applications for permits to construct telecommunications facilities shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

1. That the facilities will be constructed in accordance with all applicable codes, rules and regulations;

2. That the facilities will be constructed in accordance with the franchise agreement;

3. The location and route of all facilities to be installed aboveground or on existing utility poles;

4. The location and route of all new facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Applicant's existing facilities shall be differentiated on the plans from new construction;

5. The location of all of applicant's existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way;

6. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

E. Applicant's Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the city.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount consistent with this code or as otherwise determined by resolution of the city council. Such fee shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this code and the franchise agreement, the city shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they may deem necessary or appropriate.

I. Notice of Construction. Except in the case of an emergency, the permittee shall notify the city not less than two working days in advance of any excavation or construction in the public rights-of-way.

J. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

K. Noncomplying Work. Subject to the notice requirements in subsection 5.16.050(O) all work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee.

L. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as contemplated by subsection F of this section.

M. As-Built Drawings. If requested by the city, for a necessary public purpose as determined by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all telecommunications facilities constructed pursuant to the permit. These plans shall be submitted to the city engineer or designee within sixty (60) days after completion of construction, in a format mutually acceptable to the permittee and the city.

N. Restoration of Public Rights-of-way and City Property.

1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to good order and condition unless otherwise directed by the city and as determined by the city engineer or designee.

2. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule shall be subject to approval by the city.

3. If the permittee fails to restore rights-of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty (30) days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration to be made at the expense of the permittee.

4. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property.

O. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred (100) percent of the estimated cost of constructing permittee's telecommunications facilities within the public rights-of-way of the city shall be provided before construction is commenced.

1. The surety shall remain in force until sixty (60) days after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

a. Timely completion of construction;

b. Construction in compliance with applicable plans, permits, technical codes and standards;

c. Proper location of the facilities as specified by the city;

d. Restoration of the public rights-of-way and other property affected by the construction; and

e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work. (Ord. 03-1143 § 1 (Exh. A)(part))

5.16.070 Location of telecommunications facilities.

A. Location of Facilities. All facilities located within the public right-of-way shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

1. Whenever all existing electric utilities, cable facilities or telecommunications facilities are located underground within a public right-of-way of the city, a grantee with permission to occupy the same public right-of-way must also locate its telecommunications facilities underground.

2. Whenever all new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public right-of-way of the city, a grantee that currently occupies the same public right-of-way shall relocate its facilities underground concurrently with the other affected utilities to minimize disruption of the public right-of-way, absent extraordinary circumstances or undue hardship as determined by the city and consistent with applicable state and federal law.

B. Interference with the Public Rights-of-way. No grantee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the public rights-of-way by the city, by the general public or by other persons authorized to use or be present in or upon the public rights-of-way. All use of public rights-of-way shall be consistent with city codes, ordinances and regulations.

C. Relocation or Removal of Facilities. Except in the case of an emergency, within ninety (90) days following written notice from the city, a grantee shall, at no expense to grantor, temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the public rights-of-way whenever the city shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

1. The construction, repairs, maintenance or installation of any city or other public improvement in or upon the public rights-of-way;

2. The operations of the city or other governmental entity in or upon the public rights-of-way;

3. The public interest.

D. Removal of Unauthorized Facilities. Within thirty (30) days following written notice from the city, any grantee, telecommunications carrier, or other person that owns, controls or maintains any unauthorized telecommunications system, facility, or related appurtenances within the public rights-of-way of the city shall, at its own expense, remove such facilities or appurtenances from the public rights-of-way of the city. A telecommunications system or facility is unauthorized and subject to removal in the following circumstances:

1. One year after the expiration or termination of the grantee’s telecommunications franchise;

2. Upon abandonment of a facility within the public rights-of-way of the city. A facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of ninety (90) days or longer. A facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the facility is being replaced. The city shall make a reasonable attempt to contact the telecommunications carrier before concluding that a facility is abandoned. A facility may be abandoned in place and not removed if there is no apparent risk to the public safety, health or welfare;

3. If the system or facility was constructed or installed without the appropriate prior authority at the time of installation;

4. If the system or facility was constructed or installed at a location not permitted by the grantee's telecommunications franchise or other legally sufficient permit.

E. Coordination of Construction Activities. All grantees are required to make a good faith effort to cooperate with the city.

1. By January 1 of each year, grantees shall provide the city with a schedule of their known proposed construction activities in, around or that may affect the public rights-of-way.

2. If requested by the city, each grantee shall meet with the city annually or as determined by the city, to schedule and coordinate construction in the public rights-of-way. At that time, city will provide available information on plans for local, state, and/or federal construction projects.

3. All construction locations, activities and schedules shall be coordinated, as ordered by the city engineer or designee, to minimize public inconvenience, disruption or damages. (Ord. 03-1143 § 1 (Exh. A)(part))

5.16.080 General franchise terms.

A. Facilities. Unless already provided by the grantee, upon request each grantee shall provide the city with an accurate map or maps certifying the location of all telecommunications facilities within the public rights-of-way. If necessary for a public purpose and upon request, each grantee shall provide updated maps.

B. Damage to Grantee's Facilities. Unless directly and proximately caused by negligent, careless, wrongful or willful, intentional or malicious acts by the city, and consistent with Oregon law, the city shall not be liable for any damage to or loss of any telecommunications facility within the public rights-of-way of the city as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public rights-of-way by or on behalf of the city, or for any consequential losses resulting directly or indirectly therefrom.

C. Duty to Provide Information. Except in emergencies, within sixty (60) business days of a written request from the city, each grantee shall furnish the city with information sufficient to demonstrate:

1. That grantee has complied with all requirements of this code;

2. All books, records, maps, and other documents, maintained by the grantee with respect to its facilities within the public rights-of-way shall be made available for inspection by the city at reasonable times and intervals.

D. Service to the City. If the city contracts for the use of telecommunication facilities, telecommunication services, installation, or maintenance from the grantee, the grantee shall charge the city

the grantee's most favorable rate offered at the time of the request charged to similar users within Oregon for a similar volume of service, subject to any of grantee's tariffs or price lists on file with the OPUC. With the city's permission, the grantee may deduct the applicable charges from fee payments. Other terms and conditions of such services may be specified in a separate agreement between the city and grantee.

E. Compensation for City Property. If any right is granted, by lease, franchise or other manner, to use and occupy city property for the installation of telecommunications facilities, the compensation to be paid for such right and use shall be fixed by the city.

F. Cable Franchise. Telecommunication carriers providing cable service shall be subject to the separate cable franchise requirements of the city and other applicable authority.

G. Leased Capacity. A grantee shall have the right, without prior city approval, to offer or provide capacity or bandwidth to its customers; provided that the grantee shall notify the city that such lease or agreement has been granted to a customer or lessee.

H. Grantee Insurance. Unless otherwise provided in a franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring both the grantee and the city, and its elected and appointed officers, officials, agents and employees as co-insured:

1. Comprehensive general liability insurance with limits not less than

a. Three million dollars ($3,000,000.00) for bodily injury or death to each person;

b. Three million dollars ($3,000,000.00) for property damage resulting from any one accident; and,

c. Three million dollars ($3,000,000.00) for all other types of liability.

2. Automobile liability for owned, non-owned and hired vehicles with a limit of one million dollars ($1,000,000.00) for each person and three million dollars ($3,000,000.00) for each accident.

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

4. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars ($3,000,000.00);

5. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications franchise, and such other period of time during which the grantee is operating without a franchise hereunder, or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the City, by registered mail, of a written notice addressed to the City of such intent to cancel or not to renew."

6. Within sixty (60) days after receipt by the city of the notice, and in no event later than thirty (30) days prior to the cancellation, the grantee shall obtain and furnish to the city evidence that the grantee otherwise meets the requirements of this section.

7. As an alternative to the insurance requirements contained in this chapter, a grantee may provide evidence of self-insurance subject to review and acceptance by the city.

I. General Indemnification. Each franchisee shall, to the extent permitted by law, defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunications facilities, and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this code or by a franchise agreement made or entered into pursuant to this code. (Ord. 03-1143 § 1 (Exh. A)(part))

5.16.090 General provisions.

A. Governing Law. Any franchise granted under this code is subject to the provisions of the constitution and laws of the United States, and the state of Oregon and the ordinances and charter of the city.

B. Written Agreement. No franchise shall be granted hereunder unless the agreement is in writing.

C. Nonexclusive Grant. No franchise granted under this code shall confer any exclusive right, privilege, license or franchise to occupy or use the public rights-of-way of the city for delivery of telecommunications services or any other purposes.

D. Severability and Preemption. If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this code is for any reason 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 the code 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, sentence, clause, phrase, provision, condition, covenant and portion of this code shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of this code, then the provision shall be read to be preempted to the extent and or the time required by law. In the event such federal or state law, rules or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the city, and any amendments hereto.

E. Penalties. Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs. The enforcement of this provision shall be consistent with the provisions of this code regulating code enforcement.

F. Other Remedies. Nothing in this code shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this code.

G. Captions. The captions to sections throughout this code are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this code.

H. Compliance with Laws.

1. Any grantee under this code shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all ordinances, resolutions, rules and regulations of the city heretofore or hereafter adopted or established during the entire term any franchise granted under this code, which are relevant and relate to the construction, maintenance and operation of a telecommunications system.

2. To the extent that federal or state law, or an existing franchise agreement or ordinance, limits the amount of fees which the city may impose on, or the compensation it may require from, a telecommunications carrier, nothing in this chapter or an implementing resolution setting fees shall require the payment of any greater amount, unless and until the federal or state limits are raised, or the franchise agreement or ordinance expires or is otherwise terminated or repealed.

I. Consent. Wherever the consent of either the city or of the grantee is specifically required by this code or in a franchise granted, such consent will not be unreasonably withheld.

J. Confidentiality. The city agrees to use its best efforts to preserve the confidentiality of information as requested by a grantee, to the extent permitted by the Oregon public records law. (Ord. 03-1143 § 1 (Exh. A)(part))

Chapter 5.20

LIQUOR ESTABLISHMENTS

Sections:

5.20.010 Definitions.
5.20.020 Persons not allowed to drink alcoholic liquor on licensed premises.
5.20.030 Employees over eighteen years of age.
5.20.040 Loitering on licensed premises by minors.
5.20.050 Minors not permitted to drink or loiter on licensed premises.
5.20.060 Permitting minors on licensed premises.
5.20.070 Delivering or selling liquor by minor.
5.20.080 Interdicted persons.
5.20.090 Sales by unlicensed persons prohibited.
5.20.100 Intoxicated persons on licensed premises.
5.20.110 Consumption of liquor in beer parlor.
5.20.120 Disposal of liquor containers.
5.20.130 Lawful hours of sale.
5.20.140 Defense of written age statement.
5.20.150 Bartender not to drink on duty.
5.20.160 Possession of alcoholic liquor on premises to conform to license.

5.20.170 Consumption of alcoholic liquors in public places prohibited.
5.20.180 Liquor in public dance hall prohibited.
5.20.190 Nuisances.
5.20.200 Arresting officer to seize property.
5.20.210 Responsibility of licensee for employees.
5.20.220 Civil penalty.
5.20.230 Liquor commission to be notified.

5.20.010 Definitions.

As used in this chapter:

"Alcoholic liquor" means any alcoholic beverage containing more than one-half of one percent of alcohol by volume.

"Commission" means the Oregon Liquor Control Commission as provided for by the Oregon Liquor Control Act.

"Hard liquor" means any alcoholic beverage, including sweet wines and all spirituous liquors, containing fourteen (14) percent or more alcohol by volume.

"Licensee" means a person who has an alcoholic liquor license from the commission authorizing such person to sell or dispense alcoholic liquor.

"Licensed premises" means the room or enclosure at the address within the corporate limits of the city of Sherwood, Oregon, for which a license has been issued by the commission for the serving, mixing, handling or selling of alcoholic liquor.

"Malt beverage" means malt beverage as defined in the Oregon Liquor Control Act.

"Minor" means any person under the age of "Oregon Liquor Control Act" means the state law so designated by ORS 471.027 as now or hereafter amended and supplemented, and includes the Oregon Distilled Liquor Control Act as defined by ORS 472.020 as now or hereafter amended and supplemented.

"Other responsible relative" means:

1. An adult who is the spouse of a minor;
2. An adult, related to the minor, who has taken over the parental duties of governing the minor's actions; or
3. A duly appointed, qualified and acting guardian who has taken over the parental duties of governing the minor's actions.

"Person" means and includes an individual, partnership, corporation, association or club.

"Sell" means and includes: soliciting or receiving an order for or keeping, offering or exposing for sale, delivering for value or in any way other than gratuitous, peddling, keeping with intent to sell, to traffic in, for any consideration, promised or obtained, direct or indirect, or under any pretext or by any means whatsoever, procuring or allowing to be procured alcoholic liquor for any other person.

As used in this chapter, the singular includes the plural, and the masculine includes the feminine. (Ord. 529 § 1, 1963)

5.20.020 Persons not allowed to drink alcoholic liquor on licensed premises.

No person shall allow or permit any person who is visibly intoxicated, or who is under an order of interdiction issued by any court, to drink or consume any alcoholic liquor upon any licensed premises. (Ord. 529 § 3, 1963)

5.20.030 Employees over eighteen years of age.

Nothing contained in Sections 5.20.040, 5.20.050, 5.20.060 and 5.20.070 of this chapter shall be construed to prohibit activities authorized by ORS 471.375, 471.480, and 471.482 with respect to lawful service by employees eighteen (18) years of age or older. (Ord. 98-1039 § 1)

5.20.040 Loitering on licensed premises by minors.

Except as provided in Section 5.20.060 of this chapter, no minor, whether or not he or she is accompanied by a parent or other responsible relative, shall enter, loiter or remain on any licensed premises, or any portion thereof, which has been posted by the commission to prohibit the use thereof by minors. (Ord. 529 § 6, 1963)

5.20.050 Minors not permitted to drink or loiter on licensed premises.

A. No licensee or his or her employee or agent shall permit any minor to:

1. Consume an alcoholic liquor upon any licensed premises, whether or not such alcoholic liquor is given to the minor by a parent or other responsible relative.

2. Loiter on such licensed premises which have been posted by the commission to prohibit the use thereof by minors, except as provided in Section 5.20.060 of this chapter.

3. Remain upon such premises or any portion thereof except as provided in Section 5.20.060 of this chapter.

B. The fact that a parent or other responsible relative has accompanied a minor upon any licensed premises shall not constitute a defense to any charge brought for violation of this section, except as provided in Section 5.20.060 of this chapter. (Ord. 529 § 7, 1963)

5.20.060 Permitting minors on licensed premises.

A. The provisions of Sections 5.20.040 and 5.20.050 of this chapter shall not be construed to prohibit:

1. Any minor from entering any licensed premises, or portion thereof, for the transaction of any business pursuant to his or her duties in the regular course of his or her lawful employment.

2. A minor spouse from entering and remaining on licensed premises or any portion thereof when he or she is in the immediate company of his or her spouse who is twenty-one (21) years of age or older.

B. This section shall not be construed to authorize a minor spouse to consume alcoholic liquor on any licensed premises. (Ord. 529 § 8, 1963)

5.20.070 Delivering or selling liquor by minor.

A. No minor, either for himself or herself, or as agent or employee of another shall sell, offer for sale or deliver any alcoholic liquor.

B. No person shall employ, hire or engage any minor to sell, offer for sale or deliver any alcoholic liquor. (Ord. 529 § 9, 1963)

5.20.080 Interdicted persons.

No person under an order of interdiction by any court shall possess, purchase or attempt to purchase any alcoholic liquor. (Ord. 529 § 10, 1963)

5.20.090 Sales by unlicensed persons prohibited.

No person shall sell alcoholic liquor unless he or she has a license from the commission to sell alcoholic liquor. Sales by a licensee or his or her employee shall be only such sales as are authorized by the license issued for the premises. (Ord. 529 § 11, 1963)

5.20.100 Intoxicated persons on licensed premises.

No licensee or his or her employee or agent shall permit a visibly intoxicated person to enter or remain upon the licensed premises which the licensee controls. (Ord. 529 § 12, 1963)

5.20.110 Consumption of liquor in beer parlor.

No licensee or his or her employee or agent shall knowingly permit any alcoholic liquor containing more than fourteen (14) percent of alcohol by volume to be brought upon or consumed upon the premises which he or she controls where the license of that premises permits only the sale and consumption of malt beverages. (Ord. 98-1039 § 2: Ord. 529 § 13, 1963)

5.20.120 Disposal of liquor containers.

A. No licensee or his or her employee or agent shall permit any empty or discarded containers of alcoholic liquor to be in the public view on the exterior of his or her licensed premises or in parking areas maintained in connection with such premises.

B. Every licensee or his or her employee or his or her agent who is serving hard liquor under the provisions of a dispenser’s license shall break and destroy all hard liquor bottles as such bottles are emptied.

C. No person shall discard, throw away or dispose of any container of alcoholic liquor, whether broken or not, upon any street, alley, public grounds or public place. (Ord. 529 § 14, 1963)

5.20.130 Lawful hours of sale.

A. Subject to the provisions of subsection B of this section, no person shall sell, dispense or allow the consumption of any alcoholic liquor on any licensed premises, nor shall any licensee or his or her employee or agent deliver or permit the removal of any alcoholic liquor to, on or from any licensed premises, between the hours of one a.m. and seven a.m.

B. A licensee in lawful possession of a club, restaurant or dispenser's license may permit the privileges granted by such licenses between the hours of seven a.m. and two-thirty a.m. of the day following, and may allow, after closing hours, any person who is not visibly intoxicated to remove from the club or restaurant premises alcoholic liquor lawfullybrought upon the licensed premises by such person. (Ord. 529 § 16, 1963)

5.20.140 Defense of written age statement.

If a licensee or his or her employee or his or her agent is prosecuted in the municipal court under this chapter for selling alcoholic liquor to a minor, or permitting a minor to consume alcoholic liquor or to enter or loiter upon the licensed premises, the licensee or his or her employee or agent may offer in his or her defense any written statement made by or for such minor prior to the violation, which statement was made and taken pursuant to the laws of Oregon and the rules and regulations of the commission, and such statement shall constitute a prima facie defense. (Ord. 529 § 18, 1963)

5.20.150 Bartender not to drink on duty.

No bartender shall drink or consume any alcoholic liquor, or be under the influence of alcoholic liquor, while on duty in a licensed premises. (Ord. 529 § 19, 1963)

5.20.160 Possession of alcoholic liquor on premises to conform to license.

No licensee or his or her employee or agent shall have in his or her possession on the licensed premises any alcoholic liquor that is not included within the scope of his or her license. (Ord. 529 § 20, 1963)

5.20.170 Consumption of alcoholic liquors in public places prohibited.

No person shall drink or consume any alcoholic liquor in or upon any street, alley, public grounds, or other public place unless such place has been licensed for that purpose by the Oregon Liquor Control Commission. (Ord. 529 § 21, 1963)

5.20.180 Liquor in public dance hall prohibited.

No person shall possess, keep, sell, give away, or otherwise dispose of or consume alcoholic liquor in any public dance hall, or in any room or building used for public dancing, that is not licensed under the Oregon Liquor Control Act. (Ord. 529 § 22, 1963)

5.20.190 Nuisances.

Any room, house, building, boat, structure or place of any kind where alcoholic liquor is sold, manufactured, bartered or given away in violation of the law, or where persons are permitted to resort for the purpose of drinking alcoholic liquors in violation of the law, or any place where alcoholic liquors are kept for sale, barter, or gift in violation of the law, and all alcoholic liquor whether purchased from or through the Oregon Liquor Control Commission or purchased or acquired from any source, and all property including bars, glasses, mixers, lockers, chairs, tables, cash registers, music devices and all furniture, furnishings and equipment, and all facilities for the mixing, storing, serving or drinking of alcoholic liquor kept and used in such place, are declared to be a common nuisance; and any person who maintains or assists in maintaining such common nuisance is guilty of a violation of this chapter. (Ord. 529 § 23, 1963)

5.20.200 Arresting officer to seize property.

When an officer arrests any person for violation of this chapter, the officer shall take into his or her possession all alcoholic liquor and other property included under Section 5.20.190 of this chapter which the person arrested has in his or her possession, or on his or her premises, which apparently is being used or kept in violation of this chapter. If the person arrested is convicted, and the court finds that the alcoholic liquor and other property have been used in violation of this chapter, such forfeiture proceedings as are authorized by ORS 471.605, 471.610 and 471.615 may be instituted. (Ord. 529 § 24, 1963)

5.20.210 Responsibility of licensee for employees.

Each licensee is responsible and liable to prosecution for any violation of any provision of this chapter pertaining to his licensed premises and for any act or omission of any servant, agent or employee of such licensee in violation of any provision of this chapter. (Ord. 529 § 25, 1963)

5.20.220 Civil penalty.

Violation of any provision of this chapter is punishable, upon conviction in the municipal court, by a civil fine not exceeding five hundred dollars ($500.00). (Ord. 98-1039 § 4: Ord. 529 § 26, 1963)

5.20.230 Liquor commission to be notified.

When a conviction is obtained against any licensee of the commission, or a conviction is obtained against any person where the violation was committed on a licensed premises, the municipal court shall notify the Oregon Liquor Control Commission of such conviction. (Ord. 529 § 27, 1963)

Chapter 5.24

TAXICABS

Sections:

5.24.010 Definitions.
5.24.020 Permit--Required.
5.24.030 Permit--Cancellation.
5.24.040 Permit--Application-- Insurance--Fees.
5.24.050 Permit--Application-- Vehicle inspection.
5.24.060 Permit--Contents.
5.24.070 Rate schedule-- Designated.
5.24.080 Rate schedule--Effective date.
5.24.090 Refusal to pay rates unlawful.
5.24.100 Driver identification card.
5.24.110 Rate schedule--Posting requirements.
5.24.120 Permit--Transfer.
5.24.130 Violation--Penalty.

5.24.010 Definitions.

As used in this chapter:

"Motor vehicle" means and includes every self-propelled vehicle by or upon which any person or persons may be transported or carried upon any public highway, street or alley, excepting vehicles used exclusively upon stationary rails or tracks.

"Person" means and includes natural persons of either sex, firms, copartnerships, associations and corporations whether acting by themselves or by servant, agent or employee, and the singular includes the plural, and the masculine pronoun includes the feminine.

"Taxicab" means and includes every motor vehicle having a seating capacity of five passengers or less as per manufacturer's ratings used for the transportation of passengers for hire and not operating exclusively over a fixed and definite route. (Ord. 791 § 1, 1983)

5.24.020 Permit--Required.

It is unlawful for any person to engage in a taxicab business within the city without first securing a permit for the conduct of a taxicab business under the provisions of this chapter. The fee for conducting a taxicab business shall be one hundred fifty dollars ($150.00) per year (prorated on a quarterly basis) and shall include the business license fee, and shall be paid on or before July 1st of each year. This chapter shall not apply to persons providing taxicab service not based within the corporate limits of the city who deliver passengers from without the city to destinations within the city, but shall apply to all persons providing taxicab service based within the city or who pick up passengers within the city. (Ord. 791 § 2, 1983)

5.24.030 Permit--Cancellation.

A. Notice--Hearing Required. Any permit and the accompanying business license issued for the conduct of a taxicab business under the terms of this chapter may be cancelled by the city council after notice to the permittee and affording permittee a hearing before the city council if requested in writing, for any of the following causes:

1. Wilful violation of the terms and conditions of this chapter;

2. Knowingly authorizing or permitting any person to operate a taxicab in the city in violation of regulatory or statutory requirements pertinent to the registration or licensing of vehicles or operators;

3. Knowingly employing a person who has been convicted of a felony or of any crime concerning which the use of a firearm is an element, excepting only game law violations, or knowingly employing any person whose driving privileges are suspended by the state of Oregon for any reason.

B. Notice and Hearing Not Required. Notwithstanding subsection A of this section, the permit shall automatically terminate and permittee shall immediately cease operations upon the day prior to the effective date of any cancellation, lapse, or termination of the insurance coverages required by this chapter and the permit shall not be reinstated until proof of that insurance coverage has been furnished. (Ord. 791 § 3, 1983)

5.24.040 Permit--Application-- Insurance--Fees.

Any person desiring to obtain a permit to operate taxicabs within the city shall file with the recorder an application setting forth the following information:

A. The name and address of the applicant;

B. The citizenship of the applicant;

C. The make, serial number, motor number, latest Oregon license number, and the PUC number, if any, on each taxicab operated by the applicant;

D. The amount and name of the company in which public liability and property damage insurance is carried, together with proof that the current premiums are fully paid. Liability insurance limits for each taxicab and driver and for the permittee shall be not less than one hundred thousand dollars ($100,000.00) for injuries to one person, three hundred thousand dollars ($300,000.00) for all injuries in one accident, and twenty-five thousand dollars ($25,000.00) for property damage. The policy shall have an endorsement thereon that same will not be cancelled without fifteen (15) days prior written notice to the city of Sherwood. (Ord. 791 § 4, 1983)

5.24.050 Permit--Application-- Vehicle inspection.

A. If the city administrator shall disapprove the application for any reason within the purview of this chapter, the city administrator shall place the application on the agenda for consideration by the city council.

B. The city shall require that any vehicle used as a taxicab shall be certified to be safe at time of license renewal. (Ord. 791 § 5, 1983)

5.24.060 Permit--Contents.

Each permit issued to operate a taxicab business in the city shall have printed or typed thereon the number of the business permit, the period for which the permit fee is paid, the name of the permittee, and the following data with respect to each taxicab to be operated under authority of such permit:

A. Make;

B. Serial number;

C. State license number;

D. Legal owner of vehicle;

E. Registered owner of vehicle. (Ord. 791 § 6, 1983)

5.24.070 Rate schedule--Designated.

The following schedule of rates may be charged and collected for the transportation of passengers in taxicabs for trips within the city and within three miles from the city limits, and it is unlawful for any charge in excess thereof to be made.

All fares shall be determined by a taximeter, to be inspected by the chief of police annually, except those allowed by subsection F of this section.

A. An initial flag drop charge of one dollar.

B. Subsequent to the initial flag drop charge provided for in subsection A of this section the maximum rate shall be ten cents for each one-tenth mile or fraction thereof and/or waiting time for each one minute ormore.

C. For each extra passenger over twelve (12) years of age, fifty cents additional charge.

D. Waiting time at the maximum rate of twelve dollars ($12.00) per hour shall include the time when the taxicab is not moving, beginning with the time of arrival at the place to which the taxicab has been called, or the time consumed while the taxicab is standing or waiting at the direction of the passenger, or forced to stand because of prevailing traffic conditions. No charge shall be made on account of time lost on account of inefficiency of the taxicab or its operation, or time consumed by premature response to a call.

E. No charge shall be made for traveling without passenger unless the taxicab has been engaged for messenger service, in which event the rates applicable to a single passenger shall be the maximum charge therefor. Delivery service rate shall be a maximum of four dollars for the first mile and one dollar and twenty cents per mile up to fifteen (15) miles, and one dollar thereafter.

F. A maximum service charge of one dollar shall be made for calls refused after being ordered.

G. Passengers showing a senior citizen ID card shall be extended a fifteen (15) percent discount from the rates established above. (Ord. 791 § 7, 1983)

5.24.080 Rate schedule--Effective date.

The rates set forth in Section 5.24.070 of this chapter for taxicab service to be rendered by any business permittee pursuant to the terms of this chapter are effective immediately and remain in effect until modified or changed by amendment to this chapter, and no other or different rates shall at any

time be charged or collected for taxicab service hereunder, either directly or indirectly. (Ord. 791 § 8, 1983)

5.24.090 Refusal to pay rates unlawful.

It is unlawful for any person to fail or refuse to pay the rates herein fixed and provided for after having hired taxicab service. A telephone order for taxi service at a given address shall constitute the hiring of a taxicab. A person or persons refusing to ride after hiring a taxi must pay a service charge in accordance with Section 5.24.070 of this chapter. (Ord. 791 § 9, 1983)

5.24.100 Driver identification card.

All persons employed by the holder of a business permit hereunder to operate taxicabs under the terms and provisions hereof shall meet all requirements of the Oregon Motor Vehicle Code for taxicab operators and shall at all times conduct themselves in a respectful and courteous manner. An identification card, to be approved by the chief of police, including the name and photograph of all operators, shall be posted in each vehicle so as to be readily visible to any passenger. (Ord. 791 § 10, 1983)

5.24.110 Rate schedule--Posting requirements.

Each vehicle shall have posted in a conspicuous place a card listing the rates and charges as established by this chapter where such rates may be easily read and understood by passengers. (Ord. 791 § 11, 1983)

5.24.120 Permit--Transfer.

Any permit issued hereunder shall be non-assignable, except that if the proposed assignee shall make similar application to the city recorder and shall meet all terms and conditions hereof, upon approval of the proposed assignment by the city council a transfer of all rights and privileges may be authorized. (Ord. 791 § 12, 1983)

5.24.130 Violation--Penalty.

Violation of this chapter is a violation and not a crime and is punishable by a fine not to exceed one hundred fifty dollars ($150.00). (Ord. 791 § 13, 1983)

Chapter 5.28

PROCESS AND FEES FOR LIQUOR LICENSES

Sections:

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

5.28.010 Purpose.

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

5.28.015 Application.

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

5.28.020 Application review.

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

5.28.025 Information from applicant.

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

5.28.030 Time frames for response.

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

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

C. Extension Requests. City manager requests for additional time to provide a recommendation shall: 1) set forth the reason additional time is needed; 2) state that the city manager is considering making an unfavorable recommendation; and 3) state the specific grounds being considered toward an unfavorable recommendation. (Ord. 04-009 (part))

5.28.030

5.28.035 Standards and criteria.

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

5.28.040 Fees.

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

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

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

5.28.045 Effective date.

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

Chapter 5.30

PUBLIC UTILITY FEE

Sections:

5.30.010 Fee established.
5.30.020 Definitions.
5.30.030 Fees and payment.
5.30.040 Report of gross revenues--Investigation by finance director.

5.30.010 Fee established.

There is established a public utility fee upon all public utilities operating within the city's public rights of way for the privilege of operating therein. (Ord. 02-1139 § 1 (Exh. A)(part))

5.30.020 Definitions.

"City" means the city of Sherwood and the area within the territorial limits thereof.

"Finance director" means the city's finance director or his or her designate.

"Gross revenues" means revenues earned within the city (after adjustment for the write-off of uncollectable accounts) from the sale of their services and for use of operating facilities of the public utility engaged in such enterprise within the city. The term does not include proceeds from the sale of bonds or other evidence of indebtedness, interest earnings, connection fees or other similar activities.

"Public rights of way" means city owned and maintained streets, roads, highways, bridges, alleys, sidewalks, trails, paths, easements and other public ways within the city, including the subsurface under and air space over these areas not including land devoted to park or other recreational use.

"Public utility" means municipally-owned or operated service supplier(s) (including special districts as defined in ORS Chapter 198) of water, sanitary sewage and storm/surface water disposal and treatment operating within the city. (Ord. 02-1139 § 1 (Exh. A)(part))

5.30.030 Fees and payment.

A. Basis for Fee Calculation. Those entities or city departments or bureaus operating a public utility within a public right of way shall pay to the city a fee for the privilege thereof. The fee shall be measured as a percentage of the gross revenues received by the public utility for services provided within the city, said percentage to be established by the city council in a separate resolution.

B. Payment of Fee. Fees payable by city departments shall be paid monthly at the end of each calendar month of operations by fund transfers from the water, sanitary sewer, and storm/surface water funds. Other non-city operated public utilities shall calculate and pay the fee quarterly to the city finance director consistent with the following schedule:

1. Not later than April 15th for the period extending from January 1st through March 31st inclusive;
2. Not later than July 15th for the period extending from April 1st through June 30th inclusive;
3. Not later than October 15th for the period extending from July 1st through September 30th inclusive; and
4. Not later than January 15th for the period extending from October 1st through December 31st inclusive (for the preceding calendar year). (Ord. 02-1139 § 1 (Exh. A)(part))

5.30.040 Report of gross revenues; Investigation by finance director.

Concurrent with the fee's payment, all public utilities covered by the terms of this chapter shall file with the city finance director a report (in a form approved by the city) setting out the public utility's revenues according to their accounting subdivisions with such deductions claimed by the public utility for the period upon which the fee is computed.

Within ninety (90) days from the date such report is filed (or such additional time up to one hundred eighty (180) days as the finance director deems necessary), the finance director may investigate/audit the report (or cause same) to determine the accuracy of the amount reported. For purposes of such investigation/audit, the public utility shall make available those records which the finance

director deems necessary for verification of the reports and fees owed and paid. (Ord. 02-1139 § 1 (Exh. A)(part))

Title 6

ANIMALS

Chapters:
6.04 Dogs

Chapter 6.04

DOGS

Sections:
6.04.010 Adoption of county dog control ordinance.
6.04.020 Amendments to county dog control ordinance.
6.04.030 Animal noise disturbances.
6.04.040 Animal waste disposal.
6.04.050 Dogs prohibited from certain public facilities.
6.04.100 Penalty.

6.04.010 Adoption of county dog control ordinance.

A. The dog control ordinance of Washington County, being Ordinance No. 138, enacted November 20, 1973, by the board of county commissioners, and effective January 1, 1974, and as now or hereafter amended, is by this reference incorporated into this chapter and made a part hereof as the dog control ordinance of the city of Sherwood, Oregon, except as hereinafter specifically amended, modified or deleted, and shall be known and pled as the city dog control ordinance. Violation of Ordinance No. 138, as now or hereafter constituted, shall be an offense against the city of Sherwood.

B. One copy of Ordinance No. 138, and any amendments thereto, shall be kept on file in the office of the city recorder. (Ord. 658 § 1, 1975)

6.04.020 Amendments to county dog control ordinance.

Washington County Ordinance No. 138, as by the ordinance codified in this chapter adopted for application to the city of Sherwood, is amended and changed in the following particulars:

A. References to “Washington County,” “board of county community commissioners,” “county counsel,” “district court,” “district judge” and other similar references are amended to read “city of Sherwood,” “city council,” “city attorney,” “municipal court of Sherwood,” “municipal judge of Sherwood” and other city positions, as appropriate.

B. Section 2, relating to definitions, is amended to add an additional definition, as follows:

(17) ”Dog control officer” means any peace officer and any dog control officer of the city of Sherwood or of Washington County.

C. Section 4, relating to prohibited activities, is amended to delete subsection A(10) relating to acts of cruelty to animals.

D. Section 10, relating to claims for livestock killed by dogs, is amended to read:

Sec. 10 Claims for Livestock Killed by Dogs. The owner of any livestock killed by any dog may submit claims to Washington County pursuant to the provisions of the Washington County dog control ordinance.

E. Section 11 and Section 12 are deleted.

F. Section 14, relating to penalties, is amended to replace the phrase, “Ordinance No. 77 or Ordinance No. 93 of Washington County” in Paragraph D with the phrase, “City of Sherwood Ordinance No. 658.”

G. Section 15, relating to enforcement procedures, is amended by revising subsection A(1) to read:

1. In addition to other procedures authorized by law, a Uniform Dog Control Citation conforming to the requirements of this Subsection “A” may be used for all dog control ordinance violations committed in the presence of the complainant and which occur in the city of Sherwood, Oregon.

H. Section 16, relating to the effective date, is deleted. (Ord. 98-1049 § 3; Ord. 658 § 2, 1975)

6.04.020

6.04.030 Animal noise disturbances.

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

B. Penalty. Offenses of the ordinance codified in this chapter shall be classified as a Class C violation punishable by up to a two hundred fifty dollar ($250.00) fine.

C. If there are two or more complaints from two or more separate residences with a twelve (12) month period and if the owner is convicted for the same offense more than three times, the offending animal must leave the Sherwood City limits permanently. (Ord. 01-1111 §§ 1--3)

6.04.040 Animal waste disposal.

It is unlawful for any person owning or having control or custody of any animal to permit the animal to defecate upon public property or upon the private property of another unless the person immediately removes the feces and properly disposes of it. (Ord. 04-014 § 1 (part))

6.04.050 Dogs prohibited from certain public facilities.

A. It is unlawful for any person owning, keeping, possessing, harboring or otherwise reasonably believed to be in possession of a dog to cause, permit, suffer or allow such dog to be at large on or about the following public facilities:

1. The synthetic turf field at the Sherwood High School; and
2. The synthetic turf fields at Sunset Park.

B. As used in the foregoing subsection, "dog" means all members of the domesticated canine (canine familiaris) three months of age or older and "at large" means unrestrained or not otherwise under the control (through the use of a lead or line not more than six feet in length) of the owner or other person acting for the owner or who is a person having possession of the dog. (Ord. 05-015 § 1)

6.04.100 Penalty.

Violation of the provisions of this chapter shall be classified as a Class C violation punishable by a fine of up to two hundred fifty dollars ($250.00). (Ord. 04-014 § 1 (part))

Title 7

(Reserved)

Title 8

HEALTH AND SAFETY

Chapters:

8.04 Abandoned, Discarded and Hazardously Located Vehicles
8.08 Alarm Systems
8.12 Fire Prevention Code
8.16 Property Maintenance Code
8.20 Solid Waste Management

Chapter 8.04

ABANDONED, DISCARDED AND HAZARDOUSLY LOCATED VEHICLES

Sections:

8.04.010 Short title.
8.04.020 Definitions.
8.04.030 Parking or standing in excess of seventy-two hours.
8.04.040 Abandoned vehicles--Offense.
8.04.050 Possession by person taken into custody regarding impoundment.
8.04.060 Authority of police officer to order impoundment of vehicle driven by person believed to have committed certain offenses pursuant to Chapter 514 Oregon Laws 1997.
8.04.070 Removal--Notice prior to removal of vehicle and contents pursuant to authority of ORS 819.110.
8.04.080 Impoundment--Notice after removal pursuant to authority of ORS 819.120.
8.04.090 Procedure for removal of vehicles that have no identification markings.
8.04.100 Impoundment of uninsured vehicles.
8.04.110 Possessory lien for towing charges.
8.04.120 Hearing to contest validity of custody and removal.
8.04.130 Failure to appear.
8.04.140 Disposal.

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. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 4)

8.04.020 Definitions.

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

"Abandoned" or "abandoned vehicle" means a vehicle left unoccupied and unclaimed or in such damaged, disabled or dismantled condition that it is inoperable. A vehicle shall be considered abandoned if it was present in the same location for more than seventy-two (72) hours or within a five hundred- (500) foot radius of its earlier position and one or more of the following conditions exist:

1. The vehicle does not have an unexpired license plate lawfully fixed to it; or
2. The vehicle appears to be inoperative or disabled; or
3. The vehicle appears to be wrecked, partially dismantled or junked; or
4. The vehicle has not moved in seventy-two (72) hours and appears to have been stored.

"City" means the city of Sherwood.

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

"Hazard" means a vehicle standing in such a manner as to jeopardize public safety and the efficient movement of traffic, including but not limited to the situation described in ORS 819.120.

"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.

"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 rail or tracts. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 5)

8.04.020

8.04.030 Parking or standing in excess of seventy-two hours.

No vehicle shall be abandoned upon the right-of-way of any city street or state highway for a period in excess of seventy-two (72) hours. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 6)

8.04.040 Abandoned vehicles--Offense.

A person commits the offense of abandoning a vehicle if:

A. The person abandons the vehicle on any public right-of-way or on public property of the city;

B. The owner of the vehicle as shown by the records of the Department of Motor Vehicles shall be considered responsible for the abandonment of a vehicle and shall be liable for the cost of removal and disposition of the abandoned vehicle;

C. A vehicle abandoned in violation of this section is subject to the provisions for removal of abandoned vehicles under Sections 8.04.060 and 8.04.070 of this chapter;

D. The offense described in this section is a Class B traffic infraction. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 7)

8.04.050 Possession by person taken into custody regarding impoundment.

Any vehicle in the possession of a person taken into custody by a law enforcement officer shall be towed if:

A. The person taken into custody is advised of the options available for vehicle disposition and requests the vehicle be towed;

B. The vehicle is in possession of a person taken into custody by a law enforcement agency and the officer taking the person into custody reasonably believes that the vehicle constitutes a hazard;

C. A police officer reasonably believes that the vehicle is stolen;

D. A police officer reasonably believes that the vehicle or its contents constitute evidence of any offense, and such towing is reasonably necessary to obtain or preserve such evidence;

E. The person in possession of the vehicle requests that someone be called to remove the vehicle and the person contacted to remove the vehicle does not take possession of the vehicle within fifteen (15) minutes of being contacted and a police officer reasonably believes that the vehicle constitutes a hazard. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 8)

8.04.060 Authority of police officer to order impoundment of vehicle driven by person believed to have committed certain offenses pursuant to Chapter 514 Oregon Laws 1997.

A. A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearings officer. This subsection applies to the following offenses:

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

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

3. Operating without driving privileges or in isolation of license restrictions in violation of ORS 807.010.

B. Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.

C. A vehicle impounded under subsection A of this section shall be released to a person entitled to lawful possession upon compliance with the following:

1. Submission of proof that a person with valid driving privileges will be operating the vehicle;

2. Submission of proof of compliance with financial responsibility requirements for the vehicle;

3. Payment to the police agency of an administrative fee determined by the agency to be sufficient to recover its actual administrative costs for the impoundment.

D. Notwithstanding subsection C of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the administrative fee.

E. When a person entitled to possession of the impounded vehicle has complied with the requirements of subsection C or D of this section, the impounding police agency shall authorize the person storing the vehicle to release it upon payment of any towing and storage costs.

F. Nothing in this section limits either the authority of the city to adopt ordinance provisions dealing with impounding of uninsured vehicles or the contents of such ordinance provisions.

G. Notice of the impoundment shall be given to the owners of the motor vehicle and to any lessors or security interest holders as shown on the records of the Department of Transportation. The notice shall, be given within forty-eight (48) hours of impoundment. The notice required by this section shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.

H. A person entitled to lawful possession of a vehicle impounded under this section may request a hearing to contest the validity of the impoundment. The request, hearing, procedure, authority of the

hearings officer shall all be as authorized by ORS 809.715 and 809.716 as amended by Chapter 514 Oregon Laws 1997 (S.B. 780), which are adopted and by this reference made a part of this chapter. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 9)

8.04.070 Removal--Notice prior to removal of vehicle and contents pursuant to authority of ORS 819.110.

If the police department proposes to take custody of a vehicle, the police department shall provide notice and an explanation of procedures available for obtaining a hearing. Except as otherwise provided under Section 8.04.050 of this chapter, notice shall comply with all of the following:

A. 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 seventy-two (72) hours before taking the vehicle into custody. The seventy-two (72) hour period under this subsection includes holidays, Saturdays and Sundays;

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

C. 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;

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

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

F. 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;

G. That the owner, possessor or person having an interest in the vehicle is entitled to a hearing, may also challenge the reasonableness of any towing and storage charges at the hearing;

H. The time within which a hearing must be requested and the method for requesting a hearing. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 10)

8.04.080 Impoundment--Notice after removal pursuant to authority of ORS 819.120.

A. If the city takes custody of a vehicle, the city shall provide, by certified mail with the receipt stamped as proof of mailing, within forty-eight (48) hours of the removal, notice with an explanation of procedures available for obtaining a hearing to the owners 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 taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing. The forty-eight (48) hour period under this section does not include holidays, Saturdays or Sundays.

B. Any notice given under this section after a vehicle is taken into custody and removed shall state all of the following:

1. That the vehicle has been taken into custody and removed by the city of Sherwood, that the vehicle violated Ordinance No. 97-1032 of the Sherwood Municipal Code and that the vehicle was removed under the authority of that ordinance;

2. 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;

3. 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;

4. 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) days;

5. 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 taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested;

6. That a hearing must be requested not more than five days, holidays, Saturdays or Sundays not included, from the mailing date of the notice and the method for requesting a hearing;

7. That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and payment of the towing and storage charges. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 11)

8.04.080

8.04.090 Procedure for removal of vehicles that have no identification markings.

If there is no vehicle identification number on a vehicle, or there are no registration plates, or if the registration plates are expired, the police department is not required to otherwise provide notice under Section 8.04.070 of this chapter, and the vehicle may be immediately removed and disposed of as though notice and an opportunity for a hearing had been given. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 12)

8.04.100 Impoundment of uninsured vehicles.

A. A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, was driving an uninsured vehicle in violation of ORS 806.010 may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by a hearings officer.

B. Notice that the vehicle has been impounded shall be given to the same parties, in the same manner and within the same time limits as provided in ORS 819.180 and Section 8.04.080 of this chapter for notice after removal of a vehicle.

C. A vehicle impounded under subsection A of this section shall be released to a person entitled to lawful possession upon proof of compliance with financial responsibility requirements for the vehicle payment to the city police department of an administrative fee determined by the city to be sufficient to recover its actual administrative costs for the impoundment, and payment of any towing and storage charges. Proof shall be presented to the city police department, which shall authorize the person storing the vehicle to release it upon payment of the charges. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 13)

8.04.110 Possessory lien for towing charges.

A person shall have a lien on the vehicle and its contents if the person, at the request of the city tows an abandoned vehicle. A lien established under this section 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 section does not attach to the contents of any vehicle taken from public property until fifteen (15) days after taking the vehicle into custody.

A person who tows any vehicle at the request of the city shall provide written notice, approved by the city, containing information on the procedures necessary to obtain a hearing. Each person who redeems a vehicle shall sign a copy of the receipt issued, indicating that they have received notice of their right to a hearing. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 14)

8.04.110

8.04.120 Hearing to contest validity of custody and removal.

A person provided notice under Section 8.04.070 of 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 and custody under Section 8.04.070 of this chapter or the proposed removal and custody of a vehicle under Section 8.04.070 of this chapter by submitting a request for hearing with the Sherwood Municipal Court not more than five days from the mailing date of the notice. The five-day period in this section does not include holidays, Saturdays and Sundays. A hearing under this section shall comply with all of the following:

A. If the city proposes to remove a vehicle under Section 8.04.070 of this chapter and receives a request for hearing before the vehicle is taken into custody and removed, the vehicle shall not be removed unless it constitutes a hazard.

B. A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the custody and removal of the vehicle is not justified.

C. Failure to appear in person or to mail or deliver a request for hearing within ten calendar days of date of the notice shall act as a waiver of the right to a hearing on the validity of the tow.

D. Upon receipt of a request for a hearing under this section, the city shall set time for a hearing within seven days of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owners 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. The seven-day period in this subsection does not include holidays, Saturdays and Sundays.

E. If the municipal court finds, after a hearing and by substantial evidence on the record, that the custody and removal a vehicle was:

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 section, the person to whom the vehicle is released is not liable for any pre-decision towing or storage charges. If the person has already paid the towing and storage charges on the vehicle, the city shall reimburse the person for the charges. The person shall be liable for new storage charges incurred after the decision. New storage charges of the vehicle will not start to accrue until more than twenty-four (24) hours after the time the vehicle is officially released to the person.

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

F. A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the city for the person's failure to appear.

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

H. A hearing under this section may be used to determine the reasonableness of the charge for towing and storage of the vehicle. Towing and storage charges, set by law, ordinance or rule or that comply with law, ordi nance or rule are reasonable for purposes of this subsection.

I. The municipal court shall provide a written statement of the results of the hearing to the person requesting the hearing.

J. The action of the municipal court is final and no appeal can be taken from it. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 15)

8.04.120

8.04.130 Failure to appear.

A. If the person requesting the hearing does not appear at the hearing, the municipal court may enter an order supporting the removal and assessment of immobilization, towing and storage costs and apply security posted against the costs.

B. A person who fails to appear at a hearing is not entitled to another hearing on the same matter unless the person provides a satisfactory reason to the municipal court for failure to appear. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 16)

8.04.140 Disposal.

If a vehicle taken into custody under this chapter is not reclaimed within thirty (30) days after it is taken into custody, it shall be disposed of as authorized by ORS 819.210 to 819.260. (Ord. 04-005 § 1 (Exh. A)(part): Ord. 97-1032 § 17)

Chapter 8.08

ALARM SYSTEMS

Sections:

8.08.010 Definitions.
8.08.020 Alarm user registration required.
8.08.030 Emergency notification.
8.08.040 User instructions.
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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.

"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. False alarms, for the purposes of this chapter, do not include any alarm signals caused by circumstances not reasonably subject to control by the alarm business operator or alarm user.

"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. 89-894 § 1)

8.08.020 Alarm user registration required.

From the effective date of the ordinance codified in this chapter, every alarm user in the city shall register their alarm systems with the chief of police, including all previously installed systems. Registrations shall thereafter be renewed annually. The registration shall include the type and purpose of the alarm, the address of the premises in which the alarm is installed, and specify the location of the system within the premises. (Ord. 89-894 § 2)

8.08.030 Emergency notification.

The alarm registration shall be in a form prescribed by the chief of police, and shall include the name, address and telephone number(s) of a person(s) authorized by the alarm user to act on their behalf in case of emergencies, alarms, and false alarms. (Ord. 89-894 § 3)

8.08.040 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. Copies of instructions for disarming the alarm system shall be submitted with every registration. (Ord. 89-894 § 4)

8.08.050 Automatic dialing device-- Certain interconnections prohibited.

A. It is unlawful for any person to program an automatic dialing device to select a primary trunk line or any 911 prefix requiring a police response; and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device which is programmed to select a primary trunk line within twelve (12) hours of receipt of written notice from the Sherwood police department that it is so programmed.

B. Within sixty (60) days after the effective date of the ordinance codified in this chapter, all existing automatic dialing devices in the city programmed to select a primary trunk line shall be reprogrammed or disconnected.

C. It is unlawful for any person to program an automatic dialing device to select any telephone line assigned to the city; and it is unlawful for an alarm user to fail to disconnect or reprogram such device within twelve (12) hours of receipt of written notice from the Sherwood police department that an automatic dialing device is so programmed. (Ord. 89-894 § 15)

8.08.060 Response to alarms.

A. Whenever an activated alarm system requires a police department response to the premises in which the system is installed, the city police at the scene of the alarm shall inspect the area protected by the system and shall determine whether the emergency response was in fact required as indicated by the alarm system or whether the alarm was a false alarm.

B. If the city police at the scene of the alarm determine the alarm to be false, a written report of the false alarm shall be made and submitted to the chief of police.

C. Within a reasonable time from the occurrence of a false alarm, the chief of police shall have the right to inspect any alarm system on a premises to which city police response has been made. Failure to correct any alarm system malfunction or deficiency shall be a violation of this chapter. (Ord. 89-894 § 6)

8.08.070 False alarms.

A. Except as provided in Section 8.08.090 of this chapter, if any registered alarm system produces up to four false alarms in any calendar year, the chief of police shall provide written notice by certified mail directing the alarm user to take necessary corrective action, and informing the alarm user of the false alarm fine schedule provided herein.

B. Alarm users installing a new system shall be entitled to a thirty (30) day grace period during which alarms generated by such system shall not be deemed false alarms.

C. Except as provided in Section 8.08.090 of this chapter, a registered alarm system producing more than four or more false alarms in a calendar year, shall be deemed in violation of this chapter and a fine shall be assessed against the alarm user as per the following schedule:

1. Fifth and sixth false alarm: fifty dollars ($50.00) per false alarm.
2. Seventh and eighth false alarm: seventy-five dollars ($75.00) per false alarm.
3. Nine or more false alarms: one hundred fifty dollars ($150.00) per false alarm. (Ord. 89-894 § 7)

8.08.080 Nonregistered alarms.

Except as provided in Section 8.08.090 of this chapter, upon any nonregistered alarm system producing any alarm, false or otherwise, requiring a city police response, the alarm user shall be required to register their system as per the provisions of this chapter. Alarm systems registered under these circumstances shall thereafter be subject to the standard penalty provisions of this chapter, including the fines scheduled in Section 8.08.070 of this chapter. (Ord. 89-894 § 8)

8.08.090 Continuous alarms.

Any alarm system producing an alarm that cannot be shut-off by responding city police and that continuously operates for a period greater than sixty (60) minutes, shall be treated as a fifth false alarm as per Section 8.08.070C of this chapter. (Ord. 89-894 § 9)

8.08.100 Confidentiality.

All alarm system registration information submitted in compliance with this chapter shall be held in the strictest confidence and shall be deemed a public record exempt from disclosure pursuant to state statute; and any violation of confidentiality shall be deemed a violation of this chapter. The police department shall be charged with the sole responsibility for the maintenance of all alarm system registration records. (Ord. 89-894 § 10)

8.08.110 Allocation of revenues.

All penalties collected pursuant to this chapter shall be deposited to the city general fund. (Ord. 89-894 § 11)

8.08.120 Violation--Penalty.

Violations of this chapter for which a fine is not otherwise prescribed shall be punished upon conviction by a fine of not more than five hundred dollars ($500.00). (Ord. 89-894 § 12)

Chapter 8.12

FIRE PREVENTION CODE

Sections:

8.12.010 Adoption of State Fire Code.
8.12.020 Definitions.
8.12.030 Establishment of limits for storage of flammable or combustible liquids in outside aboveground tank.
8.12.040 Establishment of limits for storage of explosives and blasting agents.
8.12.050 Establishment of limits for storage of liquefied petroleum gas.
8.12.060 Establishment of limits for storage of compressed natural gas.
8.12.070 Establishment of limits for storage of stationary tanks of flammable cryogenic fluids.
8.12.080 Establishment of limits for storage of hazardous materials.
8.12.090 Enforcement of code.
8.12.100 Amendments made in the Uniform Fire Code.
8.12.110 Penalties.
8.12.120 Plan review, submittal of plan for fire code approval.
8.12.130 Fire code board of appeals.
8.12.140 Repeal of conflicting ordinances.
8.12.150 Validity.
8.12.160 Date of effect.
8.12.010 Adoption of State Fire Code.

The 2004 Oregon Fire Code is adopted by the city of Sherwood for purposes of prescribing regulations governing conditions hazardous to life and property from fire and explosion and for purposes of plan review, permits and inspections. Any provision in this chapter inconsistent with the terms of that 2004 code is to be deemed ineffective and without force. (Ord. 06-004 § 1: Ord. 00-1084 § 1 (part))

8.12.020 Definitions.

Definitions set forth in the Uniform Fire Code and Uniform Fire Code Standards are adopted save and except for the following:

A. Whenever the terms "administrator," "director" or "chief" are used, they shall be held to mean the fire chief or his or her authorized representative.

B. Whenever the term "authorized representative" is used, it shall be held to mean the person charged with enforcement of the fire prevention code.

C. Whenever the term "board of appeals" is used, it shall be held to mean the board of appeals that is provided by the fire prevention code of the district.

D. Whenever the term "board of directors" is used, it shall be held to mean the elected officials of Tualatin Valley fire and rescue, a rural fire protection district.

E. Whenever the term "Uniform Building Code" or "building code" is used it shall be held to mean the current edition of the state of Oregon Structural Specialty Code as adopted by the State Building Codes Division.

F. Whenever the term "building department" is used it shall be held to mean the building department of the city or county of which it is a part thereof.

G. Whenever the term "building official" is used in the Uniform Building Code, Uniform Mechanical Code and ORS Chapter 455, it shall mean the building official of the city or county which is a part of this district.

H. Whenever the term "chief" or "chief of the fire department" is used, it shall be held to mean the fire chief of the district.

I. Whenever the term "chief of police" is used, it shall be held to mean whichever chief of police or sheriff has jurisdiction within the geographical area so affected.

J. Whenever the term "corporate counsel" or "city attorney" or "attorney" is used, it shall be held to mean the attorney for the district.

K. Whenever the term "district" is used, it shall be held to mean Tualatin Valley fire and rescue, a rural fire protection district.

L. Whenever the term "fire prevention bureau" is used, it shall be held to mean the fire marshal's office.

M. Whenever the term "jurisdiction," "city," county," "state" or "municipality" is used, it shall be held to mean the district or the city or county of which this district is a part.

N. Whenever the term "hazardous vehicle" is used, it shall be held to mean vehicles blocking or obstructing a public or private right-of-way or fire hydrants, or vehicles with leaking fuel tanks or other hazardous materials, or vehicles located in violation of the fire prevention code.

O. Whenever the term "primary tank" is used, it shall be held to mean a listed atmospheric tank used to store liquid. See definition for "primary containment."

P. Whenever the term “protected aboveground tank” is used, it shall be held to mean a listed tank system consisting of a primary tank provided with protection from physical damage, and fire-resistive protection from a high-intensity liquid pool fire exposure. The tank system may provide these protection elements as a unit or may be an assembly of components, or a combination thereof.

Q. Whenever the term “Uniform Mechanical Code” or “mechanical code” is used, it shall be held to mean the current edition of the state of Oregon Mechanical Specialty Code, as adopted by the State Building Codes Division.

R. Whenever the term “room” is used, it shall be held to mean a space or area bounded by any obstructions to exit passage which at any time encloses more than eighty (80) percent of the perimeter of the area. In computing the unobstructed perimeter, openings less than three feet in clear width and less than six feet eight inches high shall not be considered. (Ord. 00-1084 § 1 (part))

8.12.020

8.12.030 Establishment of limits for storage of flammable or combustible liquids in outside aboveground tank.

The limits referred to in Sections 7902.2.2.1 and 7904.2.5.4.2 of the Uniform Fire Code relating to the storage of Class I and II flammable liquids or combustible liquids in outside aboveground tanks, are established as the limits of the district.

EXCEPTION: The chief, after consideration of built-in fire protection or fire extinguishing facilities or topographical conditions and the district’s firefighting capabilities may permit the installation of aboveground storage tanks in approved locations. (Ord. 00-1084 § 1 (part))

8.12.040 Establishment of limits for storage of explosives and blasting agents.

The limits referred to in Section 7701.7.2 of the Uniform Fire Code, relating to the storage of explosive materials, are established as the limits of the district.

EXCEPTION: The chief, after consideration of built-in fire protection or fire extinguishing facilities or topographical conditions, and the district’s firefighting capabilities, may permit the storage of explosives and blasting agents on farms, gravel pits, rock quarries and other isolated areas. (Ord. 00-1084 § 1 (part))

8.12.050 Establishment of limits for storage of liquefied petroleum gas.

The limits referred to in Section 8204.2 of the Uniform Fire Code, in which storage of liquefied petroleum gas is restricted, are established as the limits of the district.

EXCEPTION: The chief, after consideration of built-in fire protection or firefighting facilities or topographical conditions, and the district’s firefighting capabilities, may permit the installation of liquefied petroleum gas containers in approved locations, and then only when approval has been obtained pursuant to Section 8202 of the Uniform Fire Code. (Ord. 00-1084 § 1 (part))

8.12.060 Establishment of limits for storage of compressed natural gas.

The limits referred to in Section 5204.5.2 of the Uniform Fire Code in which the storage of compressed natural gas storage is prohibited, are established as the limits of the district.

EXCEPTION: The chief, after consideration of built-in fire protection or fire extinguishing facilities or topographical conditions, and the district's firefighting capabilities, may permit the storage of compressed natural gas in approved locations pursuant to Section 5204. (Ord. 00-1084 § 1 (part))

8.12.070 Establishment of limits for storage of stationary tanks of flammable cryogenic fluids.

The limits referred to in Section 3-1.5 of the Uniform Fire Code Standard 80-3, in which the storage of flammable cryogenic fluids in stationary containers is prohibited, are established as the limits of the district.

EXCEPTION: The chief, after consideration of built-in fire protection or fire extinguishing facilities or topographical conditions, and the district's firefighting capabilities, may permit the storage of flammable cryogenic fluids in stationary containers in approved locations. (Ord. 00-1084 § 1 (part))

8.12.080 Establishment of limits for storage of hazardous materials.

The limits referred to in Section 8001.1.1 of the Uniform Fire Code, in which the storage of hazardous materials is prohibited, are established as the limits of the district.

EXCEPTION: The chief, after consideration of built-in fire protection or fire extinguishing facilities or topographical conditions, and the district's firefighting capabilities, may permit the storage of hazardous materials pursuant to the provisions of Article 80. (Ord. 00-1084 § 1 (part))

8.12.090 Enforcement of code.

Notwithstanding provisions in the Uniform Fire Code authorizing or requiring inspections of buildings and premises or testing of fire protection systems and equipment, e.g., Sections 103.3.1.1 and 1001.5.2, or provisions providing for enforcement of the code, such inspections, testing and enforcement of the code shall be discretionary by the chief and other individuals charged by the chief with such activities. The district recognizes that it has limited financial resources with which to provide fire, rescue and other services and functions and is forced to make public policy decisions as to allocation of district resources. Although the district places a high priority on prevention, inspection and maintenance of fire systems, as a policy matter the board has determined that it does not have the financial capabilities to require or enforce these activities. Accordingly, although the fire chief and other individuals charged by the chief with these activities are encouraged to pursue them, performing such activities, as well as the scope and frequency of such activities, shall be within the discretion of the fire chief. It is the intention of the district to make clear that the district does not have a mandatory duty to perform the inspections and testing, or to take enforcement actions, as set forth in the code. Such actions are discretionary. (Ord. 00-1084 § 1 (part))

8.12.100 Amendments made in the Uniform Fire Code.

The 1997 Edition of the Uniform Fire Code is amended and changed in the following respects:

1. Section 101.8.1 is amended by adopting the appendices listed below:

The provisions of the following appendices are adopted as part of this code. I-C, I-D, I-E, I-F, I-G, II-A, II-B, II-C, II-D, II-I, II-J, III-A, III-C, III-F, IV-A, V-A, V-B, VI-A, and VI-F.

2. Section 103.2.1.1 is amended by deleting the word "and" at the end of number 7, adding a comma to the end of number 8, and adding the following:

9. The adequacy of means of approach to buildings and structures by mobile fire apparatus and firefighting personnel,

10. Providing firefighting water supplies and fire detection and suppression apparatus adequate for the protection of buildings and structures,

11. Issuance of permits before burning trash or waste material, and

12. Inspection of premises by officers designated by the Chief and requiring removal of fire and life safety hazards found on premises at such inspections.

3. Section 103.3.1.1 is amended by replacing the word "shall" with "may" in the first sentence.

4. Section 103.4.4 is amended by replacing the word "misdemeanor" with "violation of the Fire Code (see ORS 478.930 and 478.990)."

5. Section 103.4.5 is amended by deleting the last sentence of that section, as follows:

See the procedure specified in Chapters 4 through 9 of the Uniform Code for the Abatement of Dangerous Buildings.

6. Section 105.8 is amended by deleting all permits, except the following:

c.2 Carnivals and fairs

e.1 Explosives or blasting agents

f.3 is amended as follows: Delete entire section except the following:

6. To install, alter, remove, abandon, place temporarily out of service or otherwise dispose of flammable or combustible liquid tank.

h.4 Haunted Houses

i.1 Liquefied petroleum gases

p.3 Pyrotechnical special effects material

t.1 Tents, canopies and temporary membrane structures.

7. Section 901.4.5.1 is added as follows:

901.4.5.1 No Parking Signs.

1. Signs shall read “NO PARKING - FIRE LANE - TOW AWAY ZONE, ORS. 98.810 to 98.812.”

2. Vertical no parking signs shall be mounted with a clear space above ground level of 7 feet high.

3. Vertical or no parking signs shall be 12 inches wide by 18 inches high. Signs shall have read or black letters and border on a white background.

8. Section 901.4.5.2 is added as follows:

901.4.5.2 Curb and Surface Marking. Fire access roads and curbs shall be painted red or yellow and be posted “No Parking Fire Lane” at each 25 feet. Lettering shall be white on the red background or black on yellow background and shall have a stroke of 1-inch wide by 6-inches high. Roadway driving surfaces, at the discretion of the chief, shall be painted with 6-inch diagonal striping. The color of striping shall be red or yellow against a high contrast background.

9. Section 902.2.1 is amended by adding the following:

Twenty-five or more dwelling units shall have not less than two or more approved fire apparatus access roadways.

Exception: 1. When Group R, Division 1 Occupancies are provided with automatic sprinkler protection in accordance with UBC Standards 9-1 or 9-3 a single access may be provided when approved by the chief. All other provisions for fire apparatus access roadways shall be complied with as specified herein.

2. When Group R, Division 3 Occupancies are provided with automatic sprinkler protection in accordance with National Fire Protection Association Standards 13D, 1996 Edition, a single access may be provided when approved by the chief.

10. Section 902.2.2.5 is amended to read as follows:

902.2.2.5 Bridges. Private bridges on required fire apparatus access roadways shall be designed and constructed in accordance with the State of Oregon Department of Transportation and American Association of State Highway and Transportation Officials Standards. Design load shall conform with HS-25 of greater. The design and specifications for bridges shall be prepared by a State of Oregon registered professional engineer. A building permit shall be obtained for the construction of the bridge when required by the building official. The design engineer shall prepare a special inspection and structural observation program for approval by the building official when a permit is required or approval by the fire chief when a permit is not required. The design engineer shall give, in writing, final approval of the bridge to the fire department after construction is completed. Maintenance of the bridge shall be the responsibility of the party(ies) that use the bridge for access to their property(ies). The fire district may at any time, for due cause, ask that a registered engineer inspect the bridge for structural stability and soundness at the expense of the property owner(s) the bridge serves.

11. Section 902.2.4.1 is amended by adding the following to the end of the section:

The chief may order any vehicle to be removed which is in violation of the Uniform Fire Code and/or is an obstruction to suppression of fire. If the vehicle is left unattended, the chief may cause the vehicle to be towed with all expenses incurred by the owner.

12. Sections 902.4.1 through 902.4.4 are added as follows:

902.4.1. Required Key Boxes. Key boxes shall be installed on buildings and structures if:

1. an elevator is installed;

2. if equipped with an automatic fire extinguishing system;

3. if equipped with a fire alarm system; or,

4. if, access is restricted due to security arrangements.

Exception: Buildings and structures open and supervised twenty-four hours a day, seven days a week or constantly attended.

902.4.2 Key Box Mounting Location. Key boxes shall be installed within twenty feet of the main entrance (address entrance).

The bottom of the key box shall not be less than eight feet nor more than ten feet above the walking surface unless approved by the Chief or authorized representative.

Exceptions: 1. In multi-tenant buildings (each with their own outside entrance) the key box shall be located at the door that will best and most easily gain access to automatic sprinkler system controls, alarm system controls, etc.

2. For other configurations, the Fire Marshal's Office shall be contacted for installation instructions.

902.4.3 Key Box Contents. Key boxes shall contain the following:

1. building or structure keys;

2. gate key;

3. elevator recall key;

4. elevator door key;

5. alarm systems keys and operation instructions;

6. automatic fire extinguishing system control valve keys.

and may contain the following:

1. emergency personnel contact numbers;
2. hazardous materials safety data sheets

902.4.3.1 Labeling. All keys shall be labeled as to their use, i.e., main entrance, alarm control panel, sprinkler room door, etc.

902.4.4. Key Box Size. The size of the key box shall be sufficient to contain all necessary keys and/or equipment.

13. Section 903.2 is amended by replacing the prescribed distance of 150 feet with a distance of 250 feet.

14. Sections 903.3 through 903.3.2 are amended and added as follows:

903.3 Required Fire Flow: No building shall be constructed, altered, enlarged, moved, or repaired in a manner that by reason of size, type of construction, number of stories, occupancy, or any combination thereof creates a need for a fire flow in excess of 3,000 gallons per minute at 20 pounds per square inch residual pressure, or exceeds the available fire flow at the site of the structure. The requirements for determining fire flow for all buildings are as set forth in the Uniform Fire Code, Ap-

pendix III-A, in areas with municipally developed water supplies; For rural areas where no municipally developed water supply is available, see the National Fire Protection Association (NFPA) Standards 1231, 1993 Edition, Standard on Water Supplies for Suburban and Rural Firefighting, where is hereby adopted and by this reference becomes a part of this ordinance.

EXCEPTION: Fire flow requirements in excess of 3,000 gallons per minute may be allowed if, in the opinion of the chief, all reasonable methods of reducing the fire flow have been included within the development and no unusual hazard to life and property exists.

Existing buildings that require a fire flow in excess of 3,000 gallons per minute are not required to comply with the fire flow requirements of this section. However, changes in occupancies or the character of occupancies, alterations, additions or repairs shall not further increase the required fire flow for buildings.

903.3.1 Rural Water Supply: Outside of the boundaries of a municipal type water supply, the water supply for firefighting shall be provided in accordance with NFPA 1231.

Commercial occupancies shall be equipped with a smoke alarm system installed in accordance with UFC Standard 10-2 and supervised by an approved remote central station.

Note: Credit for installation of alarm systems as specified in Appendix II-A is not applicable to this section.

EXCEPTIONS: 1. In other than the occupancies listed in ORS 479.010(I) (i), where in the opinion of the chief the loss of a structure would not incur substantial impact on the community financially, commercial occupancies shall be equipped with a smoke detection system installed throughout complying with Uniform Fire Code Standards 10-2 and 10-3 that is monitored by a remote central station which has been approved by the chief.

2. When there are not more than one each, Group R, Division 3 and Group U occupancies or agricultural building, as defined by ORS 455.315, on a single parcel of not less than once acre, the requirements of this section may be modified provided, the Group R, Division 3 occupancy does not require a fire flow in excess of 1500 gpm (based on NFPA Standard 1231) and in the opinion of the chief, firefighting or rescue operations would not be impaired.

3. When smoke detection would produce adverse or false alarms, upon judgment of the chief, fixed temperature or rate of rise heat detection may be substituted.

903.3.2 Municipal or Public Water Supply: An approved water supply for areas inside water districts or municipally developed water supplies (private or public) capable of supplying required fire flow for fire protection shall be provided to all premises upon which buildings are moved or portions of buildings are hereafter constructed.

EXCEPTION: Exceptions #1 and #2 of Section 903.3.1 may be applied to Section 903.3.2.

15. Sections 903.4.2.1 through 903.4.2.5 are added as follows:

903.4.2.1 Commercial Buildings. Fire hydrants shall be located so that no portion of the exterior of a commercial building is more than 250 feet from a fire hydrant as measured in an approved manner around the outside of the structure and along the approved route of travel accessible to fire apparatus. The minimum number of hydrants shall be determined by dividing the required fire flow by 1500 gallons per minute prior to giving credit for fire protection systems in Appendix III-A. When the above calculation results in a fraction of a hydrant equal to or greater than .5 the next larger whole number of hydrants shall be used. The minimum number of hydrants for a structure shall not be less than 2.

EXCEPTIONS: (1) When such buildings are protected throughout with an approved automatic fire extinguishing system, the chief may allow variations up to a maximum of 500 feet, provided adequate protection is maintained.

(2) Temporary and portable structures used at construction sites when both the following conditions are provided;

A. When the structures are not less than 40 feet from the primary structure(s) under construction or buildings on adjacent properties.

B. When the combined areas of the temporary portable structures are not greater than 2,500 square feet in size. Areas of structures may be considered as separate when there is 40 feet or more between each group of buildings. The square footage of cargo containers shall also be included in the area.

903.4.2.1.1 following shall be considered when evaluating the numbers of fire hydrants for a structure.

1. Existing hydrants in the area may be used to meet the required number of hydrants; however, hydrants that are over 500 feet away from the nearest point of the subject building shall not be considered to contribute to the required number of hydrants.

2. Hydrants that are separate from the subject building by railroad tracks shall not contribute to the required number of hydrants.

3. Hydrants that are separated by divided highway, freeway or heavily traveled collector streets shall not contribute to the required number of hydrants.

4. Hydrants that are accessible only by a bridge shall be acceptable to contribute to the required number of hydrants only if approved by the chief.

5. Private hydrants or public hydrants that are on adjacent private property shall not contribute to the required number of hydrants for the subject property.

Exception: The use of hydrants located on other private property may be considered if their locations and access are encumbered in a legal document (such as a deed restriction) by the owners of the involved parcels of property. The encumbrance may be lifted only after approval of the chief on behalf of the fire department and any other governmental agencies that may require approval.

6. When evaluating the placement of hydrants at apartment or industrial com- plexes the first hydrant(s) to be placed shall be at the primary access and any secondary access to the site. After these hydrants have been placed other hydrants shall be sited to meet the above requirements for spacing and minimum numbers of hydrants.

903.4.2.2 Non-Commercial Building. Un- less otherwise approved by the chief, fire hydrants shall be placed at each intersection. Intermediate hydrants are required when the distance to any part of a non-commercial building exceeds 500 feet as measured in an approved manner around the outside of the structure and along a route of travel accessible to fire apparatus.

Note: For the purpose of Section 903, a “commercial building” means a building used for other than Group R Division 3 (when built as one or two family dwellings), Group U, or agricultural occupancies as defined in the Building Code.

903.4.2.3 Fire Department Connection Pressurized Hydrants. Fire hydrants on private water mains that are required to be pressurized by a fire department connection shall not be considered to contribute to the requirements of Section 903.4.2.2 unless approved by the chief.

903.4.2.4 Fire Hydrant Distance from Driving Surface. Fire hydrants shall be placed not more than 15 feet from an approved access roadway unless specifically approved by the chief.

903.4.2.5 Fire Department Connections. Fire department connection(s) shall not be attached to the protected structure unless approved by the chief. Each building shall be provided with its own fire department connection unless approved by the Chief. Fire department connection(s) shall be located within 70 feet (21 336 mm) of a fire hydrant.

Exception: Fire department connections (fdc) may be placed on buildings classified as Group R, Division 1 Occupancies, not more than 4 stories in height, and used exclusively for dwellings with or without attached private garages for the storage of pleasure automobiles, provided all of the following conditions are fulfilled.

1. There shall not be more than 70 feet from the driving surface of an approved access roadway to the fdc. This measurement shall be made along an unobstructed, 3 foot wide, approved access walkway. Oregon Structural Specialty Code, Chapter 10 shall be used to determine the provisions of an approved access walkway.

2. A fire hydrant shall be located not more than 500 feet from the fdc. The measurement shall include the 70 feet in item 1.

3. The fire hydrant shall be placed on the same side of the access roadway as the fdc unless there is at least one additional approach to the building by an approved access roadway.

4. Fire department connections shall be located on buildings so that they are at an easily accessible location and no closer than 3 feet to a building opening.

5. There shall be a fire alarm signaling device in the form of a horn/strobe located not less than 8 feet above grade directly over the fdc(s).

16. Section 1006.1 is amended by adding the following exception:

EXCEPTION: Oregon Mechanical Code Interpretive Rule 92-13 provides when equipment is limited to a maximum of two domestic ranges in locations such as churches, lodge halls, employee kitchens and similar occupancies where cooking practices are limited to infrequent cooking of meals and/or reheating of limited quantities of foodstuffs which as performed does not create grease - laden vapor, a Class II ventilating hood may be installed in accordance with the Mechanical Code.

NOTE: The use of this exception may be revoked by the chief or building official for due cause requiring the installation of a Type I hood.

17. Section 1006.2.7 is amended as follows:

1006.2.7 Portable fire extinguishers. An approved portable fire extinguisher having a minimum rating of 40-B shall be installed within 30 feet (9144 mm) of commercial food heat-processing equipment, as measured along an unobstructed path of travel, in accordance with UFC Standard 10-1.

18. Section 1007.2.1.1.1 is added follows:

1007.2.1.1.1 Non-required fire alarm systems (NFAS). Non-required fire alarm systems may be installed as follows:

1. Applicants shall be required to obtain a building permit for a NFAS, which will require a plan review and approval.

2. The NFAS shall be installed in accordance with UFC Standard 10-2 and any manufacturers specifications throughout the room or area.

3. There shall be a single fire alarm panel serving an NFAS. The fire alarm panel shall be capable of serving a complete fire alarm system installed in accordance with UFC Standard 10-2.

4. If a required fire alarm system (RFAS) is installed, a NFAS system, when installed, must be connected to the RFAS for notification purposes. The connection shall be compatible and compliant with all applicable and recognized standards.

5. Property/building owners shall assure that the NFAS is maintained and operates with the RFAS, if present, as one system to all applicable and recognized standards.

6. If at any time the NFAS is not installed to recognized standards, fails testing, or is not maintained, it will be deemed non-compliant and in violation of the Fire Code. If the NFAS is not installed to recognized standards, fails testing, or is not maintained as part of the RFAS, both will be deemed non-compliant and in violation of the Fire Code.

7. Removal of an existing NFAS requires prior approval from the Fire Marshal. Disconnecting an NFAS is prohibited.

19. Section 1007.2.7.1.2 is amended to read as follows:

1007.2.7.1.2 Patient room smoke detectors. Approved smoke detectors shall be installed in patient sleeping rooms of hospital and nursing homes and shall be intertied with the building fire alarm system. Actuation of such detectors shall cause a visual display on the corridor side of the room in which the detector is located, cause an audible and visual alarm at the respective nurses' station and shall initiate a signal to an approved remote central station. When smoke detectors and related devices are combined with a nursing call system, the nursing call system shall be listed for the intended combined use.

20. Section 1007.3.3.3.1 is amended by adding an exception as follows:

EXCEPTION: Single-station detectors in dwelling units, rooms used for sleeping purposes in hotel and lodging houses.

21. Section 1007.3.3.7 is amended to read as follows:

1007.3.3.7 Annunciation. Fire alarm systems shall be divided into alarm zones when required by the chief. When two or more alarm zones are required, fire protection signaling systems shall be divided into zones to assist in determining the fire location. The annunciation of all zones and device

identification shall be on electrically supervised initiating circuits to the main fire alarm control panel. Alarm, supervisory and trouble signals shall be annunciated in the main control panel and in any required remote annunciator panels by means of an audible signal and a visual display. Such annunciation shall indicate the building, floor, zone or other designated area from which the alarm or trouble signal originated. For the purpose of annunciation, zoning shall be in accordance with the following:

1. When the fire-protective signaling system serves more than one building, each building shall be considered as a separate zone.

2. Each floor of a building shall be considered as a separate zone.

3. Each section of floor of a building that is separated by area separation walls or by horizontal exits shall be considered as a separate zone.

4. Annunciation shall be further divided into zones where deemed necessary by the authority having jurisdiction.

5. Identification of the type of alarm, initiating devices such as manual, automatic, sprinkler water flow, sprinkler supervisory switches, etc., shall be separately indicated on electrically supervised initiating circuits to the main fire alarm control unit.

22. Section 1107.1 is amended by adding the following subsections:

1. The use of portable electric heaters and fuel fired space heaters in Groups I and SR Occupancies is prohibited.

2. All portable electric heating devices shall have a high-temperature limiting device and tip-over switch. Use of unvented fuel fired space heaters shall be approved by the Chief.

23. Article 11 is amended by adding Section 1114, Collection and Storage of Combustible Recyclable Materials, to read the same as the State Fire Marshal's amendment to the Uniform Fire Code. (see attachment #1 to the ordinance codified in this chapter).

24. Section 1303.1.1 is added as follows:

1303.1.1 Area of rescue assistance. When the Exceptions to Section 1107.1 of the Oregon Structural Specialty Code are utilized in order to omit an area of rescue assistance, the District's operational guidelines 300I shall serve as the approved written fire and life safety plan.

25. Article 13 is amended by adding "When required by the Chief," to the beginning of Section 1303.3.1. (The remainder of Section 1303.3.1 remains the same.)

26. Section 2402.3 is amended by adding an exception as follows:

EXCEPTION: In lieu of an issued identification card, the employer shall make available to the inspector the training and/or certification file on each qualified fuel operator. This file shall contain all information pertinent to the individual's certification to operate aircraft-refueler units.

27. Section 2402.8.2 is amended by adding an exception as follows:

EXCEPTION: When the fueling equipment is bonded to the aircraft by use of a cable providing a conductive path to equalize potential between the two, a separate wire to ground will not be required.

28. Section 2402.8.3 is amended by adding an exception (2) as follows:

2. For overwing fueling, the person stationed at the fuel pumping equipment shall not be required when: the person at the dispensing device is within 75 feet (22.8 M) of the emergency shutoff device, and is not on the wing of the aircraft during fuel transfer, and the dispensing line does not exceed 50 feet (15.24M) in length.

29. Section 2902.5.1 is amended by adding the following sentence to the end of the paragraph:

and electrical and fuel-burning equipment shall comply with Sections 5202.6, 5202.7.2 and 7904.4.

30. Section 4501.2.1 is amended by adding the following:

4503.2.1 General; For definitions of SPRAY BOOTH, SPRAYING AREA and SPRAYING ROOM, see Article 2

4501.2.2 Limited application. For the purpose of Article 45. certain terms are defined as follows:

MANUFACTURING AREA is any location used in the fabrication or assembly of materials utilizing polymerization.

OVERCHOP is the residue that accumulates from the normal chopper-gun operation during the manufacturing process.

THERMOSETTING PLASTIC is a plastic that, after having been cured by heat or other means, is substantially infusible and insoluble.

31. Section 4502.3.3. is amended to read as follows:

4502.3.3 Filter disposal. Discarded filter pads shall be immediately placed in a non-combustible container with a tightfitting lid and disposed of in accordance with hazardous materials waste regulations.

32. Sections 4506 and 4506.1 are amended as follows:

Section 4506 -- ORGANIC PEROXIDES AND DUAL-COMPONENT COATINGS AND THERMOSETTING PLASTICS.

4506.1 General. Areas containing manufacturing operations producing thermosetting plastics using hazardous materials similar to those listed in Table 4506-a shall be in accordance with this article. Such operations include, but are not limited to, hand lay, spray-up, resin, transfer molding, bag molding, filament winding, centrifugal casting, continuous laminating and casting.

33. Section 4506.1.4 is amended by adding the following to the end of the paragraph:

Catalyzed resins and overchop residues shall conform to the following:

1. Catalyzed resins. Excess catalyzed resin shall be disposed of in open topped noncombustible containers provided with noncombustible bar screens, large mesh wire screens or other means to support individual containers through which surplus catalyzed resin can be poured and upon which other containers can be placed. The containers for disposed resin shall contain water at least 2 inches (51 mm) deep into which the excess resin shall be poured and allowed to cure.

2. Overchop. Paper polyethylene film or similar materials shall be used to cover exposed surfaces of the walls and floor in areas where chopper guns are used to allow build-up of overchop to be readily removed. When the accumulation depth of over-chop has reached an average thickness of 2 inches (51 mm) in the manufacturing area, it shall be disposed of after a minimum of four hours curing.

34. Article 45 is amended by adding Table 4506-2 as follows:

TABLE 4506-2-

CLASSIFICATION OF TYPICAL HAZARDOUS MATERIALS USED IN THERMOSETTING PLASTIC MANUFACTURING OPERATIONS REGULATED BY ARTICLE 45.

MATERIAL	HAZARD CLASSIFICATION
Acetone	FLI-B-IRR
MEK P/9% A/ODMP	OPIII, CLII-B, OHHH, IRR

MATERIAL	HAZARD CLASSIFICATION
MEK P/9% AO/Glycols	OPIV, CLII-B, OHH, IRR
MEK P/5.5% AO/DMP	OPIV, CLII-B, OHH, IRR
Polyester resin	FLI-C, FRR, OHH, URI OR UR2
Vinyl ester resin	FLI-C, IRR, OHH, URI, OR UR2
Styrene monomer	FLI-C, IRR, OHH, UR2

The Unstable Reactive nature of resins containing styrene monomer may be Class 1 of Class 2 depending on the concentration of styrene. Concentrations of styrene including but not limited to concentrations of 45 & have been demonstrated to possess Class 2 hazards. Testing by a qualified testing laboratory may be used as a means to identify the hazard of the specific formulations in storage or use.

Key:
FLI-B = Flammable liquid, Class I-B
FLI-C=Flammable liquid, Class I-C
CLIII-B = Combustible liquid Class III-B
OPIII = Organic Peroxide, Class III
OPIV = Organic Peroxide, Class IV
IRR - Irritant
OHH - Other health hazard
UR1 = Unstable reactive, Class 1
UR2 = Unstable reactive, Class 2
MEKP = Methyl ethyl ketone, peroxide
AO = Active Oxygen
DMP = Dimethyl Phthalate

* depending on styrene content

35. Section 5101 is amended by adding “See Article 45 for Thermosetting Plastics” to the end of the sentence.

36. Section 5101.10.4.3.1 is amended by revising the last sentence to read, “The requirements of Section 8003.3.1.6 shall also apply”.

37. Section 5201.2 is amended by adding the terms “Primary Tank” and “Protected Aboveground Tank” to the list of definitions.

38. Section 5201.3.2 is amended to read as follows:

1. Flammable and Combustible Liquids: Type and design of underground and aboveground liquid storage tanks; quantity and types of liquids to be stored; location and design of the fuel dispensers and dispenser nozzles; distances from tanks dispensers to tanks; property lines and buildings; vehicle access; fire appliances; vehicle impact protection; method of storage and dispensing; over-fill protection; spill containment; vents; vapor recovery; other equipment and accessories; seismic design in

accordance with the Building Code; secondary containment; design and specifications for related piping, valves and fittings; location and classification of electrical equipment, including emergency fuel shutdown devices; specifications for fuel storage and venting compounds; and other information as required by the chief.

39. Section 5202.3.1 is amended to read as follows:

5202.3.1 General. Class I, II and III-A liquids shall be stored in closed containers, in tanks located underground, in special enclosures in accordance with Section 5202.3.6 or, when approved, in protected aboveground tanks in accordance with Section 5202.3.7. See also Appendix II-K.

For locations where aboveground tanks are prohibited, see Section 7902.2.2.1.

40. Section 5202.3.7 through Table 5202.3.7-A are amended to read as follows (renumber remaining sections):

5202.3.7 Protected aboveground tanks. When approved, the storage and dispensing of motor fuels into the fuel tanks of motor vehicles from protected aboveground tanks located outside buildings are allowed in accordance with this section and Section 7902.1.9.

5202.3.7.1 Size. Primary tanks of protected aboveground tanks shall not exceed a 12,000-gallon (45 425 L) individual or 48,000-gallon (181 700 L) aggregate capacity. Tank installations having the maximum allowable aggregate capacity shall be separated from other installations of protected aboveground tanks by not less than 100 feet (30 480 mm).

5202.3.7.2. Separation distances. Dispensing devices are allowed to be installed on top of or immediately adjacent to protected aboveground tanks.

5202.3.7.4. Signs. Warning signs and identification signs shall be installed to clearly identify the hazards. The design of such signs shall be in accordance with Sections 5201.8 and 7901.9. Conspicuous signs prohibiting simultaneous tank filling and fuel dispensing shall be posted.

TABLE 5202.3.7-A

MINIMUM SEPARATION REQUIREMENTS FOR PROTECTED ABOVEGROUND TANKS

INDIVIDUAL TANK CAPACITY gallons (liters)	MINIMUM DISTANCE FROM PROPERTY LINE	MINIMUM DISTANCE FROM THE NEAREST	MINIMUM DISTANCE BETWEEN TANKS

	THAT IS OR CAN BE BUILD UPON, INCLUDING THE OPPOSITE SIDE OF A PUBLIC WAY feet (mm)	SIDE OF ANY PUBLIC WAY OR FROM THE NEAREST IMPORTANT BUILDING ON THE SAME PROPERTY feet (mm)	feet (mm)
Less than or equal to 6,000 (22 712)	15 (4572)	5 (1524)	3 (914)
Greater than 6,000 (22 712)	25 (7620)	15 (4572)	3 (914)

41. Section 5202.4.1 is amended by adding the following sentence to the end of the paragraph, "or, when approved, such tanks are protected aboveground tanks meeting the requirements of Section 5202.3.7. See also Appendix II-K."

42. Sections 5202.11.6.1 through 5202.11.-6.1.2 are amended to read as follows:

5202.11.6.1 Standpipes. Piers, wharves and floats at marine motor vehicle fuel-dispensing stations with any portion in excess of 250 feet (76 200 mm) from fire apparatus shall be equipped with an approved wet standpipe system installed in accordance with Article 10.

EXCEPTION; Waterlines shall normally be dry where subject to freezing temperatures.

Hose stations shall be spaced to provide to any portion of docks, piers, wharves or floating craft. Hose stations shall be labeled FIRE HOSE EMERGENCY USE ONLY. Tests and valving shall be approved by the chief.

5202.11.6.1.1 Access and water supply. Piers and wharves shall be provided with fire apparatus access roads and water supply systems. Access roads shall be maintained in accordance with Section 902.2. Water supply systems shall be in the form of on-site fire hydrants or as required by the chief.

5202.11.6.1.2 Sprinkler system. Piers and wharves shall be installed with an automatic sprinkler system when required by the Building Code.

43. Section 5204.9.2 is added as follows:

5204.9.2. Emergency breakaway devices. Dispenser hose for compressed natural gas dispensing system for containers or vehicle resales shall be equipped with a listed emergency breakaway device

designed to retain liquid and vapor on both sides of a breakaway point. Such devices shall be installed and maintained in accordance with the manufacturer's instructions.

44. Section 7503.3.2.1 is amended as follows:

7503.3.2.1 Transfilling of liquid oxygen containers user for respiration. In buildings where transfilling of containers are used for respiration, all containers involved with the transfilling are limited to a maximum of 72 pounds. Transferring shall be on bare concrete floors with no combustible seams. The room shall be separated from the exitways and have ventilation to handle the off gassing of the containers. Refer to article 90 section c.1.3.

45. Section 7701.2.1 is amended to read as follows:

7701.2.1 General. For definitions of BLASTING AGENT; BULLET RESISTANT; EXPLOSIVE; GUNPOWDER; INHABITED BUILDING; SPECIAL INDUSTRIAL EXPLOSIVE DEVICE; SPECIAL INDUSTRIAL HIGH-EXPLOSIVE MATERIAL; and TEST BLASTING CAP NO. 8, see Article 2.

46. Sections 7701.3.3 through 7701.3.5 are amended as follows:

7701.3.3 Standards. NFPA 495, 1996 Edition, Code for Explosive Materials, excluding Chapter 2, is hereby adopted and made part of this code.

7701.3.4 Possession of explosives. These rules shall apply to all persons possessing and/or purchasing explosives as defined in Section (1) or ORS 480.200.

ORS 480.200 is not a part of this code but is reproduced or paraphrased here for the reader's convenience:

ORS 480.200 (1) provides the definition for the term "explosive".

7701.3.5 Application and issuance of certificate-fees (Effective October 14, 1983). Any person desiring a certificate of possession of explosives, as prescribed by ORS 480.230, shall apply on the forms provided by the Office of State Fire Marshal. The applicant shall obtain the signature of the respective chief or designated assistant in whose jurisdiction the explosives will be purchased, stored, or used, indicating that the chief has been notified of their intent to purchase, store, or use explosives in the chief's jurisdiction. Upon receiving the signature from the chief, the applicant shall forward the completed form to the Office of State Fire Marshal, accompanied by a nonrefundable $15.00 fee for a three - year certificate or $7.00 fee for a 90 - day certificate. Upon receipt and verification of the completed application form, bearing the signature of the chief, and the appropriate application fee, the State Fire Marshal shall proceed with the investigation prescribed in ORS 480.235. Based on the findings of the investigation, the State Fire Marshal shall either issue or deny the certificate of pos-

session of explosives. Upon issuance of the certificate of possession of explosives, the State Fire Marshal shall forward notification of the certificate's issuance to the chief who signed the application and the appropriate county sheriff. Upon denial of the application, based on the findings of the investigation, the State Fire Marshal shall notify the applicant in writing per ORS 480.275. The certificate shall be in effect from the date of issue for the time periods specified in ORS 480.235(3).

ORS 480.225, 480.230, 480.235 and 480.275 are not a part of this code but are reproduced or paraphrased here for the reader's convenience:

ORS 480.224 and 480.230 define eligibility and requirements for an individual applying for a certificate of possession and the fees required.

ORS 480.235 defines the waiting period for issuance of certificates; investigation of applicants; terms; assignment or transfer prohibited; and records required.

ORS 480.275 defines the rights of the applicant in the event of a denial, including: hearings; notice; representation by counsel; decision; and judicial review.

47. Sections 7701.4 through 7704.8.3. are specifically deleted from the provisions of this chapter.

48. Section 7801.1 is amended by adding "and ORS 480.110 through 480.165" to the end of the paragraph and the following:

ORS 480.110 through 480.165 are not a part of this code but are reproduced or paraphrased here for the reader's convenience.

ORS 480.110 through 480.165 define the regulations for the following: 480.110-Definitions for Oregon fireworks laws; 480.120-Prohibited used for fireworks; 480.122-Use for repelling birds; 480.124-Use for controlling predatory animals; 480.127-Sales permits for certain items; 480.130-Permits required for sale or public display of fireworks: 480.140-Requirements for fireworks displays to be under supervision of police and fire department chiefs; 480.150-Permits for fireworks sales or displays; 480.152-Publication of advertisement for sale of unlawful fireworks; 480.154-Requirements for records; 480.156-Selling of fireworks to out-of-state residents; 480.158-Liability of parents for the costs incurred in suppressing fires caused by use of fireworks by minors; 480.160-The effect of local regulations on state law; 480.165-Civil penalty for fireworks law violations.

49. Section 7801.3.1 is amended by deleting the title (Fireworks) and replacing with "Pyrotechnic special effects material", and adding the following:

OAR 837-12-500 through 837-12-570 are not a part of this code but are reproduced or paraphrased for the reader's convenience.

OAT 837-12-570 through 837-12-570 define the laws and regulations for wholesale sales and storage of pyrotechnics in Oregon.

OAR 837-12-600 through 837-12-675 are not a part of this code but are reproduced or paraphrased here for the reader's convenience:

OAR 837-12-600 through 837-12-675 define the laws and regulations for retail sales and storage of pyrotechnics (allowed fireworks) in Oregon.

OAR 837-12-700 through 837-12-970 and OAR 837-12-021 are not a part of this code but are reproduced or paraphrased here for the reader's convenience:

OAR 837-12-700 through 837-12-970 and OAR 837-12-021 define the laws and regulations for public displays of fireworks including special effects.

OAR 837-12-305 through 837-12-330 are not a part of this code but are reproduced or paraphrased here for the reader's convenience:

OAR 837-12-305 through 837-12-330 define the laws and regulations for agricultural uses of fireworks in Oregon.

OAR 837-12-1000 through 837-12-1160 are not a part of this code but are reproduced or paraphrased here for the reader's convenience:

OAR 837-12-1000 through 837-12-1160 define the laws and regulations for civil penalties for violation of Oregon's fireworks statutes and administrative rules as referenced in Article 78.

50. Add a new Section 7802.1.1 as follows:

7802.1.1 Temporary storage. Temporary storage of fireworks shall be in accordance with Section 307 of the Building Code.

51. Sections 7802.4 through 7802.4.9.8.10 are specifically deleted from the provisions of this chapter.

52. Section 7901.3.2 is amended to read as follows:

7901.3.2 Plans. Plans shall be submitted with each application for a permit to store more than 250 gallons (946 L)-of flammable or combustible liquids outside of buildings in drums or tanks. The plans shall indicate the method of storage, quantities to be stored, distances from buildings and property lines, accessways, fire-protection facilities, and provisions for spill control and secondary containment. For additional plan requirements, see also Section 5201.3.2(1).

53. Add a new Section 7901.13 as follows:

7901.13 Maintenance of Protected Aboveground Tanks. Protected aboveground tanks and connected piping shall be maintained in a safe operating condition. Protected aboveground tanks shall be maintained in accordance with their listings.

Damage to protected aboveground tanks shall be repaired using materials having equal or greater strength and fire resistance or the protected aboveground tank shall be replaced or taken out of service.

54. Section 7902.1.8.2.1 is amended by adding a last sentence to read as follows:

Protected aboveground tanks shall be listed and shall meet the requirements specified in UFC Standard 79-7 and shall be labeled accordingly.

55. Sections 7902.1.9 through 7902.1.9.12 are added as following (renumber remaining sections):

7902.1.9 Additional requirements for protected aboveground tanks.

7902.1.9.1 General. The installation of protected aboveground tanks shall be in accordance with Section 7902.1.9.

7902.1.9.2 Tank Construction. The construction of a protected aboveground tank and its primary tank shall be in accordance with Section 7901.1.8.2.1.

7902.1.9.3 Normal and emergency venting. Normal and emergency venting for protected aboveground tanks shall be provided in accordance with Sections 7902.1.11 and 7902.2.6. The vent capacity reduction factor as provided for in Section 7902.2.6.3.4 shall not be allowed.

7902.1.9.4 Flame arresters. Approved flame arresters or pressure-vacuum breather valves shall be installed in normal vents.

7902.1.9.5 Projectile protection. When projectile protections is required by the chief, the protected aboveground tank shall comply with the requirements for bullet resistance as specified in Section 7702.3.4.3. See also UFC Standard 79-7, Section 79.702.7.3.

7902.1.9.6. Secondary containment. Protected aboveground tanks shall be provided with secondary containment, drainage control or diking in accordance with Section 7901.8 or 7902.2.8.

7902.1.9.7 Vehicle impact protection. When subject to vehicular impact, protected aboveground tanks shall be provided with impact protection in accordance with this section. Protected aboveground tanks with piping connected to remote dispensers shall be protected by guard posts or other

approved barriers. Protected aboveground tanks without piping connected to remote dispensers shall comply with the impact protection requirements of Section 79.702.7.2 of UFC Standard 79-7 or shall be protected by guard posts or other approved barriers. Where guard posts or other approved barriers are provided, they shall be independent of each protected aboveground tank.

Where subject to vehicular impact, piping and electrical conduit connected to protected aboveground tanks shall be provided with impact protection.

Impact protection provided by guard posts shall be in accordance with Section 8001.11.3.

7902.1.9.8 Overfill protection. Protected aboveground tanks shall not be filled in excess of 90 percent of their capacity. An overfill prevention system shall be provided for each tank. During tank filling operation, the system shall:

1. Provide an independent means of notifying the person filling the tank that the fluid level has reached 85 percent of tank capacity by providing an audible or visual alarm signal, providing a tank level gage marked at 85 percent of tank capacity, or other approved means, and

2. Automatically shut off the flow of fuel to the tank when the quantity of liquid in the tank reaches 90 percent of tank capacity. For rigid hose fuel-delivery systems, an approved means shall be provided to empty the fill hose into the tank after the automatic shutoff device is activated.

A permanent sign shall be provided at the fill point for the tank documenting the filling procedure and the tank calibration chart. The filling procedure shall require the person filling the tank to determine the gallonage required to fill it to 90 percent of capacity before commencing the fill operation.

7902.1.9.9 Fill pipe connections. The fill pipe shall be provided with a means for making a direct connection to the tank vehicle's fuel-delivery hose so that the delivery of fuel is not exposed to the open air during the filling operation. When any portion of the fill pipe exterior to the tank extends below the level of the top of the tank, a check valve shall be installed in the fill pipe not more than 12 inches (304.8 mm) from the fill hose connection. See Section 7901.11.4 for tank valves.

7902.1.9.10 Spill containers. A spill container having a capacity of not less than 5 gallons (18.9 L) shall be provided for each fill connection. For tanks with a top fill connection, spill containers shall be noncombustible and shall be fixed to the tank and equipped with a manual drain valve which drains into the primary tank. For tanks with a remote fill connection, a portable soil container shall be provided.

7902.1.9.11 Tank openings. Tank openings in protected aboveground tanks shall be through the top only.

7902.1.9.12 Antisiphon device. Approved antisiphon devices shall be installed in each external pipe connected to the protected aboveground tank when the pipe extends below the level of the top of the tank.

56. Sections 7902.2 through 7902.2.1 are amended to read as follows:

7902.2 Stationary Aboveground Tanks and Protected Aboveground Tanks Located Outside of Buildings.

7902.2.1 General. Stationary aboveground tanks located outside of buildings shall be in accordance with Sections 7902.1 and 7902.2. For the purpose of Section 7902.2, when the term tank is used, it shall include protected aboveground tanks.

57. Section 7902.2.6.1 is amended to read as follows:

7902.2.6.1 General. Stationary tanks shall be provided with adequate additional venting that will relieve excessive internal pressure caused by exposure to fires. Such venting shall also be provided for each compartment of a compartmented tank, the interstitial space of a secondary containment-type tank, and the enclosed space of a close-top dike tank construction. Enclosed spaces, such as those intended for insulation, membranes, or weather shields, which can contain liquid because of a leak from the primary vessel, shall also comply with the venting requirements.

58. Section 7902.2.6.3.4 is amended as follows:

7902.2.6.3.4 Reductions in required venting for stable liquids. For tanks, other than protected aboveground tanks, containing...(balance to remain unchanged)

59. Section 7902.2.8.1 is amended as follows:

7902.2.8.1 General. For aboveground tanks other than protected aboveground tanks, the area surrounding a tank or...(balance to remain unchanged)

60. Section 7902.2.8.2 is added as follows:

7902.2.8.2 Protected aboveground tanks. Protected aboveground tanks shall be provided with secondary containment, drainage control or diking in accordance with Section 7901.8 or 7902.8 or with secondary containment that is a component of the listed protected aboveground tank. The method of monitoring and the capacity of the secondary containment shall be in accordance with Section 7901.8. Enclosed secondary containment shall be provided with emergency venting.

61. Table 7902.2-A is amended by adding an additional row to the end of the table as follows:

Protected aboveground tank	See Section 7902.1.9	½ times Table 7902.2-F	½ times Table 7902.2-F

62. Section 7903.3.3 is amended to read as follows:

...are stored in protected aboveground tanks in accordance with Section 7902.1.9.

63. Section 8201 is amended by adding a paragraph to read:

Refer to ORS 480.410 through 480.460 and OAR 837-30-100 through 837-39-280 for administrative provisions pertaining to liquified petroleum gas licensing and notification of LP-gas installations.

64. Section 8202 is amended as follows:

8202.1 Permits and Plans. The Chief shall be notified prior to the installation of containers or receptacles approved for liquified petroleum gas, including installations at private homes and apartments.

EXCEPTION: The replacement of empty containers or receptacles with other containers constructed in accordance with the Interstate Commerce Commission specifications.

8202.2 Fees. All fees due and payable shall accompany the notification. The Chief shall collect from the installer an installation inspection fee to cover the cost of initial inspection by the Chief after installation. The installation inspection fee shall be set by ordinance.

8202.3 Plans. Where a single container is over 2,000-gallons (7571L) water capacity or the aggregate capacity of containers is over 4,000-gallon (15142L) water capacity, the installer shall submit plans for such installation prior to setting any tank(s).

65. Article 82 is amended by adding a new Section 8215 as follows:

Section 8215 -- Utility Plants.

8215.1 General. No person shall maintain or operate a liquified petroleum gas utility plant without first obtaining a permit from the Chief.

66. Article 82 is amended by adding a new Section 8216 as follows:

Section 8216 -- Licenses.

8216.1 General. No person shall engage in or work at the business of installing, altering, extending or repairing liquefied petroleum gas equipment or appliances unless the person has received a gas installation license from the State Fire Marshal in accordance with ORS 480.410 to 480.460, as now enacted.

67. Table 8204-A, Footnote 5 is amended as follows:

5The following shall apply to aboveground containers installed alongside buildings "and property lines";

68. Sections 8704.5.1 through 8704.5.1.3 are added as follows:

8704.5.1 Combustible Trash Chutes

8704.5.1.1 Combustible trash chutes shall not be used on non-sprinkled buildings.

Exception: Non-sprinkled Type I or Type II structures under initial construction prior to the installation of combustible interior finish or on preexisting non-combustible exterior buildings not exceeding four stories in height (48 feet) (14.6 m) with an approved safety plan.

8704.5.1.2 Combustible trash chutes when used on sprinkled buildings shall have an approved safety plan when the exterior is combustible or the building exceeds two stories (28 feet) (8.5 m) in height.

8704.5.1.3 An approved safety plan shall address the following:

1. A continuous fire watch (working hours only) stationed at the dropbox(es) with a continuous means of water application and a means of communication (radio or cell phone).

2. Water application shall be provided at each chute access opening or an approved barrier for each non exposed building opening and all exposed combustible exterior surfaces shall be provided. The approved barrier shall extend 3 feet (1 m) to each side of the chute.

3. Where water is required at the chute access, a trainer person shall be continuously assigned and an approved means of communication or alarm shall be provided.

4. Signage shall be placed at each chute access to the address: NO SMOKING, NO OPEN FLAME, NO WELDING OR CUTTING WITHIN 20 FEET (7M).

5. At the end of the day the chute shall be disconnected or removed to a distance of 12 feet (3.7 m) away from the drop box.

69. Section 9002 is amended as follows:

79-7; 7902.1.8.2.1, 7902.1.8.2.7, 7902.1.9.5, 7902.1.9.7 and 7903.3.3
Testing Requirements for Protected Aboveground Tanks

70. Section 9003 is amended by adding the following standard:

c.1.3. P-2.6-1995 Transfilling of Liquid Oxygen used for Respiration

71. Section 9003 is amended by adding the following standard:

u.1.17. UL 2085 Standard for Insulated Aboveground Tanks for Flammable and Combustible Liquids

72. Appendices I-D, I-E, I-G, II-K, and V-B are added to the ordinance codified in this chapter as written and adopted by the State Fire Marshal's Office. (See attachments #2, #3, #4, #5, #6 and #7 to the ordinance codified in this chapter.)

73. Appendix III-A is amended as follows:

Section 4 is amended:

4.2 Area Separation. Each portion of a building separated by one or more area separation wall(s), in accordance with the Uniform Building Code, Section 504.6 may be considered as a separate fire area(s) for the purpose of determining the required fire flow.

Section 5 is amended:

5.2 Buildings other than One and Two Family Dwellings. The required building fire flow and duration shall be determined by the size and construction type of the structure under consideration.

5.2.1 Occupancy Hazards

5.2.1.1 Single Occupancy Hazards. Where only a single occupancy hazard is housed in a building the minimum required building fire flow shall be multiplied by the hazard factor in Table A-III-A-2 to determine the required fire flow.

5.2.1.2 Multiple Occupancy Hazards. Where more than one hazard is housed in a building the minimum required building fire flow shall be proportioned by percentage of the floor area used for each occupancy hazard. The proportioned building fire flow shall be multiplied by the hazard factor, relating to that portion of the building in table A-III-A-2 and totaled to determine the required fire flow.

Table A-III-A-2

Light Hazard Occupancies	1.0
Ordinary Hazard (Group 1)	1.2
Ordinary Hazard (Group 2)	1.3
Extra Hazard (Group 1)	1.4
Extra Hazard (Group 2)	1.5

Note: For examples for Occupancy Hazard Classifications see UBC Volume 3, Standard 9-1, Appendix Section A-1-4-7.

5.2.2 The product of the multiplication in either Section 5.2.1.1 or Section 5.2.1.2 provides the total required fire flow.

5.2.3 The total required fire flow may be reduced by one of the following options, but in no case shall be less than 1500 GPM @ 20 psi residual.

1. Reduced by 75 percent where a complete approved automatic fire extinguishing system meeting the requirements of the Uniform Building Code, Chapter 9, is installed throughout the building and the system is fully and electrically supervised in accordance with the Uniform Fire Code Standard 10-2 and is monitored by an approved underwriters laboratory listed remote central station.

2. Reduced by 50 percent where a complete automatic fire extinguishing system meeting the requirements of the Uniform Building Code, Chapter 9 is installed throughout the building.

3. Reduced by 25 percent where an approved complete smoke sensing fire detection and manual fire alarm system is installed throughout the building and electrically interconnected one with the other and electrically intertied to an approved central receiving station. The smoke detection system shall meet the requirements of the Uniform Fire Code Standards 10-2 and 10-3, and manual fire alarm pull stations and systems shall meet the requirements of Uniform Fire Code Standard 10-2. The remote central station shall be Underwriters Laboratory listed and approved by the Chief. The smoke detection option may be revoked by the Chief when excessive false alarms may occur or when other potential conditions may cause malfunctioning of the system.

74. Appendix III-F is added and included as Attachment #8 to the ordinance codified in this chapter. (Ord. 00-1084 § 1 (part))

8.12.110 Penalties.

Any person who violates any of the provisions of these regulations adopted or fails to comply therewith, or violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statements, specification or plans submitted and approved thereunder and from which no

appeal has been taken, or shall fail to comply with such an order as affirmed or modified by the board of appeals or by a court of competent jurisdiction within the time affixed herein, shall severally, for each and every such violation and noncompliance respectively, be guilty of a violation of the fire prevention code as provided in ORS 478.930, punishable upon conviction as prescribed by ORS 478.990. All fines or punishments authorized upon conviction shall include the costs to the district to remedy the violation including costs of towing, storage or removal of the hazard or obstruction if necessary.

Any person who violates the provisions of ORS 478.960 (Burning of certain materials permitted only with permission of the Chief; Burning Schedule (1) through (8)) shall be guilty of a misdemeanor, shall severally, for each and every violation be punishable upon conviction as prescribed by ORS 478.990 and shall be subject to costs under 478.965.

The corporate counsel, the chief, or the Fire Marshal or designated representative may bring a complaint in law or in equity to alleviate a violation of this chapter as well as in addition to the rights to enforce this chapter under the provisions of ORS 478.930 and ORS 478.990. (Ord. 00-1084 § 1 (part))

8.12.120 Plan review, submittal of plan for fire code approval.

Plans and specifications shall be submitted to the chief of the district or authorized representative for examination and approval with respect to conformance with these regulations and no construction shall proceed prior to such approval for the following: flammable liquid storage, utilization or transportation or dispensing facilities; facilities for the storage, handling, transport and use of explosives and blasting agents; dry cleaning plants; facilities for the storage, handling, use and transportation of liquefied petroleum gas; or any other building, structure or facility wherein highly combustible or hazardous materials are manufactured, utilized, dispensed, conveyed or stored.

When the chief or authorized representative approves any such plan it shall be so signified by means of a stamp and signature. All construction or alteration shall thereafter comply with the approved plan, in all respects, unless modified by subsequent written permit or order of the chief. Plans and specifications shall be drawn to scale upon substantial paper or cloth and shall be of sufficient clarity and detail to permit the chief to determine the question of conformity with these regulations and shall include a plot plan showing type and location of the proposed buildings, structures, facilities and fire hydrant locations and access ways in relationship to the property lines, and all other buildings, structures and facilities proposed or existing on the premises. Approval of plans shall not be construed as a permit to violate any applicable law or regulation of the state, county, city, or fire district. (Ord. 00-1084 § 1 (part))

8.12.130 Fire code board of appeals.

Through adoption of the Uniform Fire Code, 1997 Edition, the district has the authority to establish a board of appeals. Such board of appeals may be implemented through bylaws and other procedures adopted by ordinance of the district. In the event that the fire district board adopts a board of

appeals, the provisions of this chapter, where appropriate, are subject to the board of appeals procedures. (Ord. 00-1084 § 1 (part))

8.12.140 Repeal of conflicting ordinances.

Pursuant to ORS 478.924, the provisions of this chapter, i.e., the fire code, shall be controlling within the territorial limits of the district and within each city or county within the district approving pursuant to ORS 478.924. The existing fire code, Ordinance 96-01, has been approved within each city and county within the district. The district desires that the existing fire code continue in effect until such time as the cities and counties within the district have approved this new fire code codified in this chapter pursuant to ORS 478.924. Accordingly, Ordinance 96-01, and all former ordinances or parts thereof, which are conflicting or inconsistent with the provisions of this chapter or of the code or standards adopted, are repealed, effective the date of the ordinance codified in this chapter; provided, however, that Ordinance 96-01 shall continue to be in effect in each city or county which has approved it until the city or county approves this Ordinance 99-01 codified in this chapter. Further, prosecutions or violations under repealed ordinances may continue after the effective date of the ordinance codified in this chapter. (Ord. 00-1084 § 1 (part))

8.12.150 Validity.

The district declares that should any section, paragraph, sentence or word of this chapter or of the codes or standards adopted be declared for any reason to be invalid, it is the intention of the district that it would have passed all other portions of the ordinance codified in this chapter independent of the elimination of any such portion as may be declared invalid. (Ord. 00-1084 § 1 (part))

8.12.160 Date of effect.

The board of directors of the fire district finds and determines that it is necessary and expedient that the provisions of the ordinance codified in this chapter become effective thirty (30) days following the final reading. (Ord. 00-1084 § 1 (part))

Chapter 8.16

PROPERTY MAINTENANCE CODE

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Article I. Administration

8.16.010 General.

A. Title. These regulations shall be known as the property maintenance code of the city of Sherwood hereinafter referred to as this code.

B. Scope. This code is to protect the public health, safety and welfare in all existing structures, residential and nonresidential, and on all existing premises by establishing minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; fixing the responsibility of owners, operators and occupants; regulating the occupancy of existing structures and premises, and providing for administration, enforcement and penalties.

C. Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

D. Referenced Standards. The standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and referenced standards, the provisions of this code shall apply.

E. Existing Remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the city or its

officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

F. Workmanship. All repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner.

G. Application of Other Codes. Any repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the building, plumbing and mechanical and electrical codes as adopted by the city. (Ord. 97-1024 § 1(PM-101))

8.16.020 Validity.

A. Validity. If any section, subsection, paragraph, sentence, clause or phrase of this code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this code which shall continue in full force and effect, and to this end the provisions of this code are hereby declared to be severable.

B. Saving Clause. This code shall not affect violations of any other ordinance, code or regulation existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed. (Ord. 97-1024 § 1(PM-102))

8.16.030 Maintenance--Required.

All equipment, systems, devices and safeguards required by this code or a previous statute or code for the structure or premises when erected or altered shall be maintained in good working order. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. (Ord. 97-1024 § 1(PM-103))

8.16.040 Approval.

A. Approved Materials and Equipment. All materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

B. Modifications. Where there are practical difficulties involved in carrying out provisions of this code, the code official shall have the right to vary or modify such provisions upon application of the owner or the owner’s representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.

1. Records. The application for modification and the final decision of the code official shall be in writing and shall be officially recorded in the permanent records of the department.

C. Material and Equipment Reuse. Materials, equipment and devices shall not be reused unless such elements have been reconditioned, tested and placed in good and proper working condition and approved by the code official.

D. Alternative Materials and Equipment. The provisions of this code are not intended to prevent the installation of any material or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved when the code official finds that the proposed design is satisfactory and complies with the intent of the provision of this code, and that the material, method or work offered is for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

E. Research and Investigations. Sufficient technical data shall be submitted to substantiate the proposed installation of any material or assembly. If it is determined that the evidence submitted is satisfactory proof of performance for the proposed installation, the code official shall approve such alternative subject to the requirements of this code. The cost of all tests, reports and investigations required under these provisions shall be paid by the applicant. (Ord. 97-1024 § 1(PM-104))

8.16.050 Duties and powers of the code official.

A. General. The code official shall enforce all of the provisions of this code.

B. Notices and Order. The code official shall issue all necessary notices or orders to ensure compliance with the code.

C. Right of Entry. The code official is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the code official is authorized to pursue recourse as provided by law.

D. Access by Owner or Operator. Every occupant of a structure or premises shall give the owner or operator thereof, or agent or employee, access to any part of such structure or its premises at reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this code.

E. Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

F. Coordination of Enforcement. Inspection of premises, the issuance of notices and orders and enforcement thereof shall be the responsibility of the code official so charged by the city. Whenever inspections are necessary by any other department, the code official shall make reasonable effort to arrange for the coordination of such inspections so as to minimize the number of visits by inspectors, and to confer with the other departments for the purpose of eliminating conflicting orders before any are issued. A department shall not, however, delay the issuance of any emergency orders.

G. Rule-Making Authority. The code official shall have power as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have effect of waiving

structural or fire performance requirements specifically provided for in this code or of violating accepted engineering practice involving public safety.

H. Organization. The code official shall appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this code and as authorized by the appointing authority. The code official is authorized to designate and employee a deputy who shall exercise all the powers of the code official during the temporary absence or disability of the code official.

I. Restriction of Employees. An official or employee connected with the enforcement of this code shall not be engaged in, or directly or indirectly connected with, the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of construction documents thereof, unless that person is the owner of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with the interests of the department.

J. Relief from Personal Responsibility. The code official, officer or employee charged with the enforcement of this code, while acting for the city, shall not thereby be rendered liable personally, and is relieved from all personal liability for any damage accruing to persons or property as a result of any act required or permitted in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the city until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this code; and any officer of the department of building inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

K. Official Records. An official record shall be kept of all business and activities of the department specified in the provisions of this code, and all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such records. (Ord. 97-1024 § 1(PM-105))

8.16.060 Violations.

A. Unlawful Acts. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish, maintain, fail to maintain, provide, fail to provide, occupy, let to another or occupy or permit another person to occupy any premises, property, structure or equipment regulated by this code, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code, or to fail to obey a lawful order of the code official, or to remove or deface a placard or notice posted under the provisions of this code. All nuisances as defined in this code shall constitute a violation of this code. All violations of this code shall constitute a civil infraction and shall be processed according to the procedures established in subsection C of this section.

B. Penalty. Any person who shall violate a provision of this code shall, upon conviction thereof, be subject to a civil fine of up to five hundred dollars ($500.00). Each day that a violation continues after due notice has been served shall be deemed a separate offense.

C. Infraction Procedures. When an alleged complaint is reported to the code official, the code official shall prepare a statement of the facts and shall review the facts and circumstances surrounding the alleged complaint. The code official shall not proceed further with the matter if the code official determines that there is not sufficient evidence to support the allegation, or if the code official determines that it is not in the best interest of the city to proceed. If the code official determines that a violation has occurred the city may enforce this code by any of the following methods:

1. Citation;
2. Abatement;
3. Citation and abatement;
4. Other enforcement remedies available at law or at equity. (Ord. 97-1024 § 1(PM-106))

8.16.070 Abatement notices and orders.

A. Notice to Owner or to Person or Persons Responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred and decides that abatement procedures are appropriate, a notice of infraction shall be given to the owner or the person or persons responsible therefor in the manner prescribed in subsections B and C of this section. Notices for condemnation procedures shall also comply with Section 8.16.080C of this chapter.

B. Form. Such notice of infraction prescribed in subsection a of this section shall:

1. Be in writing;
2. Include a description of the real estate sufficient for identification;
3. Include a statement of the reason or reasons why the notice is being issued;
4. Include a correction order allowing a reasonable time for the abatement of the nuisance or repairs and improvements required to bring the premises into compliance with the provisions of this code; and
5. Include a notice of the appeal procedures under Section 8.16.110A of this chapter.

C. Method of Service. Such notice shall be deemed to be properly served if a copy thereof is sent by first class mail addressed to the owner at the last known address, and is (a) delivered to the owner personally; or (b) sent by certified or registered mail addressed to the owner at the last known address with return receipt requested, or, (c) posted in a conspicuous place in or about the premises affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

D. Time to Remedy Violation After Notice. The code official shall give the respondent a reasonable time to cure or remedy the alleged violation after the notice is sent/posted/ delivered. The time allowed shall not be more than ten days. Where there is an extreme hardship, as determined by the code official, thecode official may grant additional time.

E. Abatement by the City. If within the time prescribed in subsection D of this section, the violation described in the notice of infraction has not been removed and abated, or cause shown, as speci-

fied in Section 8.16.110 of this chapter, why such should not be removed and abated, the code official may cause the violation to be removed and abated. All costs incurred by the city in abating the violation, including administrative and legal costs, shall become a lien upon the real property on which the violation was abated.

F. Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 8.16.060B of this chapter.

G. Transfer of Ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another unit the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee, or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation. (Ord. 97-1024 § 1(PM-107))

8.16.080 Unsafe structures and equipment.

A. General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

1. Unsafe Structure. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is likely.

2. Unsafe Equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety or the public or occupants of the premises or structure.

3. Structure Unfit for Human Occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

4. Unlawful Structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

B. Closing of Vacant Structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the code

official shall cause the premises to be closed through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

C. Notice. Whenever the code official has condemned a structure or equipment under the provision of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with Section 8.16.070C of this chapter. The notice shall be in the form prescribed in Section 8.16.070B of this chapter.

D. Placarding. Upon failure of the owner or person responsible to comply with the notice provision within the time given, the code official shall post on the premises or on defective equipment, a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operation of the equipment or removing the placard.

E. Prohibited Occupancy. Any person who shall occupy a placarded premises or shall operate placarded equipment, any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code. (Ord. 97-1024 § 1(PM-108))

8.16.090 Emergency measures.

A. Imminent Danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy has been prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

B. Temporary Safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

C. Closing Streets. When necessary for the public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

D. Emergency Repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

E. Cost of Emergency Repairs. Costs incurred in the performance of emergency work shall be paid from the treasury of the city on approval of the code official. The finance director of the city

shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

F. Appeal. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon filing a written application for appeal in accordance with Section 8.16.110 of this chapter, have the appeal decided by the city manager. (Ord. 97-1024 § 1(PM-109))

8.16.100 Demolition.

A. General. The code official shall order the owner of any premises upon which is located any structure, which in the code official's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to raze and remove at the owner's option; or where there has been cessation of normal construction of any structure for a period of more than two years, to raze and remove such structure.

B. Order. All notices and orders shall comply with Section 8.16.070 of this chapter.

C. Failure to Comply. If the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be razed and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such razing and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

D. Salvage Materials. When any structure has been ordered razed and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such razing and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state. (Ord. 97-1024 § 1(PM-110))

8.16.110 Means of appeal.

A. Application for Appeal. Any person affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the city manager provided that a written application for appeal is filed within the time allowed to remedy the violation as prescribed in Section 8.16.070D of this chapter or within ten days of the imposition of any emergency measures in Section 8.16.090 of this chapter. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

B. City Manager's Decision. The decision of the city manager shall be final on all appeals of decisions of the code official. (Ord. 97-1024 § 1(PM-111))

Article II. Definitions

8.16.120 General provisions.

A. Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this article.

B. Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.

C. Terms Defined in Other Codes. Where terms are not defined in this code and are defined in the building, plumbing or mechanical codes listed in Article IV of this chapter, such terms shall have the meanings ascribed to them as in those codes.

D. Where terms are not defined, through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

E. Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof." (Ord. 97-1024 § 1(PM-201))

8.16.130 General definitions.

"Approved" means approved by the code official.

Basement. See Section 8.16.150 of this chapter.

"Building" means any structure occupied or intended for supporting or sheltering any occupancy.

"Building code" means the building code officially adopted by the legislative body of this city, or other such codes officially designated by the legislative body of the city for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy and maintenance of buildings and structures.

"Code official" means the building official who is charged with the administration and enforcement as specified under ORS 455.150, or any duly authorized representative.

"Condemn" means to adjudge unfit for occupancy.

"Construction documents" means all the written, graphic and pictorial documents prepared or assembled for describing the design, location and physical characteristics of the elements of the project necessary for obtaining a building permit. The construction drawings shall be drawn to an appropriate scale.

Dwellings. See Section 8.16.120E of this chapter.

"Dormitory" means a space in a building where group sleeping accommodations are provided in one room, or in a series or closely associated rooms, for persons not members of the same family group.

"Dwelling unit" means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

"Hotel" means any building containing six or more guest rooms, intended or designed to be occupied, or which are rented or hired out to be occupied, for sleeping purposes by guests.

“One-family dwelling” means a building containing one dwelling unit with not more than five lodgers or boarders.

“Rooming house” means a building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one-family dwelling or a two-family dwelling.

“Rooming unit” means any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

“Two-family dwelling” means a building containing two dwelling units with not more than five lodgers or boarders per family.

Exterior Property. See Section 8.16.150 of this chapter.

Extermination. See Section 8.16.150 of this chapter.

“Family” means an individual or married couple and the children thereof or other persons related directly to the married couple by blood or marriage; or a group of not more than five unrelated persons, living together as a single housekeeping unit in a dwelling unit.

Garbage. See Section 8.16.150 of this chapter.

Infestation. See Section 8.16.150 of this chapter.

“Inspection certificate” means an identification applied on a product by an approved agency containing the name of the manufacturer, the function and performance characteristics, and the name and identification of an approved agency which indicates that the product or material has been inspected and evaluated by an approved agency.

“Label” means a identification applied on a product by the manufacturer which contains the name of the manufacturer, the function and performance characteristics of the product or material, and the name and identification of an approved agency and which indicates that the representative sample of the product or material has been tested and evaluated by an approved agency.

Let for Occupancy or Let. See Section 8.16.150 of this chapter.

“Manufacturer’s designation” means an identification applied on a product by the manufacturer indicating that a product or material complies with a specified standard or set of rules (see also “mark,” “label,” and “inspection certificate”).

“Mark” means an identification applied on a product by the manufacturer indicating the name of the manufacturer and the function of a product or material (see also “manufacturer’s designation,” “label,” and “inspection certificate.”)

“Occupancy” means the purpose for which a building or portion thereof is utilized or occupied.

Occupant. See Section 8.16.150 of this chapter.

Openable Area. See Section 8.16.150 of this chapter.

Operator. See Section 8.16.150 of this chapter.

Owner. See Section 8.16.150 of this chapter.

Person. See Section 8.16.150 of this chapter.

Public Nuisance. See Section 8.16.150 of this chapter.

“Registered design professional” means an architect or engineer, registered or licensed to practice professional architecture or engineering, as defined by the statutory requirements of the professional registration laws of the state in which the project is to be constructed.

Rubbish. See Section 8.16.150 of this chapter.

“Structure” means that which is built or constructed or a portion thereof.

Tenant. See Section 8.16.150 of this chapter.

"Workmanlike" means executed in a skilled manner, e.g., generally plumb, level, square, in line, undamaged, and without marring adjacent work.

Yard. See Section 8.16.150 of this chapter. (Ord. 97-1024 § 1(PM-202))

Article III. General Requirements

8.16.140 General.

A. Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

B. Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in Sections 8.16.190 and 8.16.200 of this chapter. A person shall not occupy as owner-occupant or permit another person to occupy premises which do not comply with the requirements of this chapter.

C. Vacant Structures and Land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety. (Ord. 97-1024 § 1(PM-301))

8.16.150 Definitions.

The following words and terms shall, for the purposes of this chapter and as stated elsewhere in this code, have the meanings shown herein.

"Basement" means that portion of a building which is partly or completely below grade.

"Exterior property" means the open space on the premises and on adjoining property under the control of owners or operators of such premises.

"Extermination" means the control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

"Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

"Infestation" means the presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

"Let for occupancy" or "let" means to permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale.

"Occupant" means any person living or sleeping in a building; or having possession of a space within a building.

"Operator" means any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

"Owner" means any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

"Person" means an individual, corporation, partnership or any other group acting as a unit.

"Premises" means a lot, plot or parcel of land including any structures thereon.

"Public nuisance" means and includes any of the following:

1. The physical condition or occupancy of any premises regarded as a public nuisance at common law;

2. Any physical condition or occupancy or any premises or its appurtenances considered an attractive nuisance to children, including, but not limited to, abandoned wells, shafts, basements, excavations and unsafe fences or structures;

3. Any premises that has unsanitary sewerage or plumbing facilities;

4. Any premises designated as unsafe for human habitation;

5. Any premises that is manifestly capable of being a fire hazard, or is manifestly unsafe or unsecured so as to endanger life, limb or property;

6. Any premises from which the plumbing, heating or facilities required by this code have been removed, or from which utilities have been disconnected, destroyed, removed or rendered ineffective, or the required precautions against trespassers have not been provided;

7. Any premises that is unsanitary, or that is littered with rubbish or garbage, or that has an uncontrolled growth of weeds; or

8. Any structure that is in a state of dilapidation, deterioration or decay; faulty construction; overcrowded; open, vacant or abandoned; damaged by fire to the extent so as not to provide shelter; in danger of collapse or failure; and dangerous to anyone on or near the premises.

"Rubbish" means combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, code and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

"Tenant" means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

"Yard" means an open space on the same lot with a structure. (Ord. 97-1024 § 1(PM-302))

8.16.160 Exterior property areas.

A. Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

B. Grading and Drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Water retention areas and reservoirs approved by the code official.

C. Sidewalks and Driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions. Stairs shall comply with the requirements of the appropriate specialty code.

D. Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of ten inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers, crops and gardens.

E. Rat Harborage. All structures and exterior property shall be kept free from rat infestation. Where rats are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to prevent re-infestation.

F. Exhaust Vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

G. Accessory Structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

H. Motor Vehicles. Except as provided for in other regulations, no currently unregistered or uninspected motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

I. Offensive Odors.

1. No animal, substance, condition, or process shall be kept, maintained or permitted to exist on a premises that causes an odor detectable at the property line of the premises and which is of such degree, intensity, frequency, and duration that it unreasonably interferes with or unreasonably affects the reasonable and ordinary use and enjoyment by reasonable persons of their homes, yards, business premises, city streets, sidewalks, parks and other public property.

2. Temporary odors infrequently occurring caused by such reasonable and necessary activities as retarring roofs, asphaltic paving, house and building painting, spraying vegetation for insect and pest control, fertilizing lawns shall not be defined as odors constituting a violation of this chapter. Likewise, for purposes of this chapter, odors from cooking food for meals from homes, outside barbecues, and restaurants shall not be deemed unreasonably offensive odors.

3. Evidence of emanation of an odor from an animal, substance, condition or process on the property of the producer continuously for a period of more than one hour, and which causes physical or mental discomfort to reasonable persons, or which causes interference with the customary and ordinary use and enjoyment of reasonable persons' property, public streets, sidewalks, or other public property shall be prima facie evidence of violation of this section.

J. Open Storage of Junk. All premises and exterior property shall be kept free from all used or dismantled household appliances, furniture, vehicle parts, other discards, garbage, junk or refuse. (Ord. 98-1037 § 1; Ord. 97-1024 § 1(PM-303))

8.16.170 Exterior structure.

A. General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

B. Exterior Painting. All wood and metal surfaces, including but not limited to, window frames, doors, door frames, cornices, porches and trim shall be maintained in good condition. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted.

C. Street Numbers. Each structure to which a street number has been assigned shall have such number displayed in a position easily observed and readable from the public right-of-way. All numbers shall be in Arabic numerals at least three inches high and one-half-inch stroke.

D. Structural Members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

E. Foundation Walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rats.

F. Exterior Walls. All exterior walls shall be free from holes, breaks, loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

G. Roofs and Drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and down spouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

H. Decorative Features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

I. Overhang Extensions. All canopies, marquees signs, metal awnings, fire escapes, standpipes, exhaust ducts and similar overhang extensions shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

J. Stair and Walking Surfaces. Every stair, ramp, balcony, porch, deck or other walking surface shall comply with the provisions of the applicable adopted specialty code.

K. Stairways, Decks, Porches and Balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

L. Chimneys and Towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

M. Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads of two hundred (200) pounds per square foot and shall be maintained in good condition.

N. Window and Door Frames. Every window, door and frame shall be kept in sound condition, good repair and weather tight.

1. Glazing. All glazing materials shall be maintained free from cracks and holes.

2. Openable Windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

O. Insect Screens. Every door, window and other outside opening utilized or required for ventilation purposes serving any structure containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than sixteen (16) mesh per inch and every swinging door shall have a self-closing device in good working condition.

Exception: Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans are employed.

P. Doors. All exterior doors and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guest rooms shall tightly secure the door.

Q. Basement Hatchways. Every basement hatchway shall be maintained to prevent the entrance of rats, rain and surface drainage water.

R. Guards for Basement Windows. Every basement window that is openable shall be supplied with rat proof shields, storm windows or other approved protection against the entry of rats. (Ord. 97-1024 § 1(PM-304))

8.16.180 Interior structure.

A. General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Every occupant shall keep that part of the structure which such occupant occupies or controls in a clean and sanitary condition. Every owner of a structure containing a rooming house, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

B. Structural Members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

C. Interior Surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling paint, cracked or loose plaster, decayed wood, and other defective surface conditions shall be corrected.

D. Lead-Based Paint. Interior and exterior painted surface of dwellings and child and day care facilities, including fences and outbuildings, which contain lead levels equal to or greater that 1.0 milligram per square centimeter or in excess of 0.50 percent lead by weight shall be maintained in a condition free from peeling, chipping and flaking paint or removed or covered in an approved manner. Any surface to be covered shall first be identified by approved warnings as to the lead content of such surface.

E. Stairs and Railings. All interior stairs and railings shall be maintained in sound condition and good repair.

F. Stairs and Walking Surfaces. Every stair, ramp, balcony, porch, deck or other walking surface shall comply with the provisions of the applicable specialty code.

G. Handrails and Guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads of two hundred (200) pounds per square foot and shall be maintained in good condition. (Ord. 97-1024 § 1(PM-305))

8.16.190 Rubbish and garbage.

A. Accumulation of Rubbish or Garbage. All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage.

B. Disposal of Rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

1. Rubbish Storage Facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

C. Disposal of Garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage container.

1. Garbage Facilities. The owner of every dwelling shall supply one of the following: an approved mechanical food waster grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leak proof, covered, outside garbage container.

2. Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal. (Ord. 97-1024 § 1(PM-306))

8.16.200 Extermination.

A. Infestation. All structures shall be kept free from insect and rat infestation. All structures in which insects or rats are found shall be promptly exterminated by approved processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

B. Owner. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

C. Single Occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for extermination on the premises.

D. Multiple Occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupants shall be responsible for extermination.

E. Occupant. The occupant of any structure shall be responsible for the continued rat-free condition of the structure, and if the occupant fails to maintain the rat-free condition, the cost of extermination shall be the responsibility of the occupant.

Exception: Where rat infestations are caused by defects in the structure, the owner shall be responsible for extermination. (Ord. 97-1024 § 1(PM-307))

Article IV. Reference Standards

8.16.210 References.

ASME--American Society of Mechanical Engineers
345 East 47th Street
New York, NY 10017

--Safety Code for Elevators & Escalators with 1994 Addenda

Codes*
Building Officials and Code
Administrators International, Inc.
4051 West Flossmoor Road
Country Club Hills, IL 60478-5795

--BOCA National Building Code
--BOCA National Fire Prevention Code
--ICC International Mechanical Code
--ICC International Plumbing Code with 1996 Supplement

* All BOCA & ICC publications are available from BOCA

NFPA--National Fire Protection Association
Batterymarch Park
Quincy, MA 02269

--National Electric Code
(Ord. 97-1024 § 1 (Ch. 4))

Chapter 8.20

SOLID WASTE MANAGEMENT

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

8.20.010 Short title.

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

8.20.020 Purpose, policy and scope.

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

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

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

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

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

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

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

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

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

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

10. Provide resource recovery by and through the franchisee.

B. No person shall:

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

2. Accumulate, store, collect, transport, transfer, dispose of or resource recover solid waste except as in compliance with this chapter, other city ordinances, and Chapter 459 Oregon Revised Statutes dealing with solid waste management, and regulations and amendments promulgated under any of the foregoing.

C. Nothing in this chapter shall:

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

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

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

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

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

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

7. Prohibit a contractor employed to demolish, construction, or remodel a 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. 89-899 § 2)

8.20.020

8.20.030 Definitions.

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

"Charitable or nonprofit organization" means any person or persons organized and existing for charitable, benevolent, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purpose, and who is exempt from federal and state income taxes as a nonprofit organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Solid waste" means:

1. All putrescible and nonputrescible 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 Section 3 of Chapter 763, Oregon Laws 1989 and other wastes.

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

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

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

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

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

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

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

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

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

"Waste" means material that is no longer wanted or usable by the source, the source generator or producer of the material, and the material is to be disposed of or resource recovered by another person, and includes both source separated material and nonsource separated materials. (Ord. 98-1049 § 4; Ord. 90-915 § 2; Ord. 89-899 § 3)

8.20.030

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. 04-010 § 1 (Exh. A)(part): Ord. 89-899 § 4)

8.20.040

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) day has 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. 04-010 § 1 (Exh. A)(part))

8.20.045

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 1st 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. 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. 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 insurance with a thirty (30) day cancellation clause in the amount of not less than one million dollars ($1,000,000.00) 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. Provide for the regular collection and disposal of solid waste from city facilities, city parks, city sidewalk containers, and city activity areas and at other locations designated by the city that are within a franchise area at no cost to the city;

H. 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;

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

J. 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;

K. 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;

L. Provide curbside yard debris collection every other week by providing residential customers with a sixty (60) gallon rollcart for such purposes, or provide customers with the equivalent by

providing a fifty (50) gallon compost bin, for the rates established by Table 8.20.080 of this chapter. Current customers shall be required to select an option within thirty (30) days of the effective date of the ordinance codified in this chapter. New customers will be required to select an option within thirty (30) days of establishing solid waste collection service. Thereafter, customers may change options once annually within thirty (30) days of January 1st. The franchisee shall be required to notify all customers of their options in writing, and may after thirty (30) days assign options to customers who have not responded;

M. Provide the opportunity to recycle all residential, commercial and industrial sources of recyclable material in compliance with this chapter, other city ordinances, applicable metropolitan service district 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;

N. 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. 04-010 § 1 (Exh. A)(part); Ord. 94-986 § 1; Ord. 89-899 § 7)

8.20.070

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 service; the type of service; the service required by laws and regulations; or the number, type and location of customer's service; 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 metropolitan service district. 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. 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. The franchisee shall be provided thirty (30) days prior written notice with accompanying justification for a city initiated amendment to the service rate schedule.

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

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

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

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

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

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

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

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

8.20.080

8.20.090 Transfer, suspension, modification or revocation of franchise.

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

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

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

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

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

8.20.090

8.20.100 Preventing interruption of service.

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

8.20.110 Suspension of service.

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

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

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

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

D. Other than for non-payment for provided service, ninety (90) days written 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 (30) day written notice to comply with the applicable service standards. (Ord. 04-010 § 1 (Exh. A)(part); Ord. 89-899 § 11)

8.20.120 Subcontracts.

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

8.20.130 Enforcement officers.

The city manager shall enforce the provisions of this chapter, and his or her agents, including police officers and other employees so designated, may enter affected premises at reasonable times for the purpose of determining compliance with the provisions and terms of this chapter. (Ord. 89-899 § 13)

8.20.140 Containers/collections limitations.

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

1. Solid waste cans provided by the customer shall:

a. Be a standard can or twenty (20) gallon can;

b. Have a round bottom, sides tapering outward to the opening at the top providing for unobstructed dumping of the contents, a bail or two handles on opposite sides, a close fitting lid with handle, watertight waterproof, rodent resistant, and easily cleanable and will not crack or break in freezing weather;

c. Not to exceed sixty (60) pounds gross loaded weight.

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

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

4. On the scheduled collection day, the carry-out service customers shall provide safe access to a pickup point which does not jeopardize the safety of the driver of a collection vehicle or the motoring public or create a hazard or risk to the person providing the service. Cans, tote barrels and containers must be visible from a public right-of-way which may be serviced and driven to by collection vehicles where practical. This form of access must not require the collector to pass behind an automobile or other vehicle or to pass under low hanging obstructions such as eaves, tree branches, clotheslines or electrical wires which obstruct safe passage to and from cans. Cans must be at ground level, outside of garages, fences and other enclosures, and within one hundred (100) feet of the straight right-of-way or curb. Where the city manager, or his or her designee, finds that a private bridge, culvert or other private structure or road is incapable or safely carrying the weight of the collection vehicle, the collector shall not enter onto such structure or road, and customer shall provide a safe alternative access point or system.

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

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

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

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

9. No person shall place any hazardous waste as defined by or pursuant to ORS Chapter 466 out for collection by the franchisee or place it in any container supplied by the franchisee without prior

written notification and acceptance by the franchisee and also upon compliance with any requirements of ORS Chapter 466 and any rules or regulations thereunder.

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

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

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

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

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

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

8.20.150 Offensive waste prohibited.

No person shall have waste on his or her property that is offensive or hazardous to the health or safety of others or which creates offensive odors or a condition of unsightliness. (Ord. 89-899 § 15)

8.20.160 Unauthorized deposit prohibited.

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

8.20.170 Violation--Penalty.

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

Title 9

PUBLIC PEACE, MORALS AND WELFARE

Chapters:

9.04 Introductory Provisions

9.08 Oregon Criminal Statutes

9.12 Classification of Offenses

9.16 Disposition of Offenders

9.20 Offenses By or Against Public Officers and Government

9.24 Offenses Against the Person

9.28 Theft and Related Offenses

9.32 Offenses Against Property

9.36 Offenses Against Public Peace and Decency

9.40 Curfew

9.44 Nuisances

9.46 Abatement of Noxious Weeds

9.48 Criminal Procedure

9.50 Possession, Manufacture or Delivery of Drug Paraphernalia

9.52 Prohibiting of Noise

9.56 Prohibits Use of Tobacco Products on City Property

Chapter 9.04

INTRODUCTORY PROVISIONS

Sections:

9.04.010 Short title.

9.04.020 Purposes--Principles of construction.

9.04.030 Application of provisions.

9.04.010 Short title.

The ordinance codified in this title shall be known as the police code of the city of Sherwood, and may be cited and pleaded. (Ord. 98-1044 § 1 (part): Ord. 641 § I(1), 1974)

9.04.020 Purposes--Principles of construction.

A. The general purposes of the provisions of this title are:

1. To ensure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized;

2. To forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to individual or public interests;

3. To give fair warning of the nature of the conduct declared to constitute an offense and of the sentences authorized upon conviction;

4. To define the act or omission and the accompanying mental state that constitute each offense;

5. To differentiate on reasonable grounds between serious and minor offenses;

6. To prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders;

7. To safeguard offenders against excessive, disproportionate or arbitrary punishment.

B. The rule that a penal statute is to be strictly construed shall not apply to this title or any of its provisions. All provisions of this title shall be construed according to the fair import of their terms, to promote justice and to effect the purposes stated in subsection A of this section. (Ord. 98-1044 § 1 (part): Ord. 641 § I(2), 1974)

9.04.030 Application of provisions.

A. The provisions of this title shall govern the construction of and punishment for any offense defined in this title and committed after the effective date hereof, as well as the construction and application of any defense to a prosecution for such an offense.

B. Except as otherwise expressly provided, or unless the context so requires otherwise, the provisions of this title shall govern the construction of and punishment for any offense defined outside this title and committed after the effective date hereof, as well as the construction and application of any defense to a prosecution for such an offense.

C. The provisions of this title shall not apply to or govern the construction of and punishment for any offense committed before the effective date of the ordinance codified in this title, or the construction and application of any defense to a prosecution for such an offense. Such an offense shall be construed and punished according to the law existing at the time of the commission of the offense in the same manner as if this title had not been enacted. (Ord. 98-1044 § 1 (part): Ord. 641 § I(3), 1974)

Chapter 9.08

OREGON CRIMINAL STATUTES

Sections:

9.08.010 Adopted.

9.08.020 Use of certain terms.

9.08.030 General principles of liability.

9.08.040 Parties.

9.08.050 General principles of justification.

9.08.060 General definitions-- Defenses--Burden of proof.

9.08.070 Definitions and defenses relating to perjury and related offenses.

9.08.080 Definition relating to obstructing governmental administration.

9.08.010 Adopted.

By virtue of the authority contained in ORS 221.330, all those sections of the Oregon Revised Statutes hereinafter listed in this chapter be and each thereof are adopted by this reference, section by section, paragraph by paragraph, word by word, in the entirety in all respects to the same legal force and effect as if set forth herein in full. Notwithstanding that the provisions herein adopted by reference from Oregon General Statutes apply to criminal proceedings, the character of all offenses punishable under this code is not criminal but civil in nature. Use of the terms “crime” or “criminal” in said statutes with reference to conduct, acts, liability, or any other term shall not be read so as to convert civil offenses under this code to be criminal acts or offenses requiring application of constitutional rights uniquely applicable to criminal offenses. (Ord. 98-1044 § 2(A): Ord. 641 § II(1), 1974)

9.08.020 Use of certain terms.

Whenever reference in the hereinafter cited sections of Oregon Revised Statutes is made to:

A. “Oregon Criminal Code,” it shall mean the police code of the city of Sherwood.

B. “State,” it shall mean the city of Sherwood.

C. “Court,” it shall mean the municipal court of the city of Sherwood. (Ord. 641 § II(2), 1974)

9.08.030 General principles of liability.

A. ORS 161.085. Definitions with respect to culpability.

B. ORS 161.095. Requirements of culpability.

C. ORS 161.105. Culpability requirements inapplicable to certain violations and offenses.

D. ORS 161.115. Construction of statutes with respect to culpability.

E. ORS 161.125. Intoxication. (Ord. 98-1044 § 2(B): Ord. 641 § II(3), 1974)

9.08.040 Parties.

A. ORS 161.150. Liability described.

B. ORS 161.155. Liability for the conduct of another.

C. ORS 161.160. Defense to liability for conduct of another.

D. ORS 161.165. Exemptions to liability for conduct of another.

E. ORS 161.170. Liability of corporations.

F. ORS 161.175. Liability of an individual for corporate conduct. (Ord. 98-1044 § 2(C): Ord. 641 § II(4), 1974)

9.08.050 General principles of justification.

A. ORS 161.190. Justification as a defense.

B. ORS 161.195. “Justification” described.

C. ORS 161.200. Choice of evils.

D. ORS 161.205. Use of physical force generally.

E. ORS 161.209. Use of physical force in defense of a person.

F. ORS 161.215. Limitation on use of physical force in defense of a person.

G. ORS 161.219. Limitations on use of deadly physical force in defense of a person.

H. ORS 161.225. Use of physical force in defense of premises.

I. ORS 161.229. Use of physical force in defense of property.

J. ORS 161.235. Use of physical force in making an arrest or in preventing an escape.

K. ORS 161.239. Use of deadly physical force in making an arrest or in preventing an escape.

L. ORS 161.245. “Reasonable belief” described; status of unlawful arrest.

M. ORS 161.249. Use of physical force by private person assisting an arrest.

N. ORS 161.255. Use of physical force by a private person making citizen’s arrest.

O. ORS 161.260. Use of physical force in resisting arrest prohibited.

P. ORS 161.265. Use of physical force to prevent escape.

Q. ORS 161.270. Duress.

R. ORS 161.275. Entrapment. (Ord. 641 § II(5), 1974)

9.08.060 General definitions-- Defenses--Burden of proof.

A. ORS 161.015. General definitions.

B. ORS 161.055. “Defense” and “raised by defendant” defined, burden of proof. (Ord. 641 § II(6), 1974)

9.08.070 Definitions and defenses relating to perjury and related offenses.

A. ORS 162.055. Definitions.

B. ORS 162.095. Defenses to perjury and false swearing limited.

C. ORS 162.105. Retraction as a defense.

D. ORS 162.115. Corroboration of falsity required. (Ord. 641 § II(7), 1974)

9.08.080 Definition relating to obstructing governmental administration.

A. ORS 162.225. Definitions. (Ord. 98-1044 § 2(D): Ord. 641 § II(8), 1974)

Chapter 9.12

CLASSIFICATION OF OFFENSES

Sections:

9.12.010 Offenses--Definitions.

9.12.020 Violations--Definitions.

9.12.030 Violations--Classification.

9.12.040 Infractions--
Classification.

9.12.050 Inchoate crimes-- Attempt--Definition.

9.12.010 Offenses--Definitions.

A. An offense is conduct for which a sentence to pay a fine is provided by any ordinance of this city. An offense is a violation.

B. The doing of any act or thing prohibited, or the failure to do an act or thing commanded to be done, by this code within the corporate limits of the city of Sherwood, is declared to be an offense against the public peace, safety, health, morals and general welfare of the people of the city of Sherwood. (Ord. 98-1044 § 3(1): Ord. 641 § III (part), 1974)

9.12.020 Violations--Definitions.

An offense is a violation if it is so designated in the ordinance defining the offense or if the offense is punishable only by a fine, forfeiture, fine and forfeiture, or other civil penalty.

Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime. (Ord. 98-1044 § 3(2): Ord. 641 § III (part), 1974)

9.12.030 Violations--Classification.

A. Violations are classified for the purpose of sentence into the following categories:

1. Class A violations;

2. Class B violations;

3. Class C violations;

4. Unclassified violations.

B. The particular classification of each violation defined in this code is expressly designated in the section defining the offense. An offense defined outside this code which provides a penalty for the offense in the ordinance defining said offense shall be considered an unclassified violation.

C. An offense defined by ordinance of this city, but without specification as to its classification or as to the penalty authorized upon conviction, shall be a considered a Class A violation. (Ord. 98-1044 § 3(3): Ord. 641 § III (part), 1974)

9.12.040 Infractions--Classification.

A. Any infraction defined in this code is expressly designated in the section defining the offense. Any offense defined outside this code which is punishable as provided in Chapter 9.16 of this title, shall be considered an infraction.

B. Infractions are not classified. (Ord. 98-1044 § 3(4): Ord. 641 § III (part), 1974)

9.12.050 Inchoate crimes--Attempt-- Definition.

A. A person is guilty of an attempt to commit a violation when he or she intentionally engages in conduct which constitutes a substantial step toward the commission of the violation.

B. An attempt is a:

1. Class B violation, if the offense attempted is a Class A violation;

2. Class C, if the offense attempted is a Class B violation;

3. Infraction, if the offense attempted is a Class C violation, or an unclassified violation. (Ord. 98-1044 § 3(5): Ord. 641 § III (part), 1974)

Chapter 9.16

DISPOSITION OF OFFENDERS

Sections:

9.16.010 Fines for violations and infractions.

9.16.020 Criteria for imposition of fines.

9.16.030 Costs.

9.16.040 Time and method of payment of fines and costs.

9.16.010 Fines for violations and infractions.

A. A sentence to pay a fine for a violation or infraction shall be a sentence to pay an amount, fixed by the court, not exceeding:

1. One thousand dollars ($1,000.00) for a Class A violation;

2. Five hundred dollars ($500.00) for a Class B violation;

3. Two hundred fifty dollars ($250.00) for a Class C violation;

4. One hundred dollars ($100.00) for an infraction unless otherwise stated in the ordinance provisions defining the infraction.

B. A sentence to pay a fine for an unclassified violation shall be a sentence to pay an amount, fixed by the court, as provided in the ordinance defining the offense. (Ord. 98-1044 § 4(1): Ord. 641 § IV (part), 1974)

9.16.020 Criteria for imposition of fines.

In determining whether to impose a fine and its amount, the court shall consider:

A. The financial resources of the defendant and the burden that payment of a fine will impose, with due regard to the other obligations of the defendant; and

B. The ability of the defendant to pay a fine on an installment basis or on other conditions to be fixed by the court. (Ord. 98-1044 § 4(2): Ord. 641 § IV (part), 1974)

9.16.030 Costs.

A. The court may require a convicted defendant to pay costs.

B. Costs shall be limited to expenses specially incurred by the city in prosecuting the defendant.

C. The court shall not sentence a defendant to pay costs unless the defendant is or will be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

D. A defendant who has been ordered to pay costs and who is not in contumacious default in the payment thereof, may at any time petition the court which sentenced him or her for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may remit all or part of the amount due in costs, or modify the method of payment under Section 9.16.040 of this chapter. (Ord. 98-1044 § 4(3): Ord. 641 § IV (part), 1974)

9.16.040 Time and method of payment of fines and costs.

When a defendant has had judgment given against him or her to pay a fine or costs, the court may grant permission for payment to be made within a specified period of time or in specified installments. If no such permission is included in the judgment, the fine shall be payable forthwith. (Ord. 98-1044 § 4(4): Ord. 641 § IV (part), 1974)

Chapter 9.20

OFFENSES BY OR AGAINST PUBLIC OFFICERS AND GOVERNMENT

Sections:

9.20.010 False swearing.

9.20.020 Unsworn falsification.

9.20.030 Obstructing governmental administration.

9.20.040 Refusing to assist a peace officer.

9.20.050 Refusing to assist in firefighting operations.

9.20.060 Tampering with physical evidence.

9.20.070 Tampering with public records.

9.20.080 Resisting arrest.

9.20.090 Initiating a false report.

9.20.100 Unlawful impersonation.

9.20.010 False swearing.

A. A person commits false swearing if he or she makes a false sworn statement, knowing it to be false.

B. False swearing is a Class A violation. (Ord. 98-1044 § 17(1): Ord. 641 § VII(1), 1974)

9.20.020 Unsworn falsification.

A. A person commits unsworn falsification if he or she knowingly makes any false written statement to a public servant in connection with an application for any benefit.

B. Unsworn falsification is a Class B violation. (Ord. 98-1044 § 17(2): Ord. 641 § VII(2), 1974)

9.20.030 Obstructing governmental administration.

A. A person commits obstructing governmental administration if he or she intentionally obstructs, impairs or hinders the administration of law or other governmental function by means of intimidation, force, physical interference or obstacle.

B. This section shall not apply to obstruction of unlawful governmental action or interference with the making of an arrest.

C. Obstructing governmental administration is a Class A violation. (Ord. 98-1044 § 17(3): Ord. 641 § VII(4), 1974)

9.20.040 Refusing to assist a peace officer.

A. A person commits the offense of refusing to assist a peace officer if, upon command by a person known by him or her to be a peace officer, he or she unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime or violation.

B. Refusing to assist a peace officer is a Class B violation. (Ord. 98-1044 § 17(4): Ord. 641 § VII(5), 1974)

9.20.050 Refusing to assist in firefighting operations.

A. A person commits the offense of refusing to assist in firefighting operations if:

1. Upon command by a person known by him or her to be a firefighter, he or she unreasonably refuses or fails to assist in extinguishing a fire or protecting property threatened thereby; or

2. Upon command by a person known by him or her to be a firefighter or peace officer, he or she intentionally and unreasonably disobeys a lawful order relating to his or her conduct in the vicinity of a fire.

B. Refusing to assist in firefighting operations is a Class B violation. (Ord. 98-1044 § 17(5): Ord. 641 § VII(6), 1974)

9.20.060 Tampering with physical evidence.

A. A person commits the offense of tampering with physical evidence if, with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, he or she:

1. Destroys, mutilates, alters, conceals or removes physical evidence impairing its verity or availability; or

2. Knowingly makes, produces or offers any false physical evidence; or

3. Prevents the production of physical evidence by an action of force, intimidation or deception against any person.

B. Tampering with physical evidence is a Class A violation. (Ord. 98-1044 § 17(6): Ord. 641 § VII(8), 1974)

9.20.070 Tampering with public records.

A. A person commits tampering with public records if, without lawful authority, he or she knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record.

B. Tampering with public records is a Class A violation. (Ord. 98-1044 § 17(7): Ord. 641 § VII(9), 1974)

9.20.080 Resisting arrest.

A. A person commits resisting arrest if he or she intentionally resists a person known by him or her to be a peace officer in making an arrest.

B. "Resists," as used in this section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.

C. It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest; provided, he or she was acting under color of his or her official authority.

D. Resisting arrest is a Class A violation. (Ord. 98-1044 § 17(8): Ord. 641 § VII(10), 1974)

9.20.090 Initiating a false report.

A. A person commits initiating a false report if he or she knowingly initiates a false alarm or report which is transmitted to a fire department, law enforcement agency or other organization that deals with emergencies involving danger to life or property.

B. Initiating a false report is a Class C violation. (Ord. 98-1044 § 17(9): Ord. 641 § VII(11), 1974)

9.20.100 Unlawful impersonation.

A. A person commits unlawful impersonation if, with intent to obtain a benefit or to injure or defraud another, he or she falsely impersonates a public servant and does an act in such assumed character.

B. Unlawful impersonation is a Class A violation. (Ord. 98-1044 § 17(10): Ord. 641 § VII(12), 1974)

Chapter 9.24

OFFENSES AGAINST THE PERSON

Sections:

9.24.010 Assault in the fourth degree.

9.24.020 Menacing.

9.24.030 Recklessly endangering another person.

9.24.040 Public indecency.

9.24.010 Assault in the fourth degree.

A. A person commits assault in the fourth degree if he or she:

1. Intentionally, knowingly or recklessly causes physical injury to another; or

2. With criminal negligence causes physical injury to another by means of a deadly weapon.

B. Assault in the fourth degree is a Class A violation. (Ord. 98-1044 § 5(1): Ord. 641 § V(1), 1974)

9.24.020 Menacing.

A. A person commits the crime of menacing if, by word or conduct, he or she intentionally attempts to place another person in fear of imminent serious physical injury.

B. Menacing is a Class A violation. (Ord. 98-1044 § 5(2): Ord. 641 § V(2), 1974)

9.24.030 Recklessly endangering another person.

A. A person commits recklessly endangering another person if he or she recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.

B. Recklessly endangering another person is a Class A violation. (Ord. 98-1044 § 5(3): Ord. 641 § V(3), 1974)

9.24.040 Public indecency.

A. A person commits public indecency if, while in or in view of a public place, he or she performs:

1. An act of sexual intercourse; or

2. An act of deviate sexual intercourse; or

3. An act of exposing his or her genitals with the intent of arousing the sexual desire of himself or herself or another person.

B. Public indecency is a Class A violation. (Ord. 98-1044 § 5(4): Ord. 641 § V(4), 1974)

Chapter 9.28

THEFT AND RELATED OFFENSES

Sections:

9.28.010 Definitions.

9.28.020 Consolidation of theft offenses--Pleading and proof.

9.28.030 Theft--Definition.

9.28.040 Theft in the second degree.

9.28.050 Theft of lost, mislaid property.

9.28.060 Theft by deception.

9.28.070 Theft by receiving.

9.28.080 Right of possession.

9.28.090 Value of stolen property.

9.28.100 Theft--Defenses.

9.28.110 Theft of services.

9.28.010 Definitions.

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

"Appropriate property of another to oneself or a third person" or "appropriate" means to:

1. Exercise control over property of another, or to aid a third person to exercise control over property of another, permanently or for so extended a period or under such circumstances as to acquire the major portion of the economic value or benefit of such property; or

2. Dispose of the property of another for the benefit of oneself or a third person,

"Deprive another of property" or "deprive" means to:

1. Withhold property of another or cause property of another to be withheld from him or her permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him or her; or

2. Dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

"Obtain" means and includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.

"Owner of the property taken, obtained or withheld" or "owner" means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.

"Property" means any article, substance or thing of value, including but not limited to money, tangible and intangible personal property, real property, choses-in-action, evidence of debt or of contract. (Ord. 641 § VI(1), 1974)

9.28.020 Consolidation of theft offenses--Pleading and proof.

A. Conduct denominated theft under Section 9.28.040 of this chapter constitutes a single offense.

B. An accusation of theft is sufficient if it alleges that the defendant committed theft of property of the nature or value required for the commission of the crime charged, without designating the particular way or manner in which the theft was committed.

C. Proof that the defendant engaged in conduct constituting theft, as defined in Section 9.28.040 of this chapter, is sufficient to support any information or complaint for theft. (Ord. 641 § VI(2), 1974)

9.28.030 Theft--Definition.

A person commits theft when, with intent to deprive another of property or to appropriate property to himself or herself or to a third person, he or she:

A. Takes, appropriates, obtains or withholds such property from an owner thereof; or

B. Commits theft of property lost, mislaid or delivered by mistake, as provided in Section 9.28.050 of this chapter; or

C. Commits theft by deception, as provided in Section 9.28.060 of this chapter; or

D. Commits theft by receiving, as provided in Section 9.28.070 of this chapter. (Ord. 641 § VI(3), 1974)

9.28.040 Theft in the second degree.

A person commits theft in the second degree if, by other than extortion, he or she:

A. Commits theft as defined in Section 9.28.030 of this chapter; and

B. The total value of the property in a single or aggregate transaction is under two hundred dollars ($200.00). (Ord. 98-1044 § 6: Ord. 641 § VI(4), 1974)

9.28.050 Theft of lost, mislaid property.

A person who comes into control of property of another that he or she knows or has good reason to know to have been lost, mislaid or delivered under a mistake as to the nature or

amount of the property or the identity of the recipient, commits theft if, with intent to deprive the owner thereof, he or she fails to take reasonable measures to restore the property to the owner. (Ord. 641 § VI(5), 1974)

9.28.060 Theft by deception.

A. A person, who obtains property of another thereby, commits theft by deception when, with intent to defraud, he or she:

1. Creates or confirms another's false impression of law, value, intention or other state of mind which the actor does not believe to be true; or

2. Fails to correct a false impression which he or she previously created or confirmed; or

3. Prevents another from acquiring information pertinent to the disposition of the property involved; or

4. Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or

5. Promises performance which he or she does not intend to perform or knows will not be performed.

B. "Deception" does not include falsity as to matters having no pecuniary significance, or representations unlikely to deceive ordinary persons in the group addressed.

C. In a prosecution for theft by deception, the defendant's intention or belief that a promise would not be performed shall not be established by or inferred from the fact alone that such promise was not performed.

D. In a prosecution for theft by deception committed by means of a bad check, it is prima facie evidence of knowledge that the check or order would not be honored if:

1. The drawer has no account with the drawee at the time the check or order is drawn or uttered; or

2. Payment is refused by the drawee for lack of funds, upon presentation within thirty (30) days after the date of utterance, and the drawer fails to make good within ten days after receiving notice of refusal. (Ord. 641 § VI(6), 1974)

9.28.070 Theft by receiving.

A. A person commits theft by receiving if he or she receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft.

B. "Receiving" means acquiring possession, control or title, or lending on the security of the property. (Ord. 641 § VI(7), 1974)

9.28.080 Right of possession.

Right of possession of property is as follows:

A. A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of a person who takes, obtains or withholds the property from him or her by means of theft.

B. A joint or common owner of property shall not be deemed to have a right of possession of the property superior to that of any other joint or common owner of the property.

C. In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having only a security interest in the property, even if legal title to the property lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement. (Ord. 641 § VI(8), 1974)

9.28.090 Value of stolen property.

For the purposes of this code, the value of property shall be ascertained as follows:

A. Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime or, if such cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.

B. Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value, shall be evaluated as follows:

1. The value of an instrument constituting an evidence of debt, including but not limited to a check, draft or promissory note, shall be considered the amount due or collectible thereon or thereby.

2. The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be considered the greatest amount of economic loss which the owner might reasonably suffer because of the loss of the instrument.

C. When the value of property cannot reasonably be ascertained, it shall be presumed to be an amount less than two hundred dollars ($200.00). (Ord. 641 § VI(9), 1974)

9.28.100 Theft--Defenses.

A. In a prosecution for theft, it is a defense that the defendant acted under an honest claim of right, in that:

1. The defendant was unaware that the property was that of another; or

2. The defendant reasonably believed that he or she was entitled to the property involved or had a right to acquire or dispose of it as he or she did.

B. In a prosecution for theft by receiving, it is a defense that the defendant received, retained, concealed or disposed of the property with the intent of restoring it to the owner.

C. It is a defense that the property involved was that of the defendant's spouse, unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft. (Ord. 641 § VI(10), 1974)

9.28.110 Theft of services.

A. A person commits theft of services, if:

1. With intent to avoid payment therefor, he or she obtains services that are available only for compensation, by force, threat, deception or another means to avoid payment for the services; or

2. Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, he or she uses or diverts to the use of himself or herself

or a third person such labor, equipment or facilities with intent to derive a commercial benefit for himself or herself or a third person not entitled thereto.

B. As used in this section, “services” includes, but is not limited to, labor, professional services, toll facilities, transportation, telephone or other communications services, entertainments, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.

C. Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained by deception.

D. Theft of services is a Class A violation. (Ord. 98-1044 § 7: Ord. 641 § VI(11), 1974)

Chapter 9.32

OFFENSES AGAINST PROPERTY

Sections:

9.32.010 Trespass--Definitions.

9.32.020 Trespass in the second degree.

9.32.030 Trespass in the first degree.

9.32.040 Reckless burning.

9.32.050 Unlawful mischief in the third degree.

9.32.060 Unlawful mischief in the second degree.

9.32.070 Destruction of official notices and signs.

9.32.080 Improper garbage transportation.

9.32.090 Failing to remove snow or ice.

9.32.010 Trespass--Definitions.

As used in Sections 9.32.020 through 9.32.060 of this chapter, except as the context otherwise requires:

"Building," in addition to its ordinary meaning, includes any booth, vehicle, boat, aircraft or other structure adapted for overnight accommodations of persons or for carrying on business therein. Where a building consists of separate units, including but not limited to separate apartments, offices or rented rooms, each unit is, in addition to being a part of such building, a separate building.

"Dwelling" means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.

"Enter or remain unlawfully" means:

1. To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public or when the entrant is not otherwise licensed or privileged to do so; or

2. To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge.

"Open to the public" means premises which by their physical nature, function, custom, usage, notice or lack thereof, or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required.

"Person in charge" means a person, his or her representative or his or her employee who has lawful control of premises by ownership, tenancy, official position or other legal relationship. It includes, but is not limited to the person or holder of a position, designated as the person or position-holder in charge by the governor, board, commission or governing body of any political subdivision of this state.

"Premises" includes any building and any real property, whether privately or publicly owned.

"Property of another" means property in which anyone other than the actor has a possessory or proprietary interest. (Ord. 98-1044 § 8; Ord. 641 § VI(12), 1974)

9.32.020 Trespass in the second degree.

A. A person commits trespass in the second degree if he or she enters or remains unlawfully in or upon premises.

B. A person commits trespass in the second degree if he or she permits, brings or allows any horse, mule, donkey or other such animal, whether or not attended, at any time on any site or lands of School District #88J within the city of Sherwood, unless directed or permitted to do so by the administrative officers of the district.

C. A person commits trespass in the second degree if he or she, uses, operates or rides upon any motorized vehicle on or within any lands of School District #88J, within the city of Sherwood, improved for school site purposes, other than on or within driveways, parking areas and other areas specially designated for vehicular use, unless directed to do so by the administrative officers of the district.

D. Trespass in the second degree is a Class C violation. (Ord. 98-1044 § 9: Ord. 641 § VI(13), 1974)

9.32.030 Trespass in the first degree.

A. A person commits trespass in the first degree if he or she enters or remains unlawfully in a dwelling.

B. Trespass in the first degree is a Class A violation. (Ord. 98-1044 § 10: Ord. 641 § VI(14), 1974)

9.32.040 Reckless burning.

A. A person commits reckless burning if he or she recklessly damages property of another by fire or explosion.

B. Reckless burning is a Class A violation. (Ord. 98-1044 § 11: Ord. 641 § VI(15), 1974)

9.32.050 Unlawful mischief in the third degree.

A. A person commits unlawful mischief in the third degree if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that he or she has such right, he or she tampers or interferes with property of another.

B. Unlawful mischief in the third degree is a Class C violation. (Ord. 98-1044 § 12: Ord. 641 § VI(16), 1974)

9.32.060 Unlawful mischief in the second degree.

A. A person commits unlawful mischief in the second degree if:

1. He or she violates Section 9.32.050 of this chapter and as a result thereof damages property in an amount exceeding one hundred dollars ($100.00); or

2. Having no right to do so nor reasonable ground to believe that he or she has such right, he or she intentionally damages property of another, or he or she recklessly damages property of another in an amount exceeding one hundred dollars ($100.00).

B. Unlawful mischief in the second degree is a Class A violation. (Ord. 98-1044 § 13: Ord. 641 § VI(17), 1974)

9.32.070 Destruction of official notices and signs.

A. A person commits the offense of destruction of official notices and signs if he or she defaces or tears down any official notice or bulletin, or any official sign or signal posted or placed in conformity with law.

B. Destruction of official notices and signs is a Class B violation. (Ord. 98-1044 § 16: Ord. 641 § VI(20), 1974)

9.32.080 Improper garbage transportation.

A. It be unlawful for any person to carry any garbage, filth or refuse along any sidewalk or transport any garbage, swill or refuse through any street, except in a covered wagon or in a tightly covered box or apparatus, such wagon, box or apparatus to be fastened down over the entire contents of the load as to prevent such contents from leaking, spilling, dropping, or in any manner being deposited in the street, or from being exposed to the open air during such transportation.

B. Improper garbage transportation is a Class C violation. (Ord. 98-1044 § 24; Ord. 641 § VIII(13), 1974)

9.32.090 Failing to remove snow or ice.

A. A person commits the offense of failing to remove snow or ice if he or she, being the tenant, occupant or person having the care of a building or of land bordering on a street where there is a sidewalk, or if there be no tenant, occupant or caretaker, then the owner thereof:

1. Fails or neglects, within the first six hours of daylight after snow ceases to fall, to remove the snow from the entire length of said premises for a space not less than three feet in width. This section shall apply also to snow which has fallen from any roof or building.

2. Fails, in the event any portion of said sidewalk is covered with ice, to cause such sidewalk to be made safe for travel by covering same with sand, ashes, or some other suitable substance within the first six hours of daylight after the formation of said ice.

B. Failing to remove snow or ice is a Class C violation. (Ord. 98-1044 § 26: Ord. 641 § VIII(16), 1974)

Chapter 9.36

OFFENSES AGAINST PUBLIC PEACE AND DECENCY

Sections:

9.36.010 Littering or dumping of rubbish.

9.36.020 Poisoning dogs.

9.36.030 Disorderly conduct.

9.36.040 Harassment.

9.36.050 Abuse of venerated objects.

9.36.060 Offensive littering.

9.36.070 Creating a hazard.

9.36.080 Misrepresentations of age by a minor.

9.36.090 Sale or gift of liquor to minor, intoxicated or interdicted person.

9.36.100 Purchase or possession of alcoholic liquor by minor.

9.36.110 Blasting without permit.

9.36.120 Unlawful use of sidewalks.

9.36.130 Unlawful sale and use of fireworks.

9.36.140 Unlawful discharge of weapons.

9.36.150 Expectoration.

9.36.010 Littering or dumping of rubbish.

Any person who throws, dumps, places, deposits, or drains, or causes or permits to be drained upon the land of another, without permission of the owner, or upon any public road, highway, street, alley, or any easement used by the public for public travel, referred to later in this section as a public way, any cans, glass, nails, tacks, broken dishes or crockery, carcass of any dead animal, old clothing, old automobile tires, old automobile parts, boards, metal, or any sort of rubbish, trash, debris, or refuse, or any sewage or the drainage from any cesspool or septic tank, or any substance which would mar the appearance, create a stench, or detract from the cleanliness or safety of such public way, or would be likely to injure any animal, vehicle, or person traveling upon such public way, shall be punished, upon conviction, by a fine not to exceed five hundred dollars ($500.00). Violation of this section is a civil infraction. (Ord. 97-1034 § 1: Ord. 560, 1967)

9.36.020 Poisoning dogs.

A. A person commits the offense of poisoning a dog or dogs if, with intent to kill or injure any dog or dogs, he or she puts out or places, where it is likely to be eaten by any dog or dogs, any meat, food or substance containing poison, ground glass or other substance likely to kill or seriously injure any dog.

B. The offense of poisoning dogs is a Class B violation. (Ord. 98-1044 § 15: Ord. 641 § VI(19), 1974)

9.36.030 Disorderly conduct.

A. A person commits disorderly conduct if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he or she:

1. Engages in fighting or in violent, tumultuous or threatening behavior; or

2. Makes unreasonable noise; or

3. Disturbs any lawful assembly of persons without lawful authority; or

4. Obstructs vehicular or pedestrian traffic on a public way; or

5. Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or

6. Initiates or circulates a report, knowing it to be false, concerning an alleged or pending fire, explosion, fire, catastrophe or other emergency; or

7. Creates a hazardous or physically offensive condition by any act which he or she is not licensed or privileged to do.

B. Disorderly conduct is a Class B violation. (Ord. 98-1044 § 18: Ord. 641 § VIII(1), 1974)

9.36.040 Harassment.

A. A person commits harassment if the person intentionally:

1. Harasses or annoys another person by:

a. Subjecting such other person to offensive physical contact; or

b. Publicly insulting such other person by abusive words or gestures in a manner intended and likely to provoke a violent response;

2. Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm; or

3. Subjects another to alarm by conveying a telephonic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm.

B. A person is liable for harassment if the person knowingly permits any telephone under the person's control to be used in violation of subsection A of this section.

C. Harassment is a Class B violation.

D. Notwithstanding subsection C of this section, harassment is a Class A violation if a person violates subsection A of this section by subjecting another person to offensive physical contact and the offensive physical contact consists of touching the sexual or other intimate parts of the other person. (Ord. 98-1044 § 20: Ord. 97-1026 § 1; Ord. 641 § VIII(4), 1974)

9.36.050 Abuse of venerated objects.

A. A person commits abuse of venerated objects if he or she intentionally abuses a public monument or structure or a place of worship or burial.

B. As used in this section, "abuse" means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.

C. Abuse of venerated objects is a Class C violation. (Ord. 98-1044 § 21 (part): Ord. 641 § VIII(5), 1974)

9.36.060 Offensive littering.

A. A person commits offensive littering if he or she creates an objectionable stench, or degrades the beauty or appearance of property, or detracts from the natural cleanliness or safety of property by intentionally:

1. Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way; or

2. Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

3. Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he or she is operating; except, that this subsection will not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the interstate commerce commission or the department of transportation, or a person operating a school bus described under ORS 801.460.

B. As used in this section, "public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or a local municipality for use by the general public.

C. Offensive littering is a Class C violation. (Ord. 98-1044 § 21 (part): Ord. 641 § VIII(6), 1974)

9.36.070 Creating a hazard.

A. A person commits the offense of creating a hazard if:

1. He or she intentionally maintains or leaves in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot easily be opened from the inside; or

2. Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of twelve (12) inches or more, he or she intentionally fails or refuses to cover or fence it with a suitable protective construction.

B. Creating a hazard is a Class B violation. (Ord. 98-1044 § 21 (part): Ord. 641 § VIII(7), 1974)

9.36.080 Misrepresentations of age by a minor.

A. A person commits misrepresentation of age by a minor if:

1. Being less than a certain, specified age, he or she knowingly represents himself or herself to be of any age other than his or her true age with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or

2. Being unmarried, he or she knowingly represents that he or she is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.

B. Misrepresentation of age by a minor is a Class C violation. (Ord. 98-1044 § 21 (part): Ord. 641 § VIII(8), 1974)

9.36.090 Sale or gift of liquor to minor, intoxicated or interdicted person.

A. No person shall sell alcoholic liquor to any person under the age of twenty-one (21) years, to a person who is visibly intoxicated, or to a person who has been interdicted.

B. No person other than his or her parent or guardian shall give or otherwise make available any alcoholic liquor to any person under the age of twenty-one (21) years.

C. Sale or gift of liquor to a minor, intoxicated or interdicted person is a Class B violation. (Ord. 98-1044 § 22(a): Ord. 641 § VIII(10), 1974)

9.36.100 Purchase or possession of alcoholic liquor by minor.

A. No person under the age of twenty-one (21) years shall attempt to purchase, purchase or acquire alcoholic liquor. Except when such minor is in a private residence accompanied by his or her parent or guardian and with such parent's or guardian's consent, no person under the age of twenty-one (21) years shall have in his or her possession alcoholic liquor.

B. For the purpose of subsection A of this section, possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor, or any portion thereof, or a drink of such liquor. However, the provisions of subsection A of this section do not prohibit the consumption by any person of sacramental wine as part of a religious rite or service.

C. Purchase or possession of alcoholic liquor by a minor is a Class C violation. (Ord. 98-1044 § 22(b); Ord. 641 § VIII(11), 1974)

9.36.110 Blasting without permit.

A. No person shall, without having first received a permit from the city engineer, explode or cause to be exploded any gunpowder, dynamite or other explosive for any purpose.

B. The city engineer, before issuing a permit for blasting, shall require the person to whom the permit is to be issued, to specify the location where the blasting is to be done, and shall further require insurance for such amounts as he or she may deem necessary to protect the city and any person or property in said city from all damage or loss that might result from such blasting, and to protect the city, its officers, agents and employees, from all claims for such damage or loss.

Evidence of such insurance, in a form satisfactory to the city attorney, shall be filed with the city engineer, and shall not be less than fifty thousand dollars ($50,000.00) for injury to one person, one hundred thousand dollars ($100,000.00) for injuries arising from one accident, and fifty thousand dollars ($50,000.00) for damage to property.

The city engineer shall also have power and authority to limit the force of explosions to be made. If he deems it in the interest of the city or a proper protection of life and property, he may refuse to issue such permit.

C. The offense of blasting without a permit is a Class A violation. (Ord. 98-1044 § 25; Ord. 641 § VIII(14), 1974)

9.36.120 Unlawful use of sidewalks.

A. A person commits the offense of unlawful use of any sidewalk or public pedestrian pathway if he or she:

1. Gathers with others or so stands upon such sidewalk or pathway as to prevent, impede or obstruct the free passage of pedestrian traffic; or

2. Leads, rides, ties or fastens any goat, horse, cow, sheep, swine or other similar animal in such a manner as to permit it to go along or remain upon any sidewalk, sidewalk area or public pedestrian pathway; or

3. Rides or operates any redicycle, including bicycle, on any sidewalk in the city; provided, however, that bicycles used for delivery of papers or merchandise may be operated on the sidewalks while being so used within the residential sections of the city only; provided, further, that any person riding or operating a bicycle on any sidewalk in the residential sections of the city shall at all times yield the right-of-way to pedestrians using such sidewalk.

Residential sections are defined, for the purposes of this section, to include all parts of the city contiguous to a street or highway not within a business district; or

4. Rides or operates any motorized vehicle upon any sidewalk except when necessary to do so to enter or exit abutting property or to cross between a street and alleyway.

B. Unlawful use of sidewalks is a Class C violation. (Ord. 98-1044 § 27; Ord. 97-1026 § 2; Ord. 641 § VIII(17), 1974)

9.36.130 Unlawful sale and use of fireworks.

A. For purposes of this section, and unless otherwise required by context, “fireworks” means:

Any combustible or explosive composition or substance, or any combination of such compositions or substances, or any other article which was prepared for the purpose of providing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes blank cartridges or toy cannons in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents, or any other article of like construction or any article containing any explosive or inflammable compound, or any tablets or other device containing any explosive substances or inflammable compound; but does not include:

1. Sparklers, toy pistol paper caps, toy pistols, toy canes, toy guns or other devices in which paper caps containing .25 grains or less of explosive compound are used, and when the rate of burning and the explosive force of the materials in such devices are not greater than an equivalent weight of F.F.F.G. black powder, and when such devices are so constructed that the hand cannot come in contact with the cap when in place for explosion, and the major explosive force is contained or dispelled within the housing or shell of the device, there is no visible flame during discharge, there is no flaming or smoldering of any of the components or parts of the device after discharge, and the device does not produce sufficient heat to readily ignite combustible materials upon which the device may be placed. The sale and use of such devices shall be permitted at all times.

2. Snakes or similar smoke-producing material containing not more than one hundred (100) grains of combustible substances when there is no visible flame during discharge, there is no after-smoldering, and the devices do not produce sufficient heat to readily ignite combustible materials upon which the devices may be placed. The sale and use of such devices shall be permitted at all times.

B. For purposes of this section, “sparklers” means:

Materials of a character that will, when ignited, sparkle without throwing or dropping hot residue capable of igniting combustible materials, attached to a wire or other noncombustible central support, with such materials arranged in a cylindrical shape not more than ten inches in length nor more than one-quarter inch in diameter, and which shall not burn more rapidly than one inch in ten seconds, but not including materials incased within a container of any character.

"Explosive substance" or "explosive mixture," as used in this section, shall mean any substance so arranged as to burn in less than one second. "Combustible substance" shall means any substance so arranged as to burn in more than one second.

C. A person commits the offense of unlawful use of fireworks if he or she sells, keeps or offers for sale, exposes for sale, uses, possesses or explodes any fireworks within the city, except as follows:

Sales by manufacturers and wholesalers for direct out-of-state shipment.

Sales of shells, cartridges, gunpowder or explosives for use in legally permitted firearms.

D. Unlawful use of fireworks is a Class C violation. (Ord. 98-1044 § 28; Ord. 641 § VIII(18), 1974)

9.36.140 Unlawful discharge of weapons.

A. No person, other than a peace officer, shall fire or discharge within the city any gun or other weapon, including spring or air actuated pellet guns, air guns, BB guns, or other weapons which propel a projectile by use of gun powder or other explosive, jet or rocket propulsion, use of gas or other propellant.

B. No person may shoot a slingshot, blow gun, bow and arrow or any instrument of any similar type or throw a dagger, spear, stiletto, throwing star or any instrument of any other type.

C. The provisions of this section shall not be construed to prohibit the firing or discharging of any weapon by:

1. Persons lawfully defending life or property as provided in ORS 161.219; or

2. Persons discharging firearms, blowguns, bows and arrows, crossbows or explosive devices upon public or private shooting ranges, shooting galleries or other areas designated and built for the purpose of target shooting.

D. Unlawful discharge of weapons is a Class B violation. (Ord. 98-1044 § 29; Ord. 97-1030: Ord. 91-941)

9.36.150 Expectoration.

A. A person commits the offense of expectoration if he or she expectorates upon any sidewalk or street or on or in any public building or public place except in receptacles provided for that purpose.

B. Expectoration is a Class C violation. (Ord. 98-1044 § 30; Ord. 641 § VIII(20), 1974)

Chapter 9.40

CURFEW

Sections:

9.40.010 Short title.

9.40.020 Definitions.

9.40.030 Prohibition of certain minors being in public places during certain times.

9.40.040 Hours of curfew.

9.40.050 Prohibition of parents from allowing minors to be in public places during curfew hours.

9.40.060 Custody of minors violating curfew.

9.40.070 Affirmative defenses.

9.40.080 Violation--Penalty.

9.40.010 Short title.

The ordinance codified in this chapter shall be known and may be cited as the curfew ordinance and may be referred to herein as this chapter. (Ord. 95-1002 § 4)

9.40.020 Definitions.

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

"Minor" means a person who is under eighteen (18) years of age.

"Parent" means the natural or adoptive father or mother of a dependent child or the stepfather or stepmother of a dependent child, when such stepparent has a legal obligation to support the child.

"Public place" means any public roadway or any premises open to the general public, whether the premises are publicly or privately owned and whether or not a fee is charged for the use of the premises. (Ord. 95-1002 § 5)

9.40.030 Prohibition of certain minors being in public places during certain times.

No minor shall be in a public place during the hours of curfew specified in Section 9.40.040 of this chapter, unless accompanied or visually supervised by a parent or a person eighteen (18) years of age or over who is authorized to have care and custody of the minor either by law or by a parent of the minor, provided, however that no minor shall be prohibited from being in a public place while engaged in traveling to or from a place of employment or an educational, religious or similar activity. (Ord. 95-1002 § 6)

9.40.040 Hours of curfew.

A As to minors under fourteen (14) years of age:

1. During the months of September through May, the hours of curfew shall be between nine-fifteen p.m. and six a.m. the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the city, the curfew shall be between ten-fifteen p.m. and six a.m. the following morning.

2. During the months of June through August, the hours of curfew shall be between ten-fifteen p.m. and six a.m. the following morning.

B. As to minors fourteen (14) years of age or older:

1. During the months of September through May, the hours of curfew shall be between ten-fifteen p.m. and six a.m. the following morning, except that on any day immediately preceding a day for which no public school is scheduled in the city, the curfew shall be between eleven-fifty-nine p.m. and six a.m. the following morning.

2. During the months of June through August, the hours of curfew shall be between eleven-fifty-nine p.m. and six a.m. the following morning. (Ord. 95-1002 § 7)

9.40.050 Prohibition of parents from allowing minors to be in public places during curfew hours.

No parent of a minor shall allow or fail to prohibit such minor to be in a public place in violation of Section 9.40.030. (Ord. 95-1002 § 8)

9.40.060 Custody of minors violating curfew.

Any minor who violates any provision of this chapter may be taken into temporary custody as provided by ORS 419-760 and may be subjected to further proceeding as provided therein. (Ord. 95-1002 § 9)

9.40.070 Affirmative defenses.

The following are affirmative defenses to the offenses described in Section 9.40.030 and Section 9.40.050, to be proved by the defendant by a preponderance of the evidence:

A. That a minor was accompanied by a parent or by a person eighteen (18) years of age or over who was authorized to have care and custody of minor either by law or by a parent of the minor; or

B. That the minor was engaged in traveling to or from a place of employment or an educational, religious or similar activity. (Ord. 95-1002 § 10)

9.40.080 Violation--Penalty.

Violation of this curfew chapter is a Class C violation. (Ord. 98-1044 § 23; Ord. 95-1002 § 11)

Chapter 9.44

NUISANCES

Sections:

9.44.010 Definition of nuisances.

9.44.020 Noxious vegetation.

9.44.030 Hazards.

9.44.040 Maintenance of nuisances.

9.44.050 Open storage of junk.

9.44.060 Abatement of nuisances.

9.44.010 Definition of nuisances.

The following are declared to be nuisances affecting the public health and safety, and may be abated in the manner prescribed in Section 9.44.060 of this chapter:

A. Maintenance on any private property of any open vault or privy.

B. Maintenance or keeping on private property of any animal, substance or condition causing an odor unreasonably offensive to the public.

C. Maintenance or keeping of any livestock or buildings for the purpose of housing such livestock in such places or in such a manner that they will be offensive or annoying to resi-

dents within the immediate vicinity thereof, or maintaining the premises in such a manner as to be a breeding place or likely breeding place for rodents, flies or other pests.

D. Maintenance of any dead animal or bird exposed on private property for any period of time longer than reasonably necessary to accomplish the removal or disposal of the carcass.

E. Maintenance of any condition, activity, operation or vocation on private property which causes noise unreasonably offensive to the public.

F. Maintenance on private property of grass, weeds and noxious vegetation contrary to the provisions of Section 9.44.020 of this chapter.

G. Maintenance on private property of any hazardous condition contrary to the provisions of Section 9.44.030 of this chapter. (Ord. 641 § IX(1), 1974)

9.44.020 Noxious vegetation.

The owner, person in possession, or agent of the owner of any lot, tract or parcel of land, improved or unimproved, shall, during the months of May, June, July, August and September of each year, cut and remove, and keep cut and removed therefrom and from the half of the street or streets abutting the property, all weeds, thistles, burdock, ferns and other noxious vegetation, and all grass more than ten inches in height, and all dead bushes, dead trees, stumps and any other thing likely to cause fire.

Nothing herein contained shall be considered to apply to bushes, trees, shrubbery and/or other vegetation grown for food, fuel or ornament or for the production of food, fuel or ornament; providing, that the health and safety of the public be not thereby endangered by the maintenance of such growth or vegetation. (Ord. 641 § IX(2), 1974)

9.44.030 Hazards.

During all months of the year, such person shall remove and keep removed therefrom all stagnant water, filth, rubbish, waste material and any other substance which may endanger or injure neighboring property, passersby or the health, safety or welfare of the public. During all months of the year, he or she shall keep the sidewalk and streets abutting such property free from earth, rock and other debris, and from projecting and/or overhanging bushes, brush and

limbs that may obstruct or render unsafe the passage of persons or vehicles. (Ord. 641 § IX(3), 1974)

9.44.040 Maintenance of nuisances.

A. Any person who is an owner, tenant, person in possession, or person having the care of any real property, commits the violation of maintaining a nuisance if he or she maintains or fails to remove or abate any of the nuisances set forth in Section 9.44.010 of this chapter.

B. Maintaining a nuisance is a Class C violation.

C. Each day's violation of this section shall constitute a separate offense. (Ord. 98-1044 § 31: Ord. 641 § IX(4), 1974)

9.44.050 Open storage of junk.

A. A person commits the violation of open storage of junk when, as the owner, tenant, person in possession, or person in charge of or having the care of any real property, he or she deposits, stores, maintains or keeps on any real property within the city, outside a fully enclosed storage facility, building or garbage receptacle, any of the following:

1. Inoperable, unusable, partially dismantled automobiles, cars, trucks, trailers or other vehicular equipment or parts thereof in a state of disrepair for more than ten days as to any one automobile, car, truck, trailer or piece of vehicular equipment.

2. Used or dismantled household appliances, furniture, or parts thereof, or discards, garbage, debris, rubbish, junk, trash or refuse for more than five days.

B. Nothing contained in any section of this chapter shall be construed as permitting any activity otherwise prescribed or regulated by other ordinances or statutes applicable within the city.

C. Open storage of junk is a Class C violation.

D. Each day's violation of this section shall constitute a separate offense. (Ord. 98-1044 § 32: Ord. 641 § IX(5), 1974)

9.44.060 Abatement of nuisances.

A. Any of the nuisances described in Sections 9.44.010, 9.44.020, 9.44.030 or 9.44.050 of this chapter may be abated as prescribed in this section.

B. Notice.

1. Whenever it is declared by ordinance that anything is a nuisance and the police chief or other code enforcement officer has knowledge that such nuisance exists, unless the ordinance authorizes summary abatement, he or she shall cause to be posted upon the property liable for the abatement of such nuisance a notice, in legible characters, directing the removal of such nuisance, which notice shall be substantially in the following form:

NOTICE TO REMOVE AND ABATE
NUISANCE

Date of Notice:

TO: , the owner or occupant of the following described real property:

,

(address)

,

(tax lot and assessor's map #)

in the city of Sherwood, Oregon.

There exists on said premises the following nuisance or condition:

which is in violation of City Code Section

You are hereby notified to remove and abate this nuisance or condition from said property within ten days of the date of this notice. If you deny that this condition is a nuisance in violation of City Code you must file with the City Manager at Sherwood City Hall, 20 N.W. Washington, Sherwood, Oregon 97140, within 10 days of the date of this notice, a written request for a hearing at which you will be provided an opportunity to show cause why you should not be required to abate this condition.

If you fail to remove or abate the nuisance or condition complained of or fail to request a hearing within 10 days of the date of this notice, the City of Sherwood may cause the nuisance to be abated and charge the cost of said abatement against the property described in this notice.

Dated: .

Police Chief/Code Enforcement Officer

2. The police chief or code enforcement officer shall also, at approximately the time of posting such notice, notify the city manager thereof; and shall thereupon cause to be mailed a copy of the notice so posted, postage prepaid, to the owner or agent of the owner of said real property, directed to the last known post office address of such owner or agent or, if the post office address of both is unknown, to such owner or agent at Sherwood, Oregon.

The chief of police or code enforcement officer may delegate any city employee to post or mail such notice. The person posting such notice and the person mailing the same shall forthwith file in the city manager's office a certificate stating the date and place of such mailing and posting.

An error in the name of the owner or agent or the use of a name other than that of the true owner or agent of such property shall not render void such notice, but in such case, the posted notice shall be deemed sufficient.

C. Nuisance to be Abated Within Ten Days--Hearing.

1. Within ten days after posting and mailing of such notice, the owner, agent of the owner, or occupant of any such property shall remove and abate such nuisance or request a hearing to show that no nuisance in fact exists. Upon receipt of a request for a hearing, the city manager shall set a date for the matter to be heard in regular course of business. At the time set for hearing, such person may appear and be heard by the manager, and the manager shall thereupon determine whether or not such nuisance exists.

2. The manager may appoint a special hearings officer to hear the matter in lieu of the manager personally conducting the hearing.

3. If it be determined by the manager or hearings officer that such nuisance exists, the proceedings hereinafter specified shall be followed. The city manager shall forthwith notify the police chief or code enforcement officer of the action by the city manager.

D. Abatement by City. If, within the time fixed in the code, the nuisance described in the notice has not been removed and abated, or at hearing cause has not been shown, as specified in subsection C of this section, why such nuisance should not be removed and abated, the police department or code enforcement officer shall cause said nuisance to be removed and abated.

Where summary abatement is authorized and no notice to abate is given, the police department or code enforcement officer shall cause said nuisance to be removed and abated. An accurate account of all expenses incurred shall be kept, including an overhead charge of ten percent for administration. After completion of removal and abatement, a statement of the cost thereof shall be filed with the city manager.

E. Notice of Assessment.

1. Upon receipt of such statement, the city manager shall forthwith mail to the owner of such property therein mentioned, a notice setting forth the expense incurred and stating that the council proposes to assess against his or her property the amounts mentioned in subsection D of this section, and that objections to the proposed assessment may be made in writing and filed with the city manager on or before twenty (20) days from date of mailing such notice.

2. Upon expiration of said period of twenty (20) days, objections to the proposed assessment shall be heard and determined by the council in regular course of business.

3. Any assessment for such cost and overhead expenses shall be made by ordinance, and shall be entered in the lien docket of the city; and upon such entry, the same shall constitute a lien upon the property from which said nuisance was removed and abated, which lien shall be collected in all respects as provided for street improvement liens, and shall bear interest at the rate of nine percent per annum from ten days after date of entry in the lien docket.

An error in the name of the owner or in the use of a name other than that of the true owner of such property or the failure of the owner to receive notice of such assessment shall not render said assessment void, but the same shall be a valid and existing lien against said property.

F. Summary Abatement. The procedure provided by this chapter is not exclusive but in addition to procedure provided by other ordinances; and furthermore, the health officer, the chief of the fire department and the police officers of this city may proceed summarily to

abate a health or other nuisance which unmistakably exists and from which there is imminent damager to human life or property.

G. Abatement not Exclusive Remedy. The abatement of a nuisance, as herein provided, shall not constitute a penalty for a violation of this chapter, but shall be in addition to any penalty imposed for a violation of this chapter. (Ord. 98-1044 § 33: Ord. 641 § IX(6), 1974)

9.44.060

Chapter 9.46

ABATEMENT OF NOXIOUS WEEDS

Sections:

9.46.010 Purpose.

9.46.020 Definitions.

9.46.030 Nuisance plants.

9.46.040 Prohibited plants.

9.46.050 Modification of plant lists.

9.46.060 Requirement to abate plants identified in Sections 9.46.030--9.46.040.

9.46.070 Eradication of weeds when owner or occupant refuses to do so.

9.46.080 Weed abatement activities on public lands subject to certain regulations.

9.46.090 Wetlands and natural areas.

9.46.100 Noxious weed debris disposal and transportation.

9.46.110 Duty to clean machinery before moving.

9.46.120 Coordination with county, state and federal authorities.

9.46.130 Violation--Penalty.

9.46.010 Purpose.

Section 8.16.160 of the property maintenance code requires property owners to maintain their properties free of weeds, and Section 9.44.020 Nuisances (Noxious Vegetation) requires property owners to remove vegetation that poses a threat to public safety. This chapter serves to address specific noxious weeds and identify some of the region's more prevalent and disruptive species, with measures to prevent the introduction and establishment of weed infestations, and encourage the removal of existing infestations. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.020 Definitions.

“Control” means, as appropriate, eradicating, suppressing, reducing, or managing weed species populations, preventing the spread of weeds from areas where they are present, and taking steps such as restoration of native species and habitats to reduce the effects of weeds and to prevent further invasions.

“Introduction” means the intentional or unintentional escape, release, dissemination, or placement of a species into an ecosystem as a result of human activity.

“Native species” means, with respect to a particular ecosystem, a species that historically occurred or currently occurs in that ecosystem, other than as a result of introduction.

“Natural areas” are lands set aside for the preservation of significant natural resources, open space, and remnant landscapes, including wetland, riparian and upland areas and are intended to be left-alone or managed in a natural state.

“Noxious weeds” are exotic, non-indigenous, plant species that are injurious to public health, agriculture, recreation, wildlife, or any public or private property.

“Nuisance plants” are native, naturalized, or exotic plant species that tend to dominate plant community and/or pose an inherent risk to public health.

“Prohibited plants” are plants that are banned from being used in all landscaping situations, propagated, and sold within the city limits.

“Species” means a group of organisms all of which have a high degree of physical and genetic similarity, generally interbreed only among themselves, and show persistent differences from members of allied groups of organisms.

“Wetlands” are areas that are inundated or saturated by surface or groundwater 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. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.020

9.46.030 Nuisance plants.

While the following plants are not prohibited within the city limits, the city encourages and may require removal if upon determination the infestations pose a public health risk or threaten to invade an adjacent, uninfected, sensitive area. These plants may be native, naturalized, or exotic. They are divided into two groups: plants which are considered a nuisance because of their tendency to dominate plant communities, and plants which are considered harmful to humans. Other local, state, or federal laws may still regulate removal of certain plants on this list.

Dominating Plants	
Scientific Name	Common Name
Acer platanoides	Norway Maple
Ailanthus altissima	Tree-of-heaven
Alliaria officinalis	Garlic Mustard
Chelidonium majou	Lesser Celandine
Cirsium arvense	Canada Thistle
Cirsium vulgare	Common Thistle
Clematis ligusticifolia	Western Clematis
Clematis vitalba	Traveler's Joy
Convolvulus seppium	Lady's-nightcap
Cortaderia selloana	Pampas grass
Crataegus sp. except C. douglasii	Hawthorn, except native species
Daucus carota	Queen Anne's Lace
Egeria densa	South American Waterweed
Elodea densa	South American Waterweed
Erodium cicutarium	Crane's Bill
Geranium robertianum	Robert Geranium
Hypericum perforatum	St. John's Wort
Ilex aquafolium	English Holly
Iris pseudacorus	Yellow Flag
Lemna minor	Duckweed, Water Lentil
Leontodon autumnalis	Fall Dandelion
Myriophyllum spicatum	Eurasian Watermilfoil
Poa annua	Annual Bluegrass

Dominating Plants	
Scientific Name	Common Name
Polygonum coccineum	Water Smartweed
Polygonum convolvulus	Climbing Bindweed
Polygonum sachalinense	Giant Knotweed
Prunus laurocerasus	English, Portugese Laurel
Rubus laciniatus	Evergreen Blackberry
Senecio jacobaea	Tansy Ragwort
Solanum dulcamara	Blue Bindweed
Solanum sarrachoides	Hairy Nightshade
Taraxacum officinale	Common Dandelion
Utricularia vulgaris	Common Bladderwort
Vinca major	Periwinkle (large leaf)
Vinca minor	Periwinkle (small leaf)
Xanthium spinoseum	Spiny Cocklebur
Various genera	Bamboo sp.
Harmful Plants	
Scientific Name	Common Name
Conium maculatum	Poison-hemlock
Laburnum watereri	Golden Chain Tree
Rhus diversiloba	Poison Oak
Solanum nigrum	Garden Nightshade

(Ord. 02-1135 § 3 (Exh. A)(part))

9.46.040 Prohibited plants.

Prohibits the following plants from being used in all landscaping situations, propagated, and sold within the city limits. This provision applies to the below named species only, and includes any sub-species, varieties, or cultivars of these species. Additional plant species may be prohibited by adopted land use plans in specific areas or situations.

Prohibited Plants	
Scientific Name	Common Name
Convolvulus arvensis	Field Morning-glory
Cytisus scoparius	Scotch Broom
Hedera helix	English Ivy
Lythrum salicaria	Purple Loosestrife
Phalaris arundinacea	Reed Canarygrass
Rubus discolor	Himalayan Blackberry

(Ord. 02-1135 § 3 (Exh. A)(part))

9.46.050 Modification of plant lists.

Plants may be added to or removed from the lists provided in Sections 9.46.030--9.46.040, when requested and approved by council. When an amendment to either list is requested, staff will consult with at least three or more knowledgeable persons with botany, biology, or landscape architecture backgrounds to determine if the requested change is warranted. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.060 Requirement to abate plants identified in Sections 9.46.030--9.46.040.

Property owners may be required to remove infestations of certain plants, identified in Sections 9.46.030--9.46.040, based upon one of the following determining factors: the plant species poses an inherent risk to public health, as per Section 9.44.020; the plant species was not previously found within the region and is known to significantly impact local environmental

resources; and the plant species poses an inherent risk of invading and significantly altering and impacting nearby uninfected properties. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.070 Eradication of weeds when owner or occupant refuses to do so.

If the owner or occupant of the land fails or refuses to immediately destroy or cut weeds, when requested per Section 9.46.060, the city manager or designee may authorize staff to go upon the property and destroy the noxious weeds; unless the destruction or control of the weeds on any property is in the judgment of staff impracticable because the weeds may be too far advanced or if for any other reason the means of control available are unsatisfactory. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.080 Weed abatement activities on public lands subject to certain regulations.

Private citizens wanting to perform noxious weed control activities on public lands shall request written permission from the city or jurisdictional agency prior to the commencement of any work. All work must comply with practices outlined in the city's weed management plan. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.090 Wetlands and natural areas.

Prohibits the deliberate introduction and planting of vegetation identified in Sections 9.46.030--9.46.040 in natural areas and wetlands within the city of Sherwood. Weed control activities within properties designated as wetlands and natural areas, shall utilize approved treatment techniques that minimize impact to the surrounding ecosystem. Treatment area shall be restored with regionally-historic native plant species. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.090

9.46.100 Noxious weed debris disposal and transportation.

All cut debris will be disposed of in such a way as to limit seed dispersal or new growth on uninfected properties. No person shall, without prior authorization, deposit cut noxious weed debris on public property or the private property of another person. Prior to transportation, cut debris shall be covered and contained in such a way to prevent seed and cutting dispersal. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.110 Duty to clean machinery before moving.

No person operating or having control of any machinery used to remove or cut plants identified in Sections 9.46.020--9.46.030, shall move the machinery over any public road or from one property to another without first thoroughly cleaning and inspecting the machinery following any noxious weed treatment operation, as to prevent the spread of seeds and cuttings to uninfected properties. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.120 Coordination with county, state and federal authorities.

Staff shall coordinate weed control activities in addressing regionally identified high priority weed species and ensure all weed control activities comply with county, state, and federal regulations and laws. (Ord. 02-1135 § 3 (Exh. A)(part))

9.46.130 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. 02-1135 § 3 (Exh. A)(part))

Chapter 9.48

CRIMINAL PROCEDURE

Sections:

9.48.010 Short title.

9.48.020 Filing complaint by private person as commencement of an action.

9.48.030 Complaint.

9.48.040 Security for costs.

9.48.050 Costs.

9.48.060 Issuance, requisites, execution, and return of warrant of arrest.

9.48.070 Citations to violators.

9.48.080 Reading complaint to defendant--Defendant to plead.

9.48.090 Defendant's plea--Refusal to plead.

9.48.100 Trial by court.

9.48.110 State statutes to govern.

9.48.010 Short title.

The ordinance codified in this chapter shall be known as the Sherwood offense procedure ordinance and may be cited as such. (Ord. 98-1043 § 1)

9.48.020 Filing complaint by private person as commencement of an action.

In municipal court, action is commenced by the filing of the complaint therein, verified by the oath of the person commencing the action who is thereafter known as the complainant. A complaint may be filed by a private person, a police officer, code enforcement officer, or other city representative. (Ord. 98-1043 § 2)

9.48.030 Complaint.

The complaint shall be deemed sufficient if it contains the name of the court, title of the action, statement of the offense charged, that the offense was committed on or about a designated date or during a designated time, a statement of the acts constituting the city offense in ordinary and concise language in such manner as to enable a person of common understanding to know what is intended and be signed by the private complainant, police officer, code enforcement officer, or other city representative bringing the charge. (Ord. 98-1043 § 3)

9.48.040 Security for costs.

Before filing or receiving the complaint in an action, the municipal judge may require a private complainant to deposit as security for costs and disbursements the sum of fifty dollars ($50.00). (Ord. 98-1043 § 4)

9.48.050 Costs.

The municipal court shall assess the sum of fifty dollars ($50.00) as and for costs in every case of finding of guilt by the court, in every case of a guilty plea, and in each instance of bail forfeiture on a charge of violation of a municipal ordinance; except that no costs shall be assessed in cases where the fine imposed is less than fifty dollars ($50.00). (Ord. 98-1043 § 5)

9.48.060 Issuance, requisites, execution, and return of warrant of arrest.

A warrant of arrest in an action in a

municipal court is issued, directed, and executed in all respects as the warrant mentioned in ORS 133.140, except that it shall be made returnable only before the judge who issues it. (Ord. 98-1043 § 6)

9.48.060

9.48.070 Citations to violators.

A. City police officers may, if an arrest is made without a warrant, or if a person is arrested by a private citizen and is turned over to a peace officer, or if the municipal judge before whom a complaint is filed authorizes it, issue a citation in lieu of continuing custody in those cases in the form and manner authorized by Chapter 244 Oregon Laws of 1969. (ORS 133.045 through 133.110 and ORS 156.050).

B. If any person wilfully fails to appear before the municipal court of the city pursuant to a citation issued and served under the authority of Chapter 244, Oregon Laws of 1969, and subsection A of this section, and a complaint is filed, he or she shall be deemed guilty of a

violation of this chapter and shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500.00). (Ord. 98-1043 § 7)

9.48.080 Reading complaint to defendant--Defendant to plead.

When the defendant appears, or is brought, before the municipal judge, the complaint shall be read to the defendant; and the defendant shall plead thereto at that time, or within such additional time as the municipal judge may grant for entry of plea. (Ord. 98-1043 § 8)

9.48.090 Defendant's plea--Refusal to plead.

The defendant may plead the same pleas as upon an indictment. His or her plea shall be oral and entered in the docket. If the defendant refuses to plead, the municipal judge shall enter the fact, together with the plea of not guilty on his or her behalf. (Ord. 98-1043 § 9)

9.48.100 Trial by court.

Upon a plea other than a plea of guilty, the municipal judge shall proceed to try the issue at a date scheduled for trial by the court, unless continued for cause. (Ord. 98-1043 § 10)

9.48.110 State statutes to govern.

When not governed by this chapter, or by the city charter, all proceedings prior to judgment, with respect to actions in municipal court for the violation of the city ordinance, shall be governed by applicable general rules of the state governing justice of the peace and justice courts. (Ord. 98-1043 § 11)

Chapter 9.50

POSSESSION, MANUFACTURE OR DELIVERY OF DRUG PARAPHERNALIA

Sections:

9.50.010 Definitions.

9.50.015 Factors to be considered.

9.50.020 Offenses and penalties.

9.50.025 Nuisance.

9.50.030 Severability.

9.50.010 Definitions.

As used in this chapter:

"Controlled substance" means a drug or its immediate precursor classified in Schedules I through V under the Federal Controlled Substances Act (21 U.S.C. §§ 811--812) as the same may be modified consistent with ORS 475.035.

"Deliver" or "delivery" means the actual, constructive or attempted transfer (other than by administering or dispensing) from one person to another of a controlled substance, regardless of whether there is an agency relationship.

"Drug paraphernalia" means all equipment, products and materials of any kind used or intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act of Oregon (ORS 475.005 to 475.285 and 475.991 to 475.995). Although not an exclusive list, included within the phrase "drug paraphernalia" as used in this chapter, are the following:

1. Kits used, or intended or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

2. Kits used, intended or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

3. Isomerization devices used, intended or designed for use in increasing the potency of any species of plant which is a controlled substance;

4. Testing equipment used, intended or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

5. Scales and balances used, intended or designed for use in weighing or measuring controlled substances;

6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

7. Separation gins and sifters used, or intended or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana;

8. Blenders, bowls, containers, spoons and mixing devices used, or intended or designed for use in compounding controlled substances;

9. Capsules, balloons, envelopes and other containers used, or intended or designed for use in packaging small quantities or controlled substances;

10. Containers and other objects used, intended or designed for use in storing or concealing controlled substances;

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

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

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Smoking and carburetion masks;

e. Roach clips: meaning objects used to hold burning materials, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

f. Chamber pipes;

g. Carburetor pipes;

h. Electric pipes;

i. Air-driven pipes;

j. Chillums;

k. Bongs; and

l. Ice pipes or chillers.

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

9.50.010

9.50.015 Factors to be considered.

In determining whether an object may be drug paraphernalia, the municipal court, other judicial entity or person should consider (in addition to other logically relevant factors) the following:

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

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

C. The proximity of the object to controlled substances;

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

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

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

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

H. National and local advertising concerning its use;

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

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

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

L. The existence and scope of legitimate uses for the object in the community; and

M. Expert testimony concerning its use.

(Ord. 03-1154 § 1 (part))

9.50.020 Offenses and penalties.

A. Possession of Drug Paraphernalia. It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

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

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

9.50.025 Nuisance.

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

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

9.50.030 Severability.

If any provision of the ordinance codified in this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. (Ord. 03-1154 § 1 (part))

Chapter 9.52

PROHIBITING OF NOISE

Sections:

9.52.010 Purpose.

9.52.020 Definitions.

9.52.030 Noise disturbance prohibited.

9.52.040 Permissible sound levels.

9.52.050 Exemptions.

9.52.060 Enforcement responsibility and authority.

9.52.070 Variances.

9.52.080 Variance application.

9.52.090 Public notification for Class B or C variance.

9.52.100 Variance review.

9.52.110 Variance decision.

9.52.120 Review.

9.52.130 Penalties.

9.52.140 Emergency.

9.52.010 Purpose.

It is hereby found and declared that:

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

B. The making, creation, or maintenance of such excessive, unnecessary, unnatural, or unusually loud noises which are prolonged, unusual and unnatural in their time, place and

use affect, and are a detriment to public health, comfort, convenience, safety, welfare, and prosperity of the residents of the city of Sherwood; and

C. The necessity in the public interest for provisions and prohibitions hereinafter contained in this chapter, is declared as a matter of legislative determination and public policy, and it is further declared that the provisions and prohibitions hereinafter contained are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare, and prosperity and the peace and quiet of the city of Sherwood and its inhabitants. (Ord. 01-116 § 1)

9.52.020 Definitions.

As used in this chapter:

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

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

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

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

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

"Plainly audible" means unambiguously communicated to the listener. Plainly audible sounds include, but are not limited to understandable musical rhythms, understandable spoken words, and vocal sounds other than speech, which are distinguishable as raised or normal. (Ord. 01-1116 § 2)

9.52.030 Noise disturbance prohibited.

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

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

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

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

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

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

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

9.52.040 Permissible sound levels.

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

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

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

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

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

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

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

6. Auxiliary equipment on motor vehicles. No person shall cause, allow, permit, or fail to control the operation of any auxiliary equipment on a motor vehicle or trailer for more than thirty (30) minutes when the sound level produced by such equipment is plainly audible within any dwelling unit outside the boundary of the noise-producing property during night hours. Auxiliary equipment means a mechanical device that is built in or attached to a motor vehicle or trailer, including, but not limited to, refrigeration units, compressors, compactors, chippers, power lifts, mixers, pumps, and blowers. (Ord. 01-1116 § 4)

9.52.050 Exemptions.

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

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

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

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

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

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

F. Sounds produced by the audience, participants and sound amplifying equipment at athletic events on public property and sponsored or sanctioned or otherwise approved by the city or the Sherwood school district.

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

9.52.060 Enforcement responsibility and authority.

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

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

9.52.070 Variances.

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

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

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

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

9.52.080 Variance application.

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

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

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

3. The physical characteristics of the involved sound;

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

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

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

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

9.52.090 Public notification for Class B or C variance.

The applicant for a Class B variance or the city for a Class C variance shall post notice along the nearest public road at the boundaries of the property containing the sound source so that the notice is visible from the public road, and publish notice in a newspaper of general circulation in the city. Notice shall be posted on the property at least seven days before the public hearing, and notice shall be published at least four days before the public hearing. Notice under this section shall state the date the council will consider the application, the nature and substance of the variance to be considered, and that recipients of the notification may file written comments on the application with the city recorder before the council meeting at which the application will be considered. (Ord. 01-1116 § 9)

9.52.100 Variance review.

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

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

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

9.52.110 Variance decision.

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

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

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

D. A decision to grant or deny the variance shall be in writing and shall state the reasons for such decision. The council or city manager shall notify the applicant of the decision and shall make it available to any person who has submitted written comments on the application. (Ord. 01-1116 § 11)

9.52.120 Review.

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

9.52.130 Penalties.

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

Chapter 9.56

PROHIBITS USE OF TOBACCO PRODUCTS ON CITY PROPERTY

Sections:

9.56.010 Definitions.

9.56.020 Tobacco use prohibited.

9.56.030 Violation.

9.56.040 Severability.

9.56.010 Definitions.

The following definitions apply to this chapter:

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

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

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

9.56.020 Tobacco use prohibited.

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

9.56.030 Violation.

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

9.56.040 Severability.

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

Title 10

VEHICLES AND TRAFFIC

Chapters:

10.04 State Vehicle Code Statutes

10.08 Parking

10.12 Miscellaneous Traffic Regulations

Chapter 10.04

STATE VEHICLE CODE STATUTES

Sections:

10.04.010 Adopted.

10.04.010 Adopted.

By virtue of the authority contained in Section 221.330, Oregon Revised Statutes, all those sections of Chapters 801 through 823, Oregon Revised Statutes, be, and each and all thereof are adopted by this reference, section by section, word by word, in their entirety, in all respects to the same legal force and effect as if set forth in full, and shall be the Motor Vehicle Code of the city of Sherwood. Oregon Revised Statutes, Chapter 153, Sections 153.500 through 153.635, likewise be, and they are adopted in the entirety as the procedure to be followed by the city of Sherwood Municipal Court with respect to traffic infractions. (Ord. 98-1042 § 8: Ord. 86-837 § 2)

Chapter 10.08

PARKING*

Sections:

10.08.010 Definitions.

10.08.020 Prohibited practices.

10.08.030 Parking restrictions on certain types of vehicles.

10.08.040 Vehicles to be removed from fire scenes.

10.08.050 Method of parking.

10.08.060 Prohibited parking or standing.

10.08.070 Parking prohibited on certain streets.

10.08.080 Disabled persons parking.

10.08.090 Repeat violation procedures.

* Prior ordinance history: Ords. 599, 629, 667, 703, 712, 86-837, 86-841, 86-852, 98-1042 and 00-1086.

10.08.010 Definitions.

As used in this chapter:

"Balance trailer" means every trailer, other than a self-supporting trailer, pole trailer or semitrailer, designed so that its weight and that of its load is substantially balanced upon its axle or axles and so that it couples to the towing vehicle with a device other than a fifth wheel hitch. The definition in this section is based upon design features and, except as otherwise provided in this section, does not prohibit a balance trailer from fitting into another classification of trailer based on use.

"Bus trailer" means any trailer designed or used for carrying human beings.

"Camper" means a structure that:

1. Has a floor;

2. Is designed to be mounted upon a motor vehicle;

3. Is not permanently attached to a motor vehicle upon which it is mounted;

4. Is designed to provide facilities for human habitation or for camping;

5. Is six feet or more in overall length;

6. Is five and one-half feet or more in height from floor to ceiling at any point; and

7. Has no more than one axle designed to support a portion of the weight of the camper.

"Commercial bus trailer" means a bus trailer:

1. That is designed or used for carrying passengers and their personal baggage for compensation.

2. Other than a vehicle commonly known and used as a private passenger vehicle not operated for compensation except in the transportation of students to or from school.

"Farm trailer" means a vehicle that:

1. Is without motive power;

2. Is a vehicle other than an implement of husbandry;

3. Is designed to carry property; and

4. Is drawn by a farm tractor.

"Highway" means every public way, road, street, throughfare and place, including bridges, viaducts and other structures within the boundaries of this state, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

"Manufactured structure" means:

1. A manufactured dwelling that is more than eight and one-half feet wide;

2. A prefabricated structure that is more than eight and one-half feet wide; and

3. A recreational vehicle that is more than eight and one-half feet wide.

4. "Manufactured structure" does not include any special use trailer.

"Motor home" means a motor vehicle that:

1. Is reconstructed, permanently altered or originally designed to provide facilities for human habitation; or

2. Has a structure permanently attached to it that would be a camper if the structure was not permanently attached to the motor vehicle.

"Motor truck" means a motor vehicle that is primarily designed or used for carrying loads other than passengers.

"Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers, or in obedience to traffic regulations or traffic signs or signals.

"Pole trailer" means a trailer attached or secured to the towing vehicle and ordinarily used for transporting long or irregular loads capable generally of sustaining themselves as beams between the towing vehicle and the trailer. The definition in this section is based on design features and, except as otherwise provided in this section, does not prohibit a pole trailer from fitting into another category of trailer based on use.

"Self-supporting trailer" means a trailer, other than a pole trailer, designed so that no part of the weight of the trailer or the weight of any load on the trailer rests upon the towing vehicle. The definition in this section is based on design and, except as otherwise provided in this section, does not prohibit a self-supporting trailer from fitting into another category of trailer based on use.

"Semitrailer" means a trailer designed so that part of the weight of the trailer and part of the weight of any load on the trailer rests upon or is carried by another vehicle and coupled to another vehicle by a fifth wheel hitch. The definition in this section is based on design and, except as otherwise provided in this section, does not prohibit a semitrailer from fitting into another category of trailer based on use.

"Special use trailer" means a trailer described under any of the following:

1. A trailer that is eight and one-half feet or less in width and of any length and that is used for commercial or business purposes.

2. A trailer that is used temporarily on a construction site for office purposes only.

3. "Special use trailer" does not include any travel trailer.

"Trailer" means every vehicle without motive power designed to be drawn by another vehicle. Trailer includes, but is not limited to, the following types of trailers:

1. Balance trailers;

2. Bus trailers;

3. Commercial bus trailers;

4. Farm trailers;

5. Pole trailers;

6. Semitrailers;

7. Travel trailers;

8. Truck trailers;

9. Self-supporting trailers;

10. Special use trailers.

"Travel trailer" means:

1. A manufactured dwelling that is eight and one-half feet or less in width and is not being used for commercial or business purposes;

2. A recreational vehicle without motive power that is eight and one-half feet or less in width and is not being used for commercial or business purposes; and

3. A prefabricated structure that is eight and one-half feet or less in width and that is not being used for commercial or business purposes.

"Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and constructed so as not to carry any load other than a part of the weight of the vehicle or load, or both, as drawn.

"Truck trailer" means any trailer designed and used primarily for carrying loads other than passengers whether designed as a balance trailer, pole trailer, semitrailer or self-supporting trailer. (Ord. 04-004 § 1 (Exh. A)(part))

10.08.010

10.08.020 Prohibited practices.

A. No person shall park a vehicle on the right-of-way of any highway, or upon any public street or public way within the corporate limits of the city for any of the following purposes:

1. Advertising, selling, or offering merchandise for sale;

2. Displaying such vehicle for sale;

3. Washing, greasing, or repairing such vehicle, except as may be necessitated by emergency;

4. Displaying advertising upon such vehicle;

5. Storage, junk or dead storage for any period of more than forty-eight (48) hours, except that this subsection shall be subject to the limits elsewhere prescribed in the motor vehicle code of the city, or as may be prescribed by the Oregon State Motor Vehicle Code.

B. Parking Time Limit. It is unlawful for any person to park or stop any vehicle for a longer period of time than that designated by official signs, parking meters, or other markings placed by or under authority of the city of Sherwood. Such parking time limit shall include the aggregate of time of all stopping or standing of the same vehicle on the same side of the street within a space of three hundred (300) lineal feet measured along the curb line and between intersections; and the parking, standing or stopping of any vehicle within such expanse shall not exceed the designated time limit during any three-hour period. (Ord. 04-004 § 1 (Exh. A)(part))

10.08.030 Parking restrictions on certain types of vehicles.

No person shall, at any time, park or leave standing a motor truck, truck tractor, truck trailer, semi-trailer, bus trailer, commercial bus, commercial bus trailer, trailer as defined in this chapter, whether attended or unattended, on any improved public highway, public street, or other public way within the corporate limits of the city for a period greater than thirty (30) minutes, between the hours of 12:01 a.m. and six a.m. Motor homes, travel trailers connected to a motor vehicle and campers mounted on a motor vehicle may be parked on the street for up to two consecutive days (forty-eight (48) hours) if the public street or public way meets the criteria listed below:

A. Roadways less than thirty-two (32) feet in width posted no parking on one side -- recreational parking is allowed on the non posted side. Parked motor homes, travel trailers and campers shall not block adjacent properties' driveway ingress/egress.

B. Roadways over thirty-two (32) feet in width with parking allowed on either side -- RV's must stagger their parking so no two motor homes, travel trailers or campers are parked directly across the street from one another.

The parking of motor homes, travel trailers or campers is prohibited on roadways less than thirty-two (32) feet in width with parking allowed on both sides and prohibited outright on roadways less than twenty-eight (28) feet in width. (Ord. 04-004 § 1 (Exh. A)(part))

10.08.040 Vehicles to be removed from fire scenes.

Whenever the owner or driver of a vehicle discovers that such vehicle is parked immediately in front of, or close to a building to which the fire department has been summoned, he

or she shall immediately remove such vehicle from the area unless otherwise directed by police or fire officers. (Ord. 04-004 § 1 (Exh. A)(part))

10.08.050 Method of parking.

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

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

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

10.08.060 Prohibited parking or standing.

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

A. Within ten feet of a fire hydrant;

B. Within any portion of a crosswalk;

C. Within any area marked as a loading zone other than for the purpose of loading or unloading cargo. (Ord. 04-004 § 1 (Exh. A)(part))

10.08.070 Parking prohibited on certain streets.

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

A. At any time:

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

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

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

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

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

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

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

8. On the Southerly side of Willamette Street from its intersection with Washington Street to approximately two hundred sixty (260) feet easterly of its intersection with Lincoln Street.

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

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

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

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

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

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

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

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

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

18. On the southeasterly side of Northeast 2nd Street from North Pine Street to Northeast Oak Street and on the northwesterly side of Northeast 2nd Street from Northeast Oak Street to the end of the curb at approximately one hundred fifty (150) feet easterly of Northeast Oak Street.

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

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

B. Between the hours of eight a.m. and four p.m., on Monday through Saturday, in excess of two hours continuously in any one location on any city street outside of a residential district, as defined by subsection 1 of ORS 801.430. (Ord. 04-004 § 1 (Exh. A)(part))

10.08.070

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 Powers of the city council.

10.12.020 Authority of police and fire officers.

10.12.030 Stop when traffic obstructed.

10.12.040 Unlawful marking.

10.12.050 Use of sidewalks.

10.12.060 Permits required for parades.

10.12.070 Funeral procession.

10.12.080 Drivers in procession.

10.12.090 Driving through procession.

10.12.100 Emerging from vehicle.

10.12.110 Boarding or alighting from vehicles.

10.12.120 Riding on motorcycles.

10.12.130 Unlawful riding.

10.12.140 Clinging to vehicles.

10.12.150 Crossing private property.

10.12.160 Driving in parks.

10.12.170 Sleds, skis, toboggans and skateboards on streets.

10.12.180 Damaging sidewalks and curbs.

10.12.190 Obstructing streets.

10.12.200 Removing glass and debris.

10.12.210 Illegal cancellation of traffic citations.

10.12.220 Existing traffic signs.

10.12.230 Bridle paths--Penalty.

10.12.240 Violation--Penalty.

10.12.010 Powers of the city council.

The council, provided that where required by the Motor Vehicle Laws of Oregon approval of the State Highway Commission has first been obtained, may by resolution establish traffic controls which shall become effective upon the installation of appropriate signs, signals or other markings. Such traffic controls may designate and regulate:

A. The parking and standing of vehicles by:

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

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

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

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

B. Through streets and one-way streets;

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

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

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

F. Loading zones;

G. Turn regulations at intersections;

H. Marked pedestrian crosswalks and safety zones;

I. Special speed regulations in city parks. (Ord. 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)

10.12.240 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)

Title 11

(Reserved)

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

12.04 Street Construction Specifications
12.08 Sidewalks Construction and Repair
12.12 Parks and Other Public Areas

Chapter 12.04

STREET CONSTRUCTION SPECIFICATIONS

Sections:

Article I. Driveway Construction Standards
12.04.010 Commercial and residential driveways.

Article II. Street Construction Standards (Reserved)

Article I. Driveway Construction Standards

12.04.010 Commercial and residential driveways.

The commercial and residential driveways construction standards are attached to the ordinance codified in this chapter as Exhibit A and on file in the office of the city recorder, and approved and adopted in their entirety. (Ord. 98-1054 § 1)

Article II. Street Construction Standards (Reserved)

Chapter 12.08

SIDEWALKS CONSTRUCTION AND REPAIR

Sections:

12.08.010 Definitions.
12.08.020 Duty to repair and maintain sidewalks.
12.08.030 Owner's liability.
12.08.040 Duty to report defective walks.
12.08.050 Sidewalk specifications.
12.08.060 Declaration by council of defective walks as nuisance or need for sidewalks to be constructed.
12.08.070 Notice to owner.
12.08.080 Failure of owner to repair or construct.
12.08.090 Assessment.
12.08.100 Sidewalk assessment districts.
12.08.110 Violation--Penalty.

12.08.010 Definitions.

As used in this chapter:

"Owner" means the person in whose name real property is assessed for tax purposes according to the latest assessment roll in the office of the Department of Revenue and Taxation for Washington County, Oregon.

"Person" means every natural person, firm, partnership, association or corporation. (Ord. 682 § 1, 1977)

12.08.020 Duty to repair and maintain sidewalks.

It is made the duty of all owners of land adjoining any improved street in the city to construct, reconstruct and maintain in good repair the sidewalks in front of or adjacent to said lands. The city council shall have the power and authority to determine the grade and width of all sidewalks, the material to be used and the specifications for the construction thereof upon any street or part thereof or within any district in said city. (Ord. 682 § 2, 1977)

12.08.030 Owner's liability.

All owners of property within the city limits of the city failing to repair defective sidewalks along and adjacent to their property shall be liable for all damages to whomsoever resulting or arising through their fault or negligence in failing to construct or put such sidewalk in repair. (Ord. 682 § 3, 1977)

12.08.040 Duty to report defective walks.

Whenever a public sidewalk is found to be defective, out of repair or hazardous, by any officer of the city of Sherwood, or by any other person, a report thereof shall be made to the city administrator. The city administrator shall thereafter report such defective, out of repair or hazardous sidewalk to the city council. (Ord. 682 § 4, 1977)

12.08.050 Sidewalk specifications.

The city council shall have the power to specially determine the grade and width of all sidewalks, the materials to be used and the specifications for construction thereof upon any street or part thereof, or within any district within the city. Unless the council so specially determines said matters with respect to a particular sidewalk, all sidewalks hereafter constructed or replaced shall be constructed in accordance with the standard sidewalk specifications and standard sidewalk plans heretofore adopted by the city council by Ordinance No. 600, enacted June 29, 1970, and applicable state statutes with respect to provisions for handicapped persons. All repairs undertaken pursuant to this chapter shall be according to city specifications as to the nature, manner and extent of repair. Repair work shall be done in such a manner as to make existing sidewalks conform as nearly as reasonably practical to the standard specifications referred to in this section. The degree of conformity required shall be determined by the city administrator in his or her exercise of reasonable discretion. (Ord. 682 § 5, 1977)

12.08.060 Declaration by council of defective walks as nuisance or need for sidewalks to be constructed.

After receiving the report of the city administrator referred to in Section 12.08.040 of this chapter, the city council, by ordinance, may declare the defective, out of repair or hazardous sidewalk a nuisance and direct that the defect or hazardous condition be eliminated or that said sidewalk be placed in a state of good repair.

In any case where no sidewalk exists adjacent to various parcels or tracts along a street which meet the standards of the city, the council may order the construction thereof by ordinance in the manner provided herein for repair of sidewalks, or may proceed with the formation of a sidewalk improvement assessment district, for construction of sidewalks along said street.

The ordinance ordering repair or construction of sidewalks shall specify the particular sidewalk or sidewalks to be constructed, the character of construction thereof, the character of the materials to be used therein, the width thereof, and the time within which the owner or owners of the parcels involved are required to construct the same, specifying therein the names of the owners or reputed owners of abutting parcels and lots, or portions thereof abutting upon such sidewalk or sidewalks. (Ord. 682 § 6, 1977)

12.08.070 Notice to owner.

Within five days after the passage of the ordinance referred to in Section 12.08.060 of this chapter, the city administrator shall give notice to the owner of the real property adjacent to the sidewalk to be constructed or abutting on said sidewalk of the defect therein, the state of disrepair thereof, and of the determination that such condition constitutes a nuisance, by sending to such owner, by certified mail,

at his address as shown on the last tax assessment roll in the office of the county assessor of Washington County, Oregon, a copy of such ordinance and a copy of this chapter.

The city recorder shall cause notice to also be given by publication in one issue of a weekly paper published in the city of Sherwood, proof of which publication shall be made by the affidavit of the printer or publisher of said newspaper filed with the city recorder. (Ord. 682 § 7, 1977)

12.08.080 Failure of owner to repair or construct.

If the owner does not correct the defect, or eliminate the hazard in, or make the repairs to said sidewalk, or construct the sidewalk as required by said ordinance within sixty (60) days of the giving of the notice, or such longer time as the council by ordinance may specify, the city may construct or repair said sidewalk or sidewalks and assess upon each lot, parcel or part thereof its proportionate part or share of the whole cost of the same, including expense to defray cost of notice, engineering, advertising and attorney's fees. (Ord. 682 § 8, 1977)

12.08.090 Assessment.

Immediately after the cost of construction and repair of such sidewalks has been ascertained by the city council, the costs thereof shall be apportioned and a notice of the amount thereof shall be served upon the owner or owners of the lots or parcels of land or portions thereof, abutting upon such walk so constructed or repaired, either by mail addressed to the last known address or addresses of the person in whose name the real property is assessed for tax purposes according to the latest assessment roll in the office of the Department of Revenue and Taxation for Washington County, Oregon, or by personal service. Proof of said service shall be made and filed with the recorder.

The notice shall specify the amount of the cost of construction or repair, and that if said amount is not paid within thirty (30) days after date of service of notice, the council shall thereafter, after hearing objections, if any, made thereto, by ordinance assess the cost of such construction and repairs of such sidewalk or sidewalks upon the lots and parcels abutting such sidewalk and thereby benefited; and the recorder shall enter such assessment in the docket of city liens in the manner provided in Chapter X of the City Charter for docketing liens for street improvements, and it shall become immediately due and collectible thereafter and enforced in the manner provided by Chapter X of the City Charter, or as provided by state statute for enforcement of city liens and assessments. Such assessments, if in excess of twenty-five dollars ($25.00), may be paid, upon application being filed, in installments. (Ord. 98-1049 § 5; Ord. 682 § 9, 1977)

12.08.100 Sidewalk assessment districts.

In any case where no sidewalk and/or curbs exist adjacent to various parcels or tracts along a street which meet the standards of the city, the council may proceed with formation of a sidewalk assessment district for the construction of sidewalks along said street. The procedure for establishing of sidewalk districts to lay and install sidewalks, assess and collect the costs and expenses thereof by assessing the real property benefited thereby shall in all respects be the same as those pertaining to

the establishment of other local improvement districts in the city; except that any property within the area proposed for the improvement district that has sidewalks in front of or adjacent to said property that meet the specification of the city shall not be included within the district and shall not be assessed for said construction. (Ord. 682 § 10, 1977)

12.08.110 Violation--Penalty.

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punished by a fine not exceeding five hundred dollars ($500.00). (Ord. 98-1049 § 6: Ord. 682 § 11, 1977)

Chapter 12.12

PARKS AND OTHER PUBLIC AREAS

Sections:

12.12.010 Policy of city council.
12.12.020 Delegation of authority.
12.12.030 Regulations prescribed by council.
12.12.040 City employees not affected.
12.12.050 Closures.
12.12.060 Damage--Payment for restoration.
12.12.070 Parks--Sales and services for hire restricted.
12.12.080 Parks--Advertising and decorative devices forbidden.
12.12.090 Parks--Intoxicating liquor prohibited.
12.12.100 Parks--Rubbish accumulation prohibited.
12.12.110 Parks--Vandalism prohibited.
12.12.120 Parks--Firearms or fireworks prohibited.
12.12.130 Parks--Molesting animals, birds and fish prohibited.
12.12.140 Parks--Fishing and bathing restrictions.
12.12.150 Parks--Notice mutilation prohibited.
12.12.160 Parks--Animals running at large prohibited.
12.12.170 Parks--Use of established entrance required.
12.12.180 Parks--”No admittance” areas.
12.12.190 Permit for large groups required.
12.12.200 Permit--Exhibition required.
12.12.210 Permit--Subject to ordinances and regulations.
12.12.220 Public convenience stations.
12.12.230 Traffic regulations.
12.12.240 Violation--Penalty.

12.12.010 Policy of city council.

The city council, except as otherwise expressly provided, declares its intention to exercise general supervision, management and control of all public parks, public parkways, public squares, public grounds, including but not restricted to streets, boulevards, paths, sidewalks, greenways, rest areas, playgrounds and other areas, hereinafter collectively referred to as "public areas," whether publicly or privately owned, dedicated, leased or otherwise set aside for public use and not under the supervision or control of any other public agency; and the council declares its intention to prescribe rules and regulations as herein set forth or from time to time as necessary, with respect to such public areas.

All public areas as herein designated for general public use shall be kept and maintained for the use and benefit of the public, subject to such reasonable and necessary rules and regulations as herein prescribed or as may be from time to time adopted to protect and preserve the enjoyment, convenience and safety of the general public in the use thereof. (Ord. 653 § 1, 1974)

12.12.020 Delegation of authority.

The city administrator is authorized to make such reasonable rules and regulations and to establish permit fees and permit deposits not inconsistent with this and other city ordinances and the policies of the council as herein enunciated, as may be necessary for the control and management of the public areas hereinabove designated. All such rules and regulations shall be set forth in writing, be reviewed and approved by the city park commission to the extent deemed necessary by the city administrator, shall be posted in conspicuous places in the areas affected thereby, for the guidance of the general public and individual users. When adopted, one copy of each rule and regulation shall be kept and maintained in a file for that purpose in the office of the city recorder with the approval of the park commission endorsed thereon.

If any person feels aggrieved by any such rule or regulation, he or she may appeal to the council by filing with the city recorder a remonstrance against such rule or regulation, which shall be placed on the agenda of the council at its next regular meeting; and until amended or repealed by the council, such rule or regulation shall remain in full force and effect. (Ord. 653 § 2, 1974)

12.12.030 Regulations prescribed by council.

The council finds that it is in the public interest and necessary for the peace, health and safety of the general public that the rules and regulations set forth in this chapter be enforced, and for the purposes herein set forth are adopted. (Ord. 653 § 3, 1974)

12.12.040 City employees not affected.

Nothing contained herein shall prevent the performance of any act or duty by city employees which has been duly authorized by the park commission, city administrator or public works director or police department. (Ord. 653 § 4, 1974)

12.12.050 Closures.

No person shall ride, drive or walk on such parts or portions of the parks or pavements as may be closed to public travel, or interfere with barriers erected against the public. (Ord. 653 § 5, 1974)

12.12.060 Damage--Payment for restoration.

A. Owners or persons in control of, or persons who permit the entry of, any dog, horse or other animal into any public area under the control of the city, in addition to any penalties imposed by this chapter for violation hereof, shall be held liable for, and shall pay to the city, the full value of repair or restoration of any public property damaged or destroyed; and if not paid upon demand by the city, recovery of same may be sought by action brought in the name of the city in any court of competent jurisdiction.

B. Any person who shall utilize the public areas herein described and who shall damage or destroy any public property under the control of the city, in addition to any penalties imposed by this chapter for violations hereof, shall be held liable for, and shall pay to the city, the full value of repair or restoration of any public property damaged or destroyed, and if not paid upon demand by the city, recovery of same may be sought by action brought in the name of the city in any court of competent jurisdiction. (Ord. 653 § 6, 1974)

12.12.070 Parks--Sales and services for hire restricted.

It is unlawful for any person to sell or offer for sale an article or perform or offer to perform any service for hire in any of the parks without a written permit for such concession properly and regularly granted by the city administrator with concurrence and approval by the park commission. (Ord. 653 § 7, 1974)

12.12.080 Parks--Advertising and decorative devices forbidden.

It is unlawful for any person to place or carry any structure, sign, bulletin board or advertising device of any kind whatever, or erect any post or pole or the attachment of any notice, bill, poster, sign wire, rod or cord to any tree, shrub, fence, railing, fountain, wall, post or structure, or place any advertising, decorative or other device of any kind whatever, on any of the bases, statues, bridges or monuments in any park; provided, that the park commission may by a written permit, allow the erection of temporary decoration on occasions of public celebration or holidays. (Ord. 653 § 8, 1974)

12.12.090 Parks--Intoxicating liquor prohibited.

It is unlawful for any person to take into or upon any park any intoxicating liquor, for other than his or her own use. No intoxicated person shall enter or remain in any of the parks. The sale or dispensing of malt beverages containing not more than four percent of alcohol by weight, shall be allowed only after obtaining a permit to do so from the city park commission, subject to approval of the city council and the Oregon Liquor Control Commission. (Ord. 653 § 9, 1974)

12.12.100 Parks--Rubbish accumulation prohibited.

It is unlawful for any person to obstruct the free use and enjoyment of any park by misuse of refuse containers or by placing any straw, dirt, chips, paper, shavings, shells, ashes, swill or garbage, or other rubbish, or refuse or debris, in or upon any park, or to distribute any circulars, cards or other written or printed matter in any park. (Ord. 653 § 10, 1974)

12.12.110 Parks--Vandalism prohibited.

It is unlawful for any person to remove, destroy, break, injure, mutilate or deface in any way any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower or other property in any park. (Ord. 653 § 11, 1974)

12.12.120 Parks--Firearms or fireworks prohibited.

It is unlawful for any person to use firearms, firecrackers, fireworks, torpedoes or explosives of any kind in any park. (Ord. 653 § 12, 1974)

12.12.130 Parks--Molesting animals, birds and fish prohibited.

It is unlawful for any person to use any weapon, stick, stone or missile of any kind to the destruction, injury, disturbance or molestation of any wild or domestic animal, fowl or fish within the park limits. (Ord. 653 § 13, 1974)

12.12.140 Parks--Fishing and bathing restrictions.

It is unlawful for any person to fish, wade, swim or bathe in any of the parks except in the places designated by regulation for such purposes. The park commission shall have authority to allow fishing in the waters of any park of the city by posting adjacent to such waters a sign or signs stating that such fishing is authorized, and by posting age limits, such fishing may be restricted to juveniles or other persons under the age as designated by the sign; and it is unlawful for any person over the age limit as posted to fish in any such waters of a city park. (Ord. 653 § 14, 1974)

12.12.150 Parks--Notice mutilation prohibited.

It is unlawful for any person to injure, deface or destroy any notice of the rules and regulations for the government of the parks which shall have been posted or permanently fixed by order or permission of the park commission. (Ord. 653 § 15, 1974)

12.12.160 Parks--Animals running at large prohibited.

It is unlawful for the owner, possessor or keeper of any animal to permit such animal to roam at large in any park, and, if such animal is found in any park, it may be impounded. (Ord. 653 § 16, 1974)

12.12.170 Parks--Use of established entrance required.

No one shall enter or leave the parks except at an established entrance, and no one shall enter or remain in the parks after the hours fixed by regulation. (Ord. 653 § 17, 1974)

12.12.180 Parks--"No admittance" areas.

No person shall enter any building, enclosure, or place within any of the parks upon which the words, "no admittance" shall be displayed or posted by sign, placard or otherwise. (Ord. 653 § 18, 1974)

12.12.190 Permit for large groups required.

Use of the public areas herein described for organized group picnics, political or religious gatherings, or groups consisting of more than one hundred fifty (150) persons in attendance at any one time, is unlawful unless a written permit has been issued with the approval of the park commission or designated agent thereof. (Ord. 653 § 19, 1974)

12.12.200 Permit--Exhibition required.

Any person claiming to have a permit from the city shall produce and exhibit such permit upon request of the park commissioner or the police department. (Ord. 653 § 20, 1974)

12.12.210 Permit--Subject to ordinances and regulations.

All permits issued by the city shall be subject to the city's ordinances. The persons to whom such permits are issued shall be bound by the rules, regulations and ordinances as fully as though the same were inserted in such permits. Any person or persons to whom such permits shall be issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall be issued, as well as for any breach of such rules, regulations and ordinances, to the person or persons so suffering damages or injury. (Ord. 653 § 21, 1974)

12.12.220 Public convenience stations.

A. It is unlawful for any person to blow, spread or place any nasal or other bodily discharge, or spit, urinate or defecate on the floors, walls, partitions, furniture, fittings, or on any portion of any public convenience station or in any place in such station, excepting directly into the particular fix-

ture provided for that purpose. Nor shall any person place any bottle, can, cloth, rag, or metal, wood or stone substance in any of the plumbing fixtures in any such station.

B. It is unlawful for any person to stand or climb on any closet, closet seat, basin, partition or other furniture or fitting, or to loiter about or push, crowd or otherwise act in a disorderly manner, or to interfere with any attendant in the discharge of his or her duties, or whistle, dance, sing, skate, swear, or use obscene, loud or boisterous language within any public convenience station, or at or near the entrance thereof.

C. It is unlawful for any person to cut, deface, mar, destroy, break, remove or write on or scratch any wall, floor, ceiling, partition, fixture or furniture; or use towels in any improper manner, or waste soap, toilet paper, or any of the facilities provided in any public convenience station. (Ord. 653 § 22, 1974)

12.12.230 Traffic regulations.

Except as may be otherwise specifically prescribed by this chapter or other city ordinances, the motor vehicle code of the city regulating street traffic shall be in full force and effect in all public areas described in this chapter.

The following regulations are made applicable to public areas within the city and subject to the city's control:

A. No one shall ride or drive any bicycle, motorcycle, motor vehicle, truck, wagon, horse, or any vehicle or animal in any part of the parks, except on the regular drives designated therefor; provided, that baby carriages and such vehicles as are used in the park service are not included in the foregoing prohibition.

B. No one shall drive any moving van, dray, truck, heavy-laden vehicle, or vehicle carrying or ordinarily used in carrying merchandise, goods, tools, materials or rubbish, except such as are used in the park service, over any drive or boulevard in any of the parks; provided, however, the city park commission in its discretion may grant permission in writing for vehicles to carry materials over park drives or boulevards to buildings abutting on parks when no other road, street or way is accessible or passable.

C. No one shall hitch horses or other animals to any tree, shrub, fence, railing or other structure, except such as are provided for such purpose, or allow horses or other animals to stand unhitched while the rider or attendant is beyond reach of such horse or other animal.

D. It is unlawful for any person to park any motor vehicle on any park or playground area in the city, except in regularly designated parking areas. The police department shall have and exercise authority to tow any vehicle found parked in a park or playground area not designated for parking 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. 653 § 23, 1974)

12.12.240 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. § 98-1049 § 7: Ord. 653 § 24, 1974)

Title 13

PUBLIC SERVICES

Chapters:

13.05 Cross-Connection and Backflow Program
13.08 Sewer Service Use Regulations
13.12 Sewer Service Rates and Charges
13.16 Unified Sewerage Agency of Washington County
13.20 Water Use Restrictions
13.24 Public Improvement Reimbursement Districts

Chapter 13.05

CROSS-CONNECTION AND BACKFLOW PROGRAM

Sections:

13.05.010 Definitions.
13.05.020 Prohibitions and conditions.
13.05.030 Testing.
13.05.040 Violation/remedies.
13.05.050 Miscellaneous.

13.05.010 Definitions.

"City system" means the source facilities and the distribution system; and includes all those facilities of the water system under the complete control of TVWD, up to the point where the user's system begins.

"Distribution system" means the network of conduits used for the delivery of water from the source to the user's system.

"Source" means and includes all components of the facilities utilized in the production, treatment, storage and delivery of water to the distribution system.

"User," for the purposes of this chapter, means and includes the terms "owner," "customer," and "consumer."

"User's system" means those parts of the facilities beyond the termination of the city distribution system (domestic and irrigation systems start immediately behind the water meter; fire line system starts with the valve immediately off the main water system line), which are utilized in conveying potable water to points of use.

"Water system" means and includes two parts: the city system, as operated and maintained by TVWD, and the user's system. (Ord. 0-1107 § 1)

13.05.020 Prohibitions and conditions.

A. No water service connection to any premises shall be installed or maintained by TVWD unless the water supply is approved by TVWD and is protected as required by the Oregon Administrative Rules 333-61-0070 and this chapter. Service of water to any premises shall be discontinued by TVWD if a backflow prevention assembly required by OAR 333-61-0070 and this chapter is not installed, tested and maintained, or if it is found that a backflow prevention assembly has been removed, bypassed, or if an unprotected cross-connection exists on the premises. Service will not be restored until such conditions or defects are corrected.

B. User's facilities shall be open for inspection at all reasonable times to authorized TVWD representatives to determine whether unprotected cross-connections or violations of this chapter exist. If such violation becomes known, TVWD shall deny or immediately discontinue service to the premises by providing for a physical break in the service line until the user has corrected the condition(s) in conformance with Oregon State Administrative Rule 333-61-0070 and this chapter.

C. User of the owner of any premises obtaining water from TVWD who treats the water in any way or adds any chemical or substance to the water shall notify TVWD.

D. An approved backflow prevention assembly shall be installed on each service line to user's water system at or near the property line or immediately inside the building being served; but, in all cases, before the first branch line leading off the service line wherever the following conditions exist:

1. There is an auxiliary water supply which is, or can be, connected to the potable water piping.

2. There is piping for conveying liquids other than potable water, and where that piping is under pressure and installed in proximity to potable water piping.

3. There is intricate plumbing which makes it impractical to ascertain whether or not a cross-connection exists.

4. There is a pipeline one and one-half inches or larger internal diameter supplying public water to the premises.

5. There is a structure more than thirty (30) feet in height (as measured between the highest peak of that structure and the elevation of the service at the public water main to those premises) and the pipeline supplying water to that structure is one and one-half inches or less internal diameter.

6. There is a risk of back siphoning or back pressure.

7. There is a cross-connection or a potential cross-connection.

8. There is an irrigation/sprinkler system.

9. The owner of a mobile apparatus to which the city supplies water shall provide for backflow prevention by installing a backflow prevention device assembly or provide an approved air gap separation on the mobile apparatus.

10. When there is a standby fire line/ sprinkler system using piping material that is not approved for potable water use and/or which does not provide for periodic flow through the line during each twenty-four (24) hour period, a double check detector assembly ("DCDA") will be the minimum protection required. In addition:

a. Any system with provisions for adding foamite or toxic fire retardants whether directly connected or not will require a reduced pressure principle detector assembly ("RPDA") at the property line;

b. Any system connected to or with provisions for connected to an unapproved auxiliary water supply will require a RPDA at the property line;

c. Any system that utilizes toxic antifreeze will require a RPDA on the antifreeze loop or a RPDA at the property line;

d. Any system that utilizes a Federal Food and Drug Administration accepted antifreeze will require a RPDA on the antifreeze loop;

e. Any system with private fire hydrants will require DCDA at the property line.

11. The type of backflow prevention required under this subsection shall be at least commensurate with the degree of hazard which exists:

a. An approved air gap of at least twice the inside diameter, but not less than one inch, of the incoming supply line measured vertically above the top rim of the vessel, or an approved reduced pressure backflow device ("RPBD") assembly shall be installed when the substance which could backflow is hazardous to health, such as but not limited to, sewage treatment plants, sewage pumping stations, chemical manufacturing plants, plating plants, hospitals, mortuaries, car washes, and medical clinics;

b. An approved double check valve assembly ("DCVA") shall be installed when the substance which could backflow is objectionable but does not pose an unreasonable risk to health;

c. An approved pressure vacuum breaker or an atmospheric vacuum breaker shall be installed when the substance which could backflow is objectionable but does not pose an unreasonable risk to health and where there is no possibility of backpressure in downstream piping. A shutoff valve may be installed on the line downstream of a pressure vacuum breaker but shall not be installed downstream of an atmospheric vacuum breaker.

12. All backflow prevention device assemblies required under this section shall be of a type and model approved by the Oregon State Health Division and installed as per Oregon Administrative Rule 333-61-0071 and TVWD backflow standards.

a. All water meters which are for irrigation purposes only shall be installed with an approved backflow prevention assembly by the user at the user's expense. These meters shall be locked upon installation. The locks shall not be removed until the approved backflow assembly has been installed property and the TVWD cross-connection control inspector has inspected and approved the installation.

13. Backflow prevention device assemblies installed before the effective date of the ordinance codified in this chapter shall be permitted to remain in service if:

a. They were approved at the time of installation but are not on the current list of approved devices;

b. They are properly maintained;

c. They are commensurate with the degree of hazard;

d. They are tested annually and perform satisfactorily.

When devices of this type are moved, or require more than minimum maintenance or are on services which have been modified, changed or remodeled, they shall be replaced by device assemblies which are on the Oregon State Health Division approved list. (Ord. 00-1107 § 2)

13.05.030 Testing.

A. The user or owner of the premises where one or more backflow prevention devices are installed shall cause a test of the device(s) to be performed by an Oregon State Health Division certified tester:

1. At the time of installation prior to water service being turned on;
2. Immediately thereafter, if the device is moved or repaired;
3. Annually;
4. Unless otherwise provided, the owner of a mobile apparatus on which a backflow prevention device assembly or air gap separation is required shall cause a test of the assembly or an inspection of the air gap separation to be performed;
5. Within the year before use in the city and annually thereafter.

B. TVWD may require more frequent testing of backflow prevention assembly devices if the assembly is installed at a facility that poses an extreme health risk or if the device fails repeatedly.

C. All completed backflow test reports must be forwarded to TVWD within ten working days from the date of the test:

1. If the test results indicate that the device is working properly the results shall be entered in TVWD records as such.
2. If the test results indicate that the device is not working properly the device must be repaired immediately and re-tested and the test results forwarded to TVWD within ten working days.
3. If, for some reason, a device fails a test and repair is not immediately possible, TVWD must be notified immediately of the failure, location of the failed device and estimated time of repairs.
4. If TVWD has not received the results of a test required to be performed, it may order a test and add the cost of the test onto the user's water bill, or turn the water off to the premises.
5. If the user or owner of a backflow device fails to make repairs on a failed back- flow device within ten days of a test showing the device is not operating properly, TVWD may order the repair and retest and add the cost of the repair and retest to the user's/ owner's water bill, or TVWD may turn the water off to the premises.
6. TVWD may discontinue the water service of any person who refuses or fails to pay for charges added to the water bill per subsections (C)(4) and (C)(5) of this section.

D. Oregon State Health Division certified testers who wish to have their names listed on the TVWD partial list of state certified testers, which is mailed with device test notices, must comply with the TVWD standards. (Ord. 00-1107 § 3)

13.05.040 Violation/remedies.

Violation of this chapter shall be punishable by a fine of five hundred dollars ($500.00) per day for each day of violation. In addition to such fine, TVWD may obtain injunctive or equitable relief to abate the violation, including termination of water service as a violation of this chapter. (Ord. 00-1107 § 4)

13.05.050 Miscellaneous.

A. Severability. If any portion of this chapter is found invalid by a court of competent jurisdiction, the remaining sections of this chapter shall be unaffected thereby.

B. Fees. By resolution, the city may adopt such fees as it deems appropriate for inspection, testing, shutoff, abatement or other services provided under this chapter.

C. Policy and Procedures. By resolution, the city may adopt and amend the implementing policies for this chapter to be carried out by TVWD. (Ord. 00-1107 § 5)

Chapter 13.08

SEWER SERVICE USE REGULATIONS

Sections:

13.08.010 Definitions.
13.08.020 Use of public sewers required.
13.08.030 Private sewage disposal.
13.08.040 Building sewers and connections.
13.08.050 Use of the public sewers.
13.08.060 Protection from damage.
13.08.070 Powers and authority of inspectors.
13.08.080 Violation--Penalty.

13.08.010 Definitions.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

"B.O.D." (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at twenty (20) degrees Celsius, expressed in parts per million by weight.

"Building drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

"Building sewer" means the extension from the building drain to the public sewer or other place of disposal.

"Combined sewer" means a sewer receiving both surface runoff and sewage.

"Garbage" means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

"Industrial wastes" means the liquid wastes from industrial processes as distinct from sanitary sewage.

"Natural outlet" means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

"Parts per million" means a weight-to-weight ratio; the parts-per-million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water. "Parts per million" when used herein shall be equal to "milligrams per liter."

"Person" means any individual, firm, company, association, society, corporation or group.

"pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"Properly shredded garbage" means the wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

"Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

"Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

"Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and storm waters as may be present.

"Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

"Sewage works" means all facilities for collecting, pumping, treating and disposing of sewage.

"Sewer" means a pipe or conduit for carrying sewage.

"Shall" is mandatory; "may" is permissive.

"Storm sewer" or "storm drain" means a sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

"Superintendent" means the maintenance superintendent of the city, or his or her authorized deputy, agent or representative.

"Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage or other liquids; and which are removable by laboratory filtering.

"Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently. (Ord. 530 Art. I, 1964)

13.08.020 Use of public sewers required.

A. It is unlawful for any person to place, deposit or permit to be deposited in an insanitary manner upon public or private property within the city, or in any area under the jurisdiction of said city, any human or animal excrement, garbage or other objectionable waste.

B. It is unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of said city, any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

C. Except as hereinafter provided, it is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

D. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is required at his or her expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred fifty (150) feet of the property line. (Ord. 530 Art. II, 1964)

13.08.030 Private sewage disposal.

A. Where a public sanitary or combined sewer is not available under the provisions of Section 13.08.020D, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

B. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the superintendent. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the superintendent. A permit and inspection fee of five dollars shall be paid to the city treasurer at the time the application is filed.

C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the superintendent. The superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the superintendent.

D. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the department of public health of the state. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than fifteen thousand (15,000) square feet. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 13.08.020D, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times and at no expense to the city.

G. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the health officer. (Ord. 530 Art. III, 1964)

13.08.040 Building sewers and connections.

A. 1. No person, firm, or corporation shall make any sewer connection to the sanitary system of the city without making application to the city for a permit. Likewise, no person, firm, or corporation

shall remodel any existing building or other structure then connected to the sanitary sewer system where sewer outlets are moved, or additional outlets are added, without making application and securing a permit therefor.

2. Applications for sewer connection permits shall be made in writing in a form prescribed by the city, shall give the location of the property, the number of the buildings to be connected, the name of the owner, the name of the person or firm engaged to make the sewer connection, and such other information or plans as may be required by the city.

3. If the application for a permit is approved by the city, the city shall issue a permit which shall specify the location of the property, the type of connection, and the nature of the work contemplated, and such other information as the city deems necessary. This permit shall be posted in a conspicuous place upon the property designated thereon, and shall remain so posted until the satisfactory completion of the work and its approval by the city's superintendent.

B. Building sewer permits for residential, commercial, and industrial uses shall be subject to permit application requirements and payment of permit fees, inspection fees, and from time to time set by the council by ordinance or resolution, or set pursuant to agreement with the city and Unified Sewerage Agency of Washington County.

C. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

D. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

F. The building sewer shall be cast iron soil pipe, ASTM specification A74-42 or equal; vitrified clay sewer pipe, ASTM specification C13-44T or equal; or other suitable material approved by the superintendent. Joints shall be tight and waterproof. Any part of the building sewer that is located within ten feet of a water service pipe shall be constructed of cast iron soil pipe with leaded joints. Cast iron pipe with leaded joints may be required by the superintendent where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the superintendent.

G. The size and slope of the building sewer shall be subject to the approval of the superintendent, but in no event shall the diameter be less than four inches for residential service and six inches for other uses. The slope of such four-inch pipe shall be not less than one-quarter inch per foot and the slope of such six-inch pipe shall be not less than one-eighth inch per foot.

H. Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost.

The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.

I. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

J. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the superintendent. Pipe laying and backfill shall be performed in accordance with ASTM specification C12-19, except that no backfill shall be placed until the work has been inspected.

K. All joints and connections shall be made gastight and watertight.

Cast iron pipe joints shall be firmly packed with oakum or hemp and filled with molten lead, Federal Specification QQ-L-156, not less than one inch deep. Lead shall be run in one pouring and caulked tight. No paint, varnish or other coatings shall be permitted on the joining material until after the joint has been tested and approved.

All joints in vitrified clay pipe or between such pipe and metals shall be made with approved hot-poured joining material or cement mortar as specified below.

Material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of one hundred sixty (160) degrees Fahrenheit nor be soluble in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute hemp or similar approved material.

Cement joints shall be made by packing a closely twisted jute or oakum gasket, of suitable size to fill partly the annular space between the pipes. The remaining space shall be filled and firmly compacted with mortar composed of one part Portland cement and three parts mortar sand. The material shall be mixed dry; only sufficient water shall be added to make the mixture workable. Mortar which has begun to set shall not be used or re-tempered. Lime putty or hydrated lime may be substituted to the extent of not more than twenty-five (25) percent of the volume of the Portland cement that may be added.

Other jointing materials and methods may be used only by approval of the superintendent.

L. The connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If the public sewer is twelve (12) inches in diameter or less, and no properly located "Y" branch is available, the owner shall, at his or her expense, install a "Y" branch in the public sewer at the location specified by the superintendent. Where the public sewer is greater than twelve (12) inches in diameter, and no properly located "Y" branch is available, a neat hole may be cut into the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five (45) degrees. A forty-five (45) degree ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be at the same or at a higher elevation than the invert of the public sewer. A smooth, neat joint shall be made, and the connection made secure and watertight by encasement in concrete. Special fittings may be used for the connection only when approved by the superintendent.

M. Owners required to connect to the city sewers pursuant to this chapter or any other ordinance of the city shall, at the time of filing application for a permit for sewer connections as required under

subsection B of this section, in addition to the sewer connection charges, as hereinafter prescribed, pay to the city a fee to cover the costs of inspection of the work proposed under such permit. The applicant for the connection permit shall thereafter promptly notify the city superintendent when the building sewer service line is ready for connection to the city's system; and the connection to the city's system shall be undertaken only under supervision of the city director of public works or the director's representative.

N. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

O. Before any person shall obtain a permit to perform any work within the city on any sewer line to be connected to the sanitary sewer system, the contractor or plumber employed by said applicant shall file with the recorder of the city a bond with good and sufficient sureties in the amount of one thousand dollars ($1,000.00); conditioned that said contractor and plumber will fully comply with the ordinances in making connections to the city sewer system and will immediately remove all surplus sand, earth, rubbish, and other material; and will immediately replace in a condition satisfactory to the superintendent the portion of street so disturbed, dug up, or undermined; and that he or she will keep such portion of the street in good repair at his or her own expense for the period of one year from date of completion of such work. Contractors and plumbers may file a yearly bond, as determined by the city council, in place of a separate bond for each job. Any person, firm, or company which fails to provide such a bond, as by this chapter required, shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined an amount not exceeding two hundred dollars ($200.00).

P. Every sewer connection permit issued after the effective date of the ordinance codified in this chapter shall be valid for ninety (90) days from the date the permit is issued. If the connection is not made within the ninety (90) day period, the permit shall expire and be of no further effect. The connection fee paid for an expired permit shall not be refundable and shall not constitute a credit on any reapplication for a connection permit which may thereafter be made. (Ord. 98-1040 §§ 1, 2; Ord. 91-927 § 19(1)(C); Ord. 596, 1970; Ord. 567, 1967; Ord. 530 Art. IV, 1964)

13.08.050 Use of the public sewers.

A. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, or unpolluted industrial process waters to any sanitary sewer.

B. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the superintendent, to a storm sewer, combined sewer, or natural outlet.

C. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

1. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit;

2. Any water or waste which may contain more than one hundred sixty (160) parts per million by weight of fat, oil or grease;

3. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

4. Any garbage that has not been properly shredded;

5. Any ashes, cinders, sand, fruit seeds, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works;

6. Any waters or wastes having a pH lower than 6.5 or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;

8. Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;

9. Any noxious or malodorous gas or substance capable of creating a public nuisance;

10. Any waters or wastes containing the specific materials listed as follows:

a. Total sulfides in excess of 5.0 parts per million or 3.4 pounds per day,

b. Total chromium in excess of 2.0 parts per million or 1.4 pounds per day,

c. Hexavalent chromium in excess of 0.05 parts per million or 0.034 pounds per day,

d. Lime in excess of one thousand (1,000) parts per million (as Ca CO3) or six hundred seventy (670) pounds per day,

e. Chlorides in excess of eight hundred (800) parts per million or five hundred thirty-five (535) pounds per day.

D. Grease, oil and sand interceptors shall be provided when in the opinion of the superintendent they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which when bolted in place shall be gastight and watertight.

E. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.

F. 1. The admission into the public sewers of any waters or wastes having:

a. A five-day biochemical oxygen demand greater than three hundred (300) parts per million by weight; or

b. Containing more than three hundred fifty (350) parts per million by weight of suspended solids; or

c. Containing any quantity of substances having the characteristics described in subsection C of this section; or

d. Having an average daily flow greater than two percent of the average daily sewage flow of the city;

shall be subject to the review and approval of the superintendent.

2. Where necessary in the opinion of the superintendent, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to:

a. Reduce the biochemical oxygen demand to three hundred (300) parts per million and the suspended solids to three hundred fifty (350) parts per million by weight; or

b. Reduce objectionable characteristics or constituents to within the maximum limits provided for in subsection C of this section; or

c. Control the quantities and rates of discharge of such waters or wastes.

Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the superintendent and of the state sanitary authority of the state, and no construction of such facilities shall be commenced until said approvals are obtained in writing.

G. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

H. When required by the superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him or her so as to be safe and accessible at all times.

I. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in subsections C and F of this section shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage," and shall be determined at the control manhole provided for in subsection H of this section, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

J. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefor by the industrial concern. (Ord. 530 Art. V, 1964)

13.08.060 Protection from damage.

No unauthorized person shall maliciously, wilfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. 530 Art. VI, 1964)

13.08.070 Powers and authority of inspectors.

The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter. (Ord. 530 Art. VII, 1964)

13.08.080 Violation--Penalty.

A. Any person found to be violating any provision of this chapter except Section 13.08.060 shall be served by the city with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

B. Any person who shall continue any violation beyond the time limit provided for in subsection A of this section shall be guilty of a civil infraction and upon conviction thereof shall be fined in an amount not exceeding one hundred dollars ($100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

C. Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage oc-casioned the city by reason of such violation. (Ord. 98-1040 § 3; Ord. 530 Art. VIII, 1964)

Chapter 13.12

SEWER SERVICE RATES AND CHARGES

Sections:

13.12.010 Sewer facility charges.
13.12.020 Delinquent sewer service charges.

13.12.010 Sewer facility charges.

A. The sewage disposal plant and system authorized and approved by the voters of this city at a special election held on August 12, 1949, and as approved and covered by Ordinance No. 401 adopting a new section to the City Charter No. 256A shall be and the same is established as a public utility to be owned and operated by the city for the use and benefit of those institutions, establishments, and persons who may be served thereby.

B. The council may establish a schedule of fees, rates and other charges together with procedures for their imposition and collection for maintenance and operation of the sewer facilities and system of the city. The schedule shall be kept in the city recorder's office and available to the public for review. It may be altered, amended or modified from time to time by resolution of the city council.

C. The costs and expenses of operating the sewer and the sewage disposal plant and of paying interest and serial maturities on said bond issue shall be added to and included in the city budget each year, and tax of three and one-half mills shall be levied, paid and collected annually in the same manner as other taxes levied by the city and to be submitted to the voters each year to such extent as may be legally necessary. The proceeds of said special three and one-half mill tax shall be devoted entirely to the payment of interest and serial maturities on said bond issue and shall continue until said bond issue has been fully retired and paid off.

D. There is established and set up a special fund to be known and designated as the "sewage disposal plant fund" and all moneys derived from sewer revenue established as set forth above or from the special tax authorized as above set forth shall be paid into said fund, to be disbursed in the same manner as other city funds, but exclusively to pay for maintaining, operating, and repairing said sewage disposal plant and for the payment of interest and serial maturities on said bond issue. The moneys in said special fund shall not be used for general city purposes nor otherwise except in connection with said sewage disposal system as above set forth.

E. All of the net operating revenues derived from the said plant and system shall be utilized to pay interest charges and similar maturities on said bond issue. Said net operating revenues are established and defined as the gross operating revenues received from services as provided in subsection B of this section, less operating and maintenance costs and the cost of repairs. (Ord. 05-005 § 1; Ord. 553, 1967; Ord. 403 §§ 1--5, 1950)

13.12.020 Delinquent sewer service charges.

A. All charges levied for sewer service within the city shall be promptly paid as and when due, and if not so paid within thirty (30) days of due date, same shall be considered as delinquent, whereupon on and after such date such charges together with a penalty equal to ten percent thereof shall be

a charge upon any and all the real property to which said sewer service was rendered or delivered and unpaid.

B. Promptly upon said charges together with prescribed penalty becoming such charge upon the premises so served as provided in subsection A of this section, the city recorder shall enter in the docket of city liens the amount thereof and said penalty together with:

1. The number or letter of the lot against which said charge appertains and the block thereof in which it is situated, or a particular description of the tract or plot involved;

2. The name of the owner thereof, or that the owner is unknown;

3. The date of the entry thereof; provided, however, that a failure to enter the name of the owner thereof or a mistake in the name of such owner in such entry, or the name of other than the true owner, shall not invalidate such charge or in any other way affect the lien of the city on the property described in such entry in the lien docket.

C. From and after the date of entry of such charge in the docket of city liens upon a lot, or part thereof, or a tract or parcel of land within said city, the amount so entered shall bear interest at the rate of eight percent per annum until paid, and the total principal sum and interest is declared to be a tax levied and a lien upon such lot, or part thereof, or tract or parcel of land, which lien and tax shall continue in force and effect until paid or enforced and shall have priority over all other liens and encumbrances thereon, and subject to any bonded assessments for streets or other public improvements.

D. All charges thus docketed may be enforced by the methods in the alternative: the amount or amounts thereof, together with such penalties and interest as provided by this chapter may be recovered by an action at law, or may be certified by the city recorder on July 1st of each year to the tax assessor of Washington County and by him or her be assessed against premises serviced and shall thereupon be collected and paid over in the same manner as other taxes are certified, assessed, collected and paid over (pursuant to Section 95-1809, O.C.L.A.). (Ord. 407 §§ 1--4, 1951)

Chapter 13.16

UNIFIED SEWERAGE AGENCY OF WASHINGTON COUNTY

Sections:

13.16.010 Definitions.
13.16.020 Operating procedures and relationships.
13.16.030 Ownership and responsibilities.
13.16.040 Administration, operation and maintenance of sewerage facilities.
13.16.050 Other provisions.
13.16.060 Dispute resolution-- Remedies.
13.16.070 Effect of this chapter.

13.16.010 Definitions.

Wherever the following terms are used in this chapter they shall have the following meaning unless otherwise specifically indicated by the context in which they appear:

"Board" means the board of directors of the agency, its governing body.

"Connection charge" means the amount charged for connection to the sanitary or storm and surface water system.

"Council" means the city council, governing body of the city.

"Dwelling unit (DU)" means a separate living unit with kitchen facilities including those in multiple dwellings, apartments, mobile homes and trailers. For nonresidential properties, a DU or dwelling unit equivalent (DUE) shall be determined by agency ordinance, and agency resolutions adopted thereunder.

"Equivalent service unit (ESU)" means the unit of impervious surface area which generates the storm and surface water runoff equal to a single family residential property, as determined by agency ordinance, and agency resolutions adopted thereunder.

"Impervious surface area" means and includes all areas that have been altered from their natural state such that they do not allow the infiltration and retention equivalent to that of undisturbed soil. This shall include, but is not limited to pavement, buildings, decks, parking areas, and compacted gravel areas.

"Industrial waste" means any liquid, gaseous, radioactive or solid waste substance or a combination thereof resulting from any process of industrial or manufacturing business, or from the development or recovery of natural resources. For the purposes of this chapter, industrial waste shall also include any substance regulated under 33 USC Section 1317, together with regulations adopted thereunder.

"Operation and maintenance" means the regular performance of work required to assure continued functioning of the storm and surface water system and the sanitary sewerage system and corrective measures taken to repair facilities to keep them in operating condition.

"Order" means resolutions, orders and directives of the agency prescribing general standards and conditions for construction or use of the storm and surface water facilities and the sanitary sewerage facilities, and rates and charges therefor.

"Permit application and inspection fee" means fees charged an applicant for permits and related inspections for connections to the storm and surface water system and the sanitary sewerage system.

"Person" means the state of Oregon, any individual, public or private corporation, political subdivision, governmental agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

"Sanitary sewerage system" means any combination of sewer treatment plant, pumping, or lift facilities, sewer pipe, force mains, laterals, manholes, side sewers, laboratory facilities and equipment, and any other facilities for the collection, conveyance, treatment and disposal of sanitary sewage comprising the total publicly-owned sanitary sewerage system within agency jurisdiction, to which storm, surface and ground waters are not intentionally admitted.

"Sanitary sewer service charge" means a regular charge to a property owner or occupant of designated premises for the use of the sanitary sewerage system.

"Sewage treatment facility" means any facility designed for the purpose of the appropriate treating, holding, disposal, and discharge or reuse of sanitary sewage, including byproducts of such treatment processes.

"Sewage collection system" means any system of pipes, and pumping facilities designed for the collection of sanitary sewage for the purpose of transporting such material to a sewage treatment facility.

"Standards" means the standards and conditions of use of the storm and surface water system and the sanitary sewer system as specified and adopted by the agency. Standards also shall mean applicable statutes and rules of the United States and the state of Oregon.

"Storm and surface water service charge" means a regular charge to a property owner or occupant of designated premises for the contribution of runoff or pollution, (as defined in ORS 468.700), or both to the storm and surface water system.

"Storm and surface water system" means any combination of publicly owned storm and surface water quality treatment facilities, pumping, or lift facilities, storm drain pipes and culverts, open channels, creeks and rivers, force mains, laterals, manholes, catch basins and inlets, grates and covers, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water comprising the total publicly owned storm and surface water system within agency jurisdiction, to which sanitary sewage flows are not intentionally admitted.

"Storm and surface water system development fee" means a charge for construction or other activity that causes or is likely to cause, an increase from the natural state of storm water runoff quantity or pollution, (as defined in ORS 468.700), or both, to the storm and surface water system. Such fee is for capital improvements associated with such construction or other activity, and may be a reimbursement fee or a fee for improvements to be constructed. (Ord. 98-908 § 1)

13.16.020 Operating procedures and relationships.

The city agrees to:

A. Follow and enforce the orders promulgated by the agency, and to notify the agency of apparent violations thereof which may require agency legal action. The agency, in cooperation with the cities and the committee formed in Section 13.16.050C of this chapter, shall adopt policies, standards, specifications, and performance criteria necessary for the proper and effective operation of the agency and to comply with state and federal permits, laws and regulations.

B. Refer persons who may require an industrial waste discharge permit to the agency. City shall not issue any sanitary sewer permit to nonresidential customers without verification that the agency has issued an industrial waste permit, or the agency has determined that none is required.

C. Provide notice to and obtain agency review and approval of plans and specifications as the agency may require for any addition, modification or reconstruction (other than repairs) of the publicly-owned sanitary sewerage system prior to undertaking work thereon.

D. Provide notice to and obtain agency review and approval of plans and specifications as the agency may require prior to allowing any addition or construction (other than repairs) of the publicly-owned storm and surface water system to insure conformance to adopted agency standards, orders, and master plans.

E. Obtain agency review and approval prior to entering into any agreement for the use of the storm and surface water system or the sanitary sewerage system, other than for issuance of connection permits.

F. Inform the agency in writing not less than thirty (30) days prior to initiating or entering into any agreement for the financing or incurring of indebtedness relating to the storm and surface water system or the sanitary sewerage system. City shall not obligate any agency revenues of the sewer fund or storm and surface water fund, nor shall facilities of the sanitary or storm and surface water system be obligated for any debt.

G. Establish in its record a separate account for the storm and surface water program and one for the sanitary sewerage program for the purpose of accounting for connection and user fees collected and received by the city pursuant to this agreement.

H. Allow the agency access at any reasonable time upon reasonable notice to inspect and test storm and surface water facilities and sewerage facilities within the city.

I. Grant the agency permits from time to time as may be necessary for the installation of storm and surface water facilities and sewerage facilities in the public streets and ways of the city without imposing permit issuance fees, provided that the agency shall adhere to any conditions required pursuant to ORS 451.550(6).

J. Take such curative or remedial action as and when necessary to maintain that portion of the publicly-owned sanitary sewerage system under the jurisdiction of the city in accordance with prescribed agency standards, subject, however, to budgetary limitations and to the extent that the city may be lawfully authorized to act.

K. Follow and accomplish the work program developed by the agency for the storm and surface water program for that portion of the publicly-owned storm and surface water system under the jurisdiction of the city as defined in Section 13.16.030A of this chapter in accordance with prescribed agency standards, subject, however, to budgetary limitations and to the extent that the city may be lawfully authorized to act.

L. To issue no new permit for the construction within, or modification to a wetland, floodway, or floodplain without first receiving the written approval by the agency to do so. This paragraph shall not apply to permits issued by city pursuant to a current permit under 33 USC Section 1344(e), (a Section 404 general permit), and within the scope of such permit.

M. To pursue when city deems feasible and appropriate the conversion of storm and surface water facilities from private to public ownership, through the acquisition of easements and other property rights as necessary, for those privately owned storm and surface water facilities which are identified as being necessary or appropriately a part of the public system. (Ord. 98-908 § 2)

13.16.030 Ownership and responsibilities.

A. The city shall be responsible for the installation, construction, operation, maintenance, repair, replacement, and financing; processing of nonindustrial and erosion control permit applications; inspection of connections; billing, collection, accounting and recording connection fees, inspection fees, and monthly service charges; within its corporate limits and within the purview of this chapter for the following facilities and functions:

1. Sanitary sewer lines and facilities having a diameter of less than twenty-four (24) inches, unless otherwise agreed to by the agency and city.

2. Storm and surface water facilities within the city, and the portions of the total work program, to be the responsibility of the city are identified and described in the program summary and map, incorporated in the ordinance codified in this chapter as Exhibit A. This program summary and map may be modified from time to time by mutual written agreement of the city and agency.

B. The agency shall be responsible for the installation, construction, operation, maintenance, repair, replacement, and the financing thereof, of all publicly owned storm and surface water facilities, and sanitary sewerage facilities within the city not identified in subsection A of this section. In addition, the agency shall have exclusive jurisdiction over industrial waste discharges with regard to permits, service fees, billings, collection, regulations and enforcement. Upon receipt of any application for an industrial waste discharge permit within a city territory, the agency shall so inform city and shall coordinate with any other applicable development or construction permits of city.

C. The city previously transferred to agency certain real and personal property of the sanitary sewerage system. The city transfers, assigns and sets over to the agency all of the city's ownership interests in and to the storm and surface water facilities of the city listed in the ordinance codified in this chapter in Exhibit A and described in subsection B of this section, as being the responsibility of the agency. City further transfers to agency all easements, rights-of-way and permits held by the city with respect to the foregoing but subject to the terms and provisions thereof, to all of which the agency shall be bound and conform and shall save, hold harmless and indemnify the city from any failure to conform thereof, to the extent allowed by law. City and agency shall execute all documents necessary to transfer title to any real property interests by December 31, 1990.

With respect to all transfers of fee title to real property, each party shall have the right, at its expense, to perform an environmental assessment prior to accepting title to property. Any terms and conditions prescribing cleanup of the property shall be subject to negotiation of the parties and included in the instrument of transfer of the property. Agency agrees that all of its right, title and inter-

est in any and all facilities transferred to it by city under this subsection shall revert to city no later than six months after agency discontinues operation or use of such facility and agency agrees to execute any and all documents necessary to effect such conveyance.

D. The city excepts and reserves to itself all interests in real property not expressly to be transferred by this agreement, including all such property utilized in connection with treatment facilities; provided, however, that the city does grant to the agency consent for the nonexclusive use of such lands as may be necessary to enable the agency to own, operate and maintain such facilities.

E. Agency will not establish local assessment districts within the city, without first obtaining city approval.

F. Agency will process applications from city pursuant to Section 13.16.020L of this chapter for wetland, floodplain, and floodway modifications. Upon review and approval by the agency, and upon request by city, the agency shall act as a facilitator and liaison for state and federal review and permit processes. (Ord. 98-908 § 3)

13.16.040 Administration, operation and maintenance of sewerage facilities.

City and agency agree that:

A. City and agency agree to divide revenues collected pursuant to this agreement as follows:

1. To remit payments on a monthly basis, with a report on agency-designated forms.

2. Payments shall be due upon thirty (30) days of receipt of the revenue by the billing party, unless the payment has been appealed by the billing party. If the payment has been appealed by the billing party under the dispute resolution process of Section 13.16.060 of this chapter, the amount in dispute may be withheld or paid without prejudice to either party.

3. The agency board shall determine and certify annually for the sanitary sewerage program, and for the storm and surface water program, the portion of the monthly service charge, and the portion of the connection charge allocated for each of the following:

a. Retirement of revenue bonds;

b. The portion required for the city system as defined in Section 13.16.030A of this chapter;

c. The portion required for the agency responsibilities.

4. City shall remit to the agency the portion of sanitary sewer service charges and connection fees collected, and storm and surface water service charges and connection fees collected, as identified in subsections (A)(3)(a) and (c) of this section, and shall retain the service charge and connection fee revenue identified in subsection (A)(3)(b) of this section.

5. City may charge and collect a service charge or connection fee at a higher rate per DUE and ESU than that set by the agency when the city determines it is needed for the local city system. The city shall retain one hundred (100) percent of these additional revenues collected. Such additional charge shall be consistent with applicable federal rules in order to preserve eligibility for grants and other funding programs.

6. For connection fees paid by “Bancroft” financing, the billing party shall remit the portion of each payment collected, including interest on the Bancroft payment, as determined in subsection (A)(3) of this section.

7. For permit and inspection fees for private development construction of public storm and surface water facilities and sanitary sewer facilities, and for erosion control permit fees, the city shall remit to the agency a fee to compensate the agency for its costs for services performed relative to these fees, as prescribed by agency order.

8. For industrial waste fees, agency shall remit to city twenty (20) percent of connection, volume, and monthly service charges collected. Agency shall retain one hundred (100) percent of the annual permit fee, and any penalty fees, COD, SS and other fees that may be assessed.

B. City will institute administrative procedures within a reasonable time to diligently maintain regular billings and collection of fees, adjust complaints thereto, and pursue delinquency follow-ups and take reasonable steps for collection thereof.

C. Agency or city may at any reasonable time upon reasonable notice inspect and audit the books and records of the other with respect to matters within the purview of this chapter. Additionally, the city and agency shall prepare and submit to each other a performance report of the storm and surface water functions, and the sanitary sewer functions for which each is responsible. The performance report shall be prepared every six months, and shall be provided to the other no later than September 1st and March 1st of each year. The performance report, for each function, shall address the performance in those areas necessary for permit compliance.

D. The city and the agency may each need extra help from time to time that might be supplied by the other. In such a case, either city or the agency in utilizing the services of an employee of the other shall pay the lending government the employee's salary rate plus direct salary overhead currently in effect for the time worked.

E. Interest shall accrue on late payments at a rate of three-quarters of one percent per month on the unpaid balance.

F. The city and agency may, each at its own cost, install permanent and temporary volume and quality monitoring stations to determine the effectiveness of city and agency programs.

G. The performance reports from each city will be reviewed by the committee established in Section 13.16.050C following the procedure defined in a separate agreement between the agency and member cities. (Ord. 98-908 § 4)

13.16.050 Other provisions.

The city and the agency further agree that:

A. The agency will not extend sewer service to areas outside the city except with prior approval of the city where such areas are included in the urban planning area agreement between the city and the appropriate county or counties.

B. The city and the agency will each obtain such insurance contracts as necessary to cover the liabilities of the city and the agency respectively for the risks and liabilities arising from activities and operations under this chapter. Each party hereto shall cause the other to be named as an additional insured on its policy or policies as to the obligations under the terms of this chapter. In the event that either party chooses to be self insured, that party shall maintain and furnish proof of separately identified and unencumbered reserves for the maximum liability allowed under state law.

C. Establish a committee made up of one representative from Washington County and one representative from each member city within the agency, which will meet quarterly, or more frequently if needed, to review, advise, and be heard by the agency on the standards, regulations and specifications, work programs, capital improvement programs, rates and charges, long range planning, and other matters covered by the agreements with the member cities.

D. At such time as the agency shall discontinue operation or use of any facilities on city-owned premises, the agency shall remove such equipment, facilities or fixtures therefrom within a period of six months after such discontinuance unless otherwise determined by the parties. The agency shall demolish or remove facilities, the sites thereof shall be left free and clear of all demolition waste and debris. Any environmental clean-up necessitated by agency operation shall be the sole responsibility of agency. In the event of cleanup involving acts of third parties, the cleanup costs therefor shall be subject to negotiation by the parties.

E. City and agency shall each be responsible for the negligent or wrongful acts of its officers, employees, agents, and volunteers, while performing work related to this chapter. Each party shall be solely responsible for defense, costs or payments arising from legal challenge alleging improper use by that party of funds derived from this chapter, or otherwise held by that party. Each party shall be responsible for any liability arising out of its ownership of real property and interests therein, activities governed by an NPDES permit or other air or water discharge permit issued by competent authority to that party, and any conduct of that party subject to direct regulation by state or federal authority.

F. Nothing in this chapter shall be construed as a limitation upon or delegation of the statutory and home rule powers of the city, nor as a delegation or limitation of the statutory powers of the agency. This chapter shall not limit any right or remedy available to city or agency against third parties arising from illegal acts of such third parties.

G. Where this chapter calls for review or approval of a fee or charge, agency shall perform such review in a timely manner, shall not unreasonably withhold approval, and shall provide its decision to the city in writing. If, within thirty (30) days of written request by city for approval by agency, the agency has failed to provide a written response, the request shall be deemed approved. (Ord. 98-908 § 5)

13.16.060 Dispute resolution-- Remedies.

A. In the event of a dispute between the parties regarding their respective rights and obligations pursuant to this chapter, the parties shall first attempt to resolve the dispute by negotiation. If a dispute is not resolved by negotiation, the exclusive dispute resolution process to be utilized by the parties shall be as follows:

1. Step 1. Upon failure of those individuals designated by each party to negotiate on its behalf to reach an agreement or resolve a dispute, the nature of the dispute shall be rendered to writing and shall be presented to the city's chief executive officer and agency general manager, who shall meet and attempt to resolve the issue. If the issue in the dispute is resolved at this step, there shall be a written determination of such resolution, signed by the city's chief executive officer and agency gen-

eral manager, which determination shall be binding on the parties. Resolution of an issue at this step requires concurrence of both parties' representatives.

2. Step 2. In the event a dispute cannot be resolved at Step 1, the matters remaining in dispute after Step 1 shall be reduced to writing and forwarded to the mayor and the chairman of the board of directors. Upon receipt of the written issue statement, the mayor and chairman shall meet and attempt to resolve the issue. If the issue is resolved at this step, a written determination of such resolution shall be signed by the mayor and chairman. Resolution of an issue at this step requires concurrence of both the mayor and the chairman.

3. Step 3. In the event a dispute cannot be resolved at Step 2, the parties shall submit the matter to mediation. The parties shall attempt to agree on a mediator. In the event they cannot agree, the parties shall request a list of five mediators from the American Arbitration Association, or such other entity or firm providing mediation services to which the parties may further agree. Unless the parties can mutually agree to a mediator from the list provided, each party shall strike a name in turn, until only one name remains. The order of striking names shall be determined by lot. Any common costs of mediation shall be borne equally by the parties, who shall each bear their own costs and fees therefor. If the issue is resolved at this step, a written determination of such resolution shall be signed by both parties. Resolution of an issue at this step requires concurrence of by both parties. In the event a dispute is not resolved by mediation, the aggrieved party may pursue any remedy available to it under applicable law.

B. Neither party may bring a legal action against the other party to interpret or enforce any term of this chapter in any court unless the party has first attempted to resolve the matter by means of the dispute resolution of subsection A of this section. This shall not apply to disputes arising from a cause other than interpretation or enforcement of this chapter. (Ord. 98-908 § 6)

13.16.070 Effect of this chapter.

This chapter shall supersede all prior agreements and amendments between the parties with respect to sanitary sewerage and service, storm and surface water management; provided that, except as expressly modified herein, all rights, liabilities, and obligations of such prior agreements shall continue. This chapter shall be effective upon its execution by both parties hereto, and shall continue in effect for twenty (20) years from and after the date hereof. This chapter may be modified only by written amendment. (Ord. 98-908 § 7)

Chapter 13.20

WATER USE RESTRICTIONS

Sections:

Article I. Ongoing Water Conservation Program
13.20.010 Purpose.
13.20.020 Established.

13.20.030 New landscaping.

Article II. Water Restrictions
13.20.040 Purpose.
13.20.050 Landscape restrictions.

Article III. Emergency Water Restrictions
13.20.060 Purpose.
13.20.070 Posting of announcement--Contents--Review.
13.20.080 Restrictions.
13.20.090 Termination of restrictions.
13.20.100 Record of emergency declaration.

Article IV. Enforcement
13.20.110 Major irrigators.
13.20.120 Penalties.

Article I. Ongoing Water Conservation Program

13.20.010 Purpose.

The purpose of this article is to restrict nonessential water use in order to protect the city's water resources without creating an undue hardship for water users. (Ord. 99-1076 Art. I § 1)

13.20.020 Established.

The city establishes a water conservation program to include the following ongoing provisions:

A. Landscape sprinkling for each landscaped area (e.g. sprinkler zone) shall be limited to twenty (20) minutes per day.

B. No landscape watering shall be allowed between ten a.m. and five p.m.

C. All watering with a hose held by hand and constantly monitored is exempt from restrictions.

D. Exemptions may be granted by the public works director. (Ord. 99-1076 Art. I § 2)

13.20.030 New landscaping.

New landscaping shall be subject to any and all water restrictions imposed, and shall not receive any preference or exemptions until after the placement in service of the Bull Run (regional supply) line. (Ord. 99-1076 Art. I § 3)

Article II. Water Restrictions

13.20.040 Purpose.

The purpose of this article is to restrict water use to ensure fire flow and essential requirements. This article includes the requirements of Article I of this chapter. (Ord. 99-1076 Art. II § 1)

13.20.050 Landscape restrictions.

The city may restrict landscape sprinkling on an alternate day basis (e.g. even-numbered addresses may water on even-numbered days and odd-numbered addresses on odd-numbered days) under the following conditions:

A. The public works director shall inform the city manager when water consumption exceeds production and available water storage is approaching the minimum the city requires to meet fire protection and other essential requirements.

B. Upon notification, the city manager shall impose the landscape water restrictions effective immediately upon posting notices in three conspicuous places in the city.

C. The restrictions shall stay in effect until such time as the city manager finds that the conditions which gave rise to the restrictions no longer exist. The city manager may declare the prohibition terminated in whole or in part effective immediately upon announcement.

D. Restrictions imposed shall be reviewed by the city council at its next subsequent meeting.

E. Water for construction and water for the purpose of dust control may be limited or restricted entirely depending upon the availability of water at such time as water restrictions are imposed.

F. The city reserves the right to establish separate rules to clarify and expand water restrictions and applications to meet the water demand. (Ord. 99-1076 Art. II § 2)

Article III. Emergency Water Restrictions

13.20.060 Purpose.

The purpose of this article is to restrict water use to essential services during times of critical water shortages due to severe drought, reduction in pumping capability or other emergency situations wherein there may be an insufficient water supply. This article includes the requirements of Articles I and II of this chapter. (Ord. 99-1076 Art. III § 1)

13.20.070 Posting of announcement--Contents--Review.

The city manager shall declare a critical water supply emergency by means of posting notice in three public and conspicuous places in the city. Such announcement shall prescribe the action taken by the city manager, including the time it became or will become effective, and shall specify the particular activities for which the use of water will be prohibited. The declaration shall be reviewed by the city council at its next subsequent meeting. (Ord. 99-1076 Art. III § 2)

13.20.080 Restrictions.

When a declaration of emergency is announced and notice has been given, the use and withdrawal of city-provided water by any person may be limited, including prohibiting the following:

A. Sprinkling, watering or irrigation of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers or any other vegetation;

B. Washing automobiles, trucks, trailers, trailer houses, motorbikes, boats, or any other type of mobile equipment;

C. Washing sidewalks, driveways, parking lots, tennis courts, filling station aprons, porches and other hard surface area;

D. Washing the outside of dwellings, washing the outside of office buildings;

E. Washing and cleaning business or industrial equipment and machinery;

F. Operating any ornamental fountain, scenic or recreational ponds and lakes or other structures making a similar use of water, except for the minimum necessary to support fish life;

G. Use of water to fill, refill or add to any swimming and wading pools or jacuzzi not employing a filter and recirculating system, and evaporation covers, or where the use of the pool is required by a doctor;

H. Permitting the escape of water through defective plumbing;

I. Use of water for construction projects;

J. Water to serve customers in a restaurant unless requested;

K. Such other prohibitions on use, or restrictions on use practices, conservation measures, or as may be imposed or requested by a supplier of water to the city, pursuant to supply agreement or contract, as a condition to supplying water to the city. (Ord. 99-1076 Art. III § 3)

13.20.090 Termination of restrictions.

Whenever the city manager shall find that the conditions which gave rise to the water prohibition no longer exists, the city manager may declare the prohibition terminated in whole or in part, effective immediately upon announcement. (Ord. 99-1076 Art. III § 4)

13.20.100 Record of emergency declaration.

The city manager shall make or cause to be made a record of each time and date when any emergency declaration is announced to the public and this includes the notice of termination, both in whole or in part. (Ord. 99-1076 Art. III § 5)

Article IV. Enforcement

13.20.110 Major irrigators.

Major irrigators with two-inch or greater city water meter shall comply with the terms of the following:

A. Notice. Major irrigators using two-inch or greater city water meters shall be prohibited from irrigating once an emergency is declared and the city shall provide them immediate notice of such declaration and a copy of this notice. Failure to comply with city's "no irrigating" provision shall result in the immediate shut off of nonessential water usage by the city public works personnel.

B. Other Users. In respect to other users, water restrictions and enforcement shall be as follows:

1. Letter of Warning. A letter of warning shall be in writing, shall specify the violation, may require compliance measures, and shall be served upon the customer either personally, by office or substitute service, by first-class mail, or by posting in a conspicuous place on the building, place or premises where the violation occurred.

2. Notice of Violation. For violation of each prohibition, the customer will receive one letter of warning prior to receiving a notice of violation. A notice of violation shall be in writing, shall specify the violation, may require compliance measures, may assess a civil penalty, and shall be served upon the customer either personally, by office or substitute service, by first class mail, or by posting in a conspicuous place on the building, place or premises where the violation occurred. (Ord. 99-1076 Art. IV § 1)

13.20.120 Penalties.

A. Schedule of Penalties. In addition to any liability, duty, or other penalty provided by law, the city manager may assess a civil penalty for any violation of requirements after a customer has previously received a letter of warning for a violation. A civil fine may be assessed in the following manner and amounts:

First notice of violation:	$100
Second notice of violation:	300
Third notice and subsequent violations(s):	500

1. Penalties Assessed in a Notice of Violation. A penalty is due and payable upon receipt of the notice of assessment, and may be added to the total amount due on water bills. Procedures for collection of past due penalties shall be the same as for past due water bills, resulting in shut-off of water if payment is not received after notice and appeal rights have been exhausted.

B. Settlement of Penalty. Upon receipt of a notice of assessment of an enforcement action, a customer may request a conference with the designee of the city manager, who may settle any unpaid penalty where deemed appropriate.

C. 1. Appeal of Assessment of Penalty. Upon receipt of a notice of assessment, a customer may appeal the assessment to the city manager. The appeal is required to be in writing and with sufficient proof to argue the assessment. The written appeal must be received in the City of Sherwood, 20 NW Washington, Sherwood, OR 97140, within seven days of the date of issuance of the assessment.

2. Upon receipt of the notice, a time and place will be set for the hearing within seven days. At the hearing, the appellant may present oral and documentary evidence relevant to the charge of violation. After hearing the evidence, the city manager or his or her designee, will make a determination within fifteen (15) days, which determination shall be final. (Ord. 99-1076 Art. IV § 2)

Chapter 13.24

PUBLIC IMPROVEMENT REIMBURSEMENT DISTRICTS

Sections:

13.24.010 Definitions.
13.24.020 Application to establish a reimbursement district.
13.24.030 Public works director's report.
13.24.040 Amount to be reimbursed.
13.24.050 Public hearing.
13.24.060 City council action.
13.24.070 Notice of adoption of resolution.
13.24.080 Recording the resolution.
13.24.090 Contesting the reimbursement district.
13.24.100 Obligation to pay reimbursement fee.
13.24.110 Public improvements.
13.24.120 Multiple public improvements.
13.24.130 Collection and payment--Other fees and charges.
13.24.140 Nature of the fees.
13.24.150 Severability.

13.24.010 Definitions.

The following terms are defined as follows for the purposes of this chapter:

"City" means the City of Sherwood, Oregon.

"Developer" means a person who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the city for reimbursement for the expense of the improvement.

"Development permit" means any final land use decision, limited land use decision, expedited land division decision, partition, subdivision, planned unit development, or driveway permit.

"Person" means a natural person, the person's heirs, executors, administrators or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent, employee or representative thereof.

"Public improvement" means any construction, reconstruction or upgrading of public water, stormwater, sanitary sewer or street improvements.

"Public works director" means the public works director of the city of Sherwood.

"Reimbursement agreement" means the agreement between the developer and the city which is authorized by the city council and executed by the city manager, providing for the installation of and payment for reimbursement district public improvements.

"Reimbursement district" means the area which is determined by the city council to derive a benefit from the construction of public improvements, financed in whole or in part by the developer.

"Reimbursement fee" means the fee required to be paid by a resolution of the city council and the reimbursement agreement. The city council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the developer for financing the construction of the improvement within the reimbursement district. (Ord. 01-1114 § 1)

13.24.020 Application to establish a reimbursement district.

A. A person who is required to or chooses to finance some or all of the cost of a public improvement which will be available to provide service to property other than property owned by the person may by written application filed with the public works director request that the city establish a reimbursement district. The public improvement must be of a size greater than that which would otherwise ordinarily be required in connection with an application for a building permit or development permit or must be available to provide service to property other than property owned by the developer, so that the public will benefit by making the improvement.

B. The application shall be accompanied by an application fee, as set by council resolution which is reasonably calculated to cover the cost of the preparation of the public works director's report and notice pursuant to this chapter.

C. The application shall include the following:

1. A written description of the location, type, size and cost of each public improvement which is to be eligible for reimbursement.

2. A map showing the boundaries of the proposed reimbursement district, the tax account number of each property, its size and boundaries.

3. A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage and square footage of said properties, or similar data necessary for calculating the apportionment of the cost; the property or properties owned by the developer; and the names and mailing addresses of owners of other properties to be included in the proposed reimbursement district.

4. The actual or estimated cost of the public improvements.

D. The application may be submitted to the city prior to the installation of the public improvement but not later than one hundred eighty (180) days after completion and acceptance of the public improvements by the city. This time period may be extended by the city manager for good cause shown. (Ord. 01-1114 § 3)

13.24.030 Public works director's report.

The public works director shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The public works director may require the submission of other relevant information from the developer in order to assist in the evaluation. The public works director shall prepare a written report for the city council that considers and makes a recommendation concerning each of the following factors:

A. Whether the developer will finance, or has financed some or all of the cost of the public improvement, thereby making service available to property, other than that owned by the developer.

B. The boundary and size of the reimbursement district.

C. The actual or estimated cost of the public improvement serving the area of the proposed reimbursement district and the portion of the cost for which the developer should be reimbursed for each public improvement.

D. A methodology for spreading the cost among the properties within the reimbursement district and, where appropriate, defining a "unit" for applying the reimbursement fee to property which may, with city approval, be partitioned, subdivided, altered or modified at some future date. City may use any methodology for apportioning costs on properties specially benefited that is just and reasonable.

E. The amount to be charged by the city for an administration fee for the reimbursement agreement. The administration fee shall be fixed by the city council and will be included in the resolution approving and forming the reimbursement district. The administration fee may be a percentage of the total reimbursement fee expressed as an interest figure, or may be a flat fee per unit to be deducted from the total reimbursement fee.

F. Whether the public improvements will or have met city standards.

G. Whether it is fair and in the public interest to create a reimbursement district. (Ord. 01-1114 § 3)

13.24.040 Amount to be reimbursed.

A. A reimbursement fee shall be computed by the city for all properties within the reimbursement district, excluding property owned by or dedicated to the city or the state of Oregon, which have the opportunity to use the public improvements, including the property of the developer, for formation of a reimbursement district. The fee shall be calculated separately for each public improvement The developer for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for its own property.

B. The cost to be reimbursed to the developer shall be limited to the cost of construction engineering, construction, and off-site dedication of right of way. Construction engineering shall include surveying and inspection costs and shall not exceed seven and a half (7.5) percent of eligible public improvement construction cost. Costs to be reimbursed for right of way shall be limited to the reasonable market value of land or easements purchased by the developer from a third party in order to complete off-site improvements.

C. No reimbursement shall be allowed for the cost of legal expenses, design engineering, financing costs, permits or fees required for construction permits, land or easements dedicated by the developer, the portion of costs which are eligible for systems development charge credits or any costs which cannot be clearly documented.

D. Reimbursement for the amount of the application fee required by Section 13.24.020 in this chapter. (Ord. 01-1114 § 4)

13.24.050 Public hearing.

A. Within forty-five (45) days after the public works director has completed the report required in Section 13.24.030, the city council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Developer shall provide the mailing list for all property owners within the proposed district. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the

public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The city
council has the sole discretion after the public hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.

B. Not less than ten (10) days prior to any public hearing held pursuant to this chapter, the developer and all owners of property within the proposed district shall be notified of the public hearing and the purpose thereof. Such notification shall be accomplished by either regular and certified mail or by personal service. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the developer or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the city council's action to approve the same. (Ord. 01-1114 § 5)

13.24.060 City council action.

A. After the public hearing held pursuant to Section 13.24.050A, the city council shall approve, reject or modify the recommendations contained in the public works director's report. The city council's decision shall be contained in a resolution. If a reimbursement district is established, the resolution shall include the public works director's report as approved or modified, and specify that payment of the reimbursement fee, as designated for each parcel, is a precondition of receiving any city permits applicable to development of that parcel as provided for in Section 13.24.100.

B. The resolution shall establish an interest rate to be applied to the reimbursement fee as a return on the investment of the developer. The interest rate shall be fixed and computed against the reimbursement fee as simple interest and will not compound.

C. The resolution shall instruct the city manager to enter into an agreement with the developer pertaining to the reimbursement district improvements. If the agreement is entered into prior to construction, the agreement shall be contingent upon the improvements being accepted by the city. The agreement shall contain at least the following provisions:

1. The public improvement(s) shall meet all applicable city standards.

2. The total amount of potential reimbursement to the developer shall be specified.

3. The total amount of potential reimbursement shall not exceed the actual cost of the public improvement(s).

4. The developer shall guarantee the public improvement(s) for a period of twelve (12) months after the date of installation.

5. A clause in a form acceptable to the city attorney stating that the developer shall defend, indemnify and hold harmless the city from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the city's establishment of the reimbursement district, including any city costs, expenses and attorney fees related to collection of the reimbursement fee should the city council decide to pursue collection of an unpaid reimbursement fee under Section 13.24.110H.

6. A clause in a form acceptable to the city attorney stating that the developer agrees that the city, cannot be held liable for any of the developer's alleged damages, including all costs and attorney fees, under the agreement or as a result of any aspect of the formation of the reimbursement district,

or the reimbursement district process, and that the developer waives, and is stopped from bringing, any claim, of any
kind, including a claim in inverse condemnation, because the developer has benefited by the city's approval of its development and the required improvements.

7. Other provisions the city determines necessary and proper to carry out the provisions of this chapter.

C. If a reimbursement district is established by the city council, the date, of the formation of the district shall be the date that the city council adopts the resolution forming the district. (Ord. 01-1114 § 6)

13.24.070 Notice of adoption of resolution.

The city shall notify all property owners within the district and the developer of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation specifying the amount of the reimbursement fee and that the property owner is legally obligated to pay the fee pursuant to this chapter. (Ord. 01-1114 § 7)

13.24.080 Recording the resolution.

The city recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the Washington County clerk so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee. (Ord. 01-1114 § 8)

13.24.090 Contesting the reimbursement district.

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after sixty (60) days following the adoption of a resolution establishing a reimbursement district and any such legal action shall be exclusively by Writ of Review pursuant to ORS 34.0 10 to ORS 34.102. (Ord. 01-1114 § 9)

13.24.100 Obligation to pay reimbursement fee.

A. The applicant for a permit related to property within any reimbursement district shall pay the city, in addition to any other applicable fees and charges, the reimbursement fee established by the council, if within ten years after the date of the passage of the resolution forming the reimbursement district, the person applies for and receives approval from the city for any of the following activities:

1. A building permit for a new building;
2. Building permits for any addition(s) of a building, which cumulatively exceed twenty-five (25) percent of the existing square footage in any thirty-six (36) month period;
3. A development permit, as that term is defined by this chapter;
4. A city permit issued for connection to a public improvement.

B. The city's determination of who shall pay the reimbursement fee and when the reimbursement fee is due is final.

C. In no instance shall the city, or any officer or employee of the city, be liable for payment of any reimbursement fee, or portion thereof, as a result of the city's determination as to who should pay the reimbursement fee.

Only those payments which the city has received from or on behalf of those properties within a reimbursement district shall be payable to the developer. The city's general fund or other revenue sources shall not be liable for or subject to payment of outstanding and unpaid reimbursement fees imposed upon private property.

D. Nothing in this chapter is intended to modify or limit the authority of the city to provide or require access management.

E. Nothing in this chapter is intended to modify or limit the authority of the city to enforce development conditions which have already been imposed against specific properties.

F. Nothing in this chapter is intended to modify or limit the authority of the city, in the future, to impose development conditions against specific properties as they develop.

G. No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in subsection 10A unless the reimbursement fee, together with the amount of accrued interest, has been paid in full. Where approval is given as specified in subsection 10A, but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.

H. The date of reimbursement under this chapter shall extend ten years from the date of the formation of a reimbursement district formation by city council resolution.

I. The reimbursement fee is immediately due and payable to the city by property owners upon use of a public improvement as provided by this chapter in subsection 10A. If connection is made or construction commenced without required city permits, then the reimbursement fee is immediately due and payable upon the earliest date that any such permit was required.

J. Whenever the full reimbursement fee has not been paid and collected for any reason after it is due, the city manager shall report to the city council the amount of the uncollected reimbursement, the legal description of the property on which the reimbursement is due, the date upon which the reimbursement was due and the property owner's name or names. The city council shall then, by motion, set a public hearing date and direct the city manager to give notice of that hearing to each of the identified property owners, together with a copy of the city manager's report concerning the unpaid reimbursement fee. Such notice may be either by certified mail or personal service. At the public hearing, the city council may accept, reject or modify the city manager's report. If the city council determines that the reimbursement fee is due but has not been paid for whatever reason, the city council may, at its sole discretion, act, by resolution, to take any action, it deems appropriate, including all legal or equitable means necessary to collect the unpaid amount. However, nothing in this chapter requires the city to take any action to collect such amounts. (Ord. 01-1114 § 10)

13.24.110 Public improvements.

Public improvements installed pursuant to reimbursement district agreements shall become and remain the sole property of the city. (Ord. 01-1114 § 11)

13.24.120 Multiple public improvements.

More than one public improvement may be the subject of a reimbursement district. (Ord. 01-1114 § 12)

13.24.130 Collection and payment--Other fees and charges.

A. The developer shall receive all reimbursement collected by the city for reimbursement district public improvements. Such reimbursement shall be delivered to the developer for as long as the reimbursement district agreement is in effect. Such payments shall be made by the city within ninety (90) days of receipt of the reimbursements.

B. The reimbursement fee is not intended to replace or limit, and is in addition to, any other existing fees or charges collected by the city. (Ord. 01-1114 § 13)

13.24.140 Nature of the fees.

The city council finds that the fees imposed by this chapter are not taxes subject to the property tax limitations of Article XI, Section 11(b) of the Oregon Constitution. (Ord. 01-1114 § 14)

13.24.150 Severability.

If any section, phrase, clause, or part of this chapter is found to be invalid by a court of competent jurisdiction, the remaining phrases, clauses, and parts shall remain in full force and effect. (Ord. 01-1114 § 15)

Title 14

(Reserved)

Title 15

BUILDINGS AND CONSTRUCTION

Chapters:

15.04 Construction Codes
15.08 Moving Buildings
15.12 Swimming Pools
15.16 System Development Charges
15.20 Park and Recreation System Development Charges on New Development

Chapter 15.04

CONSTRUCTION CODES

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15.04.200 Violation--Penalty.

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)

15.04.040

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 this code and to adopt and enforce administrative procedures in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformance with the intent and purpose of this code.

B. Deputies. In accordance with prescribed procedures and with the approval of the appointing authority, the building official may appoint technical officers and inspectors and other employees to carry out the functions of the code enforcement agency.

C. Right of Entry. When it may be necessary to inspect to enforce the provisions of this code, or the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to, in violation of this code or which otherwise makes the building or premises unsafe, dangerous or hazardous, the building official may enter said building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If

entry is refused, the building official shall have recourse to the remedies provided by ORS to secure entry.

D. Stop Work Orders. Whenever any work is being done contrary to the provisions of this code (or other pertinent laws or ordinances implemented through its enforcement, or by the city), the building official may order the work stopped by notice in writing served on any person(s) engaged in the doing or causing of such work to be done. Such person(s) shall stop such work until specifically authorized by the building official to proceed thereafter.

E. Authority to Disconnect Utilities in Emergencies. The building official or the building official's authorized representative shall have the authority to disconnect fuel-gas utility service, and/or other energy supplies to a building, structure, premises or equipment regulated by this code when necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection within a reasonable time thereafter.

F. Authority to Abate Hazardous Equipment. When the building official ascertains that equipment, or any potion thereof, regulated by this code has become hazardous to life, health or property, the building official shall order the equipment either removed from its location or restored to a safe and/or sanitary condition, as appropriate. The notice shall be in writing and contain a fixed time limit for compliance. Persons shall not use the defective equipment after receiving the notice.

When equipment or an installation is to be disconnected, written notice of the disconnection (and causes therefor) shall be given within twenty-four (24) hours to the involved utility, the owner and/or occupant of the building, structure or premises. When equipment is maintained in violation of this code and in violation of a notice issued pursuant to the provisions of this section, the building official may institute such action as he or she deems necessary to prevent, restrain, correct or abate the violation.

G. Connection after Order to Disconnect.No person shall make a connection to or from an energy, fuel or power supply to any equipment regulated by this code which has been disconnected or ordered disconnected or discontinued by the building official until the building official specifically authorizes the reconnection and/or use of such equipment.

H. Maintenance. All buildings and structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's designated agent shall be responsible for the maintenance of buildings and structures. To determine compliance with this section, the building official may cause a structure to be reinspected.

I. Occupancy Violations. Whenever any building, structure or equipment therein regulated by this code is used contrary to the provisions of this code, the building official may order such use discontinued and the structure (or portion thereof) vacated. All persons using the structure (or portion thereof) shall discontinue the use within the time prescribed by the building official in his notice and make the structure, or portion thereof, comply with the requirements of this code. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.080)

15.04.090 Appeals.

A. Board of Appeals. In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code, there shall be and is created a board of appeals consisting of members who are qualified by experience and training to pass on matters pertaining to building construction and who are not employees of the jurisdiction. The building official shall be an ex officio member of and shall act as secretary to said board but shall have no vote on any matter before the board. The board of appeals shall be appointed by the governing body and shall hold office at its pleasure. The board shall adopt rules of procedure for conducting its business, and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

The board of appeals shall have no authority relative to interpretation of the administrative provisions of this code nor shall the board be empowered to waive requirements of this code.

B. Appeals. Any decision relating to the suitability of alternate materials and methods of construction or interpretation by the building official with regard to the building code may be appealed to the board of appeals in conformance with procedures provided herein.

C. Appeal Procedure. Any person aggrieved by a decision of the building official made pursuant to the following specialty codes may appeal that decision to the following:

1. Electrical Specialty Code. Appeals may be made to the state of Oregon, Building Codes Division, Chief Electrical Inspector.

2. Structural Specialty Code. Appeals may be made to the state of Oregon, Building Codes Structures Board.

3. Mechanical Specialty Code. Appeals may be made to the state of Oregon, Building Codes Structures Board.

4. Plumbing Specialty Code. Appeals may be made to the state of Oregon, Building Codes Division.

5. One and Two Family Dwelling Specialty Code. Appeals may be made to the state of Oregon, Building Codes Structures Board.

6. Manufactured Dwelling Code. Appeals may be made to the state of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

7. Recreational Park and Organizational Camp Regulations. Appeals may be made to the state of Oregon, Manufactured Structures and Parks Advisory Board as per ORS 455.690.

An appeal shall be in writing, shall describe the basis for the appeal and shall first be filed with the building official. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.01.090)

15.04.100 Plans and permits.

A. Issuance. The application, plans, specifications, computations and other data filed by an applicant for a permit shall be reviewed by the building official. Such plans may be reviewed by other departments of this jurisdiction to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in application for a permit and the plans, specifications and other data filed therewith conform to the requirements of this code and other pertinent laws

and ordinances, and that the fees have been paid, the building official shall issue a permit therefor to the applicant.

When the building official issues the permit where plans are required, the building official shall endorse in writing or stamp the plans and specifications "APPROVED." Such approved plans and specifications shall not be changed, modified and altered without authorizations from the building official, and all work regulated by this code shall be done in accordance with the approved plans.

The building official may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holder of a partial permit shall proceed without assurance that the permit for the entire building or structure will be granted.

B. Retention of Plans. One set of approved plans, specifications and computations shall be retained by the building official for a period of not less than ninety (90) days from date of completion of the work covered therein; and one set of approved plans and specifications shall be returned to the applicant, and said set shall be kept on the site of the building or work at all times during which the work authorized thereby is in progress.

C. Validity of Permit. The issuance or granting of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction or any other federal, state, or local law, statute, rule, regulation, or ordinance.

The issuance of a permit based on plans, specifications and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications and other data, or from preventing building operations being carried on thereunder when in violation of this code or of any other ordinances of this jurisdiction.

D. Expiration of Plan Reviews. Applications for which no permit is issued within one hundred eighty (180) days following the date of the application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding one hundred eighty (180) days on request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

E. Permit Expiration, Extension and Reinstatement. Every permit issued by the building official under the provisions of this code shall expire by limitation and become null and void if the building or work authorized is not commenced within the time limitations set forth in this section.

Every permit issued by the building official shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within one hundred eighty (180) days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days. The work shall not be considered suspended or abandoned where the permittee has pursued activities deemed by the building official to indicate the intent to start and complete the project. The building official may require the permittee to document these activities.

Every permit issued by the building official shall expire by limitation and become null and void twenty-four (24) months after the date of permit issuance. If the building or work authorized by such permit has not received final inspection approval prior to the permit expiration date, all work shall stop until a new permit is obtained for the value of the work remaining unfinished.

Exception: At the time of permit issuance the building official may approve a period exceeding twenty-four (24) months for completion of work when the permittee can demonstrate that the complexity or size of the project makes completing the project within twenty-four (24) months unreasonable.

Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed under that permit when the permittee is unable to complete work within the time required by this section for good and satisfactory reasons. The building official may extend the time for action by the permittee for a period not exceeding one hundred eighty (180) days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. No permit shall be extended more than once.

Where a permit has expired, the permit can be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

a. The building code under which the original permit was issued and other laws which are enforced by the code enforcement agency have not been amended in any manner which affects the work authorized by the original permit.

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)

15.04.100

Article II. Various Codes

15.04.120 Mechanical code.

The city of Sherwood shall use the 2004 Oregon Mechanical Specialty Code for administration, inspection and plan review. Any provision in this chapter inconsistent with the terms of that 2004 code is to be deemed ineffective and without force. (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 of Sherwood shall use the 2005 Oregon Plumbing Specialty Code for administration, inspection and plan review. Any provision in this chapter inconsistent with the terms of that 2005 code is to be deemed ineffective and without force. (Ord. 06-006 § 1: Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.02.030)

15.04.140 Electrical code.

The city of Sherwood shall use the 2005 Oregon Electrical Specialty Code for administration, plan review and inspection as the same has been adopted and described in OAR 918-305-0100(1). Any provision in this chapter inconsistent with the terms of that 2005 code is to be deemed ineffective and without force. (Ord. 06-003 § 1: Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.02.040)

15.04.150 One and two family dwellings.

The city of Sherwood shall use the 2005 version of the Oregon Residential Specialty Code for administration, inspection and plan review for applicable structures. Any provision in this chapter or code inconsistent with the terms of the 2005 code is to be deemed ineffective and without force. (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 Dangerous buildings code.

A. Unsafe Buildings. All buildings or structures regulated by this code which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life are, for the purpose of this section, unsafe. Any use of buildings or structures constituting a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, disaster, damage or abandonment is, for the purpose of this section, an unsafe use. Parapet walls, cornices, spires, towers, tanks, statuary and other appendages or structural members which are supported by, attached to, or a part of a building and which are in deteriorated condition or otherwise unable to sustain the design loads which are specified in this code are hereby designated as unsafe building appendages.

All such unsafe buildings, structures or appendages are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedures set forth in the dangerous buildings code or such alternate procedures as may have been or as may be adopted by this jurisdiction. As an alternative, the building official, or another employee or official of this jurisdiction as designated by the governing body, may institute any other appropriate action to prevent, restrain, correct or abate the violation.

B. Adoption of Uniform Code for the Abatement of Dangerous Buildings. The 1994 ICBO Uniform Code for the Abatement of Dangerous Buildings is adopted as part hereof, except as modified by this jurisdiction. (Ord. 98-1057 § 1 (part); Ord. 97-1028 § 9.02.080)

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:
15.08.010Moving permit required-- Application.
15.08.020Moving permit issuance and revocation.
15.08.030Building permit required.
15.08.040Penalties.

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 aforementioned requirements, and compliance with any other applicable ordinances, laws or governmental regulations, the building division shall issue the moving permit. The permit shall be conditional upon continued compliance with all of the provisions and the representations made in connection with the application for the permit. The permit may also be further conditioned upon such other provisions as will minimize the public inconvenience and assure the safety of the moving operation. Moving permits shall be valid for a period not to exceed thirty (30) days subject to extension by the building division upon reasonable terms and conditions. A moving permit may be revoked, suspended, or further conditioned, without notice of hearing, upon any finding of misinformation in the application or any change of circumstances such that the permit would not have been issued initially. Denial, revocation or suspension of a moving permit may be appealed to the city council upon written notice filed within five days of the building division's ruling. The council's decision shall be final. (Ord. 700 § 2, 1978)

15.08.030 Building permit required.

Pursuant to the State Structural Specialty Code, as adopted in Sherwood City Ordinance 1028 as amended, a building permit is required for all buildings moved to a location within the city. The building permit required is in addition to, not in lieu of the moving permit required by this chapter. In addition to all requirements set forth in the building code, the following must also be met to the satisfaction of the building official before a building permit may be issued:

A. The building to be moved shall be located and used in a manner consistent with all zoning and land use ordinances of the city, together with any other applicable ordinances, laws or governmental regulations.

B. The building shall be sufficiently similar to other buildings in the immediate vicinity in size, age, architectural style and structural condition so as to be compatible with other buildings in the area and so as not to cause property in the area to decrease in value.

Denial of a building permit application for failure to comply with subsection B of this section may be appealed to the city council upon written notice filed within five days followings the denial. In any event the building official may refer the application to the city council for a determination of compliance with subsection B of this section. The city council's decision shall be final. (Ord. 98-1056 § 1; Ord. 700 § 3, 1978)

15.08.040 Penalties.

Any person, firm, corporation or other entity violating any of the provisions of this chapter shall upon conviction thereof, be punishable by a fine not exceeding five hundred dollars ($500.00). In the event any provision of this chapter is violated by a firm or corporation, the officer or officers or person or persons in charge and responsible for the violation shall also be subject to the penalties herein provided. (Ord. 98-1056 § 2: Ord. 98-1049 § 10: Ord. 700 § 4, 1978)

Chapter 15.12

SWIMMING POOLS

Sections:

15.12.010Maintenance of swimming pools.
15.12.020Maintenance of fishponds, etc.
15.12.030Effective date of chapter.
15.12.040Violation--Penalty.

15.12.010 Maintenance of swimming pools.

A. Every person, firm or corporation in possession of land within the city, either as owner, purchaser under contract, lessee, tenant or licensee, upon which is situated a swimming pool or other outside body of water designed or used for swimming, dipping or immersion or any other purpose of a depth of more than eighteen (18) inches, shall:

1. Maintain on the lot and completely surrounding said pool or other body of water an enclosure consisting of a fence which if constructed with woven wire shall be of a pattern and type and if built of wood to be built of a vertical member type, both types to be such as to discourage children climbing; or

2. A wall not less than four feet in height, above the underlying ground or base, incapable of being crawled under and sufficient to make such body of water inaccessible to small children, with openings, holes or gaps therein no larger than four inches in any dimension except for doors or gates; provided, however, that in the event a picket fence is used, the openings between the pickets shall not exceed four inches in width; provided, further, that at no point shall such fence be closer to the edge

of pool than four feet; provided, further, that a dwelling house or accessory building may be used as a part of such enclosure; and

3. All said fences, enclosures or walls shall be made acceptable to the building inspector of the city.

B. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device installed at least forty (40) inches above the ground or base, designed to help, and capable of keeping, such door or gate securely closed at all times when not in actual use; provided, however, that the door of any dwelling occupied by human beings and forming any part of the enclosure hereinabove required need not be so equipped.

C. No swimming pool shall be constructed without first obtaining a building permit. No building permit shall be issued until the plans filed with the building inspector's office show full compliance with this chapter and no pool shall be used until a final inspection is made by said building inspector after construction is completed in accordance herewith. (Ord. 517 § 1, 1961)

15.12.020 Maintenance of fishponds, etc.

A. Every person, firm or corporation in possession of land within the city, either as owner, purchaser under contract, lessee, tenant or licensee, on which there is a fishpond, or other decorative pool or other artificial body of water a depth of eighteen (18) inches or more shall construct and maintain an acceptable enclosure and securely close off or block any and all entrances thereto.

B. Acceptable enclosure shall be one of the following:

1. A fence completely surrounding the fishpond, decorative pool or other artificial body of water, as provided in Section 15.12.010 of this chapter.

2. A wire screen or cover of sufficient strength to hold a weight of at least seventy-five (75) pounds and installed not more than six inches below the surface of the water at all times. (Ord. 517 § 2, 1961)

1. A fence completely surrounding the fishpond, decorative poll or other artificial body of water, as provided in Section 15.12.010 of this chapter.

2. A wire screen or cover of sufficient strength to hold a weight of at least seventy-five (75) pounds and installed not more than six inches below the surface of the water at all times. (Ord. 517 § 2, 1961)

15.12.030 Effective date of chapter.

All persons now maintaining pools for swimming, dipping or immersion, or any other artificial body of water, having a depth of more than eighteen (18) inches shall comply with the provisions of this chapter within sixty (60) days after the effective date of the ordinance codified in this chapter. However, the council, upon the application of a property owner, may grant extensions of time for compliance in individual cases upon showing of good cause. Such extensions of time shall not exceed thirty (30) days at a time. (Ord. 517 § 3, 1961)

15.12.040 Violation--Penalty.

Upon conviction of any person, firm or corporation of a violation of this chapter, said person, firm or corporation shall be punished by a fine of not more than two hundred fifty dollars ($250.00). Any person, firm or corporation continuing, committing or permitting any violation on more than one day shall be deemed guilty of a separate offense for each day of violation. (Ord. 98-1049 § 9: Ord. 517 § 4, 1961)

Chapter 15.16

SYSTEM DEVELOPMENT CHARGES

Sections:

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15.16.010 Title.

The ordinance codified in this chapter shall be known, and may be pleaded as, the city of Sherwood system development charge (SDC) ordinance. (Ord. 91-927 § 1)

15.16.020 Purpose.

The purpose of the system development charge is to impose an equitable share of the cost of capital improvements for water, sanitary sewer, streets, storm drainage, and open space upon those new or expanded developments that create the need for or increase the demand on capital improvements. (Ord. 01-1118 § 17; Ord. 91-927 § 2)

15.16.030 Scope.

The system development charge imposed under the authority of this chapter is separate from, and in addition to, any applicable tax, assessment, charge, or fee otherwise provided by law or imposed as a condition of development. A system development charge is a charge imposed when a property owner or developer chooses to intensify the use of specific parcel or parcels of land and is for excess-capacity provided to accommodate the demand created by new or expanded development. (Ord. 91-927 § 3)

15.16.040 Definitions.

For purposes of this chapter and any resolutions authorized thereunder:

"Applicant" means the person seeking to obtain a building permit.

"Arterial" means that term as defined in the city comprehensive plan.

"Building permit" means that permit issued by the city building official pursuant to the Uniform Building Code and other applicable codes. In addition, "building permit" means the manufactured home placement permit issued on a form approved by the Oregon Department of Commerce and relating to the placement of manufactured homes in the city.

"Capital improvements" means facilities or assets used for:

1. Water supply, storage, treatment, and distribution;
2. Waste water collection, transmission, and treatment;
3. Drainage and flood control;
4. Arterial and collector street construction, reconstruction, and improvement; or

"City manager" means a person employed by the city as the city manager, or his or her duly authorized designee, for the purpose of administering portions of this chapter.

"Development" means conducting a construction of a building or an addition to a structure, or making a physical change in the use or appearance of a structure or land, dividing land into two or more parcels (including partitions and subdivisions), and creating or terminating rights of access.

"Improvement charge" means a charge for costs associated with capital improvements to be constructed after the date the charge is adopted pursuant to a relevant system development charge resolution authorized by this chapter.

"Land area" means the area of a parcel of land as measured by projection of the parcel's boundaries upon a horizontal plane, with the exception of a portion of the parcel within a recorded right-of-way or easement subject to a servitude for a public street or scenic or preservation purpose.

"Occupancy permit" means the occupancy permit provided for in the Uniform Building Code or other city ordinances. If no occupancy permit is provided for a particular structure or use, the final city inspection and approval for that structure or use shall serve as the occupancy permit.

"Owner" means the owner or owners of record title or the purchaser or purchasers under a recorded sales agreement, and other persons having an interest of record in the described real property.

"Parcel of land" means a lot, parcel, block or other tract of land that is occupied or may be occupied by a structure or structures or other use, and that includes the yards and other open spaces required under zoning, subdivision, building, and other city development ordinances.

"Qualified public improvement" means a capital improvement that is:

1. Required as a condition of development approval;
2. Identified in the public facility plans adopted pursuant to Section 15.16.050 of this chapter;

3. Not located on or contiguous to a parcel of land that is the subject of a development approval, except as otherwise specified by this chapter.

"Reimbursement charge" means a charge for costs associated with capital improvements constructed or under construction on the date the charge is adopted pursuant to a relevant system development charge resolution authorized by this chapter.

"System development charge" means a reimbursement fee, an improvement fee, or a combination thereof, assessed or collected at the time of issuance of a building permit, or at the time of connection to a capital improvement. "System development charge" includes that portion of a sanitary sewer, storm water, or water system connection charge that is greater than the amount necessary to reimburse the city for its average cost of inspecting and installing connections to water, storm water, and sanitary sewer facilities. "System development charge" does not include charges assessed or collected as part of a local improvement district or a charge in-lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a land use decision. (Ord. 91-927 § 4)

15.16.050 System development charge established.

A. Authority to establish system development charges by resolution of the city council is created.

1. Each resolution shall be limited to one system development charge for one of the five categories of capital improvements as listed in Section 15.16.040 of this chapter, and shall include a statement of purpose, and the identification of a designated master plan, public facility plan, capital improvement plan, or comparable plan used to identify authorized expenditures of each system development charge's revenues. Each such plan shall be identified in or appended to the authorizing resolution as Appendix A.

2. Each resolution shall also describe the methodology used in establishing the system development charge. Such methodology shall comply with the requirements of state law and shall be described in or appended to the authorizing resolution as Appendix B.

3. Each resolution shall contain a schedule of charges, identified as improvement and/or reimbursement charges.

4. Each resolution shall identify, to the extent applicable, those portions of capital improvements that are eligible for credit as per Section 15.16.100 of this chapter. The resolution may vary the general terms and conditions for credits established by Section 15.16.100 of this chapter, to the extent said terms and conditions are made less restrictive, and said variation is expressly allowed by a subsection of Section 15.16.100 of this chapter.

5. Each resolution shall establish appeal fees as per Section 15.16.120 of this chapter.

B. Unless otherwise exempted by subsection C of this section, or other local or state law, system development charges created under the authority of this chapter are imposed upon all parcels of land within the city, and upon all lands outside the boundary of the city that choose to connect to or use the city's capital improvements.

C. The following types of development are exempt from system development charges, unless the new structure or use replaces a previously existing structure or use that had not been assessed system development charges or the system to which the system development charge applies was installed to

the previously existing structure or use and needs to be replaced or modified to provide extra capacity, in which case current system development charges shall apply to the extra-capacity generating portion of the new structure or use:

1. Remodeling or replacement of any existing single or two-family structure (including manufactured homes on individual lots and those in manufactured home parks);

2. Remodeling or replacement of any existing multifamily structures, except to the extent of dwelling units that are added, in which case current system development charges shall apply to the additional units;

3. Remodeling or replacement of existing office, business and commercial, industrial, or institutional structures or uses, except to the extent additional vehicle trips are generated, or increased usage of water, storm water, or sanitary sewer services result, in which case current system development charges shall apply to the additional trips or usage.

D. Additional exemptions specific to a particular type of system development charge may be established by the authorizing resolution described in subsection A of this section.

E. The city may collect other charges defined as system development charges under state law that are established by other governmental jurisdictions. Such system development charges shall be assessed and collected under the terms of the applicable ordinances and resolutions established by those jurisdictions, and shall be adopted by the city council by the appropriate resolution or intergovernmental agreement. (Ord. 91-927 § 5)

15.16.060 Authorized expenditures.

The revenues received from system development charges shall be budgeted and expended for capital improvements as provided by state law. The accounting of such revenues and expenditures as required by state law shall be included in the city's comprehensive annual financial report required by ORS Chapter 294. (Ord. 91-927 § 6)

15.16.070 Expenditure restrictions.

A. System development charges shall not be expended for costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements.

B. System development charges shall not be expended for costs of the operation or routine maintenance of capital improvements. (Ord. 91-927 § 7)

15.16.080 Collection of charges.

A. Except as otherwise provided by this chapter or by state law, system development charges are immediately due and payable and shall be collected prior to issuance of any building permits, or in case of a deferral as authorized in Section 15.16.090 of this chapter prior to issuance of an occupancy permit. Resolutions authorizing specific system development charges may identify additional conditions or circumstances triggering collection of each specific charge in those circumstances that otherwise meet the terms of this chapter but where no building permit is required.

B. No building or occupancy permit shall be issued by the city, nor shall connection to any city service be allowed, until system development charges have been paid in full or until provisions for deferred payment have been made as prescribed in Section 15.16.090 of this chapter.

C. The obligation to pay deferred system development charges, and the interest thereon, shall be secured by property, bond, deposits, letter of credit, or other security acceptable to the city manager.

1. Notwithstanding agreement for deferral of payment, the liability for system development charges shall survive if unpaid when the building permit has expired and shall be a personal obligation of the permittee.

2. Failure to pay the system development charges within sixty (60) days of the due date shall result in a penalty equal to ten percent of the charge. Interest shall accrue from the sixty (60) day point at the rate permitted by ORS 82.010.

3. In addition to an action at law and any statutory rights, the city may, when payment of system development charges are delinquent:

a. Refuse to issue any permits of any kind to the delinquent party for any development;

b. Refuse to honor any system development charge credits held by the delinquent party for any development;

c. Condition any development approval requested by the delinquent party on payment in full of the system development charges, including penalties and interest;

d. Revoke any previous system development charge deferrals issued to the delinquent party, in which case the system development charges shall immediately be due, and refuse to issue any new deferrals;

e. Withdraw the amount of system development charges due, including penalties and interest, from any offset account held by the city for the delinquent party.

4. For purposes of this section, the term "delinquent party" shall include any person controlling a delinquent corporate permittee and, conversely, any corporation controlled by a delinquent individual permittee. (Ord. 91-927 § 8)

15.16.090 Deferred payment.

Where the total of all city system development charges due and payable from a single family or manufactured home building permit exceed five thousand dollars ($5,000.00), or exceed ten thousand dollars ($10,000.00) for any other type of building permit, an administrative deferral may be granted by the city manager until an occupancy permit is issued. No occupancy permit shall be issued until all system development charges are paid in full. (Ord. 91-927 § 9)

15.16.100 Credits.

A. Except as provided for in Section 15.16.050C of this chapter, credit shall be applied to the system development charge to the extent that prior structures or uses existed, city services were established to those structures or uses, and said structures or uses had previously paid the applicable system development charge in effect at the time the structure or use was established. The credit so com-

puted shall not exceed the calculated system development charge. No refund shall be made on account of such excess credit.

B. A credit shall be given for the cost of a qualified public improvement, as defined by Section 15.16.040 of this chapter. If a qualified public improvement is located partially on and partially off the parcel or parcels that are the subject of the development approval, the credit shall be given only for the cost of the portion of the improvement not located on or wholly contiguous to the property. The terms of this subsection may be varied by the authorizing resolution described in Section 15.16.050 of this chapter to the extent that credit provisions may be made less restrictive.

C. The credit provided for by this section shall be only for the improvement charges for the type of improvement being constructed and shall not exceed the improvement charge even if the cost of the capital improvement exceeds the applicable improvement charge. No credits shall be provided for reimbursement charges.

D. The qualified public improvement must be designed and constructed to provide additional capacity to meet projected future capacity needs created by the development. Improvements that address capacity deficiencies existing at the time of development are not eligible for credit. In the case of improvements addressing both future and existing capacity needs, only that portion providing future capacity is eligible for credit, said eligibility to be defined by the authorizing resolution described in Section 15.16.050 of this chapter. The terms of this subsection may be varied by the authorizing resolution described in Section 15.16.050 of this chapter to the extent that credit provisions may be made less restrictive.

E. In addition, the city manager must determine that the timing, location, design, and scope of the proposed improvement is consistent with and furthers the objectives of the capital improvement programs of the city. The city manager may utilize the priorities established by the city council in the city's capital improvement plan, the information contained in the city's comprehensive plan and various public facility master plans, the advice of the city's engineering, public works, and planning staff, and other relevant information and data in making this determination. The city manager must also determine that the improvement is required to fulfill a condition of development approval issued by the city and is included in the city's adopted public facility plans.

F. Credit shall not be transferable from one development to another. Upon written application to the city manager, however, credits may be reapportioned from any lot or parcel to any other lot or parcel within the confines of the property originally eligible for the credit. Reapportionment shall be noted on the original credit form retained by the city.

G. Credit shall not be transferable from one of the five types of capital improvements defined by Section 15.16.040 of this chapter and authorized by a resolution, to another of the five types of capital improvements authorized by a different resolution.

H. All credit requests must be in writing and filed with the city manager no more than ninety (90) days after acceptance by the city of the qualified public improvement. Improvement acceptance shall be in accordance with the practices, procedures and standards of the city.

I. The amount of any credit shall be determined by the city manager and based upon the subject improvement's construction contract documents, or other appropriate information provided by the applicant, and verified and accepted by the city. Notwithstanding the contract amount, the credit may not exceed prevailing market rates for similar projects, as determined by the city.

J. In the case of rights-of-way, easements, or other land associated with the improvement, value shall be established by sales documents, formal appraisal provided at the developers cost, by county assessors records, or some other method deemed acceptable to the city. Notwithstanding actual sales price, the credit may not exceed prevailing market rates for similar projects, as determined by the city.

K. Credit shall be provided to the applicant on a form provided by the city. The original of the credit form shall be retained by the city. The credit shall state a dollar amount that may be applied against any applicable system development charge imposed against the subject property. In no event shall a subject property be entitled to redeem credits in excess of the system development charges imposed.

L. All requests for redemption of credits must be submitted not later than the issuance of a building permit or, if deferral was permitted pursuant to Section 15.16.090 of this chapter, issuance of an occupancy permit. The permittee is solely responsible for presentation to the city of any credit redemption request and no credit redemption request shall be accepted after issuance of a building permit or, if deferral was granted, issuance of an occupancy permit.

M. Credits shall not be allowed more than seven years after the acceptance of the applicable improvement by the city. No extension of this deadline shall be granted.

N. Upon annexation of affected parcels of land, credits previously issued by Washington County shall be honored by the city. (Ord. 91-927 § 10)

15.16.110 Segregation and use of revenue.

A. All funds derived from each separately authorized system development charge are to be segregated by accounting practices from all other funds of the city. That portion of the system development charge calculated and collected on account of a specific facility system shall be used for no purpose other than those set forth in this chapter and the specific authorizing resolution.

B. The city manager shall provide the city council with an annual accounting, based on the city's fiscal year, for system development charges showing the total amount of system development charge revenues collected for each type of facility and the projects funded from each account. (Ord. 91-927 § 11)

15.16.120 Appeal procedure.

A. A person challenging the propriety of an expenditure of system development charge revenues may appeal or the expenditure to the city council by filing a written appeal with the city recorder. The appeal shall identify with reasonable certainty the particulars of the expenditure, and the relevant facts and specific provisions alleged to have been violated. An appeal of an expenditure must be filed within two years of the date of the alleged improper expenditure.

1. Within thirty (30) days of receipt of the appeal, a written report by the city manager shall be filed with the city council recommending appropriate action. Within fifteen (15) days of receipt of said report, the city council shall conduct a hearing to determine whether the expenditure was proper. At least ten days notice of the hearing, including a copy of the city manager's report, shall be mailed

to the appellant. Appellant shall have a reasonable opportunity to present his or her position at the hearing.

2. The city council may by resolution adopt rules of procedure governing said appeal hearings, including stipulations that the hearing may be continued if necessary to further address issues raised by the appellant. The city council may by resolution establish an appeal fee.

3. The appellant shall have the burden of proof in any appeal hearing. Evidence and argument shall be limited to grounds specified in the written appeal. The city council shall issue a written decision stating the basis for its conclusion and directing appropriate action be taken.

4. If the city council determines that there has been an improper expenditure of system development charge revenues, the city council shall direct that a sum equal to the misspent amount shall be deposited within one year to the credit of the account or fund from which it was spent.

5. Review of the city council decision shall be as provided in ORS 34.010 to 34.100.

B. Review of decisions of the city manager, as provided for by this chapter, other than decisions relating to the expenditure of funds as per subsection A of this section, shall be conducted in the following manner:

1. Discretionary decisions of the city manager shall be in writing and mailed by regular mail to the last known address of the appellant.

2. Discretionary decisions by city manager's designee may be written or oral. Any person aggrieved by the decision of the city manager's designee may request in writing that the city manager review such a decision. The city manager's response shall be in writing and shall state the reason for his or her determination. For the purpose of appeal, said written response shall be provided the appellant as described in of subsection (B)(1) of this section.

3. Any person aggrieved by a discretionary decision of the city manager may appeal the decision to the city council. The appeal shall be in writing and must be filed with the city recorder within fourteen (14) days of the date the city manager's decision was mailed.

4. The appeal shall state the relevant facts, applicable ordinance provisions, and the relief sought. The appeal shall be heard by the city council in the same manner as provided for in subsection A of this section.

5. After providing notice to the appellant, the city council shall determine whether the city manager's decision or action is in accordance with this chapter and associated resolutions, and the provisions of ORS 223.297 to 223.314, and may affirm, modify, or overrule the city manager's decision or action. The city council shall issue a written decision stating the basis for its conclusion and directing appropriate action be taken. The city council's decision shall be final. (Ord. 91-927 § 12)

15.16.130 Annual fee review.

A. The city council shall review system development charges at least annually, prior to adoption of a new fiscal year's budget, to determine whether additional revenues should be generated to provide extra-capacity improvements needed to address new development or to ensure that revenues due not exceed identified demands. In so doing, the city council shall consider:

1. Construction of capital improvements by federal, state, county, special districts, or other revenue sources;

2. Receipt of unanticipated funds from other sources for construction of capital improvements;

3. New information adjusting the unit costs or trip rates for capital improvements;

4. The impact of credits and offsets on capacity increasing improvements.

B. Upon completion of this review the city council shall consider such amendments, including adjustment to specific system development charges, as are necessary to address changing conditions. (Ord. 91-927 § 13)

15.16.140 Prohibited connection.

No person may connect to the city's capital improvements or access a city street or right-of-way unless the appropriate system development charges have been paid. (Ord. 91-927 § 14)

15.16.150 Transition.

A. Except as otherwise specifically allowed by the authorizing resolution described in Section 15.16.050 of this chapter, this chapter shall apply to issuance of building permits for all development for which a building permit application is received by the city on or after the effective date of the ordinance codified in this chapter. This shall not include resubmittal of building permit applications previously deemed incomplete if the requested information is submitted within one hundred eighty (180) days of the date the application was first submitted.

B. Notwithstanding repeal or amendment of any other city ordinances by the ordinance codified in this chapter, said prior ordinances shall continue to be fully applicable and shall govern all building permit applications received by the city prior to the effective date of the ordinance codified in this chapter. This shall include building permit applications previously deemed incomplete if the requested information submitted within one hundred eighty (180) days of the date the application was first submitted.

C. All system development charge deferrals, credits, or similar grants shall continue and be administered under the terms and conditions of the ordinances and resolutions in existence when said deferrals, credits, or similar grants were originally issued. Repeal and enactment of such ordinances and resolutions shall in no way impact any budget or appropriations, contracts, permits, condemnation proceedings, or any other formal city actions. (Ord. 91-927 § 15)

15.16.160 Construction.

The rules of statutory construction contained in ORS Chapter 174 are adopted and by this reference made a part of this chapter. (Ord. 91-927 § 17)

15.16.165 Exemption for city projects.

Capital improvements constructed by the city shall be exempted from SDC charges. (Ord. 01-1122 § 21)

15.16.170 Violation--Penalty.

Violations of this chapter shall be subject to civil penalties of no more than five hundred dollars ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. 91-927 § 16)

Chapter 15.20

PARK AND RECREATION SYSTEM DEVELOPMENT CHARGES ON NEW DEVELOPMENT

Sections:

15.20.010 Scope and purpose.
15.20.020 Definitions.
15.20.030 Rules of construction.
15.20.040 Application.
15.20.050 Partial and full exemptions.
15.20.060 SDC credits.
15.20.070 Alternative calculation for SDC rate, credit, or exemption.
15.20.080 Due date of payment of SDC charges.
15.20.090 Refunds.
15.20.100 Dedicated accounts and appropriate use of accounts.
15.20.110 Challenges and appeals.
15.20.120 City review of SDC.
15.20.130 Time limit on expenditure of SDC's.
15.20.140 Implementing regulations--Amendments.
15.20.150 Amendment of the parks and recreation SDC-CIP list.
15.20.160 Severability.

15.20.010 Scope and purpose.

A. New development within Sherwood contributes to the need for capacity increases and upgrades to capital improvements for parks and recreation facilities and, therefore, new development should contribute to the funding for such capital improvements. This SDC will fund a portion of the needed capacity increases for parks and recreation facilities as identified in Sherwood parks and recreation SDC capital improvements plan (SDC-CIP).

B. The funding provided by this chapter constitutes a mandatory collection method based upon ORS 223.297 through 223.314 to assure the construction of capacity increasing improvements to parks and recreation facilities as contemplated in the Parks, Recreation and Open Space Master Plan Update 2000 and the list of projects, referred to as the parks and recreation SDC-CIP, to be funded with money collected under this chapter and incorporated as an appendix to the "City of Sherwood Parks and Recreation System Development Charges Update Methodology Report," dated May 7, 2001.

C. This chapter is intended to be a mechanism for financing only that portion of the needed capacity-increasing parks and recreation facilities associated with new development and does not represent a means to fund maintenance of existing facilities or the elimination of existing deficiencies.

D. The city hereby adopts the report entitled "City of Sherwood Parks and Recreation System Development Charges Update Methodology Report", dated May 7, 2001, and incorporates herein by this reference the assumptions, conclusions and findings in the report which refer to the determination of anticipated costs of capital improvements required to accommodate growth and the rates for the

parks and recreation SDC for these capital improvements. This report is hereinafter referred to as "SDC Methodology Report." The City may from time to time amend or adopt a new SDC methodology report by resolution. (Ord. 01-1118 § 1)

15.20.020 Definitions.

"Accessory dwelling unit" means a second dwelling unit created on a single lot with a single-family or a manufactured housing dwelling unit. The second unit is created auxiliary to, and is always smaller than the single family or manufactured housing unit.

"Administrator" means that person, or persons, appointed by the city to manage and implement this parks and recreation SDC program.

"Alternative system development charge" means an SDC established pursuant to Section 15.20.070.

"Applicant" means the person who applies for a building permit.

"Building official" means that person, or designee, certified by the state and designated as such to administer the state building codes for the city.

"Building permit" means that permit issued by a building official pursuant to the State of Oregon Structural Specialty Code Section 301 or as amended, and the State of Oregon One and Two Family Dwelling Code Section R-109 or as amended. In addition, "building permit" shall mean a manufactured home installation permit issued by the building official, relating to the placement of manufactured homes in the city.

"City" means the City of Sherwood, Oregon.

"City manager" means that person appointed by city to the position of city manager.

"Condition of development approval" is any requirement imposed on an applicant by the city, a city or county land use or limited land use decision, or site plan approval.

"Construction cost index" means the Engineering News Record (Seattle) Construction Cost Index.

"County" means Washington County, Oregon.

"Credit" means the amount by which an applicant may be able to reduce the SDC fee as provided in this chapter.

"Development" means a building or other land construction, or making a physical change in the use of a structure or land, in a manner which increases the usage of parks and recreation capital improvements or which may contribute to the need for additional or enlarged parks and recreation capital facilities.

"Duplex" means two attached single-family dwelling units on a single lot.

"Dwelling unit" means a building or a portion of a building consisting of one or more rooms, which include sleeping, cooking, and plumbing facilities and are arranged and designed as permanent living quarters for one family or household.

"Improvement fee" means a fee for costs associated with capital improvements to be constructed after the effective date of this chapter.

"Manufactured housing" means a dwelling unit constructed off-site that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction.

"Manufactured housing park" means any place where four or more manufactured housing dwelling units are located within five hundred (500) feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for
the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured housing park" does not include a lot or lots located within a subdivision being rented or leased for occupancy by no more than one manufactured housing dwelling unit per lot.

"Multi-family housing" means three or more attached dwelling units located on a single lot.

"New development" means development for which a building permit is required.

"Over-capacity" means that portion of an improvement that is built larger or with greater capacity than is necessary to serve the applicant's new development or mitigate for parks and recreation system impacts attributable to the applicant's new development.

"Parks and recreation SDC capital improvements plan" also called the "parks and recreation SDC-CIP" means the city program set forth in the SDC methodology report that identifies all of the major parks and recreation system and facilities capacity improvements projected to be funded with parks and recreation improvement fee SDC revenues.

"Permit" means a building permit.

"Previous use" means the most intensive use conducted at a particular property within the past eighteen (18) months prior to the date of application for a building permit. Where the site was used simultaneously for several different uses (mixed use) then, for the purposes of this chapter, all of the specific use categories shall be considered. Where the previous use is composed of a primary use with one or more ancillary uses that support the primary use and are owned and operated in common, that primary use shall be deemed to be the sole use of the property for purposes of this chapter.

"Proposed use," means the use proposed by the applicant for the new development. Where the applicant proposes several different uses (mixed use) for the new development then, for purposes of this chapter, all of the specific use categories shall be considered. Where the proposed use is composed of a primary use with one or more ancillary uses that support the primary proposed use and are owned and operated in common, that primary use shall be deemed to be the sole proposed use of the property for purposes of this chapter.

"Qualified public improvement" means any parks and recreation system capital facility or conveyance or an interest in real property that increases the capacity of the city's parks and recreation system and is:

A. Required as a condition of development approval;

B. Identified in the city's parks and recreation SDC-CIP; and

C. Not located on or contiguous to property that is the subject of development approval; or

D. Located in whole or in part on or contiguous to property that is the subject of development approval and, in the opinion of the administrator, is required to be built larger or with greater capacity (over-capacity) than is necessary for the applicant's new development or mitigate for parks and recreation system impacts attributable to the applicant's new development. There is a rebuttable presumption that improvements built to the city's minimum standards are required to serve the appli-

cant's new development and to mitigate for parks and recreation system impacts attributable to the applicant's new development.

"Remodel" or "remodeling" means to alter, expand or replace an existing structure.

"Row house" means an attached single-family dwelling unit on a single lot.

"Single-family dwelling unit" means one detached dwelling unit, or one-half of a duplex, or one row house; constructed on-site, and located on a single lot.

"SDC Methodology Report" means that report entitled "Sherwood Parks and Recreation System Development Charges Update Methodology Report," dated May 7, 2001. (Ord. 01-1118 § 2)

15.20.030 Rules of construction.

For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply:

A. In case of any difference of meaning or implication between the text of this chapter and any caption illustration, summary table, or illustrative table, the text shall control.

B. The word "shall" is always mandatory and not discretionary: the word "may" is permissive.

C. Words used in the present tense shall include the future; words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

D. The phrase "used for" includes "arranged for", "designed for", "maintained for", or "occupied for".

E. Where a regulation involves two or more connected items, conditions, provisions, or events:

1. "And" indicates that all the connected terms, conditions, provisions or events shall apply;

2. "Or" indicates that the connected items, conditions, or provisions or events may apply singly or in any combination.

F. The word "includes" shall not limit a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character. (Ord. 01-1118 § 3)

15.20.040 Application.

This chapter applies to all new development throughout Sherwood. The amount of the parks and recreation SDC shall be calculated according to this section, with rates as outlined in the SDC methodology report.

A. Except as otherwise provided in this chapter, the parks and recreation SDC set forth herein shall be imposed upon all new development for which a technically complete application is filed on or after the effective date of this ordinance codified in this chapter.

B. Except as otherwise provided in this chapter, manufactured housing shall be charged at the manufactured housing SDC rate, irrespective of location.

C. Except as otherwise provided in this chapter, accessory dwelling units shall be charged at one-half the single family housing SDC rate.

D. The applicant shall at the time of application provide the administrator with the information requested on an SDC application form regarding the previous and proposed use(s) of the new development including a description of each of the previous and proposed uses for the property for which the building permit is being sought, with sufficient detail to enable the city to calculate the number of employees and dwelling units under the

previous use and for the proposed use(s) of the new development.

1. For residential uses: the number of residential dwelling units, including type (i.e., single family, multi-family, etc.) for the previous and proposed use(s) of the new development.

2. For commercial uses: the square footage for each type of non-residential use (i.e., office, warehouse, retail, etc.) for the previous and proposed use(s) of the new development.

E. Except as otherwise provided in this chapter, the amount of the SDC shall be determined by calculating the SDC amount that would have been imposed for the previous use(s) of the property and' the SDC amount for the proposed use(s).

F. Notwithstanding any other provision, the dollar amounts of the SDC set forth in the SDC methodology report shall on January 1st of each year be adjusted to account for changes in the costs of acquiring and constructing parks facilities. The adjustment factor shall be based on:

1. The change in average market value of residential land in the city, according to the records of the Washington County tax assessor;

2. The portion of growth costs for land identified in the SDC-CIP;

3. The change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index; and

4. The portion of growth costs for construction identified in the SDC-CIP.

The adjustment shall be determined as follows:

	(Change in land value) x (Land portion)
+	(Change in construction cost index) x (Construction portion)
=	Parks system development charge adjustment factor

The parks system development charge adjustment factor shall be used to adjust the parks system development charge, unless it is otherwise adjusted by the city based on adoption of an updated methodology.

15.20.050 Partial and full exemptions.

The uses listed and described in this section shall be exempt, either partially or fully, from payment of the parks and recreation SDC. Any applicant seeking an exemption under this section shall specifically request that exemption no later than the time of application for the building permit. Where new development consists of only part of one or more of the uses described in this section, only that/those portion(s) of the development which qualify under this section are eligible for an exemption. The balance of the new development which does not qualify for any exemption under this section shall be subject to the full SDC. Should the applicant dispute any decision by the city regarding an exemption request, the applicant must apply for an alternative exemption calculation under Section 15.20.070. The applicant has the burden of proving entitlement to any exemption so requested.

A. Temporary uses are fully exempt so long as the new development use or structure will be used for not more than one hundred (180) days in a single calendar year.

B. Alteration permits for tenant improvements are fully exempt when a change of use occurs.

C. New development which, in the administrator's opinion, will not create demands on the parks and recreation system greater than those of the present use of the property are fully exempt. (Ord. 01-1118 § 5)

15.20.060 SDC credits.

A. The city shall grant a credit against the parks and recreation SDC, which is otherwise assessed for a new development, for any qualified public improvement(s) constructed or dedicated as part of that new development. The applicant bears the burden of evidence and persuasion in establishing entitlement to an SDC Credit and to a particular value of SDC credit.

B. To obtain an SDC credit, the applicant must specifically request a credit prior to the city's issuance of a building permit for the new development. In the request, the applicant must identify the improvement(s) for which credit is sought and explain how the improvement(s) meet the requirements for a qualified public improvement. The applicant shall also document, with credible evidence, the value of the improvement(s) for which credit is sought. If, in the administrator's opinion, the improvement(s) is a qualified public improvement, and the administrator concurs with the proposed value of the improvement(s), and SDC credit shall be granted. The value of the SDC credits under this section shall be determined by the administrator based on the cost of the qualified public improvement, or the value of land dedicated, as follows:

1. For dedicated lands, the value shall be based upon a written appraisal of fair market value by a qualified, professional appraiser based upon comparable sales of similar property between unrelated parties in an arms-length transaction;

2. For improvements yet to be constructed, value shall be based upon the anticipated cost of construction. Any such cost estimates shall be certified by a professional architect or engineer or based on a fixed price bid from a contractor ready and able to construct the improvement(s) for which SDC credit is sought;

3. For improvements already constructed, value shall be based on the actual cost of construction as verified by receipts submitted by the applicant;

4. For all improvements for which credit is sought, only the fraction of over-capacity in the improvement is eligible for SDC credit.

C. The administrator will respond to the applicant's request in writing within twenty-one (21) days of when the request is submitted. The administrator shall provide a written explanation of the decision on the SDC credit request.

D. If the applicant disputes the administrator's decision with regard to an SDC credit request, including the amount of the credit, the applicant may seek an alternative SDC credit calculation under Section 15.20.070 Any request for an alternative SDC credit calculation must be filed with the administrator in writing within ten calendar days of the written decision on the initial credit request.

E. Where the amount of an SDC credit approved by the administrator under this section exceeds the amount of the parks and recreation SDC assessed by the city upon a new development, the excess credit may be applied against parks and recreation SDC's that accrue in subsequent phases of the original
development project. Any excess credit must be used not later than ten years from the date the credit is given. (01-1118 § 6)

15.20.070 Alternative calculation for SDC rate, credit, or exemption.

A. Pursuant to this section, an applicant may request an alternative SDC rate calculation, alternative SDC credit determination, or alternative SDC exemption, under the following circumstances:

1. The applicant believes that the impact on parks and recreation facilities resulting from the new development is, or will be, less than that contemplated in the SDC methodology report, and for that reason, the applicant's SDC should be lower than that calculated by the city.

2. The applicant believes that property taxes paid by the property subject to development is, or wi1l be, more than is provided by the credit for tax payments included in the SDC methodology report, and for that reason, the applicant's SDC should be lower than that calculated by the city.

3. The applicant believes the city improperly excluded from consideration a qualified public improvement that would qualify for credit under Section 15.20.060, or the city accepted for credit a qualified public improvement, but undervalued that improvement and therefore undervalued the credit.

4. The applicant believes the city improperly rejected a request for an exemption under Section 15.20.050 for which the applicant believes it is eligible.

B. Alternative SDC rate request:

1. If an applicant believes that the assumptions for the class of structures that includes the new development are not appropriate for the subject new development, the applicant must request an alternative SDC rate calculation, under this section, no later than the time of issuance of a building permit for the new development. Alternative SDC rate calculations for occupancy must be based on analysis of occupancy of classes of structures, not on the intended occupancy of a particular new development.

2. In support of the Alternative SDC rate request, the applicant must provide complete and detailed documentation, including verifiable data, analyzed and certified by a suitable and competent professional. The applicant's supporting documentation must rely upon generally accepted sampling methods, sources of information, cost analysis, demographics, growth projections, and techniques of analysis as a means of supporting the proposed alternative SDC rate. The proposed alternative SDC rate calculation shall include an explanation with particularity why the rate established in the SDC methodology report does not accurately reflect the new development's impact on the city's capital improvements.

3. The administrator shall apply the alternative SDC rate if, in the administrator's opinion, the following are found:

a. The evidence and assumptions underlying the alternative SDC rate are reasonable, correct and credible and were gathered and analyzed in compliance with generally accepted principles and methodologies consistent with this section; b. The calculation of the proposed alternative SDC rate was by a generally accepted methodology; and

c. The proposed alternative SDC rate better or more realistically reflects the actual impact of the new development than the rate set forth in the SDC methodology report.

4. If, in the administrator's opinion, all of the above criteria are not met, the administrator shall provide to the applicant (by certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative parks and recreation SDC rate.

C Alternative SDC credit request:

1. If an applicant has requested an SDC credit pursuant to Section 15.20.060 and that request has been denied by the city, the applicant may request an alternative SDC credit calculation, under this section, no later than the time of issuance of a building permit.

2. In support of the alternative SDC credit request, the applicant must provide complete and detailed documentation, including appraisals, cost analysis or other estimates of value, analyzed and certified to by an appropriate professional, for the improvements for which the applicant is seeking credit. The applicant's supporting documentation must rely upon generally accepted sources of information, cost analysis, and techniques of analysis as a means of supporting the proposed alternative SDC credit.

3. The administrator shall apply the alternative SDC credit if, in the administrator's opinion, the following are found:

a. The improvement(s) for which the SDC credit is sought are qualified public improvement(s);

b. The evidence and assumptions underlying the applicant's alternative SDC credit request are reasonable, correct, and credible and were gathered and analyzed by an appropriate competent professional in compliance with generally accepted principles and methodologies; and

c. The proposed alternative SDC credit is based on realistic, credible valuation or benefit analysis.

4. If, in the administrator's opinion, any one or more of the above criteria is not met, the administrator shall deny the request and provide to the applicant (by certified mail, return receipt requested) a written decision explaining the basis for rejecting the proposed alternative parks and recreation SDC credit proposal.

D. Alternative SDC exemption request:

1. If an applicant has requested a full or partial exemption under Section 15.20.050 and that request has been denied, the applicant may request an alternative SDC exemption under this section, no later than the time of issuance of a building permit for the new development.

2. In support of the alternative SDC exemption request, the applicant must provide complete and detailed documentation demonstrating that the applicant is entitled to one of the exemptions described in Section 15.20.050.

3. The administrator shall grant the exemption if, in the administrator's opinion, the applicant has demonstrated with credible, relevant evidence that it meets the pertinent criteria in Section 15.20.050.

4. Within twenty-one (21) days of the applicant's submission of the request, the administrator shall provide a written decision explaining the basis for rejecting or accepting the request. (Ord. 01-1118 § 7)

15.20.080 Due date of payment of SDC charges.

The parks and recreation SDC required by this chapter to be paid is due upon issuance of the building permit. (Ord. 01-1118 § 8)

15.20.090 Refunds.

Refunds may be given by the administrator upon finding that there was a clerical error in the calculation of the SDC. Refunds shall not be allowed for failure to timely claim credit or for failure to timely seek an alternative SDC rate calculation at the time of submission of an application for a

building permit. The city shall refund to the applicant any SDC revenues not expended within ten years of receipt. (Ord. 01-1118 § 9)

15.20.100 Dedicated accounts and appropriate use of accounts.

A. All monies derived from the parks and recreation improvement fee SDC shall be placed in the parks and recreation SDC improvement fee account and shall be used solely for the purpose of providing capacity-increasing capital improvements as identified in the adopted parks and recreation SDC-CIP as it currently exists or as hereinafter amended, and eligible administrative costs. All monies derived from the parks and recreation reimbursement fee SDC shall be placed in the parks and recreation SDC reimbursement fee account and shall be used solely for the purpose of providing capital improvements to the parks and recreation system as identified in the adopted parks and recreation SDC-CIP as it currently exists or as hereinafter amended, and eligible administrative costs. In this regard, these SDC revenues may be used for purposes that include:

1. Design and construction plan preparation;
2. Permitting;
3. Land and materials acquisition, including any costs of acquisition or condemnation;
4. Construction of parks and recreation capital improvements;
5. Design and construction of new drainage facilities required by the construction of parks and recreation capital improvements and structures;
6. Relocating utilities required by the construction of improvements;
7. Landscaping;
8. Construction management and inspection;
9. Surveying, soils and material testing;
10. Acquisition of capital equipment that is an intrinsic part of a facility;
11. Demolition that is part of the construction of any of the improvements on this list;
12. Payment of principal and interest, necessary reserves and costs of issuance under any bonds or other indebtedness issued by the city to provide money to construct or acquire parks and recreation facilities;
13. Direct costs of complying with the provisions of ORS 223.297 to 223.3 14, including the consulting, legal, and administrative costs required for developing and updating the system development charges methodologies and capital improvement program; and the costs of collecting and accounting for system development charges expenditures.

B. Money on deposit in the parks and recreation SDC accounts shall not be used for:

1. Any expenditure that would be classified as a maintenance or repair expense; or
2. Costs associated with the construction of administrative office facilities that are more than an incidental part of other capital improvements; or
3. Costs associated with acquisition or maintenance of rolling stock. (Ord. 01-1118 § 10)

15.20.110 Challenges and appeals.

A. For purposes of this chapter, any citizen or other interested person is an aggrieved party under OCMC 13.20.070(C) and may challenge the expenditure of SDC revenues by filing a challenge to the

expenditure with the Administrator within two years after the date of the disputed SDC revenue expenditure. The fee for filing such a challenge shall be fifty ($50.00) dollars.

B Except where a different time for an administrator's decision is provided in this chapter, all administrator decisions shall be in writing and shall be delivered to the applicant within twenty-one (21) days of an application or other applicant request for an administrator determination. Delivery shall be deemed complete upon the earlier of actual delivery to the applicant or upon deposit by the administrator by certified mail, addressed to the address for notice applicant has designated in the application. Any person may appeal to the city council any decision of the administrator made pursuant to this chapter by filing a written request with the administrator within fourteen (14) days after the delivery of the administrator's written decision to the applicant. The fee for appealing a decision to the city council shall be fifty ($50.00) dollars. The appeal to be filed with the city council and should contain the following information:

1. The name and address of the applicant;
2. The legal description of the property in question;
3. If issued, the date the building permit was issued;
4. A brief description of the nature of the development being undertaken pursuant to the building permit;
5. If paid, the date the system development charges were paid; and
6. A statement of the reasons why the applicant is appealing a decision.

C. Upon receipt of such request, the city shall schedule a hearing before the city council at a regularly scheduled meeting or a special meeting called for the purpose of conducting the hearing and shall provide the applicant written notice of the time and place of the hearing. Such hearing shall be held within twenty-one (21) days of the date the appeal was filed.

D. The city council shall conduct a hearing in a manner designed to obtain all information and evidence relevant to the requested hearing. Formal rules of civil procedures and evidence shall not be applicable; however, the hearing shall be conducted in a fair and impartial manner with each party having an opportunity to be heard and to present information and evidence.

E. Any applicant who appeals a decision pursuant to this section and desires the immediate issuance of a building permit shall pay prior to or at the time the request for hearing is filed the applicable system development charges pursuant to Section 15.20.040. Said payment shall be deemed paid under "protest" and shall not be construed as a waiver of any review rights.

F. An applicant may appeal a decision under this section without paying the applicable system development charges, but no building permit shall be issued until such system development charges are paid in the amount initially calculated or the amount approved
upon completion of the review provided in this section.

G. The city council shall decide an appeal within sixty (60) days of the date of the appeal to the city council and that decision may be reviewed under ORS 34.010 to 34.100, and not otherwise.

15.20.120 City review of SDC.

A. No later than every two years as measured from initial enactment, the city shall undertake a review to determine that sufficient money will be available to help fund the parks and recreation SDC-CIP identified capacity increasing facilities; to determine whether the adopted SDC rates keep

pace with inflation, whether the parks and recreation SDC-CIP should be modified, and to ensure that such facilities will not be over funded by the SDC receipts.

B. In the event that during the review referred to above, it is determined that an adjustment to the SDC is necessary for sufficient funding of the parks and recreation SDC-CIP improvements listed in the SDC methodology report, or to ensure that such parks and recreation SDC-CIP improvements are not over funded by the SDC, the city council may propose and adopt appropriately adjusted SDC's.

C. The city may from time to time amend or adopt a new SDC methodology report by resolution. (Ord. 01-1118 § 12)

15.20.130 Time limit on expenditure of SDC's.

The city shall expend SDC revenues within ten years of receipt. (Ord. 01-1118 § 13)

15.20.140 Implementing regulations--Amendments.

The city manager may adopt regulations to implement the provisions of this chapter. (Ord. 01-1118 § 14)

15.20.150 Amendment of the parks and recreation SDC-CIP list.

The city may, by resolution, amend its parks and recreation SDC-CIP list, as set forth in the SDC methodology report, from time to time to add or remove projects the city deems appropriate. The administrator may, at any time, change the timing, sequence, or cost estimates for projects included in the parks and recreation SDC-CIP list. (Ord. 01-1118 § 15)

15.20.160 Severability.

The provisions of this chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section or provision of this chapter shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the legislative intent that this chapter would have been adopted had such an unconstitutional provision not been included herein. (Ord. 01-1118 § 16)

Title 16

ZONING AND COMMUNITY DEVELOPMENT CODE

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16.06 Planning Commission
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16.18 HDR High Density Residential District
16.20 OC Office Commercial District
16.22 OR Office Retail District
16.24 RC Retail Commercial District
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16.30 GI General Industrial District
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Division I. General Provisions

Chapter 16.02

INTRODUCTION

Sections:
16.02.010 Title.
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16.02.050 Interpretation.
16.02.060 Savings clause.
16.02.070 Conflicting ordinances.
16.02.080 Regional, state and federal regulations.
16.02.090 Community development plan.

16.02.010 Title.

The ordinance codified in this title shall be known as the city of Sherwood, Oregon zoning and community development code, part 3 of the city comprehensive plan, hereinafter referred to as the “code.” (Ord. 86-851 § 1.101.01)

16.02.020 Purpose.

This code is enacted to:
A. Encourage the most appropriate use of land;
B. Conserve and stabilize the value of property;
C. Preserve natural resources;
D. Facilitate fire and police protection;

E. Provide adequate open space for light and air;
F. Minimize congestion on streets;
G. Promote orderly growth of the city;
H. Prevent undue concentrations of population;
I. Facilitate adequate provision of community facilities;
J. Promote in other ways the public health, safety, convenience, and general welfare;
K. Enable implementation of the Sherwood comprehensive plan in compliance with state land use goals. (Ord. 86-851 § 1.101.02)

16.02.030 Conformance required.

The use of all land, as well as the construction, reconstruction, enlargement, structural alteration, movement, use, or occupation of any structure within the city shall conform to the requirements of this code, except as allowed by Chapter 16.42 of this title. Age, gender or physical disability shall not be an adverse consideration in making a land use decision as defined in ORS 197.015(10). (Ord. 86-851 § 1.101.03)

16.02.040 Violation--Penalty.

Upon failure to comply with or maintain any provision of this code, or with any restrictions or conditions imposed hereunder, the city may withhold or withdraw any city land use approvals, permits, licenses, or utility services until the appropriate correction(s) is made. Notwithstanding any such action taken by the city, any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this code, or who resists the enforcement of such provisions, shall be subject to civil penalties of no more than five hundred dollars ($500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense. (Ord. 86-851 § 1.101.04)

16.02.050 Interpretation.

The provisions of this code shall be interpreted as minimum requirements. When this code imposes a greater restriction than is required by other provisions of law, or by other regulations, resolutions, easements, covenants or agreements between parties, the provisions of this code shall control. (Ord. 86-851 § 1.101.05)

16.02.060 Savings clause.

Should any section, clause or provision of this code be declared invalid by a court of competent jurisdiction, the decision shall not affect the validity of the code as a whole or of the remaining sections. Each section, clause, and phrase is declared severable. (Ord. 86-851 § 1.101.06)

16.02.070 Conflicting ordinances.

All zoning, subdivision, and other land development ordinances previously enacted by the city are superseded and replaced by this code. (Ord. 86-851 § 1.101.07)

16.02.080 Regional, state and federal regulations.

All development within the city shall adhere to all applicable regional, state and federal air quality, water quality, noise, odor, building, wetlands, solid waste, natural resource, and other regulations and statutes. (Ord. 86-851 § 1.101.08)

16.02.090 Community development plan.

This code shall be administered in conjunction with, and in a manner that is consistent with, the policies and strategies adopted in the city of Sherwood, Oregon, community development plan, part 2 of the city comprehensive plan. The city zoning map, the transportation plan map, the natural resources and recreation plan map, the water service plan map, the storm drainage plan map, and the sanitary sewer service plan map are extracted from the community development plan, and attached to this code as appendices. References to these maps shall be deemed to include all applicable policies, standards and strategies contained in Chapters 4, 5, 6, and 7 of the community development plan. (Ord. 86-851 § 1.101.09)

Chapter 16.04

ZONING DISTRICTS ESTABLISHED

Sections:

16.04.010 Districts.
16.04.020 Official map.
16.04.030 Zoning district boundaries.
16.04.040 Urban growth area.

16.04.010 Districts.

For the purposes of this code, the city is divided into the following zoning districts:

Very low density residential	VLDR
Low density residential	TLDR
Medium density residential--Low	MDRL
Medium density residential--High	MDRH
High density residential	HDR

Office retail	OR
Office commercial	OC
Retail commercial	RC
General commercial	GC
Light industrial	LI
General industrial	GI
Flood plain overlay	FP
Institutional/public	IP
Old Town overlay	OT

(Ord. 98-1035 § 1 (part); Ord. 86-851 § 1.102.01)

16.04.020 Official map.

Zoning district boundaries are shown on the official plan and zoning map of the city. This map is made part of this code by reference, and shall be kept on file in the city recorder's office. Any future changes to the zoning of land within the city shall be appropriately depicted on the plan and zoning map and certified as to the date of amendment. The official plan and zoning map shall be the first and final reference point for verifying other land use mapping and in determining actual zoning district boundaries. A dated reproduction of the official plan and zoning map is attached as Appendix A to the ordinance codified in this title. (Ord. 86-851 § 1.102.02)

16.04.030 Zoning district boundaries.

The commission shall resolve any dispute over the exact location of a zoning district boundary. In interpreting the location of such boundaries on the official plan and zoning map, the commission shall rely on the following guidelines:

A. Unless otherwise indicated, zoning district boundaries are the centerlines of streets, roads, highways, alleys, or such lines extended.

B. Where a boundary line follows or nearly coincides with a section, lot or property ownership line, the boundary shall be construed as following such line.

C. In the event that a dedicated street, road, highway, or alley is vacated by ordinance, the zoning regulations applicable to abutting property shall apply up to the centerline of such rights-of-way.

D. If a right-of-way is vacated in total to one property, the zoning of that property shall apply to the total vacated right-of-way. (Ord. 86-851 § 1.102.03)

16.04.040 Urban growth area.

The zoning districts shown on the official plan and zoning map, for land outside of the incorporated area of the city but within the urban growth boundary, shall serve as a guide to development in these areas. Actual land use regulation and development shall be controlled under the terms of the urban planning area agreement between the city and Washington County. This agreement is made part of this code by reference and is attached as Appendix H to the ordinance codified in this title. An

area incorporated into the city shall, upon annexation, be given an interim zoning consistent with the official plan and zoning map. The city shall provide notice of this interim zoning as per Section 16.50.020C of this title. No hearing shall be required and the interim zoning shall be considered final thirty (30) days after mailing of said notice. (Ord. 86-851 § 1.102.04)

Chapter 16.06

PLANNING COMMISSION

Sections:

16.06.010 Appointment and membership.
16.06.020 Officers, minutes and voting.
16.06.030 Conflicts of interest.
16.06.040 Powers and duties.

16.06.010 Appointment and membership.

A. The city planning commission shall consist of seven members to be appointed by the council for terms of four years. Two members may be nonresidents of the city, provided they reside within the Sherwood portion of the urban growth boundary. Commission members shall receive no compensation for their services, but shall be reimbursed for duly authorized expenses.

B. A commission member may be removed by a majority vote of the council for misconduct or nonperformance of duty, as determined by the council. Any vacancy shall be filled by the council for the unexpired term of the predecessor in office.

C. No more than two commission members shall be engaged principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that is engaged principally in the buying, selling, or developing of real estate for profit. No more than two members shall be engaged in the same kind of business, trade or profession. (Ord. 86-851 § 1.103.01)

16.06.020 Officers, minutes and voting.

A. The commission shall, at its first meeting in each odd-numbered year, elect a chair and vice-chair who shall be voting members and who shall hold office at the pleasure of the commission.

B. Before any meeting of the commission, public notice shall be given as required by state statute and this code. Accurate records of all commission proceedings shall be kept by the city, and maintained on file in the city recorder's office.

C. A majority of members of the commission shall constitute a quorum. A majority vote of those members, not less than a quorum, present at an open meeting of the commission shall be necessary to legally act on any matter before the commission. The commission may make and alter rules of procedure consistent with the laws of the state of Oregon, the City Charter, and city ordinances. (Ord. 86-851 § 1.103.02)

16.06.030 Conflicts of interest.

A. Commission members shall not participate in any commission 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, a member shall not participate when an action involves any business in which they have been employed within the previous two years, or any business with which they have a prospective partnership or employment.

B. Any actual or potential interest by a commission member in a land use action as per subsection A of this section shall be disclosed by that member at the meeting of the commission where the action is being taken. Commission members shall also disclose any prehearing or ex parte contacts with applicants, officers, agents, employees, or any other parties to an application before the commission. Ex parte contacts shall not invalidate a final decision or action of the commission, provided that the member receiving the contract 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. (Ord. 86-851 § 1.103.03)

16.06.030

16.06.040 Powers and duties.

Except as otherwise provided by law, the commission 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, and city ordinances. (Ord. 86-851 § 1.103.04)

Chapter 16.08

DEFINITIONS

Sections:

16.08.010 Generally.
16.08.020 Specifically.

16.08.010 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" or "may" are permissive; the words "occupied" and "uses" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied."

Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinarily accepted meanings. (Ord. 93-966 § 3 (part): Ord. 86-851 § 1.201)

16.08.020 Specifically.

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

"Abut" means contiguous to or adjoining with a common property line or right-of-way.

"Access" means the way or means by which pedestrians and vehicles enter and leave property.

"Accessory building/use" means a subordinate building or use which is customarily incidental to that of the principal use or building located on the same property.

"Alteration" means any change in construction or a change of occupancy. Where the term "alteration" is in reference to construction, it applies to a change, addition or modification in construction. When the term is used in connection with a change of occupancy, it is intended to apply to changes of occupancy from one trade or use to another.

"Apartment" means each dwelling unit contained in a multifamily dwelling or a dwelling unit that is secondary to the primary use of a nonresidential building.

"Assisted living facilities" means a program approach, within a physical structure, which provides or coordinates a range of services, available on a twenty-four (24) hour basis, for support of resident independence in a residential setting.

"Automobile sales area" means 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.

"Basement" means any floor level below the first story in a building, except as otherwise defined in the Uniform Building Code and this code.

"Boarding or rooming house" means any building, or portion thereof containing not more than five guest rooms where rent is paid in money, goods, labor or otherwise.

"Building" means 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" means that portion of a property that can be occupied by the principal use, thus excluding the front, side and rear yards.

Building, Existing. "Existing building" means any building erected prior to the adoption of this code or one for which a legal building permit has been issued.

"Building height" means 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:

1. 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;

2. An elevation ten feet higher than the lowest grade, when the sidewalk or ground surface described in subdivision 1 of this subsection is more than ten feet above lowest grade.

"Building official" means the city employee or agent charged with the administration and enforcement of the Uniform Building Code and other applicable regulations.

"Building permit" means a permit issued under the terms of the Uniform Building Code.

"Buffer" means a landscaped area, wall, berm or other structure or use established to separate and protect land uses.

"Change in use" means a change to a parcel of land, a premises 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" means any bona-fide place of worship, including Sunday school buildings, parsonages, church halls, and other buildings customarily accessory to places of worship.

"City" means the city of Sherwood, Oregon and its duly authorized officials, employees, consultants and agents.

"Code" means the city of Sherwood, Oregon Zoning and Community Development Code, part 3 of the city of Sherwood comprehensive plan.

"Co-location" means 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" means any private school or institution operated for profit that is not included in the definitions of an educational institution or school.

"Commission" means the city of Sherwood planning commission.

"Common-wall dwelling" means dwelling units with shared walls such as two-family, and multifamily dwellings.

"Community development plan" means part 2 of the city of Sherwood comprehensive plan.

"Compatible" means 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" means the city of Sherwood comprehensive plan.

"Conditional use" means a use permitted subject to special conditions or requirements as defined in any given zoning district and Chapter 16.58 of this title.

"Condominium" means an individually-owned dwelling unit in a multifamily housing development with common areas and facilities.

Convalescent Homes. See "Nursing home" in the development code.

"Council" means the city of Sherwood city council.

"Day-care facility" means 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" means 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" means to raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of a structure or resource.

"Density" means the intensity of residential land uses per acre, stated as the number of dwelling units per net acre. Net acre means an area measuring forty-three thousand five hundred sixty (43,560) square feet after excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses.

"Development" means 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, dredging, grading, construction of earthen berms, paving, parking improvements, excavation or clearing.

"Development plan" means any plan adopted by the city for the guidance of growth and improvement in the city.

"Drive-in restaurant" means 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 any establishment designed for serving customers at a drive-up window or in automobiles.

"Dwelling unit" means 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. "Single-family dwelling" means a structure containing one dwelling unit.

Dwelling, Single-Family Attached. "Single-family attached dwelling" means 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. "Two-family dwelling" means a single structure on one lot containing two individual dwelling units, sharing a common wall, but with separate entrances. Also referred to as a duplex.

Dwelling, Multifamily. "Multifamily dwelling" means a single structure containing three or more dwelling units.

"Easement" means the grant of the legal right to use of land for specified purposes.

"Educational institution" means 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 by 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 16.08.020 of this title.

"Evergreen" means a plant which maintains year-round foliage.

"Ex parte contact" means 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 prehearing 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 commis-

sion 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 such content at the first hearing where action will be considered or taken.

"Expedited land division" means 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.

"Extra capacity improvements" means improvements that are defined as necessary in the interests of public health, safety and welfare by Divisions V, VI and VIII of this title, 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" means 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" means a day care provider which accommodates fewer than thirteen (13) children in the provider's home.

"Fence" means any open or closed structure used to enclose any lot or parcel of ground, and usually constructed of wire, wood, brick, cement block, or stone.

"Fire district" means Tualatin Valley fire and rescue.

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

Flood, Base. "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year. Also referred to as the "one hundred (100) year flood" or "one hundred (100) year flood plain."

"Flood plain" means the flood-hazard area adjoining a river, stream or other water course, that is subject to inundation by a base flood. The flood plain includes the floodway and floodway fringe, and the city greenway, as defined by this code.

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

"Flood fringe" means the area of the flood plain lying outside of the floodway.

"Footcandle" means a unit of illumination. One footcandle is the intensity of illumination when a source of one candlepower illuminates a screen one foot away.

"Frontage" means 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" means a building or a portion thereof which is designed to house, store, repair or keep motor vehicles.

"Government structure" means any structure used by a federal, state, local government, or special district agency.

"Ground floor area" means 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" means 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.

"Hogged fuel" means 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" means an occupation or a profession customarily carried on in a residential dwelling unit by a member or members of the family residing in the dwelling unit and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

"Hotel" means a building or buildings in which there are more than five sleeping rooms occupied as temporary dwelling places, which rooms customarily do not contain full kitchen facilities, but may include kitchenettes.

"Homeowners association" means 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" means all persons occupying a group of rooms or a single room which constitutes a dwelling unit.

"Inert material" means solid waste material that remains materially unchanged by variations in chemical, environmental, storage, and use conditions reasonably anticipated at the facility.

"Junk" means 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.

"Junkyard" means 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" means any lot or premises on which four or more dogs or cats more than four months of age are kept.

Laboratory, Medical or Dental. "Medical or dental laboratory" means 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" means the city of Sherwood landmarks advisory board.

"Leachate" means liquid that has come into direct contact with solid waste and contains dissolved and/or suspended contaminants as a result of such contact.

"Level of service (LOS)" means 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 inter-

section (i.e., that portion of the available time that is not used). LOS generally is referred to by the letters "A" through "F," with LOS "E" or "F" being generally unacceptable. LOS generally is calculated using the methodology in the Highway Capacity Manual, Special report 209, by the Transportation Research Board (1985).

"Limited land use decision" means 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" means an off-street space or berth for the temporary parking of vehicles while loading or unloading merchandise or materials.

"Lower explosive limit" means the minimum concentration of gas or vapor in air that will propagate a flame at twenty-five (25) degrees Celsius in the presence of an ignition source.

"Lot" means 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:

1. 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;

2. 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" means the total horizontal area within the lot lines of a lot, exclusive of streets and access easements to other property.

Lot, Corner. "Corner lot" means a lot situated at the intersection of two or more streets, other than an alley.

"Lot coverage" means the proportional amount of land on a lot covered by buildings.

"Lot depth" means the average horizontal distance between the front and rear lot lines measured in the direction of the side lot lines.

"Lot frontage" means the distance parallel to the front lot line, measured between side lot lines at the street line.

Lot, Interior. "Interior lot" means a lot other than a corner lot.

"Lot of record" means any unit of land created as follows:

1. A parcel in an existing, duly recorded subdivision or partition;

2. An existing parcel for which a survey has been duly filed which conformed to all applicable regulations at the time of filing;

3. 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. "Through lot" means a lot having frontage on two parallel or approximately parallel streets.

"Lot lines" means the property lines bounding a lot.

Lot Line, Front. "Front lot line" means 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. “Rear lot line” means 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 shall be considered a rear lot line.

Lot Line, Side. “Side lot line” means any lot line not a front or rear lot line.

“Lot width” means 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.

“Manufactured home” means a structure transportable in one or more sections, intended for permanent occupancy as a dwelling. 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” means a lot, tract, or parcel with four or more spaces within five hundred (500) feet of one another available for rent or lease for the siting of manufactured homes.

“Manufactured home space” means a plot of land within a manufactured home park designed to accommodate one manufactured home, on a rental or lease basis.

“Mixed solid waste” means solid waste that contains recoverable or recyclable materials, and materials that are not capable of being recycled or recovered for future use.

Motel. See “Hotel.”

“Municipal solid waste” means solid waste primarily from residential, business, and institutional uses.

“Net buildable acre” means the developable area of a site is calculated for the purposes of this code by subtracting the following from the total area of a site:

1. Twenty-five (25) percent of the total site acreage as an allowance for land devoted to community facilities, utility services, streets, and other similar uses;

2. Acreage within the base flood, excepting acreage approved for density transfers, which shall be added back to the number of net buildable acres.

“Nonattainment area” means 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.

“Nonconforming structure or use” means 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” means 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” means 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” means to take or enter upon possession of.

"Office" means 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" means parking spaces provided for motor vehicles on individual lots and not located on public street right-of-way.

"Open space" means 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" means the city of Sherwood parks advisory board.

"Partition" means 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" means 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" means and includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a land partition.

"Pedestrian way" means a right-of-way for pedestrian traffic.

"Person" means 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" means 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. "Preliminary plat" means a map and plan of a proposed subdivision, as specified by this code.

"Principal building/use" means 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" means 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.).

"Professional" means 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" means hearings held by the commission or the council for which a form of prescribed public notice is given.

"Public park" means 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" means any premises, 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 use building" means any building or structure owned and operated by a government agency for the convenience and use of the general public.

"Public utility facilities" means structures or uses necessary to provide the public with water, sewer, gas, telephone or other similar services.

"Recycled materials" means solid waste that is transformed into new products in such a manner that the original products may lose their identity.

"Recycling" means the use of secondary materials in the production of new items. As used here, recycling includes materials reuse.

"Residential care facility" means 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" means 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" means 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" means 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" means the sale of goods and products to the consumer generally for direct consumption and not for resale.

"Retaining wall" means a structure constructed of stone, concrete, steel or other material designed to retain or restrain earth or rock.

"Right-of-way" means the area between boundary lines of a street or other easement.

"Road" means the portion or portions of street rights-of-way developed for vehicular traffic.

"Rural zone" means a land use zone adopted by a unit of local government that applies to land outside a regional urban growth boundary.

"Sanitarium" means an institution for the treatment of chronic diseases or for medically supervised recuperation.

School. See "Educational institution."

"Sealed container" means 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" means 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.

"Sidewalk" means a pedestrian walkway with hard surfacing.

"Sight distance" means 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" means 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. See Section 16.76.010(I) for additional sign definitions.

"Skirting" means a covering that totally obscures the undercarriage of a manufactured home, and extending from the top of the undercarriage to the ground.

"Soil amendment" means 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 459.005.

"Solid waste facility" means:

1. "Conditionally exempt small quantity collection facility" means 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.

2. "Demolition landfill" means 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.

3. "Household hazardous waste depot" means 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.

4. "Limited purpose landfill" means 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.

5. "Resource recovery facility" means a facility for receiving, temporarily storing and processing solid waste to obtain useful material or energy.

6. "Mixed construction and demolition debris recycling facility" means a facility that receives, temporarily stores, processes, and recovers recyclable material from mixed construction and demolition debris for reuse, sale, or further processing.

7. "Solid waste composting facility" means 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.

8. "Monofill" means 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.

9. "Municipal solid waste depot" means a facility where sealed containers are received, stored up to seventy-two (72) hours, staged, and/or transferred from one mode of transportation to another.

10. "Small scale specialized incinerator" means 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 infections 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.

11. "Solid waste facilities" means any facility or use defined in "Solid waste processing" of this section.

12. "Solid waste transfer station" means 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.

13. "Treatment and storage facility" means a facility subject to regulation under the Resource Conservation and Recovery Act. 42 USC §§ 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.

14. "Wood waste recycling facility" means 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.

15. "Yard debris depot" means a facility that receives yard debris for temporary storage, awaiting transport to a processing facility.

16. "Yard debris processing facility" means 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" means 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, hydro- pulping, incinerating or shredding.

"Special care facility" means 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 nonresident 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" means 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.

"Story" means 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 (50) percent 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. “First story” means the lowest story in a building, provided such floor level is not more than four feet below grade, for more than fifty (50) percent perimeter, or not more than eight feet below grade, at any point.

Story, Half. “Half story” means 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” means a public or private road, easement or right-of-way that is created to provide access to one or more lots, parcels, areas or tracts of land. Categories of streets include:

1. “Alley” means a street between sixteen (16) feet and ten feet in width, typically to the rear lots.
2. “Arterial” means a street which is primarily used or planned for through and high volume traffic.
3. “Bikepath” means a street up to eight feet in width for the exclusive use of bicycles, which may be incorporated into, or separate from, a vehicular roadway.
4. “Collector” means a street primarily used or planned to move traffic between the local street system, and onto major streets, but that may accommodate some through traffic.
5. “Local street” means a street which is primarily used or planned for direct access to abutting properties.
6. “Cul-de-sac” means a short street that terminates in a vehicular turnaround.
7. “Half street” means a portion of the width of a street, usually along the edge of a subdivision, where the remaining portion of the street has been or could be provided by another subdivision.
8. “Marginal access street (frontage road)” means a minor street parallel and adjacent to a major arterial street providing access to abutting properties, but protected from through traffic.

“Street line” means a dividing line between a lot and a street right-of-way.

“Street plug” means 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” means that which is built or constructed, an edifice or building or any kind, or any piece of work artificially built up or composed of parts joined together in some manner.

“Structural alterations” means any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

“Subdivision” means 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” means construction of facilities such as streets; water, sewer, gas and telephone lines; storm drainage; and landscaping.

“Temporary use” means a use of land, buildings or structures not intended to exceed twelve (12) months, unless otherwise permitted by this code.

“Unified Sewerage Agency” means an agency of Washington County providing for sanitary sewer collection and treatment, and for storm water management.

“Urban growth boundary” means the Metropolitan Portland Urban Growth Boundary (UGB) as acknowledged by the State Land Conservation and Development Commission.

“Urban zone” means a land use zone adopted by a unit of local government that applies to land inside a regional urban growth boundary.

"Use" means 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" means a use which is a "use permitted outright" in any given zoning district established by this code.

"Warehouse" means a structure or part of a structure used for storing and securing goods, wares or merchandise.

"Wetlands" means 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, or in the absence of such identification, are based on the Federal Manual for Identifying and Delineating Jurisdictional Wetlands (1989).

"Wholesale trade" means the sale of goods and products to an intermediatory generally for resale.

"Wireless communication facility" means 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" means 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:

1. "Front yard" means a yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

2. "Rear yard" means 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.

3. "Side yard" means the yard along the side line of a lot and extending from the setback line to the rear yard.

"Zero-lot-line" means attached or detached dwelling units which are constructed with only one side yard or no rear yard setbacks. (Ord. 04-006 § 3 (Exh. A)(part); Ord. 00-1108 § 3 (part); Ord. 98-1053 § 1 (part); Ord. 98-1052 § 1 (part); amended during 1998 codification; Ord. 97-1019 § 1 (part); Ord. 94-991 § 1 (part); Ord. 93-966 § 3 (part); Ord. 87-870 § 3; Ord. 87-867 § 3; Ord. 86-851 § 1.202)

16.08.020

Division II. Land Use and Development

Chapter 16.10

VLDR VERY LOW DENSITY RESIDENTIAL DISTRICT

Sections:

16.10.010 Purpose.
16.10.020 Permitted uses.
16.10.030 Conditional uses.
16.10.040 Dimensional standards.
16.10.050 Community design.
16.10.060 Flood plain.
16.10.070 Special density allowances.

16.10.010 Purpose.

The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas warranting preservation, but otherwise deemed suitable for limited development, with a density not to exceed one dwelling unit per acre and a density not less than 0.7 dwelling unit per acre. If developed through the PUD process, as per Chapter 16.36 of this title, and if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, a density not to exceed two dwelling units per acre and a density not less than 1.4 dwelling units per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirement. (Ord. 00-1108 § 3 (part); Ord. 90-921 § 2 (part): Ord. 86-851 § 2.101.01)

16.10.020 Permitted uses.

The following uses and their accessory uses are permitted outright:

A. Single-family detached or attached dwellings;

B. Manufactured homes on individual lots as per Section 16.40.010 of this title;

C. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets;

D. Home occupations, subject to Chapter 16.38 of this title;

E. Group homes not exceeding five unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical, in the city's determination, in physical form to other types of housing allowed in the VLDR zone;

F. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally;

G. PUDs, subject to Chapter 16.36 of this title and Section 16.10.070 of this chapter;

H. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.62 of this title;

I. Residential care facility;

J. Accessory dwelling unit subject to Section 16.34.020. (Ord. 00-1108 § 3 (part); Ord. 94-983-B § 3 (part); Ord. 94-983-A § 3 (part); Ord. 90-921 § 2 (part): Ord. 86-851 § 2.101.02)

16.10.030 Conditional uses.

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Chapter 16.48 of this title:

A. Churches and parsonages;

B. Cemeteries and crematory mausoleums;

C. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited;16.10.030

D. Day care facilities other than family day care providers, which are permitted outright;

E. Government offices, including but not limited to postal stations, administrative offices, police and fire stations;

F. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers;

G. Plant nurseries and other agricultural uses, including commercial buildings and structures;

H. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes;

I. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs;

J. Public and private utilities, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells, and public works yards;

K. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the commission;

L. Radio, television, and similar communications stations, on lots with a minimum width and depth equal to the height of any tower, and in conformance with Section 16.46.060 of this title;

M. Raising of animals other than household pets;

N. Public golf courses.

(Ord. 90-921 § 2 (part): Ord. 86-851 § 2.101.03)

16.10.040 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Size. Except as otherwise provided, required minimum lot dimensions shall be:

1. Lot area (conventional): forty thousand (40,000) square feet;

Lot area (under PUD): ten thousand (10,000) square feet;

2. Lot width at front property line: twenty-five (25) feet;

3. Lot width at building line: no minimum;

4. Lot depth: no minimum;

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: twenty (20) feet;

2. Side yard:

a. Single-family detached: five feet,

b. Corner lots (street side): twenty (20) feet,

c. Single-family attached (one side): twenty (20) feet;

3. Rear yard: twenty (20) feet;

4. Accessory buildings see Chapter 16.44--Accessory uses.

C. Height. Except as otherwise provided, the maximum height of structures shall be two stories or thirty (30) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings or to accessory buildings, may exceed this height limitation by up to twenty (20) feet. (Ord. 03-1153 § 1 (Exh. A)(part); Ord. 90-921 § 2 (part): Ord. 86-851 § 2.101.04)

16.10.040

16.10.050 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 and IX of this title. (Ord. 90-921 § 2 (part): Ord. 86-851 § 2.101.05)

16.10.060 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 90-921 § 2 (part): Ord. 86-851 § 2.101.06)

16.10.070 Special density allowances.

Housing densities up to two units to the acre, and lot sizes down to ten thousand (10,000) square feet, may be allowed in the VLDR zone when:

A. The housing development is approved as a PUD, as per Chapter 16.36 of this title; and

B. The following areas are dedicated to the public or preserved as common open space: flood-plains, as per Section 16.108.020 of this title; natural resources areas, per the natural resources and recreation plan map, attached as Appendix C to the ordinance codified in this title, or as specified in Chapter 5 of the community development plan; and wetlands defined and regulated as per current federal regulations and Division VIII of this title; and

C. The commission determines that the higher density development would better preserve natural resources as compared to a one unit to the acre design. (Ord. 90-921 § 2 (part): Ord. 86-851 § 2.101.07)

Chapter 16.12

LDR LOW DENSITY RESIDENTIAL DISTRICT

Sections:

16.12.010 Purpose.
16.12.020 Permitted uses.
16.12.030 Conditional uses.
16.12.040 Dimensional standards.
16.12.050 Community design.
16.12.060 Flood plain.

16.12.010 Purpose.

The LDR zoning district provides for single-family housing and other related uses with a density not to exceed eight dwelling units per acre and a density not less than 3.5 dwelling units per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirement. (Ord. 00-1108 § 3 (part); Ord. 86-851 § 2.102.01)

16.12.020 Permitted uses.

The following uses and their accessory uses are permitted outright:

A. Single-family detached or attached dwellings;

B. Manufactured homes on individual lots as per Section 16.40.010 of this title;

C. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets;

D. Home occupations, subject to Chapter 16.38 of this title;

E. Group homes not exceeding five unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district;

F. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally;

G. PUDs, subject to Chapter 16.36 and Section 16.10.070 of this title;

H. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.62 of this title;

I. Residential care facility;

J. Accessory dwelling unit subject to Section 16.34.020. (Ord. 00-1108 § 3 (part); Ord. 94-983-B § 3 (part); Ord. 94-983-A § 3 (part); Ord. 86-851 § 2.102.02)

16.12.030 Conditional uses.

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Chapter 16.58 of this title:

A. Churches and parsonages;

B. Cemeteries and crematory mausoleums;

C. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited;

D. Day-care facilities other than family day care providers, which are permitted outright;

E. Government offices, including but not limited to postal stations, administrative offices, police and fire stations;

F. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers;

G. Plant nurseries and other agricultural uses including commercial buildings and structures;

H. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes;

I. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs;

J. Public and private utilities, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells, and public works yards;

K. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the commission;

L. Radio, television, and similar communications stations, on lots with a minimum width and depth equal to the height of any tower, and in conformance with Section 16.46.060 of this title;

M. Raising of animals other than household pets;

N. Public golf courses.

(Ord. 86-851 § 2.102.03)

16.12.030

16.12.040 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure or the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Size. Except as otherwise provided, required minimum lot dimensions shall be:

1. Lot area: seven thousand (7,000) square feet;
2. Lot width at front property line: twenty-five (25) feet;
3. Lot width at building line: sixty (60) feet;
4. Lot depth: eighty (80) feet.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: twenty (20) feet;
2. Side yard:

a. Single-family detached: five feet,

b. Corner lots (street side): twenty (20) feet,

c. Single-family attached (one side): twenty (20) feet;

3. Rear yard: twenty (20) feet;
4. Accessory buildings see Chapter 16.44--Accessory uses.

C. Height. Except as otherwise provided the maximum height of structures shall be two stories or thirty (30) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet. (Ord. 03-1153 § 1 (Exh. A)(part); Ord. 86-851 § 2.102.04)

16.12.050 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 and IX of this title. (Ord. 86-851 § 2.102.05)

16.12.060 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 86-851 § 2.102.06)

Chapter 16.14

MDRL MEDIUM DENSITY RESIDENTIAL LOW DISTRICT

Sections:

16.14.010 Purpose.
16.14.020 Permitted uses.
16.14.030 Conditional uses.
16.14.040 Dimensional standards.
16.14.050 Community design.
16.14.060 Flood plain.

16.14.010 Purpose.

The MDRL zoning district provides for single-family and two-family housing, manufactured housing on individual lots and in manufactured home parks, and other related uses, with a density not to exceed eight dwelling units per acre and a density not less than 5.6 dwellings per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirement. (Ord. 00-1108 § 3 (part); Ord. 86-851 § 2.103.01)

16.14.020 Permitted uses.

The following uses and their accessory uses are permitted outright:

A. Single-family detached or attached dwellings;
B. Two-family dwellings;
C. Manufactured homes on individual lots as per Section 16.40.010 of this title;
D. Manufactured home parks, subject to Section 16.40.020 of this title;

E. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets;

F. Home occupations, subject to Chapter 16.38 of this title;

G. Group homes not exceeding five unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district;

H. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally;

I. PUDs, subject to Chapter 16.36 and Section 16.10.070 of this title;

J. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.62 of this title;

K. Residential care facility;

L. Accessory dwelling unit subject to Section 16.34.020. (Ord. 00-1108 § 3 (part); Ord. 94-983-B § 3 (part); Ord. 94-983-A § 3 (part); Ord. 86-851 § 2.103.02)

16.14.030 Conditional uses.

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Chapter 16.58 of this title:

A. Churches and parsonages;

B. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited;

C. Day care facilities other than family day care providers, which are permitted outright;

D. Government offices, including but not limited to postal stations, administrative offices, police and fire stations;

E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers;

F. Plant nurseries and other agricultural uses including commercial buildings and structures;

G. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes;

H. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs;

I. Public and private utilities, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells, and public works yards;

J. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the commission;

K. Raising of animals other than household pets;

L. Public golf courses.

(Ord. 86-851 § 2.103.03)

16.14.030

16.14.040 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure or the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Size. Except as otherwise provided, required minimum lot dimensions shall be:

1. Lot areas:

a. Single-family detached or attached: five thousand (5,000) square feet,

b. Two-family: ten thousand (10,000) square feet,

c. Manufactured homes: five thousand (5,000) square feet;

2. Lot width at front property line: twenty-five (25) feet;

3. Lot width at building line:

a. Single-family: fifty (50) feet,

b. Two-family: sixty (60) feet,

c. Manufactured homes: fifty (50) feet;

4. Lot depth: eighty (80) feet.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: twenty (20) feet;

2. Side yards:

a. Single-family detached: five feet,

Corner lot (street side): fifteen (15) feet,

b. Single-family attached (one side): feet,

c. Two-family: five feet,

Corner lot (street side): fifteen (15) feet,

d. Manufactured home: five feet,

Corner lot (street side): fifteen (15) feet;

3. Rear yard: twenty (20) feet;

4. Accessory buildings see Chapter 16.44--Accessory uses.

C. Height. Except as otherwise provided, the maximum height of structures shall be two stories or thirty (30) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings or to accessory buildings, may exceed the height limitation by up to twenty (20) feet. (Ord. 03-1153 § 1 (Exh. A)(part); Ord. 86-851 § 2.103.04)

16.14.050 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 and IX of this title. (Ord. 86-851 § 2.103.05)

16.14.060 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 86-851 § 2.103.06)

Chapter 16.16

MDRH MEDIUM DENSITY RESIDENTIAL HIGH DISTRICT

Sections:

16.16.010 Purpose.
16.16.020 Permitted uses.
16.16.030 Conditional uses.
16.16.040 Dimensional standards.
16.16.050 Community design.
16.16.060 Flood plain.

16.16.010 Purpose.

The MDRH zoning district provides for a variety of medium density housing, including single-family, two-family housing, manufactured housing on individual lots, multifamily housing, and other related uses, with a density not to exceed eleven (11) dwelling units per acre. (Ord. 01-1123 § 2 (part); Ord. 00-1108 § 3 (part); Ord. 86-851 § 2.104.01)

16.16.020 Permitted uses.

The following uses and their accessory uses are permitted outright:

A. Single-family detached or attached dwellings;

B. Two-family dwellings;

C. Manufactured homes on individual lots as per Section 16.40.010;

D. Multifamily dwellings;

E. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets;

F. Home occupations, subject to Chapter 16.38.

G. Group homes not exceeding five unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district;

H. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally;

I. PUDs, subject to Chapter 16.36 and Section 16.10.070;

J. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.62;

K. Residential care facility;

L. Townhomes, subject to Chapter 16.39.

(Ord. 01-1123 § 2 (part): Ord. 00-1108 § 3 (part); Ord. 94-983-B § 3 (part); Ord. 94-983-A § 3 (part); Ord. 86-851 § 2.104.02)

16.16.030 Conditional uses.

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Chapter 16.58:

A. Churches and parsonages;

B. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited;

C. Daycare facilities other than family day care providers which are permitted outright;

D. Government offices, including but not limited to postal stations, administrative offices, police and fire stations;

E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers;

F. Plant nurseries and other agricultural uses including commercial buildings and structures;

G. Special care facilities, including but not limited to hospitals, sanitariums, and convalescent homes;

H. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs;

I. Public and private utilities, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells, and public work yards;

J. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the commission;

K. Raising of animals other than household pets;

L. Public golf courses.

(Ord. 01-1123 § 2 (part): Ord. 86-851 § 2.104.03)

16.16.030

16.16.040 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60.

A. Lot Dimensions. Except as otherwise provided, required minimum lot areas and dimensions shall be:

1. Lot areas:

a. Single-family detached: five thousand (5,000) square feet,

b. Single-family attached (duplex): four thousand (4,000) square feet,

c. Two-family: eight thousand (8,000) square feet,

d. Manufactured homes: five thousand (5,000) square feet,

e. Multifamily: eight thousand (8,000) square feet for the first two units and three thousand two hundred (3,200) square feet for each additional unit;

2. Lot width at front property line: twenty-five (25) feet;

3. Lot width at building line:

a. Single-family: fifty (50) feet,

b. Two-family and multifamily: sixty (60) feet,

c. Manufactured homes: fifty (50) feet;

4. Lot depth: eighty (80) feet;

5. Townhome lots are subject to Chapter 16.39.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: twenty (20) feet;

2. Side yard:

a. Single-family detached: five feet, Corner lot (street side): fifteen (15) feet,

b. Single-family attached (one side): five feet,

c. Two-family: five feet, Corner lot (Street side): fifteen (15) feet,

d. Manufactured home: five feet, Corner lot (street side): fifteen (15) feet,

e. Multifamily:

One story: five feet,

Two stories: seven feet,

Two and one-half stories: eight feet,

Corner lot (Street side): twenty (20) feet;

3. Rear yard: twenty (20) feet;

4. Accessory buildings see Chapter 16.44--Accessory uses.

5. Buildings which are grouped together in one project on one tract of land shall be separated by a distance equal to the sum of the required yards for each building;

6. Townhomes, subject to Chapter 16.39.

C. Height. Except as otherwise provided the maximum height of structures shall be two and one-half stories or thirty-five (35) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet. Height of townhomes may be three stories, subject to Chapter 16.39. (Ord. 03-1153 § 1 (Exh. A)(part); Ord. 01-1123 § 2 (part): Ord. 95-995 § 1; Ord. 86-851 § 2.104.04)

16.16.040

16.16.050 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 and IX of this title. (Ord. 01-1123 § 2 (part): Ord. 86-851 § 2.104.05)

16.16.060 Flood plain.

Except as otherwise provided, Section 16.108.020 shall apply. (Ord. 01-1123 § 2 (part): Ord. 86-851 § 2.104.06)

Chapter 16.18

HDR HIGH DENSITY RESIDENTIAL DISTRICT

Sections:

16.18.010 Purpose.
16.18.020 Permitted uses.
16.18.030 Conditional uses.
16.18.040 Dimensional standards.
16.18.050 Community design.
16.18.060 Flood plain.

16.18.010 Purpose.

The HDR zoning district provides for higher density multifamily housing and other related uses, with a density not to exceed sixteen (16) dwelling units per acre. (Ord. 01-1123 § 2 (part): Ord. 00-1108 § 3 (part); Ord. 86-851 § 2.105.01)

16.18.020 Permitted uses.

The following uses and their accessory uses are permitted outright:

A. Single-family detached or attached dwellings;

B. Two-family dwellings;

C. Manufactured homes on individual lots as per Section 16.40.010;

D. Multifamily dwellings, including boarding and rooming houses;

E. Agricultural uses such as truck farming and horticulture, but excluding commercial buildings or structures, or the raising of animals other than household pets;

F. Home occupations, subject to Chapter 16.38;

G. Group homes not exceeding five unrelated persons in residence, family day care providers, government assisted housing, provided such facilities are substantially identical in physical form to other types of housing allowed in the zoning district;

H. Public recreational facilities, including but not limited to parks, playfields, sports and racquet courts, but excluding golf courses which are permitted conditionally;

I. PUDs, subject to Chapter 16.36 and Section 16.10.070;

J. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.62;

K. Residential care facility;

L. Special care facilities including but not limited to convalescent homes, nursing homes, specialized living facilities and assisted living facilities;

M. Townhomes, subject to Chapter 16.39. (Ord. 01-1123 § 2 (part): Ord. 00-1108 § 3 (part); Ord. 98-1052 § 1 (part); Ord. 94-983-B § 3 (part); Ord. 94-983-A § 3 (part); Ord. 86-851 § 2.105.02)

16.18.030 Conditional uses.

The following uses and their accessory uses are permitted as conditional uses when approved in accordance with Chapter 16.58:

A. Churches and parsonages;

B. Public and private schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited;

C. Day care facilities other than family day care providers which are permitted outright;

D. Government offices, including but not limited to postal stations, administrative offices, police and fire stations;

E. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers;

F. Plant nurseries and other agricultural uses including commercial buildings and structures;

G. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs;

H. Public and private utilities, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells, and public works yards;

I. Any business, service, processing, storage, or display not conducted entirely within an enclosed building which is essential or incidental to any permitted or conditional use, as determined by the commission;

J. Raising of animals other than household pets;

K. Public golf courses.

(Ord. 01-1123 § 2 (part): Ord. 98-1052 § 1 (part); Ord. 86-851 § 2.105.03)

16.18.030

16.18.040 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60.

A. Lot Dimensions. Except as otherwise provided, required minimum lot dimensions shall be:

1. Lot areas:

a. Single-family detached: five thousand (5,000) square feet,

b. Single-family attached: four thousand (4,000) square feet,

c. Two-family: eight thousand (8,000) square feet,

d. Multifamily: eight thousand (8,000) square feet for the first two units and two thousand two hundred (2,200) square feet for each additional unit;

2. Lot width at front property line: twenty-five (25) feet;

3. Lot width at building line:

a. Single-family: fifty (50) feet,

b. Two-family and multifamily: sixty (60) feet;

4. Lot depth: eighty (80) feet;

5. Townhome lost are subject to Chapter 16.39.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: twenty (20) feet;

2. Side yards:

a. Single-family detached: five feet,

Corner lot (street side): fifteen (15) feet,

b. Single-family attached (one side): five feet,

c. Two-family: five feet,

Corner lot (street side): fifteen (15) feet,

d. Multifamily:

One story: five feet,

Two stories: seven feet,

Two and one-half stories: eight feet,

Corner lots (street side): thirty (30) feet,

3. Rear yard: twenty (20) feet;

4. Accessory buildings see Chapter 16.44--Accessory uses.

5. Buildings which are grouped together in one project on one tract of land shall be separated by a distance equal to the sum of the required yards for each building;

6. Townhomes, subject to Chapter 16.39.

C. Height. Except as otherwise provided, the maximum height of structures shall be three stories or forty (40) feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwelling or accessory buildings may exceed the height limitation by up to twenty (20) feet. (Ord. 03-1153 § 1 (Exh. A)(part); Ord. 01-1123 § 2 (part): Ord. 00-1108 § 3 (part); Ord. 95-995 §§ 2, 3; Ord. 86-851 § 2.105.04)

16.18.040

16.18.050 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 spaces, on-site storage, and site design, see Divisions V, VIII and IX of this title. (Ord. 01-1123 § 2 (part): Ord. 86-851 § 2.105.05)

16.18.060 Flood plain.

Except as otherwise provided, Section 16.108.020 shall apply. (Ord. 01-1123 § 2 (part): Ord. 86-851 § 2.105.06)

Chapter 16.20

OC OFFICE COMMERCIAL DISTRICT

Sections:

16.20.010 Purpose.
16.20.020 Permitted uses.
16.20.030 Conditional uses.

16.20.040 Prohibited uses.
16.20.050 Dimensional standards.
16.20.060 Community design.
16.20.070 Flood plain.

16.20.010 Purpose.

The OC zoning district provides areas for business and professional offices and related uses in locations where they can be closely associated with residential areas and adequate major streets. (Ord. 90-921 § 1 (part): Ord. 86-851 § 2.106.01)

16.20.020 Permitted uses.

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

A. Offices, studios or clinics of architects, artists, attorneys, dentists, engineers, physicians, or other similar professional services, excepting veterinarians;

B. Offices of educational, financial, governmental, nonprofit, real estate, research, or other similar service organizations whose activities are such that few visitors, other than employees, have reason to come to the premises;

C. Restaurants, taverns and lounges;

D. Other similar office uses, subject to Chapter 16.64 of this title;

E. PUDs, subject to Chapter 16.36 of this title;

F. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.62 of this title;

G. Multifamily housing within a planned unit development (PUD), subject to the provisions of Section 16.18.040, high density residential (HDR) dimensional standards. (Ord. 00-1104 § 1 (part); Ord. 90-921 § 1 (part): Ord. 86-851 § 2.106.02)

16.20.030 Conditional uses.

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Division VIII of this title and are approved in accordance with Chapter 16.58 of this title:

A. Hotels and motels;

B. Apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to a commercial building;

C. Uses permitted outright in the RC zone, pursuant to Chapter 16.24 of this title. (Ord. 90-921 § 1 (part): Ord. 86-851 § 2.106.03)

16.20.040 Prohibited uses.

The following uses are expressly prohibited:

A. Adult entertainment businesses. (Ord. 90-921 § 1 (part): Ord. 86-851 § 2.106.04)

16.20.050 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Dimensions. Except as otherwise provided, required minimum lot areas dimensions shall be:

1. Lot area: ten thousand (10,000) square feet;
2. Lot width at property line: sixty (60) feet;
3. Lot width at building line: sixty (60) feet.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: none;
2. Side yards: none, except ten feet when abutting a residential zone or public park;
3. Rear yard: none, except twenty (20) feet when abutting a residential zone or public park;
4. Existing residential uses shall maintain minimum setbacks specified in Section 16.18.040 of this title.

C. Height. Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of that zone. (Ord. 90-921 § 1 (part): Ord. 86-851 § 2.106.05)

16.20.060 Community design.

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Divisions V, VIII and IX of this title. (Ord. 90-921 § 1 (part): Ord. 86-851 § 2.106.06)

16.20.070 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 90-921 § 1 (part): Ord. 86-851 § 2.106.07)

Chapter 16.22

OR OFFICE RETAIL DISTRICT

Sections:

16.22.010 Purpose.
16.22.020 Permitted uses.
16.22.030 Conditional uses.
16.22.040 Prohibited uses.
16.22.050 Dimensional standards.
16.22.060 Special criteria.
16.22.070 Community design.
16.22.080 Flood plain.

16.22.010 Purpose.

The OR zoning district provides areas for business and professional offices and related uses in locations that are adjacent to housing and supported by an adequate road system. (Ord. 98-1035 § 1 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.107.01)

16.22.020 Permitted uses.

The foregoing uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Division VIII of this title:

A. Offices of architects, artists, attorneys, dentists, engineers, physicians and other similar professional services;

B. Small animal clinic veterinarians with indoor kennels for small animal patient use only;

C. Business and professional offices including educational, financial, governmental,nonprofit, real estate, research or other similar service organizations;

D. Other similar office uses, subject to Chapter 16.64 of this title;

E. PUDs, subject to Chapter 16.36 of this title;

F. Temporary uses, including but not limited to portable construction and real estate sales offices, subject to Chapter 16.62 of this title and not to exceed one year;

G. General retail trade, not exceeding ten thousand (10,000) square feet of gross square footage;

H. Other business services including but not limited to duplicating, photocopying, mailing services, fax and computer facilities, employment agencies, business management services, office and communication equipment services and real estate offices;

I. Other personal services including but not limited to day care, preschools, and kindergartens, when clearly secondary to a commercial use;

J. Multifamily housing within a planned unit development (PUD), subject to the provisions of Section 16.18.040, high density residential (HDR) dimensional standards. (Ord. 00-1104 § 1 (part); Ord. 98-1035 § 1 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.107.02)

16.22.030 Conditional uses.

The following uses arc permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Division VIII of this title and are approved in accordance with Chapter 16.58 of this title:

A. Hotels and motels;

B. Multifamily residential, including apartments, condominiums and townhouses when located on the upper floors, in the rear of, or otherwise clearly secondary to a commercial building;

C. Hospitals;

D. Restaurants without drive-thru when located greater than one hundred (100) feet from any residential property;

E. Taverns or lounges when clearly secondary to the primary use;

F. Health clubs. (Ord. 98-1035 § 1 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.107.03)

16.22.040 Prohibited uses.

The following uses are expressly prohibited:

A. Adult entertainment businesses;

B. Restaurants, taverns, and lounges with drive-thru;

C. Wholesale trade, warehousing, commercial storage, and mini-warehousing;

D. All automotive and equipment repair and service, unless clearly incidental and secondary to and customarily associated with a use permitted outright;

E. Farm and garden supply stores, plant nurseries, and other agricultural uses, excluding florist shops which are permitted outright;

F. Automobile, recreational vehicle, motorcycle, truck, manufactured home, boat, farm, and other equipment sales, parts sales, repairs, rentals or service including automobile service stations;

G. Motion pictures and live theaters;

H. Radio, television, and similar communication stations, including transmitters;

I. Junkyards and salvage yards;

J. Contractors storage and equipment yards;

K. Building material sales and lumberyards;

L. Churches and parsonages;

M. Cemeteries and crematory mausoleums;

N. Convenience stores;

O. Pawn shops;

P. Public and private utility buildings, including but not limited to telephone exchanges, electric substations, gas regulator stations, treatment plants, water wells, and public work yards;

Q. Kennels;

R. Grocery stores. (Ord. 98-1035 § 1 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.107.04)

16.22.050 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement existing on, or after, the effective date of this code shall be reduced

below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Dimensions. Except as otherwise provided, required minimum lot areas and dimensions shall be:

1. Lot area: ten thousand (10,000) square feet;
2. Lot width at property line: eight-five (85) feet;
3. Lot width at building line: one hundred (100) feet.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: none;
2. Side yards: none, except thirty (30) feet when abutting a residential zone or public park;
3. Rear yard: none, except thirty (30) feet when abutting a residential zone or public park;
4. Existing residential uses shall maintain minimum setbacks specified in Section 16.18-.040.

C. Height. Except as otherwise provided the maximum height of structures shall be three stories or forty-five (45) feet, whichever is less, except that for every two feet of increased setback the maximum height may be increased one foot. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings and accessory buildings, may exceed this height limitation by up to twenty (20) feet. (Ord. 98-1035 § 1 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.107.05)

16.22.060 Special criteria.

A. Retail uses shall be limited to sixty thousand (60,000) square feet of gross leasable area per building or business.

B. Uses shall be conducted entirely within enclosed buildings, except for:

1. Exterior sales, display and storage for horticultural and food merchandise provided said exterior area does not exceed five percent of the gross floor area of each individual business establishment.
2. Circumstances where the nature of the permitted or conditional use clearly makes total enclosure impracticable provided that the exterior area shall be the minimum necessary to effectively conduct the use, as determined by the commission.

C. No more than four permitted or conditional uses may be established within any single OR zoning property.

D. Permitted and conditional uses may operate only between the hours of six-thirty a.m. and eleven p.m. (Ord. 98-1035 § 1 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.107.06)

16.22.070 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 design, see Divisions V, VIII and IX. (Ord. 98-1035 § 1 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.107.07)

16.22.080 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 98-1035 § 1 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.107.08)

Chapter 16.24

RC RETAIL COMMERCIAL DISTRICT

Sections:

16.24.010 Purpose.
16.24.020 Permitted uses.
16.24.030 Conditional uses.
16.24.040 Prohibited uses.
16.24.050 Dimensional standards.
16.24.060 Community design.
16.24.070 Flood plain.

16.24.010 Purpose.

The RC zoning district provides areas for general retail and service uses that neither require larger parcels of land, nor produce excessive environmental impacts as per Division VIII of this title. (Ord. 87-870 § 5 (part): Ord. 86-851 § 2.108.01)

16.24.020 Permitted uses.

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

A. Professional services, including but not limited to financial, medical and dental, social services, real estate, legal, artistic, and similar uses;

B. General retail trade, including bakeries where product distribution is limited to retailing on the premises only;

C. Personal and business services, including day cares, preschools, and kindergartens;

D. Postal substations when located entirely within and incidental to a use permitted outright;

E. Temporary uses, including but not limited to portable construction offices and real estate sales offices, subject to Chapter 16.62 of this title;

F. Farm and garden supply stores, and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited;

G. Agricultural uses such as truck farming and horticulture, excluding commercial buildings and structures, or the raising of animals other than household pets;

H. Commercial trade schools;

I. Motion picture and live theaters, but excluding drive-ins which are prohibited;

J. Restaurants, taverns, and lounges;

K. Automotive and other appliance and equipment parts sales, but excluding junkyards and salvage yards which are prohibited;

L. Blueprinting, printing, publishing, or other reproduction services;

M. Multifamily housing within a planned unit development (PUD), subject to the provisions of Section 16.18.040, high density residential (HDR) dimensional standards. (Ord. 00-1104 § 1 (part); Ord. 87-870 § 5 (part): Ord. 86-851 § 2.108.02)

16.24.030 Conditional uses.

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Division VIII of this title and are approved in accordance with Chapter 16.58 of this title:

A. Automotive service stations, including tire and wheel balancing, and incidental repair, when conducted entirely within an enclosed building;

B. Automotive, light truck and small equipment repair and service, when conducted entirely within an enclosed building;

C. Churches and parsonages;

D. Cemeteries and crematory mausoleums;

E. Public and private utility buildings, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells, and public works yards;

F. Government offices, including but not limited to administrative offices, post offices, and police and fire stations;

G. Public use buildings, including but not limited to libraries, museums, community centers, and senior centers;

H. Medical, dental, and similar laboratories;

I. Private lodges, fraternal organizations, country clubs, sports and racquet clubs, and other similar clubs, but excluding golf courses which are prohibited;

J. Motels or hotels;

K. Residential apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to commercial buildings;

L. Public recreational facilities, including but not limited to parks, playfields, and sports and racquet courts, but excluding golf courses which are prohibited;

M. Public and private schools providing education at the elementary school level or higher;

N. Veterinarian offices and animal hospitals;

O. Building material sales and lumber yards, when conducted entirely within an enclosed building;

P. Any incidental business, service, processing, storage or display, not otherwise permitted by Chapter 16.24 of this title that is essential to and customarily associated with a use permitted outright, provided said incidental use is conducted entirely within an enclosed building;

Q. Residential care facilities;

R. Special care facilities, including but not limited to hospitals, sanitariums, convalescent homes, nursing homes, specialize living facilities and assisted living facilities. (Ord. 98-1052 § 1 (part); Ord. 87-870 § 5 (part): Ord. 86-851 § 2.108.03)

16.24.040 Prohibited uses.

The following uses are expressly prohibited:

A. Adult entertainment businesses;

B. Junkyards and salvage yards;

C. Drive-in motion picture theaters;

D. Wholesale trade, warehousing, commercial storage, and mini-warehousing;

E. Contractors storage and equipment yards;

F. Automobile, recreational vehicle, motorcycle, truck, manufactured home, boat, farm, and other large equipment sales, rental, or service;

G. Correctional institutions;

H. Radio, telephone, and similar communication stations, including transmitters;

I. Wholesale plant nurseries;

J. Any other prohibited uses noted in Sections 16.24.020 or 16.24.030 of this title. (Ord. 98-1052 § 1 (part); Ord. 87-870 § 5 (part): Ord. 86-851 § 2.108.04)

16.24.050 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Dimensions. Except as otherwise provided, required minimum lot areas and dimensions shall be:

1. Lot area: five thousand (5,000) square feet;

2. Lot width at front property line: forty (40) feet;

3. Lot width at building line: forty (40) feet;

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: none, except when the lot abuts a residential zone, the front yard shall be that required in the residential zone;

2. Side yard: none, except ten feet where adjoining a residential zone or public park;

3. Existing residential uses shall maintain setbacks specified in Section 16.18.050 of this title.

C. Height. Except as otherwise provided, the maximum height of structures shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of that residential area. Structures over fifty (50) feet in height may be permitted as conditional uses, subject to Chapter 16.58 of this title. (Ord. 87-870 § 5 (part): Ord. 86-851 § 2.108.05)

16.24.060 Community design.

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Divisions V, VIII and IX of this title. (Ord. 87-870 § 5 (part): Ord. 86-851 § 2.108.06)

16.24.070 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 87-870 § 5 (part): Ord. 86-851 § 2.108.07)

Chapter 16.26

GC GENERAL COMMERCIAL DISTRICT

Sections:

16.26.010 Purpose.
16.26.020 Permitted uses.
16.26.030 Conditional uses.
16.26.040 Prohibited uses.
16.26.050 Dimensional standards.
16.26.060 Community design.
16.26.070 Flood plain.

16.26.010 Purpose.

The GC zoning district provides for commercial uses which require larger parcels of land, and/or uses which involve products or activities which require special attention to environmental impacts as per Division VIII of this title. (Ord. 97-1020 § 1 (part): Ord. 93-964 § 3 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.109.01)

16.26.020 Permitted uses.

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

A. Professional services, including but not limited to financial, medical and dental, social services, real estate, legal, artistic, and similar uses;

B. General retail trade, including bakeries where product distribution is limited to retailing on the premises only;

C. Personal and business services, including day cares, preschools, and kindergartens;

D. Postal substations when located entirely within and incidental to a use permitted outright;

E. Temporary uses, including but not limited to portable construction offices and real estate sales offices, subject to Chapter 16.62 of this title;

F. Farm and garden supply stores, and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited;

G. Agricultural uses such as truck farming and horticulture, excluding commercial buildings and structures, or the raising of animals other than household pets;

H. Commercial trade schools;

I. Motion picture and live theaters, but excluding drive-ins which are prohibited;

J. Restaurants, taverns, and lounges;

K. Automotive and other appliance and equipment parts sales, but excluding junkyards and salvage yards which are prohibited;

L. Blueprinting, printing, publishing, or other reproduction services;

M. Automobile, recreational vehicle, motorcycle, truck, manufactured home, boat, farm, and other equipment sales, parts sales, repairs, rentals or service;

N. Limited manufacturing, including only: beverage bottling plants, commercial bakeries, machine shops, and handicraft manufacturing;

O. Building material sales, lumberyards, contractors storage and equipment yards, building maintenance services, and similar uses;

P. Veterinarian offices and animal hospitals;

Q. Agricultural uses including but not limited to farming, and wholesale and retail plant nurseries, with customarily associated commercial buildings and structures permitted;

R. Medical, dental, and similar laboratories;

S. Truck and bus yards and terminals;

T. Adult entertainment businesses, subject to Section 16.34.020 of this title;

U. Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure provided the applicant can demonstrate to the satisfaction of the city that the location of the antenna on city-owned property would be unfeasible;

V. Multifamily housing within a planned unit development (PUD), subject to the provisions of Section 16.18.040, high density residential (HDR) dimensional standards. (Ord. 00-1104 § 1 (part); Ord. 97-1020 § 1 (part); Ord. 97-1019 § 1 (part); Ord. 93-964 § 3 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.109.02)

16.26.030 Conditional uses.

The following uses are permitted as conditional uses, provided such uses meet the applicable environmental performance standards contained in Division VIII of this title, and are approved in accordance with Chapter 16.58 of this title:

A. Special care facilities, including but not limited to hospitals, sanitariums, convalescent homes, correctional institutions, and residential care facilities;

B. Radio, television, and similar communication stations, including transmitters and wireless communication towers except for towers located within one thousand (1,000) feet of the old town district which are prohibited;

C. Churches and parsonages;

D. Cemeteries and crematory mausoleums;

E. Public and private utility buildings, including but not limited to telephone exchanges, electric substation, gas regulator stations, treatment plants, water wells, and public works yards;

F. Government offices, including but not limited to administrative office, post offices, and police and fire stations;

G. Public use buildings including but not limited to libraries, museums, community centers and senior centers;

H. Private lodges, fraternal organizations, country clubs, sports and racquet clubs, and other similar clubs, but excluding golf courses which are prohibited;

I. Motels or hotels;

J. Residential apartments when located on the upper floors, in the rear of, or otherwise clearly secondary to a commercial building;

K. Public recreational facilities, including but not limited to parks, playfields, and sports and racquet courts, but excluding golf courses which are prohibited;

L. Public and private schools providing education at the elementary school level or higher;

M. Any incidental business, service, process, storage or display, not otherwise permitted by this chapter, that is essential to and customarily associated with any use permitted outright. (Ord. 97-1019 § 1 (part); Ord. 93-964 § 3 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.109.03)

16.26.040 Prohibited uses.

The following uses are expressly prohibited:

A. Junkyards and salvage yards;

B. Industrial and manufacturing uses, except as specifically permitted by Sections 16.26.020 and 16.26.030 of this chapter;

C. Any other prohibited use noted in Section 16.26.030 of this chapter. (Ord. 93-964 § 3 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.109.04)

16.26.040

16.26.050 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than

minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Dimensions. Except as otherwise provided, required minimum lot areas and dimensions shall be:

1. Lot area: ten thousand (10,000) square feet;
2. Lot width at front property line: seventy (70) feet;
3. Lot width at building line: seventy (70) feet.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: none, unless the lot abuts a residential zone, then the front yard shall be that required in the residential zone;
2. Side yards: none, unless abutting a residential zone or public park property, then there shall be a minimum of twenty (20) feet;
3. Rear yard: none, unless abutting a residential zone, then there shall be a minimum of twenty (20) feet;
4. Existing residential uses shall maintain setbacks specified in Section 16.18.040 of this title.

C. Height. Except as otherwise provided, the maximum height of structures shall be fifty (50) feet, except structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of that residential area. Structures over fifty (50) feet in height may be permitted as conditional uses, subject to Chapter 16.58 of this title. (Ord. 93-964 § 3 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.109.05)

16.26.060 Community design.

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Divisions V, VIII and IX of this title. (Ord. 93-964 § 3 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.109.06)

16.26.070 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 93-964 § 3 (part): Ord. 87-870 § 5 (part): Ord. 86-851 § 2.109.07)

Chapter 16.28

LI LIGHT INDUSTRIAL DISTRICT

Sections:

16.28.010 Purpose.
16.28.020 Permitted uses.
16.28.030 Conditional uses.
16.28.040 Prohibited uses.
16.28.050 Dimensional standards.
16.28.060 Community design.
16.28.070 Flood plain.

16.28.010 Purpose.

The LI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products which have been previously prepared from raw materials. Industrial establishments shall not have objectionable external features and shall feature well-landscaped sites and attractive architectural design, as determined by the commission. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 93-964 § 3 (part): Ord. 86-851 § 2.110.01)

16.28.020 Permitted uses.

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Division VIII of this title. Incidental retail sales limited to ten percent of the total floor area of a business, may be permitted as a secondary function of a permitted or conditional use, subject to the review and approval of the hearing authority.

A. Contractor's offices and other offices associated with a use permitted in the LI zone;

B. Public and private utilities, including but not limited to, telephone exchanges, data centers, electric substations, gas regulator stations, sewage treatment plants, water wells and public work yards;

C. Glass installation and sales;

D. Government offices, including police and fire stations;

E. Laboratories for testing and medical, dental, photographic, or motion picture processing, except as prohibited by Section 16.30.040 of this title;

F. Industrial hand tool and supply sales, primarily wholesaled to other industrial firms or industrial workers;

G. Other similar light industrial uses subject to Chapter 16.64 of this title;

H. Dwelling unit for one security person employed on the premises, and their immediate family;

I. PUDs, new and existing, subject to the provisions of Chapter 16.36 of this title. New PUDs may mix uses which are permitted within the boundaries of the PUD. Approved PUDs may elect to establish uses which are permitted or conditionally permitted under the base zone text applicable at the time of final approval of the PUD;

J. Temporary uses, including but not limited to construction and real estate sales offices, subject to Chapter 16.62 of this title;

K. Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure provided the applicant can demonstrate to the satisfaction of the city that the location of the antenna on city-owned property would be unfeasible;

L. Business and professional office;

M. Tool and equipment rental;

N. Blueprinting, printing, publishing, or other reproduction services;

O. Farm and garden supply stores and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited;

P. Medical, dental and similar laboratories;

Q. Manufacture, compounding, processing, assembling, packaging, treatment fabrication, wholesaling, warehousing or storage of the following articles or products:

1. Food products, including but not limited to candy, dairy products, beverages, coffee, canned goods and baked goods, and meat and poultry, except as prohibited by Section 16.30.030 of this title.

2. Appliances, including but not limited to, refrigerators, freezers, washing machines, dryers, small electronic motors and generators, heating and cooling equipment, lawn mowers, rototillers, and chain saws, vending machines, and similar products and associated small parts.

3. Cosmetics, drugs, pharmaceuticals, toiletries, chemicals and similar products, except as prohibited by Section 16.30.040 of this title.

4. Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communications and similar instruments, components, appliances and systems, and similar products and associated small parts;

5. Building components and household fixtures, including but not limited to, furniture, cabinets, and upholstery, ladders, mattresses, doors and windows, signs and display structures, and similar products and associated small parts;

6. Recreational vehicles and equipment, including but not limited to, bicycles, recreational watercraft, exercise equipment, and similar products and associated small parts, but excluding motorized equipment unless otherwise permitted by Section 16.30.020 or 16.30.030 of this title;

7. Musical instruments, toys and novelties;

8. Pottery and ceramics, limited to products using previously pulverized clay;

9. Textiles and fiber products;

10. Other small products and tools manufactured from previously prepared or semi-finished materials, including but not limited to, bone, fur, leather, feathers, textiles, plastics, glass, wood products, metals, tobacco, rubber, and precious or semiprecious stones. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 98-1051 § 1 (part): Ord. 97-1019 § 1 (part); Ord. 93-964 § 3 (part): Ord. 86-851 § 2.110.02)

16.28.020

16.28.030 Conditional uses.

The following uses are permitted as conditional uses provided such uses meet the applicable environmental performance standards contained in Division VIII of this title and are approved in accordance with Chapter 16.58 of this title:

A. Laundry, dry cleaning, dyeing or rug cleaning plants;

B. Light metal fabrication, machining, welding and electroplating and casting or molding of semi-finished or finished metals;

C. Offices associated with a use conditionally permitted in the LI zone;

D. Sawmills;

E. Radio, television and similar communication stations, including transmitters and wireless communication towers, except for towers located within one thousand (1,000) feet of the Old Town district which are prohibited;

F. Restaurants without drive-thru;

G. Hospitals and emergency care facilities;

H. Automotive, recreational vehicle, motorcycle, truck, manufactured home, boat, farm and other equipment repair or service;

I. Commercial trade schools;

J. Wholesale building material sales, lumberyards, contractors storage and equipment yards, building maintenance services, and similar uses;

K. Power generation plants and associated facilities;

L. Veterinarian's offices and animal hospitals;

M. Automobile, boat, trailer and recreational vehicle storage;

N. Day cares and pre-schools.

(Ord. 01-1119 § 1 (Exh. A)(part): Ord. 98-1051 § 1 (part): Ord. 97-1019 § 1 (part); Ord. 93-966 § 3 (part): Ord. 93-964 § 3 (part): Ord. 86-851 § 2.110.03)

16.28.030

16.28.040 Prohibited uses.

The following uses are expressly prohibited:

A. Adult entertainment businesses;

B. Any use permitted or conditionally permitted under Chapter 16.30 of this title that is not specifically listed in this section, and any use listed in Section 16.30.040 of this title;

C. Auto wrecking and junk or salvage yards;

D. Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products;

E. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesale, warehousing, or storage of the following products or substances, except for any incidental business, service, process, storage, or display that is essential to and customarily associated, in the city's determination, with any otherwise permitted or conditionally permitted use:

1. Abrasives, acids, disinfectants, dyes and paints, bleaching powder and soaps and similar products,

2. Ammonia, chlorine, sodium compounds, toxins, and similar chemicals,

3. Celluloid or pyroxylin,

4. Cement, lime, gypsum, plaster of Paris, clay, creosote, coal and coke, tar and tar-based roofing and waterproofing materials and similar substances,

5. Explosives and radioactive materials,

6. Fertilizer, herbicides and insect poison,

7. Other similar products or compounds which are determined to be detrimental to the health, safety and welfare of the community;

F. Metal rolling and extraction mills, forge plants, smelters and blast furnaces;

G. Pulp mills and paper mills;

H. Slaughter of livestock or poultry, the manufacture of animal by-products or fat rendering;

I. Leather tanneries;

J. General purpose solid waste landfills, incinerators, and other solid waste facilities;

K. Restaurants with drive-thru facilities;

L. Retail trade, except as permitted by Section 16.30.030 of this title. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 98-1051 § 1 (part): Ord. 93-966 § 3 (part); Ord. 93-964 § 3 (part): Ord. 86-851 § 2.110.04)

16.28.050 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Dimensions. Except as otherwise provided, required minimum lot area and dimensions shall be:

1. Lot area: ten thousand (10,000) square feet;

2. Lot width at front property line: one hundred (100) feet;

3. Lot width at building line: one hundred (100) feet.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: twenty (20) feet, except when abutting a residential zone or public park, then there shall be a minimum of forty (40) feet;

2. Side yards: none, except when abutting a residential zone, then there shall be a minimum of forty (40) feet;

3. Rear yard: none, except when abutting a residential zone, then there shall be a minimum of forty (40) feet;

4. Corner lots: twenty (20) feet on any side facing a street, except when abutting a residential zone, then there shall be a minimum of forty (40) feet.

C. Height. Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of the residential zone. (Ord. 93-964 § 3 (part): Ord. 86-851 § 2.110.05)

16.28.060 Community design.

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design, see Divisions V, VIII and IX of this title. (Ord. 93-964 § 3 (part): Ord. 86-851 § 2.110.06)

16.28.070 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 93-964 § 3 (part): Ord. 86-851 § 2.110.07)

Chapter 16.30

GI GENERAL INDUSTRIAL DISTRICT

Sections:

16.30.010 Purpose.
16.30.020 Permitted uses.
16.30.030 Conditional uses.
16.30.040 Prohibited uses.
16.30.050 Dimensional standards.
16.30.060 Community design.
16.30.070 Flood plain.

16.30.010 Purpose.

The GI zoning district provides for the manufacturing, processing, assembling, packaging and treatment of products from previously prepared or raw materials, providing such activities can meet and maintain minimum environmental quality standards and are situated so as not to create significant adverse effects to residential and commercial areas of the city. The minimum contiguous area of any GI zoning district shall be fifty (50) acres. (Ord. 93-964 § 3 (part): Ord. 86-851 § 2.111.01)

16.30.020 Permitted uses.

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Division VIII of this title.

A. Contracting and building material and equipment storage yards, cold storage facilities, equipment rental and sales, building materials sales, and building maintenance services yard, except as prohibited by Section 16.30.040;

B. Public and private utilities, including but not limited to telephone exchanges, electric substations, gas regulator stations, sewage treatment plants, water wells and public works yards;

C. Laboratories for testing and medical, dental, photographic, or motion picture processing, except as prohibited by Section 16.30.040;

D. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesaling, warehousing, or storage of the following articles or products, except as prohibited in Section 16.30.040:

1. Drugs, pharmaceuticals, toiletries, cosmetics, chemicals and similar products, except as prohibited in Section 16.30.040,

2. Electrical, radio, television, optical, scientific, hearing aids, electronic, computer, communication and similar instruments, components appliances and systems, and similar products and associated small parts,

3. Food products, including but not limited to candy, dairy products, beverages, coffee, canned goods, baked goods, and meat and poultry, except as per Section 16.30.040,

4. Furniture, cabinetry, upholstery, and signs and display structures,

5. Glass and ceramics,

6. Iron, steel, sheetmetal, other metal products, hand tools, including machining, welding, electroplating, and casting and molding of semi-finished and finished metals, except as prohibited by Section 16.30.040,

7. Leather products, except as per Section 16.30.040,

8. Musical instruments, toys, and novelties,

9. Paper, wood, lumber and similar products, except as prohibited by Section 16.30.040,

10. Plastics and plastic products,

11. Recreational vehicles, and other motor vehicles, manufactured homes, trailers, boats and farm equipment and greenhouses,

12. Boxes and containers made from paper, wood, metal and other materials,

13. Textile and fiber products,

14. Appliances, including but not limited to refrigerators, freezers, washing machines, dryers, small electric motors and generators, heating and cooling equipment, lawn mowers, rototillers, and chain saws, vending machines, and similar products and associated small parts,

15. Other small products and tools composed of previously prepared or semi-finished materials, building components and household fixtures, including but not limited to furniture, cabinets, and upholstery, ladders, mattresses, doors and windows, signs and display structures, and similar products and associated small parts;

E. Wholesale plumbing supplies and service;

F. Blueprinting, printing, publishing or other reproduction services;

G. Laundry, dry cleaning, dyeing or rug cleaning plants;

H. Truck and bus yards and terminals;

I. Wholesale trade, warehousing, commercial storage, and mini-warehousing, except as prohibited in Section 16.30.040;

J. Other similar general industrial uses, subject to Chapter 16.64;

K. Dwelling unit for one security person employed on the premises and his or her immediately family;

L. PUDs, new and existing, subject to the provisions of Chapter 16.36. New PUDs may mix uses which are permitted in other underlying zoning within the boundaries of the PUD. Approved PUDs may elect to establish uses which were permitted or conditionally permitted under the base zone text applicable at the time of final approval of the PUD;

M. Temporary uses, including but not limited to construction and real estate sales offices, subject to Chapter 16.62;

N. Other uses permitted outright in the LI zone, Section 16.28.020 except for those uses listed as a conditional use in the GI zone and, except for adult entertainment businesses which are prohibited;

O. Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure provided the applicant can demonstrate to the satisfaction of the city that the location of the antenna on city-owned property would be unfeasible;

P. Business and professional offices;

Q. Tool and equipment rental;

R. Building material sales, lumberyards, contractors' storage and equipment yards, building maintenance services, and similar uses;

S. Farm and garden supply stores and retail plant nurseries, but excluding wholesale plant nurseries, and commercial farm equipment and vehicle sales which are prohibited;

T. Medical, dental and similar laboratories. (Ord. 98-1051 § 1 (part): Ord. 97-1019 § 1 (part); Ord. 93-966 § 3 (part): Ord. 93-964 § 3 (part): Ord. 86-851 § 2.111.02)

16.30.030 Conditional uses.

The following uses are permitted as conditional uses provided such uses meet the applicable environmental performance standards contained in Division VIII of this title and are approved in accordance with Chapter 16.58 of this title.

A. Government offices, including but not limited to postal stations, administrative offices, police and fire stations;

B. Sand and gravel pits, rock crushers, concrete and asphalt mixing plants, and other mineral and aggregate extraction subject to Section 16.30.040 and Chapter 16.112;

C. Radio, television and similar communication stations, including transmitters and wireless communication towers except for towers located within one thousand (1,000) feet of the old town district which are prohibited;

D. Hospitals and emergency care facilities;

E. Automotive, recreational vehicle, motorcycle, truck, manufactured home, boat, farm and other equipment repair or service;

F. Power stations serving a permitted use;

G. Restaurants without drive-thru;

H. Daycares and preschools;

I. Solid waste transfer stations;

J. Commercial trade schools. (Ord. 98-1051 § 1 (part): Ord. 97-1019 § 1 (part); Ord. 93-966 § 3 (part): Ord. 93-964 § 3 (part): Ord. 86-851 § 2.111.03)

16.30.040 Prohibited uses.

The following uses are expressly prohibited:

A. All uses permitted in residential or commercial zones not otherwise specifically permitted by Sections 16.30.020 and 16.30.030;

B. Auto wrecking and junk or salvage yards;

C. Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products;

D. Manufacture, compounding, processing, assembling, packaging, treatment, fabrication, wholesale, warehousing, or storage of the following products or substances, except for any incidental business, service, process, storage or display that is essential to and customarily associated, in the city's determination, with any otherwise permitted or conditionally permitted use:

1. Abrasives, acids, disinfectants, dyes and paints, bleaching powder and soaps and similar products,

2. Ammonia, chlorine, sodium compounds, toxins and similar chemicals,

3. Celluloid or pyroxylin,

4. Cement, lime, gypsum, plaster of Paris, clay, creosote, coal and coke, tar and tar-based roofing and waterproofing materials and similar substances,

5. Explosives and radioactive materials,

6. Fertilizer, herbicides and insect poison,

7. Other similar products or compounds which are determined to be detrimental to the health, safety and welfare of the community;

E. Metal rolling and extraction mills, forge plants, smelters and blast furnaces;

F. Saw mills and paper mills;

G. Slaughter of livestock or poultry, the manufacture of animal by-products or fat rendering;

H. Leather tanneries;

I. General purpose solid waste landfills, incinerators, and other solid waste facilities except as permitted per Section 16.30.030 and Chapter 16.114. (Ord. 98-1051 § 1 (part): Ord. 97-1019 § 1 (part); Ord. 93-966 § 3 (part): Ord. 93-964 § 3 (part): Ord. 86-851 § 2.111.04)

16.30.050 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Dimensions. Except as otherwise provided, required minimum lot area and dimensions shall be:

1. Lot area: twenty thousand (20,000) square feet;

2. Lot width at front property: one hundred (100) feet;

3. Lot width at building line: one hundred (100) feet.

B. Setbacks. Except as otherwise provided, required minimum setbacks shall be:

1. Front yard: none, except when abutting a residential zone or public park, then there shall be a minimum of fifty (50) feet;

2. Side yards: none, except when abutting a residential zone, then there shall be a minimum of fifty (50) feet;

3. Rear yard: none, except when abutting a residential zone, then there shall be a minimum of fifty (50) feet;

4. Corner lots: none, except when abutting a residential zone, then there shall be a minimum of fifty (50) feet.

C. Height. Except as otherwise provided, the maximum height shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirements of the residential zone. (Ord. 93-964 § 3 (part): Ord. 86-851 § 2.111.05)

16.30.060 Community design.

For standards relating to off-street parking and loading, energy conservation, historic resources environmental resources, landscaping, access and egress, signs, parks and open space, on-site storage, and site design see Divisions V, VIII and IX of this title. (Ord. 93-964 § 3 (part): Ord. 86-851 § 2.111.06)

16.30.070 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 93-964 § 3 (part): Ord. 86-851 § 2.111.07)

Chapter 16.32

IP INDUSTRIAL AND PUBLIC DISTRICT

Sections:

16.32.010 Purpose.
16.32.020 Permitted uses.
16.32.030 Conditional uses.
16.32.040 Prohibited uses.
16.32.050 Dimensional standards.
16.32.060 Community design.
16.32.070 Flood plain.

16.32.010 Purpose.

The IP zoning district provides for major institutional and governmental activities such as schools, public parks, churches, government offices, utility structures, hospitals, correctional facilities and other similar public and quasi-public uses. (Ord. 86-851 § 2.113.01)

16.32.020 Permitted uses.

The following uses are permitted outright, provided such uses meet the applicable environmental performance standards contained in Division VIII of this title.

A. Wireless communication facilities on city-owned property;

B. Wireless communication antennas mounted on an existing building or structure not exceeding the height of the roof of the structure provided the applicant can demonstrate to the satisfaction of the city that the location of the antenna on city-owned property would be unfeasible. (Ord. 97-1019 § 1 (part): Ord. 86-851 § 2.113.02)

16.32.030 Conditional uses.

The following uses are permitted as conditional uses provided such uses meet the applicable environmental performance standards contained in Division VIII of this title, and are approved in accordance with Chapter 16.58 of this title:

A. Government offices, including but not limited to, postal stations, administrative offices, police and fire stations;

B. Public use buildings, including but not limited to, libraries, museums, community centers, and senior centers;

C. Churches and parsonages;

D. Cemeteries and crematory mausoleums;

E. Public recreational facilities, including but not limited to, parks, playfields, golf courses, and sport and racquet courts;

F. Public and private schools providing education at the preschool level or higher, excluding commercial trade schools;

G. Public and private utilities, including but not limited to, telephone exchanges, electric substations, gas regulator stations, treatment plants, water wells and public works yards;

H. Radio, television, and similar communication stations, including transmitters and wireless communication towers.

I. Dwelling unit, including a manufactured home, for one security person employed on the premises, and their immediate family, and other forms of residence normally associated with a conditional use, as determined by the commission. (Ord. 97-1019 § 1 (part); Ord. 86-851 § 2.113.03)

16.32.040 Prohibited uses.

The following uses are expressly prohibited:

A. Private lodges, fraternal organizations, country clubs, golf courses, and other similar clubs;

B. Residential uses, except for as conditionally permitted in Section 16.32.030(I) of this chapter. (Ord. 97-1019 § 1 (part); Ord. 86-851 § 2.113.04)

16.32.040

16.32.050 Dimensional standards.

No lot area, setback, yard, landscaped area, open space, off-street parking or loading area, or other site dimension or requirement, existing on, or after, the effective date of this code shall be reduced below the minimum required by this code. Nor shall the conveyance of any portion of a lot, for other

than a public use or right-of-way, leave a lot or structure on the remainder of said lot with less than minimum code dimensions, area, setbacks or other requirements, except as permitted by Chapter 16.60 of this title.

A. Lot Dimensions. Except as otherwise provided, no minimum lot areas or dimensions are required.

B. Setback. Except as otherwise provided, the minimum required setbacks in the IP zone shall be:

1. Front yard: none, except that when the lot abuts a residential zone or public park property, the setback shall be a minimum of twenty (20) feet;

2. Side yard: none, except that when the lot abuts a residential zone or public park property, the setback shall be a minimum of twenty (20) feet;

3. Rear yard: none, except that when the lot abuts a residential zone or public park property, the setback shall be a minimum of twenty (20) feet.

C. Height. Except as otherwise provided, the maximum height of buildings in the IP zone shall be fifty (50) feet, except that structures within one hundred (100) feet of a residential zone shall be limited to the height requirement of that residential zone. (Ord. 97-1019 § 1 (part): Ord. 86-851 § 2.113.05)

16.32.060 Community design.

For standards relating to off-street parking and loading, energy conservation, historic resources, environmental resources, landscaping, access and egress, site design, parks and open space, on-site storage, and signs, see Divisions V, VIII and IX of this title. (Ord. 97-1019 § 1 (part); Ord. 86-851 § 2.113.06)

16.32.070 Flood plain.

Except as otherwise provided, Section 16.108.020 of this title shall apply. (Ord. 97-1019 § 1 (part); Ord. 86-851 § 2.113.07)

Chapter 16.34

SPECIAL USES GENERALLY

Sections:

16.34.010 General provisions
16.34.020 Accessory dwelling units.
16.34.030 Adult entertainment.
16.34.040 Other land use actions.

16.34.010 General provisions

Special uses included in this chapter 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. 04-007 § 3 (Exh. A)(part): Ord. 98-1053 § 1 (part): Ord. 86-851 § 2.201)

16.34.020 Accessory dwelling units.

A. 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.

B. Requirements for All Accessory Dwelling Units. All accessory dwelling units must meet the following standards:

1. Create. One accessory dwelling unit per residence may only be created through the following methods:

a. Converting existing living area, attic, basement or garage;

b. Adding floor area;

c. Constructing a detached ADU on a site with an existing house;

d. Constructing a new house with an internal or detached ADU.

2. Owner Occupancy. The property owner, which shall include the holders and contract purchasers, must occupy either the principal unit or the ADU as his or her permanent residence, but not both, for at least six months out of the year, and at no time receive rent for the owner-occupied unit.

3. Number of Residents. The total number of individuals that reside in both units may not exceed the number that is allowed for a household.

4. Location of Entrances. The primary entrance to the ADU shall be located in such a manner as to be unobtrusive from the same view of the building which encompasses the entrance to the principal unit.

5. Parking. Additional parking shall be in conformance with the off-street parking provisions for single-family dwellings.

6. Floor Area. The maximum gross habitable floor area (GHFA) of the ADU shall not exceed forty (40) percent of the GHFA of the primary residence on the lot.

7. Setbacks and Dimensional Requirements. The ADU shall comply with the setback and dimensional requirements of the underlying zone. In addition, there shall be a minimum ten-foot separation between the primary residence and the ADU.

8. Design and Appearance. The ADU shall be designed so that, to the degree reasonably feasible, the appearance of the building conforms to the original design characteristics and style of the building, and appears to be a single-family residence.

9. Partitioning. An accessory dwelling unit shall not be partitioned or divided off from the parent parcel. (Ord. 00-1108 § 3 (part))

16.34.020

16.34.030 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 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. 00-1108 § 3 (part); Ord. 86-851 § 2.208)

16.34.040 Other land use actions.

Proposed land use actions or activities for which specific procedures and standards for application and review are not included in this code shall be submitted to the commission, in a form determined by the city and with a fee pursuant to Section 16.48.060(A) of this title. The commission may recommend approval, approval with conditions, or denial of the request to the council. The council may approve, approve with conditions, or deny the request, or may elect to refer the request to a more appropriate approving authority. (Ord. 00-1108 § 3 (part); Ord. 86-851 § 2.209)

Chapter 16.36

PUD PLANNED UNIT DEVELOPMENT

Sections:

16.36.010 Purpose.
16.36.020 Preliminary development plan.
16.36.030 Final development plan.
16.36.040 General provisions.
16.36.050 Residential PUD.
16.36.060 Nonresidential (commercial or industrial) PUD.

16.36.010 Purpose.

A. PUDs integrate buildings, land use, transportation facilities, utility systems and open space through an overall site design on a single parcel of land. The PUD process allows creativity and flexibility in site design which cannot be achieved through a strict adherence to zoning and subdivision standards.

B. The PUD district is intended to achieve the following objectives:

1. Encourage efficient use of land and resources that can result in savings to the community, consumers and developers;

2. Preserve valuable landscape, terrain and other environmental amenities;

3. Provide diversified and innovative living, working or shopping environments that take into consideration community needs and activity patterns;

4. Achieve maximum energy efficiency in land uses;

5. Promote innovative design in architecture or other site features that enhance the community or natural environment. (Ord. 04-007 § 3 (Exh. A)(part): Ord. 01-1119 § 1 (Exh. A)(part): Ord. 98-1053 § 1 (part): Ord. 86-851 § 2.202.01)

16.36.020 Preliminary development plan.

A. Generally. A PUD preliminary development plan shall be submitted for the review and approval in accordance with Chapter 16.50 of this title. PUDs shall only be considered on sites that are unusually constrained or limited in development potential, as compared to other land with the same underlying zoning designation, because of: natural features such as floodplains, wetlands, and extreme topography, or man-made features, such as parcel configuration and surrounding development. The applicant shall describe the unusual conditions qualifying the site for PUD consideration, and the commission shall cite findings of fact validating these conditions.

B. Content. The preliminary development plan application shall include the following mapping, illustrations and written narrative:

1. Existing conditions map(s) showing: All properties, existing uses, and zoning districts within three hundred (300) feet, topography at five-foot intervals, floodplain, significant natural vegetation and features, private and public facilities including but not limited to utilities, streets, parks, and buildings, property boundaries, lot lines, and lot dimensions and area.

2. Listing of all property owners adjacent to the PUD as per Section 16.50.020(D) of this title, including names and addresses, and a listing of all persons, including names and addresses, with an interest in the property subject to the PUD application.

3. Proposal map(s) showing: Alterations to topography, floodplain, natural vegetation, trees and woodlands, and other natural features, all streets, utility alignments and easements, parks and open space, other public and utility structures, and any other dedicated land features or structures, the parceling or subdivision of land including basic parcel dimensions and areas, the phasing of the PUD, siting and orientation of proposed new structures, including an identification of their intended use.

4. Narrative and drawings describing illustrating: The intent of the PUD and how general PUD standards as per Chapter 16.36 of this title are met, details of the particular uses, densities, building types and architectural controls proposed, proposed architectural elevations, form of ownership, occupancy and responsibility for maintenance for all uses and facilities, trees and woodlands, public facilities to be provided, specific variations from the standards of any underlying zoning district or other provisions of this code, and a schedule of development.

5. If the PUD involves the subdivision of land, the proposal shall also include a preliminary subdivision plat and meet all requirements of Chapter 16.96 of this title. The preliminary subdivision shall be processed concurrently with the PUD.

C. Commission Review. The commission shall review the application pursuant to Chapter 16.50 of this title and may act to recommend to the council approval, approval with conditions or denial. The commission shall make their decision based on the following criteria:

1. The proposed development is in substantial conformance with the comprehensive plan and is sited in an area that is unusually constrained due to existing natural or man-made features, while protecting the environmental resources of the site and adjacent properties;

2. That exceptions from the standards of the underlying zoning district are warranted by the design and amenities incorporated in the development plan;

3. That the proposal is in harmony with the surrounding area or its potential future use, and incorporates unified or internally compatible architectural treatments;

4. That the system of ownership and the means of developing, preserving and maintaining open spaces are acceptable;

5. That the PUD will have a beneficial effect on the area which could not be achieved under the underlying zoning district;

6. That the proposed development, or an independent phase of the development, can be substantially completed within one year from date of approval;

7. That adequate public facilities and services are available or are made available by the construction of the project;

8. That the general objectives of the PUD concept and the specific objectives of the various categories of the PUDs described in this chapter have been met;

9. The minimum area for a residential PUD shall be five acres, unless the commission finds that a specific property of lesser area is suitable as a PUD because it is unusually constrained by topography, landscape features, location, or surrounding development, or qualifies as “infill” as defined in Section 16.36.050(C)(3) of this chapter.

D. Council Action. Upon receipt of the findings and recommendations of the commission, the council shall conduct a public hearing pursuant to Chapter 16.50 of this title. The council may approve, conditionally approve, or deny the preliminary development plan. A council decision to approve the preliminary development plan shall be by ordinance establishing a PUD overlay zoning district. The ordinance shall contain findings of fact as per this section, state all conditions of approval, and set an effective date subject to approval of the final development plan as per Section 16.36.030 of this chapter.

E. Effect of Decision. Approval of the preliminary development plan shall not constitute final acceptance of the PUD. Approval shall, however, be binding upon the city for the purpose of preparation of the final development plan, and the city may require only such changes in the plan as are necessary for compliance with the terms of preliminary approvals. (Ord. 04-007 § 3 (Exh. A)(part): Ord. 01-1119 § 1 (Exh. A)(part): Ord. 98-1053 § 1 (part): Ord. 94-991 § 1 (part); Ord. 86-851 § 2.202.02)

16.36.020

16.36.030 Final development plan.

A. Generally. Upon approval of the PUD overlay zoning district and preliminary development plan by the council, the applicant shall prepare a detailed final development plan as per this chapter and Chapter 16.54 of this title, for review and approval of the commission. The final development plan shall comply with all conditions of approval as per Section 16.36.020 of this chapter. In addition, the applicant shall prepare and submit a detailed site plan, if applicable, for review and approval, pursuant to the provisions of Chapter 16.66 of this title. The site plan shall be processed concurrently with the final development plan.

B. Final Subdivision Plat. If the PUD involves the subdivision of land, a final plat shall be prepared and submitted for final approval, pursuant to Chapter 16.98 of this title. The final plat shall be processed concurrently with the final development plan. (Ord. 04-007 § 3 (Exh. A)(part): Ord. 01-1119 § 1 (Exh. A)(part): Ord. 98-1053 § 1 (part): Ord. 86-851 § 2.202.03)

16.36.040 General provisions.

A. Timing of Development.

1. Phasing.

a. The city may require that development be done in phases, if public facilities and services are not adequate to serve the entire development immediately.

b. Any PUD which requires more than twenty-four (24) months to complete shall be constructed in phases that are substantially complete in themselves and shall conform to a phasing plan approved as part of the final development plan.

2. Failure to Complete.

a. When substantial construction or development of a PUD, or any approved phase of a PUD, has not taken place within one year from the date of approval of a final development plan, the commission shall determine whether or not the PUD's continuation, in whole or in part, is in the public interest.

b. If continuation is found not to be in the public interest, the commission shall recommend to the council that the PUD be extinguished. The council, after public hearing, may extend the PUD, extend with conditions, or extinguish the PUD.

B. Changes in Approved Plans.

1. Major Changes. Proposed major changes in a final development plan shall be considered the same as a new petition, and shall be made in accordance with the procedures specified in this chapter.

2. Minor Changes. Minor changes in a final development plan may be approved by the council without further public hearing or commission review, provided that such changes do not increase densities, change boundaries or uses, or change the location or amount of land devoted to specific uses. (Ord. 04-007 § 3 (Exh. A)(part): Ord. 01-1119 § 1 (Exh. A)(part): Ord. 98-1053 § 1 (part): Ord. 86-851 § 2.202.04)

16.36.040

16.36.050 Residential PUD.

A. Permitted Uses. The following uses are permitted outright in residential PUD when approved as part of a final development plan:

1. Varied housing types, including but not limited to, single-family attached dwellings, zero-lot line housing, row houses, duplexes, cluster units, and multifamily dwellings;

2. Related NC uses which are designed and located so as to exclusively serve the PUD district;

3. All other uses permitted within the underlying zoning district in which the PUD is located.

B. Conditional Uses. A conditional use permitted in the underlying zone in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the commission as per Chapter 16.58 of this title.

C. Development Standards.

1. Density. The number of dwelling units permitted in a residential PUD shall be the same as that allowed in the underlying zoning district, except as provided in subsection (C)(2) of this section.

2. Density Transfer. Where the proposed PUD site includes lands within the base floodplain, wetlands and buffers, or steeply sloped areas which are proposed for public dedication, and such dedication is approved as a part of the preliminary development plan, then a density transfer may be allowed adding a maximum of twenty (20) percent to the overall density of the land to be developed.

3. Minimum Lot Size. Except for PUD developments in the HDR zone subject to subsection (C)(4) of this section, the minimum lot size required for single-family, detached dwellings is five thousand (5,000) square feet, unless the subject property qualifies as infill, defined as: parent parcel of one and one-half acres or less proposed for land division, where a maximum fifteen (15) percent reduction in lot size may be allowed from the minimum lot size.

4. Minimum Lot Size in HDR Zone. The minimum size for a lot containing a detached single-family dwelling in a planned unit development in the HDR zoning district may be less than five thousand (5,000) square feet provided the following approval criteria are met:

a. General Standards.

i. Dwelling Area. Each single-family dwelling shall have a minimum dwelling area of one thousand four hundred fifty (1,450) square feet. Garage area is not included within the minimum dwelling area.

ii. Lot Sizes and Dimensions. The minimum lot size shall be two thousand (2,000) square feet. The minimum lot width shall be twenty (20) feet and the minimum lot depth shall be sixty-five (65) feet.

iii. Parking.

(A) The PUD preliminary development plan shall include a parking plan. The purpose of a parking plan is to provide on-street and off-street parking sufficient for residents and visitors. The parking plan shall show the location of proposed off-street parking and on-street parking.

(B) As a guideline, the parking plan should include an average of 1.75 parking spaces per dwelling unit, including both on-street and off-street parking, but not including garages.

iv. Single-Family Dwelling Setbacks. Dwellings shall have the following setbacks:

(A) Front-loaded garages--minimum of twenty (20) feet.

(B) Rear-loaded garages--minimum of two feet and maximum of six feet.

(C) Front yard setback to a front porch--minimum of six feet.

(D) Front yard setback to dwelling--minimum of nine feet.

(E) Rear yard setback to dwelling--minimum of twelve (12) feet.

(F) Rear yard setback to porch--minimum of ten feet.

(G) Side yard setbacks adjacent to alley and streets--minimum of eight feet.

(H) Interior side yard setbacks--minimum of three and one-half feet. Consistent with Section 16.46.050 of this title, architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project into the required side yard no closer than two and one-half feet from the property line.

(I) Minimum lot width at building line--twenty (20) feet.

(J) Abutting residential districts--where proposed lots abut an existing lower density residential zoning district, the adjoining yard setbacks shall be no less than those of the abutting residential zoning district.

v. Maximum Building Height. The maximum building height shall be thirty (30) feet or two stories.

vi. Maximum Percentage of Single-Family Homes. The total planned unit development shall have no more than sixty (60) percent of the total dwellings as single-family detached dwellings.

vii. Other Applicable Standards. All applicable community design standards in Divisions II, V and VIII of this title shall apply unless otherwise approved as a part of the preliminary or final development plan.

b. Single-Family Dwelling Design Standards.

i. Vehicle Access. Each lot in the PUD shall have vehicle access from either the front or rear lot line but not both. If alleyways are used for access, they shall be created at the time of subdivision approval.

ii. Garages and Driveways. Lots shall comply with the following standards in order to minimize interruption of adjacent sidewalks by driveway entrances, to slow traffic, to improve the appearance of the street, and to minimize paved surfaces for better traffic management:

(A) When garages face the street, the garage door shall be recessed behind the front building elevation (living area, covered porch, or other architectural feature) by a minimum of one foot.

(B) The maximum allowable driveway width facing the street is two feet greater than the width of the garage door. The maximum garage door width per dwelling is sixty (60) percent of the total building width. For example, a twenty (20) foot wide dwelling may have one twelve (12) foot wide recessed garage door and a fourteen (14) foot wide driveway.

iii. Building Design. The purpose of these standards is to make each dwelling unit distinctive and to prevent garages and blank walls from becoming a dominant visual feature. These standards will apply to all single-family detached dwellings on lots smaller than five thousand (5,000) square feet unless otherwise approved in the preliminary or final development plan.

(A) Dwellings in the PUD shall use a variety of roof types, including but not limited to, hipped, gambrel, and gabled roofs. Flat roofs shall be prohibited.

(B) A minimum of fifty (50) percent of the dwellings within a block frontage shall have a front porch. Front porches may not encroach into the clear vision area as defined in Section 16.46.010 of this title.

(C) Window trim shall not be flush with exterior wall treatment for any windows facing public rights-of-way. Windows shall be provided with architectural surround at the jam, head, and sill.

(D) All building elevations visible from the street or alley shall provide doors, front porches, balconies, windows, or other architectural features to provide a variety of facades. This standard shall apply to each full and partial building story.

(E) The PUD preliminary development plan shall provide a mix of rear-loaded and front-loaded garages.

(F) No two adjacent dwellings shall have the same architectural elevation or the same predominant color.

(G) All single-family dwellings shall use at least two of the following exterior materials on the front and street side facades: brick, natural stone, manufactured stone, lap siding, or stucco. The exterior siding shall not be either T-111 or plywood.

(H) Landscaping in the front yards and street side yards to the building line shall be installed prior to occupancy. Maintenance of the landscaping in these areas shall be maintained and enforced through recorded conditions, covenants and restrictions by the homeowners' association. This requirement shall be imposed as a condition of approval in the PUD preliminary and final development plan. The application shall provide for establishment of a homeowners' association. The applicant shall provide draft conditions, covenants, and restrictions for review and approval by the city. At a minimum, the conditions, covenants and restrictions shall require maintenance of common areas, front yard and street side yard landscaping by a professional management company; shall prohibit outside storage in any yard; shall prohibit the parking of boats, trailers, motor homes, motorcycles, trucks, truck-campers, and similar equipment; and garages shall be available for parking.

iv. Streets and Alleys. Streets and alleyways shall be constructed consistent with applicable city standards. Alleyways shall be privately maintained. The minimum improved street width shall be consistent with local street requirements in the transportation system plan. Unless otherwise approved as part of the preliminary or final development plan, streets shall be thirty-six (36) feet wide with parking on both sides. Any street within a block that, because of volumes of traffic or street location, is determined by the city to function as a minor collector or a higher functional classification roadway shall be constructed to such applicable standard.

v. Open Space. The PUD preliminary development plan shall provide for private and public open spaces which shall include improvements appropriate to the open space's size and purpose, such as but not limited to, play equipment, pedestrian amenities, and trails or sidewalks. Open space shall be

no less than five percent of the gross PUD area. Parking areas and wetlands may not be counted as part of this requirement.

vi. Transit Area. The PUD preliminary development plan shall provide for an attractive transit shelter at an approved transit stop location approved or requested by the Metropolitan Transit District ("Tri-Met"). The PUD preliminary development plan shall include an architectural elevation for the transit shelter.

vii. Applicant Representations. Any oral or written representations made by the applicant during the PUD preliminary development plan approval process may be incorporated as conditions of approval and, if so, shall be implemented in the PUD final development plan. (Ord. 04-007 § 3 (Exh. A)(part): Ord. 01-1119 § 1 (Exh. A)(part): Ord. 98-1053 § 1 (part): Ord. 86-851 § 2.202.05)

16.36.050

16.36.060 Nonresidential (commercial or industrial) PUD.

A. Permitted Uses. Any commercial, industrial or related use permitted outright in the underlying zoning district in which the PUD is located, may be permitted in a nonresidential PUD, subject to Division VIII of this title.

B. Conditional Uses. A conditional use permitted in the underlying zoning district in which the PUD is located may be allowed as a part of the PUD upon payment of the required application fee and approval by the commission.

C. Development Standards.

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

2. Site and Structural Standards. Yard setback, type of dwelling unit, lot frontage and width and use restrictions contained in this code may be waived for the nonresidential PUD, provided that the intent and objectives of this chapter are complied with in the final development plan. Building separations shall be maintained in accordance with the minimum requirements of the fire district.

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

a. Setback in accordance with provisions of the underlying zoning district within which the PUD is located and/or:

b. Screened so as to obscure the view of structures in the PUD from other uses.

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

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

6. Density Transfer. Where the proposed PUD includes lands within the base floodplain, a density transfer may be allowed in accordance with Section 16.116.040 of this title.

7. Minimum Site Area.

a. Commercial PUD. Minimum area for a commercial PUD shall be five acres. Development of a commercial PUD of less than five acres may be allowed if the PUD can be developed consistent with the intent and standards of this chapter, as determined by the commission.

b. Industrial PUD. The minimum site area for an industrial PUD shall be twenty (20) acres. (Ord. 04-007 § 3 (Exh. A)(part): Ord. 98-1053 § 1 (part): Ord. 86-851 § 2.202.06)

Chapter 16.38

HOME OCCUPATIONS*

Sections:

16.38.010 Purpose.
16.38.020 Authority.
16.38.030 Exemptions.
16.38.040 Type I and Type II home occupations.
16.38.050 General definition and criteria for home occupations.
16.38.060 Type I home occupation criteria defined criteria defined.
16.38.070 Type II home occupation permit criteria defined.
16.38.080 Prohibited uses.
16.38.090 Permit procedures for Type II home occupations.
16.38.100 Expiration and revocation of home occupation permits.
16.38.110 Appeals.

* Prior ordinance history: 98-1053, 86-851.

16.38.010 Purpose.

It is the purpose of this chapter to permit residents an opportunity to use their homes to engage in small-scale business ventures. Home occupations are regulated to ensure that they do not alter the residential character of the neighborhood, nor infringe upon the rights of nearby residents to the peaceful enjoyment of their neighborhood and homes. (Ord. 02-1130 § 3 (part))

16.38.020 Authority.

The provisions of this code are intended to apply to those entities required to obtain a Sherwood business license under the provisions of the Sherwood Municipal Code Chapter 5.04. No person shall carry on a home occupation, or permit such use to occur on property which that person owns or is in lawful control of contrary to the provisions of the chapter codified in this ordinance. A person must first determine if a permit, for such use in the manner provided by this section, is required. (Ord. 02-1130 § 3 (part))

16.38.030 Exemptions.

A. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises.

B. Short-term sales from a residence shall not be deemed to fall under the regulations for home occupations. Such sales shall not exceed one week in duration and a two week period in any given calendar year. Examples of such uses are, but not limited to; garage sales, estate sales, rummage and craft sales. (Ord. 02-1130 § 3 (part))

16.38.040 Type I and Type II home occupations.

A. Home occupations or professions shall be carried on wholly within the principal building and clearly secondary, in the city's determination, to the use of the building as a dwelling. All home occupations shall be administered as either Type I or II, distinguished by the potential impacts they represent to the neighborhood. Both Type I and Type II home occupations are required to apply for and maintain a city of Sherwood business license.

B. Type I home occupations are exempt from the permitting process and defined by the listed criteria. (Ord. 02-1130 § 3 (part))

16.38.050 General definition and criteria for home occupations.

Home occupations or professions are businesses carried on wholly within a residential building, requiring a city business license. Home occupations are clearly incidental and accessory to the use of the property as a dwelling, and they are not detrimental or disruptive in terms of appearance or operations to neighboring properties and residents. The occupation or profession does not require additional off-street parking nor upset existing traffic patterns in the neighborhood. All home occupations shall be in accordance with the following general criteria:

A. All business operations shall comply with the current city of Sherwood noise ordinance and shall not produce any offensive vibration; smoke; dust; odors; heat; glare or electrical interference detectable to normal sensory perception at the property line.

B. No exterior remodeling which alters the residential character of the structure shall be permitted.

C. The occupation or profession shall not occupy more than twenty-five (25) percent of the total floor area of all habitable buildings on the property, including customary accessory buildings.

D. There shall be no storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the fire marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals which are engaged in home occupations shall make available to the fire marshal for review the material safety data sheets which pertain to all potentially toxic and/or flammable materials associated with the use.

E. There shall be no exterior storage of vehicles of any kind used for the business with the exception of one commercially licensed vehicle of not more than one ton gross vehicle weight (GVW) that may be parked outside of a structure or screened area. (Ord 02-1130 § 3 (part))

16.38.060 Type I home occupation criteria defined.

Type I home occupations shall be conducted in accordance with the following defined criteria.

A. Only the principal occupant(s) of a residential property may undertake home occupations.

B. Storage of materials is confined to the interior of the residence with no exterior indication of a home occupation.

C. No exterior signs that identify the property as a business location.

D. No clients or customers to visit the premises for any reason.

E. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television and any other advertising media.

F. Deliveries to the residence by suppliers may not exceed three per week and shall be prohibited on weekends. (Ord. 02-1130 § 3 (part))

16.38.070 Type II home occupation permit criteria defined.

Type II home occupations require a permit and shall be conducted in conformance with the following criteria:

A. One non-illuminated exterior sign, not to exceed one square foot.

B. The number of customers and clients shall not exceed five visits per day. Customers and clients may not visit the business between the hours of 10:00 p.m. and 7:00 a.m. Monday through Friday and between 7:00 p.m. and 8:00 a.m. Saturday and Sunday.

C. Storage of materials on the premises shall be screened entirely from view of neighboring properties by a solid fence. Exterior/outside storage of materials shall not exceed five percent of the total lot area and shall not encroach upon required set back areas of the zone.

D. Commercial pickup and deliveries shall be limited to one per day on weekdays and shall be prohibited on weekends.

E. A maximum of one volunteer or one on site employee, who is not a principal resident of the premises. (Ord. 02-1130 § 3 (part))

16.38.080 Prohibited uses.

Because of the potential adverse impacts they pose to residential neighborhoods, the following uses are not allowed as home occupations and must be conducted as allowed in a commercial or industrial zone:

A. Auto-body repair, restoration and painting;

B. Commercial auto repair, (auto repair for other than the property owners/tenants personal vehicles);

C. Junk and salvage operation;

D. Storage and/or sale of fireworks. (Ord. 1130 § 3 (part))

16.38.090 Permit procedures for Type II home occupations.

An application for a Type II home occupation permit shall be filed, according to the application procedures of Division III and in conjunction with the city business license accompanied by the appropriate fee as per Section 16.48.060. The application shall identify the type of use and address the conditions contained in this chapter and other applicable sections of this code. The planning director or his designee may impose additional conditions upon the approval of Type II home occupations

permits to ensure compliance with the requirements of this chapter. The action of the planning director may be appealed as per Section 3.400. (Ord. 02-1130 § 3 (part))

16.38.100 Expiration and revocation of home occupation permits.

A. Type II Home Occupation Permit Expiration. A Type II home occupation permit shall be valid for a period of one year. Renewal of the permit shall be accomplished in the same manner as an application for a new permit under this section.

B. Grounds for Revocation. The planning director may revoke a home occupation permit at any time for the following reasons:

1. A violation of any provision of this chapter.

2. A violation of any term or condition of the permit.

3. Failure to pay the city business license fee in a timely manner.

When a Type II home occupation permit has been revoked, a new Type II home occupation permit will not be issued to the applicant or other persons residing with the applicant for a period of up to twenty-four (24) months. (Ord. 02-1130 § 3 (part))

16.38.110 Appeals.

The action of the planning director may be appealed per the provisions of Chapter 16.52. (Ord. 02-1130 § 3 (part))

Chapter 16.39

TOWNHOME DESIGN STANDARDS

Sections:

16.39.010 Definitions.
16.39.020 Townhome standards.

16.39.010 Definitions.

"Townhome" means 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. (Ord. 02-1126 § 2 (part): Ord. 01-1123 § 2 (part))

16.39.020 Townhome standards.

A. Generally. A townhome may be located on property zoned MDRH or HDR, or in other zones as specified in an approved planned unit development provided that the townhome meets the standards contained below, and other applicable standards of Division V (Community Design). Such developments that propose townhomes shall do so in groups known as "townhome blocks," which con-

sist of groups no less than two attached single family dwellings, that meet the general criteria of this section, and specific design and development criteria of subsection B.

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. 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 off-street parking spaces in the HDR zone, and two and one-half spaces in the MDRH zone; garages and/or designated 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 subsection E, shall apply to townhome blocks.

8. Developments over two acres shall accommodate an open space area no less than five percent of the total subject parcel. Parking areas may be counted toward this five percent 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:

Greater than 140'	10' minimum
120' to 140'	8' minimum
100' to 120'	6' minimum
Less than 100'	5' 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.

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 fifteen (15) percent if the subject property is one acre (43,560 sq. ft.) 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 Chapter 16.16, 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 eight units or one hundred eighty (180) 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.

3. Street Access. Townhomes receiving access directly from a public or private street shall comply with all of the following standards, in order to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, and minimize paved surfaces for better storm water management.

a. When 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 foot.

b. The maximum allowable driveway width facing the street is two feet greater than the width of the garage door. The maximum garage door width per unit is sixty (60) percent of the total building width. For example, a twenty (20) foot wide unit may have one twelve (12) foot wide recessed garage door and a fourteen (14) foot driveway. A twenty-four (24) foot wide unit may have a fourteen (14) foot, four-inch wide garage door with a sixteen (16) foot, four-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 façade of a townhome may not include more than forty (40) percent 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 or gabled roofs are required. Flat roofs are not permitted.

c. A minimum of fifty (50) percent of the residential units within in a block's front-age shall have a front porch in the MDRH zone. Front porches may encroach six feet beyond the perimeter foundation into front yard and street-side yard setbacks, 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 Chapter 16.44.

d. Window trim shall not be flush with exterior wall treatment for all windows facing public rights-of-way. 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 façade. A minimum of fifty (50) percent of front street-facing elevations, and a minimum of twenty (20) percent of side and rear street-facing building elevations, as applicable, shall meet this standard. The standard applies to each full and partial building story.

f. The maximum height of all townhomes shall be that of the underlying zoning district standard, except that: twenty-five (25) percent of townhomes in the MDRH zone may be three 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.

g. Townhome developments which propose alley-loaded garages shall provide a mix of street-access garages, unless impractical due to lot depth, the proximity or function of local streets, or other factors identified in the parking plan.

5. Vehicular Circulation. All streets shall be constructed in accordance with applicable city standards and shall be curbed. The minimum paved street improvement width shall be:

a. Thirty-six (36) feet, with parking allowed on two sides.

b. Any street within the townhome block that, due to volumes of traffic or street location, as determined by the city, functions as a minor collector or higher functional classification roadway, shall be constructed to full city public improvement standards. (Ord. 02-1126 § 2 (part): Ord. 01-1123 § 2 (part))

Chapter 16.40

MANUFACTURED HOMES

Sections:

16.40.010 Manufactured homes on individual residential lots.
16.40.020 Manufactured home parks.
16.40.030 Miscellaneous uses of manufactured homes.

16.40.010 Manufactured homes on individual residential lots.

A. Generally. One manufactured home may be located on an individual lot zoned MDRL or MDRH, provided that the manufactured home meets the standards contained in Chapter 16.14 or 16.16 of this title, and subsection B of this section.

B. Standards.

1. Each manufactured home shall be multisectional and have a minimum floor area of one thousand (1,000) square feet.

2. The manufactured home shall be placed on an excavated and back-filled foundation and enclosed at the perimeter such that the manufactured home is located not more than twelve (12) inches above the ground.

3. The manufactured home shall have a pitched roof, with a slope of no less than a nominal three feet in height for each twelve (12) feet in width.

4. The manufactured home, and attached or detached garage, 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 which is consistent with the predominant materials used on surrounding dwellings, as determined by the city.

5. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce energy levels equivalent to the performance standards required of single-family dwellings constructed under the state building code as defined in ORS 445.010.

6. The manufactured home shall have an attached or detached garage.

7. In addition to the provisions of subsections (B)(1) through (6) of this section, the manufactured home and the lot upon which it is sited shall be subject to all other code requirements to which a conventional single-family residential dwelling on the same lot would be subjected. (Ord. 89-898 § 1 (part): Ord. 86-851 § 2.205.01)

16.40.020 Manufactured home parks.

Manufactured home parks may be located in the MDRL zone only. Except as herein provided, the standards of this section and the MDRL zone, shall apply to all manufactured home parks. The following additional standards shall also apply:

A. Generally.

1. Sale Prohibited. Manufactured home park spaces shall be available for rental or lease only. Individual sale is prohibited.

2. Uses Permitted. No building, structure, or land within a manufactured home park shall be used for any purpose except for:

a. Residential manufactured homes, together with normal accessory uses such as cabanas, patio slabs, ramadas, carport or garages, and storage and washroom buildings;

b. Private and public utilities and services;

c. Community recreation facilities, including swimming pools, operated for the residents and guests of the park only;

d. One manufactured home or other residence for the use of a manager or a caretaker responsible for maintaining and operating the park.

3. Occupancy. No occupancy permit for any manufactured home park, building, or facility shall be issued by the city until the park or an approved phase of the park has been completed according to

the final site plan approved by the commission. Deviations from the approved plan must be resubmitted to the commission for review and approval.

4. Alterations and Additions. The owner(s) of the manufactured home park property, or duly authorized park management, shall be held responsible for all alterations and additions to a manufactured home park or to individual homes within the park, 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.

B. Recreational Vehicles.

1. The occupancy of recreational vehicles within manufactured home parks as permanent living quarters is prohibited.

2. Unoccupied recreational vehicles located in designated parking or storage areas within manufactured home parks are permitted.

3. If storage yards for recreational vehicles, boats or trailers are provided, an eight foot high sight-obscuring fence shall be erected around the perimeter of the storage yard.

C. Design Standards.

1. Spaces shall be a minimum of five thousand (5,000) square feet, with a width of no less than twenty-five (25) feet at the front space line and fifty (50) feet at the building line.

2. The boundaries of all spaces shall be surveyed or otherwise suitably and permanently marked on-site, as determined by the city.

3. Two off-street parking spaces shall be provided for each manufactured home space. Additional off-street parking spaces shall be provided in the manufactured home park with not less than one additional parking space per every ten manufactured homes. All off-street parking spaces shall be paved.

4. A minimum four foot wide sidewalk shall be required on one side of all private streets within manufactured home parks.

D. Siting Standards.

1. Only one manufactured home shall be permitted on a space.

2. The supplementary siting standards contained in Section 16.46.010 of this title shall apply to manufactured home parks, provided that space lines shall be deemed to be the equivalent to lot lines for the purposes of applying those standards.

3. Buildings setbacks shall be equivalent to setbacks required in the MDRL zone, Section 16.14.040B of this title, provided however that either the front or rear yard setbacks for manufactured homes may be reduced by up to ten feet from the MDRL standard. Space lines shall be deemed the equivalent to lot lines for the purposes of applying those setback standards. Ramadas, cabanas, awnings, carports and other attached structures shall be considered part of the manufactured home for setback purposes.

E. Unit Standards.

1. Each manufactured home shall be multisectional and have a minimum floor area of one thousand (1,000) square feet.

2. Except as otherwise herein provided, accessory uses, buildings, and structures shall be treated as per Chapter 16.44 of this title.

3. All manufactured homes shall be placed on a foundation stand, adequate to provide a stable, fixed support. The stand shall be all-weather and surfaced with asphalt, concrete or crushed rock, and at least as large as the manufactured home.

4. All manufactured homes shall provide exterior finishing and construction as follows:

a. Skirting of moisture resistant, non-combustible material or fire retardant wood;

b. Pedestals, or blocking supports, insuring adequate support and in compliance with the Oregon Department of Commerce manufactured home setup procedures;

c. Awnings, carports, cabanas, and similar structures shall be of a material, size, color and pattern similar to the manufactured home and shall conform to all applicable building codes.

F. Utility Standards.

1. All manufactured homes, service buildings and accessory structures shall be connected to public water and sewer systems in accordance with city standards.

2. Sufficient fire hydrants shall be installed so that no manufactured home, and other structure is farther than three hundred (300) feet from a hydrant, as measured down the center lines of streets, whether private or public.

G. Vehicular Circulation.

1. All private streets shall be constructed in accordance with applicable city standards and shall be curbed. The minimum paved street improvement width shall be:

a. Twenty-eight (28) feet with no on-street parking allowed;

b. Thirty-two (32) feet with on-street parking allowed on one side;

c. Thirty-six (36) feet with parking allowed on two sides, provided that at least one private street thirty-six (36) feet in width with no on-street parking allowed shall be constructed to intersect with an adjacent public street.

2. Any street within the manufactured home park that, due to volumes of traffic or street location, as determined by the city, functions as a minor collector or higher functional classification roadway shall be a public street and constructed to full city public improvement standards.

H. Miscellaneous Park Standards.

1. All other community design standards contained in Divisions V, VIII and IX of this title 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 manufactured home parks. (Ord. 89-898 § 1 (part): Ord. 86-851 § 2.205.02)

16.40.030 Miscellaneous uses of manufactured homes.

A. Generally. In addition to uses permitted by Sections 16.40.010 and 16.40.020 of this chapter, manufactured homes may be used for the following purposes:

1. Security person quarters, as per Sections 16.28.020 and 16.30.020 of this title.

2. Temporary uses as per Chapter 16.62 of this title, and where the proposed use is otherwise permitted in the zone in which the manufactured home is to be located. (Ord. 86-851 § 2.205.03)

Chapter 16.42

NONCONFORMING USES

Sections:

16.42.010 Purpose.
16.42.020 Exceptions.
16.42.030 Nonconforming lots of record.
16.42.040 Nonconforming uses of land.
16.42.050 Nonconforming structures.
16.42.060 Nonconforming uses of structures.
16.42.070 Permitted changes to nonconformities.
16.42.080 Conditional uses.

16.42.010 Purpose.

Within the zones established by this code or any amendments that may later be adopted there may exist lots, structures, uses of land and structures, and characteristics of use which were lawful before the effective date of this code, but which would be prohibited, regulated, or restricted under the terms of this code or any future amendments, or which do not meet in full all standards and provisions of this code. This chapter permits these nonconformities to continue until they are removed or discontinued, but does not encourage their perpetuation. Nonconformities shall not be enlarged, expanded or extended, nor be used as justification for adding other structures or uses not permitted elsewhere in the same zone, except as specifically provided elsewhere in this chapter. (Ord. 86-851 § 2.206.01)

16.42.020 Exceptions.

A. Generally. Nothing in this chapter shall require any change in the location, plans, construction, size, or designated use of any building, structure, or part thereof, for which a required city building permit has been granted prior to enactment of this code. If a building permit is revoked or for any reason becomes void, all rights granted by this section are extinguished and the project shall thereafter be required to conform to all the provisions of this code.

B. Old Town (OT) Zone. Certain exceptions to this chapter are permitted in the OT overlay zone, as per Section 16.130.020F of this title.

C. Any otherwise lawful residential structure or use located on property zoned commercial or industrial shall be deemed conforming for the purposes of Sections 16.42.050B and 16.42.060E of this chapter. (Ord. 94-983-C § 3; Ord. 86-851 § 2.206.02)

16.42.030 Nonconforming lots of record.

A. Except as provided in this chapter and Section 16.46.040 of this title, no nonconforming lot of record at the effective date of adoption or amendment of this code shall be developed for any use, and no existing use on a nonconforming lot of record shall be enlarged, extended, or reconstructed. Non-

conforming lots or record are those of a width, area or depth or other requirements less than the minimums prescribed by this code.

B. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be constructed on a single lot of record existing at the effective date of adoption of, or amendment to, this code, notwithstanding limitations imposed by other provisions of this code. Such lot must be in separate ownership and not contiguous with other lots in the same ownership.

C. If two or more lots, or combinations of lots and portions of lots in single ownership are on record at the effective date of this code and are made nonconforming by this code, the lots involved shall be considered to be an undivided parcel for the purposes of this code. No portion of said undivided parcel which does not meet requirements established by this code shall be conveyed, transferred or used in any manner. No division of the parcel shall be made which results in any lot of less than the minimum requirements of this code. (Ord. 86-851 § 2.206.03)

16.42.040 Nonconforming uses of land.

Where at the time of adoption of this code lawful use of land exists which would not be permitted by the regulations imposed by this code, and where such use involves no structure or building, other than a single minor accessory structure or sign, the use may be continued as long as it remains otherwise lawful, provided:

A. No such use shall be enlarged, increased or extended to occupy a greater area of land or space than was occupied at the effective date of adoption or amendment of this code, provided however, that such use may be enlarged or altered in a way that will not have a greater adverse impact on surrounding properties or will decrease its nonconformity, as per Section 16.42.070 of this chapter.

B. No such use shall be moved in whole or in part to any portion of the lot other than that occupied by such use at the effective date of adoption or amendment of this code.

C. If any such use of land ceases for any reason for a period of more than one hundred twenty (120) days, any subsequent use of land shall conform to the regulations specified by this code for the zone in which such land is located.

D. No additional structure, building or sign shall be constructed on the lot in connection with such use of land unless said structure, building, or sign reduces or further limits, in the city's determination, the existing nonconformity. (Ord. 86-851 § 2.206.04)

16.42.050 Nonconforming structures.

Where a lawful structure exists at the effective date of adoption of or amendment to this code that could not be built under the terms of this code by reason of restrictions on lot area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be enlarged or altered in a way that will not have a greater ad-

verse impact on surrounding properties or will decrease its non-conformity, as per Section 16.42.070 of this chapter.

B. Except as otherwise provides for in Section 16.42.020 of this chapter, should such structure or the nonconforming portion of a structure be destroyed by any means to an extent of more than sixty (60) percent of its current value as established by the Washington County assessor, it shall not be reconstructed except in conformity with the provisions of this code; and

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located. (Ord. 86-851 § 2.206.05)

16.42.060 Nonconforming uses of structures.

If a lawful use involving individual structures, or structure and premises in combination (except for a single, minor accessory structure) exists at the effective date of adoption or amendment of this code that would not be allowed in the zone in which it is located; or which is nonconforming because of inadequate off-street parking, landscaping, or other deficiencies, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this code in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except to accommodate a changing of the use of the structure to a use permitted in the zone in which it is located.

B. Any nonconforming use may be extended throughout any existing parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the ordinance codified in this title, but no such use shall be extended to occupy any land outside such building.

C. If such use of a structure and premises is changed to another use, such new use shall conform to all provisions of this title.

D. When such use of a structure and premises is discontinued or abandoned for one hundred twenty (120) days, the structure and premises shall not thereafter be used except in full conformity with all regulations of the zone in which it is located. A use shall be deemed to be discontinued or abandoned upon the occurrence of the earliest of any of the following events:

1. On the date when the structure and/or premises are vacated;

2. On the date the use ceases active sales, merchandising, the provision of services, other nonconforming activity;

3. On the date of termination of any lease or contract under which the nonconforming use has occupied the premises;

4. On the date a request for final reading of water and power meters is made to the city.

E. Where nonconforming use status applies to a structure and premises, removal or destruction of the structure shall eliminate the nonconforming use status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than sixty (60) percent of its current value, as appraised by the Washington County assessor. Except as otherwise provided for in Section 16.40.020 of this title, any subsequent use shall conform fully to all provisions of the zone in which it is located. (Ord. 86-851 § 2.206.06)

16.42.070 Permitted changes to nonconformities.

A. Repairs and Maintenance. On any nonconforming structure or portion of a structure containing a nonconforming use, normal repairs or replacement on nonbearing walls, fixtures, wiring, or plumbing may be performed in a manner not in conflict with the other provisions of this chapter. 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 nonconforming use or structure may be enlarged or altered as per Sections 16.42.030(A) or 16.42.040(A) of this chapter if, in the commission's determination, the change will have no greater adverse impact on surrounding properties or will decrease its nonconformity 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 and 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 16.130.020(F) of this title. (Ord. 86-851 § 2.206.07)

16.42.080 Conditional uses.

A use existing before the effective date of this code which is permitted as a conditional use shall not be deemed nonconforming 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 16.58 of this title. (Ord. 86-851 § 2.206.08)

Chapter 16.44

ACCESSORY USES

Sections:

16.44.010 Standards.
16.44.020 Conditional uses.
16.44.030 Conflicts of interpretation.

16.44.010 Standards.

For uses located within a residential zoning district, accessory uses, buildings, and structures, excluding decks, which are subject to Section 16.46.050(E), 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.

A. Any accessory building shall have not more than seven hundred twenty (720) square feet of ground floor area and shall be no taller than twenty-five (25) feet in height.

B. No accessory building or structure over three feet in height shall be allowed in any required front yard or street side yard. Accessory buildings may be allowed in required side and rear building setbacks as described below.

C. Detached accessory structures that do not require a building permit per the Building Code shall maintain a minimum three-foot distance from any side or rear lot line and must be a minimum of six feet from any accessory or primary structure. Attached accessory structures that do not require a building permit per the Building Code shall be setback a minimum of three feet from any side property line and fifteen (15) feet from a rear property line.

D. No accessory building or structure over three feet in height that requires a building permit per the Building Code, shall be located closer than five feet to any side or rear property line and six feet from any accessory or primary structure.

E. Any accessory building or structure that requires a building permit per the Building Code 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.

F. 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. 03-1153 § 1 (Exh. A)(part): Ord. 86-851 § 2.207.01)

16.44.020 Conditional uses.

Any accessory use and/or structure associated with a conditional use shall be allowed only after approval in accordance with Chapter 16.58 of this title. (Ord. 03-1153 § 1 (Exh. A)(part): Ord. 86-851 § 2.207.02)

16.44.030 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 16.64 of this title. (Ord. 03-1153 § 1 (Exh. A)(part): Ord. 86-851 § 2.207.03)

Chapter 16.46

SUPPLEMENTARY STANDARDS

Sections:

16.46.010 Clear vision areas.

16.46.020 Additional setbacks-- Generally.
16.46.030 Fences, walls and hedges--Generally.
16.46.040 Lot sizes and dimensions.
16.46.050 Yard requirements.
16.46.060 Chimneys, spires, antennas and similar structures.
16.46.070 Dual use of required space.

16.46.010 Clear vision areas.

A. A clear vision area shall be maintained on the corners of all property at the intersection of two streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.

B. A clear vision area shall consist of a triangular area, two sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the nonintersecting ends of the other two sides.

C. A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade; except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven feet above the ground.

D. The following requirements shall govern clear vision areas:

1. In a residential zone, the minimum distance shall be thirty (30) feet; or, at intersections including an alley, ten feet.

2. In commercial and industrial zones, the minimum distance shall be fifteen (15) feet; or, at intersections including an alley, ten feet; except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the distance shall be twenty-five (25) feet.

3. Where no yards are required, buildings may be constructed within the clear vision area. (Ord. 96-1014 § 1 (part); Ord. 86-851 § 2.301.01--2.301.04)

16.46.020 Additional setbacks-- Generally.

Additional setbacks shall be provided along streets based on the functional classifications in Section VI of the community development plan. Additional setbacks shall be measured at right angles from the centerline of the street.

Classification	Additional Setback
Major arterial	45 feet
Minor arterial	35 feet
Collector	27 feet
Local	24 feet

(Ord. 86-851 § 2.302.01)

16.46.030 Fences, walls and hedges-- Generally.

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 emergency access, lessen solar access, 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. Definition. For purposes of this section, a corner lot adjoining two city streets shall have both yards adjoining the streets considered as front yards.

C. Types of Fences. The standards apply to walls, fences, hedges, mounds, and screens of all types (or a combination thereof) whether open, solid, wood, metal, wire, masonry, plant vegetation or other materials.

D. Location.

1. Fences up to forty-two (42) inches high are allowed in required front building setbacks.

2. Fences up to six feet high are allowed in required side or rear building setbacks.

3. Additionally, all fences shall be subject to the clear vision provisions of Section 16.46.010 of this chapter.

E. Provisional Locations.

1. On corner lots in residential areas, where a home is characterized as back-to-back. (See diagram adopted in the ordinance codified in this section as shown in the illustration of these text provisions):

a. A six-foot fence may extend into the required second front yard in an amount not to exceed fifty (50) percent of the distance measured between the house and sidewalk.

b. Said fence may not extend beyond eight feet from the rear of the house toward the front.

2. On corner lots in residential areas where a home is characterized as back-to-front. (See diagram adopted in the ordinance codified in this section as shown in the illustration of these text provisions):

a. A six-foot fence may extend into the second required front yard in an amount no greater than five feet from the house.

b. Said fence may not extend beyond eight feet from the rear of the house to the front.

3. Fences in yards affecting cul-de-sacs are exempt from subsection E of this section.

F. Provisional Conditions. The following conditions are applied to those fences constructed pursuant to subsection E of this section:

1. The clear visions standards of Section 16.46.010 of this section apply, and take precedence over these provisions in the event of conflict between this section and Section 16.46.010 of this section.

2. Wire/chain link fencing is not allowed along any residential street frontage.

G. General Conditions.

1. In all cases, the following standards are applied:

a. Chain link fencing is not allowed in any required residential front yard setback.

b. The finished side of the fence must face the street.

c. A fence permit from the city is required for all fences.

H. Administrative Variance. The city manager or his/her designee may grant an administrative variance to this section.

I. Abatement of Fences in Noncompliance.

1. Fences that do not conform to subsection E of this section must come into compliance when the house is sold, when other permits are issued, or by September 1, 2003, whichever is earlier. Fences constructed affecting cul-de-sacs or fences creating inadequate site distances pursuant to Section 16.46.010 of this section must come into compliance immediately.

2. Chain link fences forty-two (42) inches or under in front yard setbacks, erected prior to adoption of the ordinance codified in this section, or other fences which, when installed, were legal under the Sherwood Code of Ordinances effective at that time, are exempt from subsection I of this section.

J. Penalties. Violations of this section shall be subject to the penalties defined by Section 16.02.040 of this title. (Ord. 96-1014 § 1 (part): Ord. 93-964 § 3 (part): Ord. 86-851 § 2.303.01)

16.46.030

16.46.040 Lot sizes and dimensions.

A. Generally. If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this code, has an area or dimension which does not meet the requirements of this code, the lot of aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located; except that a residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than three thousand two hundred (3,200) square feet.

B. Cul-de-Sacs. Minimum lot width at the building line on cul-de-sac lots may be less than that required in this code if a lesser width is necessary to provide for a minimum rear yard. (Ord. 93-964 § 3 (part): Ord. 86-851 § 2.304.01--2.304.02)

16.46.050 Yard requirements.

A. Through Lots. On a through lot the front yard requirements of the zone in which such a lot is located shall apply to each street frontage.

B. Corner Lots. On a corner lot, or a reversed corner lot of a block oblong in shape, the short street side may be used as the front of the lot, provided:

1. The front yard setback shall not be less than twenty-five (25) feet.

2. The side yard requirements on the long street side shall conform to the front yard requirement of the zone in which the building is located.

C. Yards.

1. Except for landscaping, every part of a required yard shall be open and unobstructed from its lowest point to the sky; except that awnings, fire escapes, open stairways, and chimneys may be permitted when so placed as not to obstruct light and ventilation.

2. Where a side or rear yard is not required, and a structure is not erected directly on the property line, it shall be set back at least three feet.

D. Exceptions. Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to two and one-half feet into a required yard.

E. Decks. Uncovered decks which are no more than thirty (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. Uncovered decks thirty (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 feet from the rear property line. All other decks will comply with the required set backs for the underlying zoning district. Decks shall not be allowed in the required front or side yard setbacks. (Ord. 04-002 § 3: Ord. 97-1022 § 1; Ord. 86-851 §§ 2.305.01--2.305.05)

16.46.050

16.46.060 Chimneys, spires, antennas and similar structures.

A. Heights. Except as otherwise provided, the height limits established by this code shall not apply to chimneys, stacks, water towers, radio or television antennas, towers, windmills, grain elevators, silos, elevator penthouses, monuments, domes, spires, belfries, hangers, solar heating devices and to wireless communication facilities two hundred (200) feet in height or less.

B. Permit Required. Notwithstanding subsection A of this section, a conditional use permit shall be required for all such structures that exceed the height limitations of a zoning district, except as specifically otherwise permitted in that district.

C. Parapets. A parapet wall not exceeding four feet in height may be erected above the height limit of the building on which it rests. (Ord. 97-1019 § 1 (part); Ord. 86-851 § 2.306.01--2.306.03)

16.46.070 Dual use of required space.

Except as otherwise provided, no lot area, setback, yard, landscaped area, open space or off-street parking or loading area, which is required by this code for one use, shall be allowed as the required lot area, yard, open space, or off-street parking or loading area for another use. (Ord. 86-851 § 2.307)

Division III. Administrative Procedures

Chapter 16.48

GENERAL PROVISIONS

Sections:

16.48.010 Pre-application conference.

16.48.020 Application materials.
16.48.030 Application submittal-- Acceptance.
16.48.040 Availability.
16.48.050 Application resubmission.
16.48.060 Application fees.

16.48.010 Pre-application conference.

Pre-application conferences 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. 98-1053 § 1 (part): Ord. 90-906 § 1 (part): Ord. 86-851 § 3.101)

16.48.020 Application materials.

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 of application submittal.

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 fifteen (15) copies of the completed application form, with attachments or exhibits specifying and illustrating the proposed land use action; an existing conditions inventory; the proposed development plan; and any supplemental materials, as required by Chapter 16.54. Additional information may be required at the discretion of the city. (Ord. 98-1053 § 1 (part): Ord. 90-906 § 1 (part): Ord. 86-851 § 3.102.01--3.102.02)

16.48.030 Application submittal-- Acceptance.

Within thirty (30) calendar days of the date of initial submission (twenty-one (21) calendar days for expedited land divisions), the city shall determine whether the application is complete and so notify the applicant in writing. Incomplete applications will not be accepted by the city. Incomplete applications shall be returned to the applicant along with a written notification of the applicant's deficiencies. The application fees submitted are nonrefundable; provided, however, that incomplete applications may be resubmitted when the noted deficiencies have been corrected to the city's satisfaction. (Ord. 98-1053 § 1 (part): Ord. 97-1021 § 1: Ord. 90-906 § 1 (part): Ord. 86-851 § 3.103)

16.48.040 Availability.

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 or more hearings are required on a land use action, all application materials shall be available for public inspection at least ten calendar days in advance of the initial hearing before the commission or council. All application materials to be relied upon for Type II decisions as indicated in Section 16.50.010 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 schedule of miscellaneous fees and charges.

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 commission or council, or later than ten calendar days in advance of the initial hearing before the commission or council if two or more hearings are required, or if the city or the applicant fails to meet any requirements of Chapter 16.50, any party to the application, or party notified of the hearing per Section 16.50.020, may make a 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. If, in the city's determination, there is a valid basis for the continuance request, such request shall be granted. (Ord. 98-1053 § 1 (part): Ord. 90-906 § 1 (part): Ord. 86-851 §§ 3.104.01--3.104.02)

16.48.050 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 applicable materials, pay new fees, and shall be subject to the review process required by this code for the land use action being considered. (Ord. 98-1053 § 1 (part): Ord. 90-906 § 1 (part): Ord. 86-851 § 3.105)

16.48.060 Application fees.

A. Fees. Fees for land use actions are set by the "Schedule of Development Fees," adopted by resolution of the council. This schedule is included in this title as Table 16.116.050 for the purposes of information, but is deemed to be separate from and independent of this code.

B. Exceptions. Except when a land use action is initiated by the commission or council, application fees shall be paid to the city upon the filing of all land use applications. Full or partial waiver or refund of the fees required by subsection A of this section may be granted by the council, based on a written request by the applicant showing cause for such reduction. (Ord. 90-906 § 1 (part): Ord. 86-851 §§ 3.301, 3.302)

PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

Sections:

16.50.010 Generally.
16.50.020 Public notice and hearing.
16.50.030 Content of notice.
16.50.040 Planning staff reports.
16.50.050 Conduct of public hearings.
16.50.060 Notice of decision.
16.50.070 Registry of decisions.
16.50.080 Final action on permit or zone change.

16.50.010 Generally.

All development permit applications shall be classified as one of the following:

A. Type I. A Type I review action shall be decided by the planning director without public notice or public hearing. Notice of a decision shall be provided to the applicant. The action of the planning director may be appealed to the planning commission.

The following actions shall be subject to a Type I review process:

1. Signs;
2. Property line adjustments;
3. Interpretation of similar uses;
4. Temporary uses;
5. Final subdivision plats.

B. Type II.

1. A Type II review action shall be decided by the planning director with a public notice.

2. The city shall notify the applicant and all property owners within one hundred (100) feet of the proposal by mailed notice. Any person or property owner may present written comments to the city which address relevant criteria and standards. Such comments must be received by the city within fourteen (14) days from the date of the notice.

3. 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 zoning and community development code.

4. The decision shall be final unless an appeal is filed within fourteen (14) days of the final action. The applicant or any person providing written comments may appeal the decision to the hearings officer.

5. Appeals to the hearings officer shall be subject to the requirements of Section 16.52.040 of the zoning and community development code, or ORS 197.375 for expedited land divisions.

6. The following actions shall be subject to a Type II review process:

a. Minor land partitions;

b. Expedited land divisions;

c. “Fast-track” site plan review defined as those site plan applications which propose less than fifteen thousand (15,000) square feet of public institutional, commercial or industrial use permitted by the underlying zone, or up to a total of twenty (20) percent increase in floor area, parking or seating capacity for a land use or structure subject to conditional use permit except as follows: auditoriums, theaters, and stadiums.

C. Type III. A Type III review action shall be heard and decided by a hearings officer. The public hearing procedures shall be in accordance with the requirements of Sections 16.50.020 and 16.48.060. An appeal of Type III application shall be to the city council.

The following actions shall be subject to a Type III review process:

1. Conditional uses;
2. Variances;
3. Site plans--Less than forty thousand (40,000) square feet of building area;
4. Subdivisions--Less than fifty (50) lots.

D. Type IV. A legislative Type IV review action shall be heard by public hearing by the planning commission and a recommendation made to the city council. The city council shall conduct a public hearing and make a final decision. For those decisions which do not require a legislative change to the development code or comprehensive plan or map, the planning commission shall conduct the public hearing and make a final decision, subject to the review criteria of each application, further subject to the conditional use criteria of Section 16.58.020 of this title. Appeals shall be to the city council. The public hearing procedure shall be in accordance with the requirements of Sections 16.50.020 and 16.48.060.

The following legislative actions shall be subject to a Type IV review process:

1. Plan map amendments;
2. Plan text amendments;
3. Planned unit developments.

The following quasi-judicial actions shall be subject to a Type IV review process:

4. Site plans--Equal to, or greater than forty thousand (40,000) square feet of building area.
5. Subdivisions--Equal to, or greater than fifty (50) lots. (Ord. 01-1119 § 1 (Exh. A) (part): Ord. 98-1053 § 1 (part): Ord. 90-906 § 1 (part): Ord. 86-851 § 3.201)

16.50.010

16.50.020 Public notice and hearing.

A. Newspaper Notice. Notices of all public hearings for Type III and IV land use actions required by this code shall be published in a newspaper of general circulation within the city in each of the two calendar weeks prior to the initial hearing before the commission or council.

B. Posted Notice. Notices of all Type II, III and IV land use actions required by this code shall be posted by the city in no fewer than five 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 commission or council. Additionally, signage shall be posted on the subject property either fourteen (14) days in advance of the staff decision on Type II applications or twenty (20) calendar days in advance of the hearing before the commission or council. The location, size and content of the sign shall be subject to the approval of the city manager or his or her designee.

C. Mailed Notice.

1. For Type II, III and IV actions on zoning map amendments, conditional uses, variances, site plans, planned unit developments, temporary uses, minor land partitions, subdivisions, annexations, landmarks, and other land use action specific to a property or group of properties, the city shall send written notice by regular mail to owners of record of all real property within one hundred (100) feet from the property subject to the land use action.

2. Except as otherwise provided herein, written notice to property owners for Type III and IV actions shall be mailed at least twenty (20) calendar days in advance of the initial public hearing before the commission or council. If two or more hearings are required on a land use action, notices shall be mailed at least ten calendar days in advance of the initial hearing before the commission or council. Written notice to property owners for Type II
actions shall be mailed in accordance with this chapter.

3. For the purposes of mailing the written notice, the names and addresses of the property owners of record, as shown on the most recent county assessor's records in the possession of the city, shall be used. Written notice shall also be mailed to homeowners' associations when the homeowners' association owns common property within the notification area and is listed in the county assessor's records.

4. For written notices required by this code, other than written notices to property owners of record, the city shall rely on the address provided by the persons so notified. The city shall not be responsible for verifying addresses so provided.

5. If a zone change application proposes to change the zone of property which includes all or part of a manufactured home park, the city shall give written notice by first class mail to each existing mailing address for tenants of the manufactured home park at least twenty (20) days but not more than forty (40) days before the date of the first hearing on the application. Such notice costs are the responsibility of the applicant.

D. Failure to Receive Notice.

1. The failure of a property owner or other party to an application to receive notice of a public hearing as provided in subsection C of this section or to receive notice of continuances and appeals as provided by this code due to circumstances beyond the control of the city, including but not limited to recent changes in ownership not reflected in county assessors records, loss of the notice by the postal service, or an inaccurate address provided by the county assessor or the party to the application, shall not invalidate the applicable public hearing or land use action. The city shall prepare and maintain affidavits demonstrating that public notices were mailed, published, and posted pursuant to this code.

2. Persons who should have received notice of a proposed land use action but can prove, to the city's satisfaction, that notice was not received due to circumstances beyond their control, may be permitted, at the city's discretion, to exercise the right to appeal the action per Chapter 16.52. All appeals filed under such conditions shall cite the circumstances resulting in the nonreceipt of the notice. (Ord. 98-1053 § 1 (part): Ord. 90-906 § 1 (part): Ord. 86-851 §§ 3.202.01--3.202.04)

16.50.030 Content of notice.

A. Public Notices. Public notices shall include the following information:

1. The nature of the application and proposed uses(s);

2. A list of the applicable code or comprehensive plan criteria to be applied to the review of the proposed land use action;

3. The location and street address of the property subject to the land use action (if any);

4. The date, time, place, location of the public hearing;

5. The name and telephone number of a local government representative to contact for additional information;

6. The availability of all application materials for inspection at no cost, or copies at reasonable costs;

7. The availability of the city planning staff report for inspection at no cost, or copies at a reasonable cost, at least seven calendar days in advance of the hearing;

8. The requirements for the submission of testimony and the procedures for conducting hearings, including notice that failure to raise an issue accompanied by statements or evidence sufficient to offer the city, applicant or other parties to the application the opportunity to respond, will preclude appeal on such issue to the council or to the State Land Use Board of Appeals (LUBA). (Ord. 98-1053 § 1 (part): Ord. 90-906 § 1 (part): Ord. 86-851 § 3.203.01)

16.50.040 Planning staff reports.

Recommended findings of fact and conditions of approval for each land use action shall be made in writing in a city planning staff report. Said staff report shall be published seven calendar days in advance of the initial required public hearing before the commission or council. Copies shall be provided to the applicant and the commission or council no later than seven calendar days in advance of the scheduled public hearing. Staff reports shall be available to the public for inspection at no cost. Copies of the staff report shall be provided, to the public, upon request, at a cost defined by the city's schedule of miscellaneous fees and charges. (Ord. 90-906 § 1 (part): Ord. 86-851 § 3.204)

16.50.050 Conduct of public hearings.

A. Hearing Disclosure Statements. The following information or statements shall be verbally provided by the commission chairperson or the mayor, or his or her designee, at the beginning of any public hearing on a land use action:

1. The findings of fact and criteria specified by the code that must be satisfied for approval of the land use action being considered by the commission or council.

2. That public testimony should be limited to addressing said findings of fact and criteria, or to other city or state land use standards which the persons testifying believe apply to the proposed land use action.

3. That failure to raise an issue, or failure to raise an issue with sufficient specificity so as to provide the city, applicant, or other parties to the application with a reasonable opportunity to respond, will preclude appeal on said issue to the council or to the State Land Use Board of Appeals (LUBA).

4. The rights of persons to request, as per this code, that a hearing be continued or that the hearing record remain open.

5. That all persons testifying shall be deemed parties to the application, and must provide their name and full mailing address if they wish to be notified of continuances, appeals, or other procedural actions as required by this code.

B. Persons Testifying. Any person, whether the applicant, person notified of the public hearing as per Section 16.50.020 of this chapter, the general public, or the authorized representative of any of the foregoing persons, may testify at a public hearing on a land use action. Testimony may be made verbally or in writing. The applicant, the applicant's representative, or any person so testifying, or that person's authorized representative, shall be deemed a party to the application, and shall be afforded all rights of appeal allowed by this code and the laws of the state of Oregon.

C. Hearing Record.

1. Unless the hearing is continued or an additional hearing scheduled, any person testifying may request, verbally or in writing before the conclusion of the initial hearing before the commission or council, that the record remain open for an additional seven calendar days. Such requests shall be granted. The commission or council shall not take final action on land use application until the hearing record is closed.

2. When a hearing record remains open, then any person may submit new evidence or testimony, or raise new issues relating to any of the new evidence or testimony. The city shall not be responsible for notifying all parties to an application of the new evidence presented under such circumstances.

3. If, after the close of the final hearing before the commission or council or the close of the hearing record as per subsection (C)(1) of this section, the city reopens said hearing or record for any reason, when all parties to the application as per subsection B of this section shall be so notified, either verbally if the reopening occurs at the same commission or council meeting at which the hearing was conducted or in writing if the reopening occurs at a later date. Said notice shall indicate the time and place of the reopened hearing, the reason for the reopening, and provide for a reasonable opportunity to submit further written or verbal testimony.

D. Ex Parte Contacts. 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. (Ord. 90-906 § 1 (part): Ord. 86-851 §§ 3.205.01--3.205.04)

16.50.060 Notice of decision.

Within seven calendar days of a land use action by the commission or council, the city shall notify the applicant in writing of said action. This notice of decision shall list the terms and conditions of approval or denial, and explain the applicant's rights of appeal. (Ord. 90-906 § 1 (part): Ord. 86-851 § 3.206)

16.50.070 Registry of decisions.

The city shall maintain a registry of all land use actions taken in the preceding twelve (12) months. This registry shall be kept on file in the city recorder's office and shall be made available to the public for inspection at no cost. Copies of the registry shall be provided to the public, upon request, at a cost defined by the city's schedule of miscellaneous fees and charges. (Ord. 90-906 § 1 (part): Ord. 86-851 § 3.207)

16.50.080 Final action on permit or zone change.

Except for plan and land use regulation amendments or adoption of new regulations that must be submitted to the Director of the State Department of Land Conservation and Development under ORS 197.610(1), final action on a permit, appeal, or zone change application shall be taken within one hundred twenty (120) days of the application submittal. The one hundred twenty (120) days may be extended for a reasonable period of time at the request of the applicant. An applicant whose application does not receive final consideration within one hundred twenty (120) days after the application was accepted by the city may seek a writ of mandamus to compel issuance of the permit or zone change or a determination that approval would violate the city's comprehensive plan or land use regulations. (Ord. 86-851 § 3.208)

Chapter 16.52

APPEALS

Sections:

16.52.010 Generally.
16.52.020 Appeal deadline.
16.52.030 Petition for review.
16.52.040 Council action.

16.52.010 Generally.

A. Basis of Appeal.

1. Any issue which may be the basis for appeal of a land use action to the council or to the State Land Use Board of Appeals (LUBA) shall be raised not later than the close of the final hearing on the proposal before the city, or within seven calendar days as per Section 16.50.050 of this title.

2. Failure to raise an issue, or failure to raise an issue with sufficient specificity so as to provide the city, applicant, or other parties to the application with a reasonable opportunity to respond, will preclude appeal on such issue to the council or to LUBA. Any aggrieved party appealing a land use action must exercise the right of petition for review to the council prior to making any appeal to LUBA, except as provided in Section 16.52.010 of this chapter.

B. Appeal Eligibility. Except as otherwise permitted herein, only persons who were a party to the action being appealed, as defined by Section 16.50.050 of this title, are eligible to file for a petition

for review by the council. If the potential appellant is judged not to be a party to the action, or the issue(s) that are the basis of the appeal were not raised as per this section, as determined by the city, the council shall refuse to hear the appeal and direct that the appellant be so notified in writing.

C. Exception. If the city either takes a land use action without providing a hearing as required by this code, or takes a land use action which is substantially different than indicated in notice of the proposed action as per Section 16.50.030 of this title, an aggrieved party may, as provided by the law of the state of Oregon, appeal directly to the State Land Use Board of Appeals (LUBA). (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 90-906 § 1 (part): Ord. 86-851 §§ 3.401--3.401.03)

16.52.020 Appeal deadline.

Land use actions taken pursuant to this code shall be final unless a petition for review is filed with the city recorder not more than fourteen (14) calendar days after the date on which the hearing authority took final action on the land use application. In the event the aggrieved party is the applicant, the fourteen (14) calendar days shall be counted from the date when written notice of the action has been mailed to the address shown on the application. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 90-906 § 1 (part): Ord. 86-851 § 3.402)

16.52.030 Petition for review.

Every petition for review shall include the date and a description of the land use action, including adopted findings of fact, a statement of how the petitioner is aggrieved by the action, the specific grounds relied upon in requesting a review, and a fee pursuant to Section 16.48.060 of this title. The land use decision, supporting findings and conclusions, and evidence available upon the close of the record of the land use action, and any city staff review of the issues subject to the appeal shall be considered. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 90-906 § 1 (part): Ord. 86-851 § 3.403)

16.52.040 Council action.

The review of the appealed land use action shall include a public hearing conducted by the council at which time all parties to the action, as per Section 16.50.050 of this chapter may present findings of fact or testimony based upon the record available during the evidentiary public hearing(s) on the land use application including testimony, all materials submitted at any previous stage of the review, the staff report(s) and audio tape or transcript of the minutes of the public hearing(s). Public notice and hearing procedures for appeals shall be identical to the procedures used in initially taking the land use action which is being appealed. The council may act to affirm, reverse, refer or amend the action being reviewed. The action of the council shall be final, except insofar as further appeal to the State Land Use Board of Appeals (LUBA) may be allowed by the law of the state of Oregon. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 90-906 § 1 (part): Ord. 86-851 § 3.404)

Division IV. Planning Procedures

Chapter 16.54

APPLICATION INFORMATION REQUIREMENTS

Sections:
16.54.010 Application content.

16.54.010 Application content.

This section sets forth the application contents generally required for the review of proposed land use activities. The city manager or his or her designee is authorized to waive information requirements that are clearly not material or relevant to the specific proposal being made. In addition to these requirements, Divisions V, VI and VII of this code must be reviewed for other applicable requirements.

KEY

Reference Number Type of Proposed Development
1 Annexation
2 Plan map amendment
3 Variance
4 Conditional use
5 Minor partition
6 Subdivision/major partition
7 Planned unit development
8 Site plan

TYPE OF APPLICATION
(See key above)

Type of Information	Information Item
Existing Conditions Inventory	
General Information	1--8 A tax map showing property within 300 feet with scale (1"=100' or 1"=200') north point, date and legend. 1--8 A current preliminary title report or lot book search. 1--8 Name, address and phone numbers of all owner(s) and applicants.
Citizen Involvement	1--8 A list of tax lots, owners and their addresses within the following distances from the property subject to a land use action for which a public hearing is required: Wholly or partially with the UGB = 100 feet; Outside UGB, not in farm or forest zone = 250 feet; Outside UGB, in farm or forest zone = 500 feet.
Growth Management	1--8 Vicinity map of property showing city limits and urban growth boundary.

Type of Information	Information Item
Land Use	1--8 Acreage of property, lot lines and dimensions. 1--8 City and county zoning designations. 1--8 Maximum allowable density. 1--8 Existing land use including nature, size and location of existing structures within 300 feet. 1--8 Map location, purpose, dimensions and ownership of easements.
Environmental Resources & Hazards	4--8 Topography map showing 5 foot contours. 2--8 SCS soil information map the following: 1. Areas with severe soil limitations for buildings, roads and streets, and the nature of the limitation including weak foundation, slopes above 10%, slide hazards, etc. 2. Areas with adverse soil characteristics including rapid run-off, high erosion hazard and poor natural drainage. 3. Agricultural capability classes. 2--8 Flood plains--Map all 100-year flood plain and floodway lines. 2--8 Natural drainage--Map streams, wetlands, ponds, springs and drainage patterns. 2--8 Significant vegetation--Map general location, size and species of trees. 2--8 Distinctive natural areas--Indicate views, historic sites, rock out-croppings, etc. 2--8 Sun and wind exposures--Map general orientation.
Environmental Quality	3--8 Air, water, land pollution, noise sources--Indicate the location of existing uses producing significant levels of air, water, land or noise pollution.
Recreational Resources	3--8 Existing facilities--Map the location, size and distance to nearest park and open spaces.
Transportation	1--8 Street locations and dimensions--Map centerline and pavement locations and rights-of-way within 300 feet. 1--8 Traffic volumes--Indicate existing volumes for all streets on and within 300 feet. 2--8 Access points 3--8 Street improvements--Indicate any committed street improvement projects within 300 feet and projected completion date (if known). 3--8 Public transit--Indicate routes and stops within 300 feet. 3--8 Bikeways/pathways--Map existing routes within 300 feet.

Type of Information	Information Item
Water	1--8 Existing facilities--Map locations, sizes and distances to water mains. 3--8 Existing services--Describe service levels, capacity, pressure and fire flow characteristics of water mains. 1--8 Planned improvements--Indicate sizes and locations of planned improvements.
Sewer	1--8 Existing facilities--Map locations, sizes and distances to the nearest sewers. 1--8 Existing services--Describe flow characteristics, capacity and condition of sewers. 1--8 Planned improvement--Indicate sizes and locations of planned capital improvements.
Drainage	3--8 Existing facilities--Map locations, sizes and distances to drainage facilities or natural drainage-ways. 3--8 Existing service--Describe capacity and condition of on-site and downstream drainage courses and facilities. 3--8 Runoff analysis--Indicate SCS soil permeability ratings. 3--8 Planned improvements--Indicate sizes and locations of planned improvements.
Private Utilities	3--8 Existing facilities and services--Describe availability of utilities.
Schools	3--8 Existing facilities and services--Indicate location, type, enrollment, capacity and distance to nearest schools. 3--8 Planned Improvements--Describe planned improvements.
Proposed Development Plan	
General Information	1--8 A plat or plan map depicting the proposed land use or change, showing properties within 300 feet, with scale appropriate to project size, north point, date and legend. 1--8 Name of development--Indicate name of proposed development. 1--8 Vicinity map showing property within one-half mile.
Citizen Involvement	1--8 Describe contacts with citizens or agencies including the fire district, public and private utilities, schools, etc.
Land Use	5 Proposed lots--Map lot lines, dimensions, average and minimum lot sizes, block and lot numbers. 2--8 Setbacks--Indicate all setbacks. 1--8 Buildable acres--Indicate net buildable acres. 3--8 Proposed land use--Indicate the location of all proposed land uses. Show relationship to existing land use to be retained. Provide tables with total acres, densities, dwelling units, floor area, percent-

Type of Information	Information Item
	age distribution of total site acreage by use, and percentage dwelling unit distribution by dwelling type. 2--8 Map location of proposed structures. 2--8 Proposed easements--Map location, purposes, and widths.
Environmental Resources & Hazards	5--8 Topography--Map topography at 2 foot contours. 6--8 Landscaping plan--Provide plan in accordance with Chapter 16.68 of this title. 4--8 Streams, ponds, wetlands--Indicate location and any measures to avoid environmental degradation. 5--8 Natural hazards--Provide soil analysis by a registered soils engineer or geologist and any measures protecting against hazards. 3--8 Significant natural areas--Indicate how areas are protected and preserved. 5--8 Energy conservation--Indicate relationship of site design to sun and wind exposure.
Environmental Quality	4--8 Provide certification by a registered engineer that the proposed uses meet or exceed city environmental performance standards.
Recreation Resources	4--8 Describe how proposal meets park and open space needs and requirements. 5--8 Map proposed park and open space areas and describe maintenance provisions.
Transportation	5--8 Proposed facilities--Provide general circulation plan showing location, widths and direction of existing and proposed streets, bicycle and pedestrian streets, bicycle and pedestrian ways and transit routes and facilities. Describe and proposed circulation plan's conformity to Chapter VI, community development plan. 5--8 Indicate estimated curve and curb radii and typical street cross sections. 5--8 Emergency access--Show emergency access. 5--8 Lot access--Show the location and size of accesses, sight distances and any fixed objects on collectors or arterials. 3--8 Future rights-of-way--Indicate distances from property lines to street centerlines and pavement. 5--8 Traffic volumes--Indicate existing and future traffic volumes. 5--8 Street profiles--Map profiles and indicate cuts and fills for roads with grades of 15% or more. 5--8 Parking--Indicate the location, number and size of off-street parking spaces and loading and maneuvering areas.
Water	5--8 Proposed facilities--Indicate the location and size of the proposed water distribution system and fire hydrants.

Type of Information	Information Item
Sewer	5--8 Proposed facilities--Indicate the location and size of the proposed sewage and collection systems
Drainage	5--8 Proposed facilities--Indicate proposed runoff control and conveyance system.
Private Utilities	5--8 Lighting plan--Indicate location, height, and sizes of street lighting structures and their connection points to power lines.
Economic Development	4--8 Industrial and commercial uses--Indicate number of new jobs to be created, the ratio of employees to site acreage, anticipated capital investment and tax impact. 4--8 Commercial uses--Provide evidence of local markets for the service or product to be marketed. 4--8 Residential uses--Provide evidence of local markets for type of housing proposed.
Structural Design and Construction	8 Proposed structures--Provide architectural sketches and elevations of all proposed structures as they will appear upon completion. 8 Construction materials--Provide a description of external structural design including materials, textures and colors. Describe compatibility with other uses and natural features. 8 Energy conservation--Show the relationship of building orientation and sun and wind exposures. Describe how structures address energy conservation. 8 Hazard protection/resources preservation--Show how proposed structures relate to natural features and hazards. 8 Signs--Indicate the locations, sizes and design of proposed signs. 8 Solid waste storage--Indicate the location and design or storage facilities. 8 Privacy--Describe how privacy is protected. 8 Construction measure--Describe how erosion, siltation and noise will be controlled during construction. 8 Fencing and screening--Indicate the location, size and design of screening including fencing, berms and walls.

(Ord. 90-906 § 1 (part); Ord. 86-851 § 4.100)

Chapter 16.56

PLAN AMENDMENTS

Sections:

16.56.010 Initiation of amendments.
16.56.020 Amendment procedures-- Zoning map or text amendment.
16.56.030 Review criteria.

16.56.010 Initiation of amendments.

An amendment to the city zoning map or text of the comprehensive plan may be initiated by the council, commission, or an owner of property within the city. (Ord. 86-851 § 4.201)

16.56.020 Amendment procedures-- Zoning map or text amendment.

A. Application. An application for a zoning map or text amendment shall be on forms provided by the city and shall be accompanied by a fee pursuant to Section 16.48.060A of this title.

B. Public Notice. Public notice shall be given pursuant to Chapter 16.50 of this title.

C. Commission Review. The commission shall conduct a public hearing on the proposed amendment and provide a report and recommendation to the council. The decision of the commission shall include findings as required in Section 16.56.030 of this chapter.

D. Council Review. Upon receipt of a report and recommendation from the commission, the council shall conduct a public hearing. The council's decision shall include findings as required in Section 16.56.030 of this chapter. Approval of the request shall be in the form of an ordinance. (Ord. 86-851 §§ 4.202, 4.202.01)

16.56.030 Review criteria.

A. An amendment to the text of the comprehensive plan shall be based upon a need for such an amendment as identified by the council or the commission. Such an amendment shall be consistent with the intent of comprehensive plan, and with all other provisions of the plan and this code, and with any applicable state or city statutes and regulations.

B. Map Amendment. An amendment to the city zoning map may be granted, provided that the proposal satisfies all applicable requirements of the comprehensive plan and this code, and that:

1. The proposed amendment is consistent with the goals and policies of the comprehensive plan.

2. There is an existing and demonstrable need for the particular uses and zoning proposed, taking into account the importance of such uses to the economy of the city, the existing market demand for any goods or services which such uses will provide, the presence or absence and location of other such uses or similar uses in the area, and the general public good.

3. The proposed amendment is timely, considering the pattern of development in the area, surrounding land uses, any changes which may have occurred in the neighborhood or community to warrant the proposed amendment, and the availability of utilities and services to serve all potential uses in the proposed zoning district.

4. Other lands in the city already zoned for the proposed uses are either unavailable or unsuitable for immediate development due to location, size or other factors. (Ord. 86-851 §§ 4.203--4.203.02)

Chapter 16.58

CONDITIONAL USES

Sections:

16.58.010 Generally.
16.58.020 Permit approval.

16.58.010 Generally.

A. Authorization. Uses permitted in zoning districts as conditional uses may be established, enlarged, or altered by authorization of the commission in accordance with the standards and procedures established in this chapter. If the site or other conditions are found to be inappropriate for the use requested, the commission or hearing officer (cited below as hearing authority) may deny the conditional use application.

B. Changes in Conditional Uses. Changes in use, expansion of a legal nonconforming use, structure or site, or alteration of structures or uses classified as conditional uses, that either existed prior to the effective date of this code or were established pursuant to this chapter shall require the filing of a new application for review conforming to the requirements of this chapter if the proposed changes would increase the size, square footage, seating capacity or parking of existing permitted improvements by twenty (20) percent or more.

Conditional uses may be authorized for a larger development (i.e. business campus or industrial park), to include future tenants of such development, if the range of uses allowed as conditional uses are considered, and specifically approved at the time of original application.

C. Application and Fee. An application for a conditional use permit (CUP) shall be filed with the city and accompanied by the appropriate fee pursuant to Section 16.48.060 of this title. The applicant is responsible for submitting a complete application which addresses all criteria of this chapter and other applicable sections of this code. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 86-851 §§ 4.301--4.301.03)

16.58.020 Permit approval.

A. Hearing Authority Action. The hearing authority shall conduct a public hearing pursuant to Chapter 16.50 of this title and take action to approve, approve with conditions, or deny the application. The decision shall include appropriate findings of fact as required by Section 16.58.020 of this title, and an effective date.

B. Final Site Plan. Upon approval of a conditional use by the hearing authority, the applicant shall prepare a final site plan for review and approval pursuant to Chapter 16.66 of this title. The final site plan shall include any revisions or other features or conditions required by the hearing authority at the time of the approval of the conditional use.

C. Findings of Fact.

1. No conditional use shall be granted unless each of the following is found:

a. All public facilities and services to the proposed use, including but not limited to sanitary sewers, water, transportation access, storm drains, electrical distribution, park and open space and public

safety are adequate; or that the construction of improvements needed to provide adequate services and facilities is guaranteed by binding agreement between the applicant and the city;

b. Proposed use conforms to other standards of the applicable zone;

c. The granting of the proposal will provide for a facility or use that meets the overall needs of the community and achievement of the goals and/or policies of the comprehensive plan;

d. Surrounding property will not be adversely affected by the use, or that the adverse effects of the use on the surrounding uses, the neighborhood or the city as a whole are sufficiently mitigated by the conditions proposed;

e. The impacts of the proposed use of the site can be accommodated considering size, shape, location, topography and natural features;

f. The use as proposed does not pose likely significant adverse impacts to sensitive wildlife species or the natural environment.

2. For wireless communication facilities, no conditional use permit shall be granted unless the following additional criteria is found:

a. The applicant shall demonstrate to the satisfaction of the city that the wireless communication facility cannot be located in an IP zone due to the coverage needs of the applicant.

b. The proposed wireless communication facility is designed to accommodate co-location or it can be shown that the facility cannot feasibly accommodate co-location.

c. The applicant shall demonstrate a justification for the proposed height of the tower or antenna and an evaluation of alternative designs which might result in lower heights.

d. The proposed wireless communication facility is not located within one thousand (1,000) feet of an existing wireless facility or that the proposed wireless communication facility cannot feasibly be located on an existing wireless communication facility.

e. The proposed wireless communication facility is located a minimum of three hundred (300) feet from residentially zoned properties.

D. Additional Conditions. In permitting a conditional use or modification of an existing conditional use, additional conditions may be applied to protect the best interests of the surrounding properties and neighborhoods, the city as a whole, and the intent of Chapter 16.58 of this title. These conditions may include but are not limited to the following:

1. Mitigation of air, land, or water degradation, noise, glare, heat, vibration, or other conditions which may be injurious to public health, safety or welfare in accordance with environmental performance standards;

2. Provisions for improvement of public facilities including sanitary sewers, storm drainage, water lines, fire hydrants, street improvements, including curb and sidewalks, and other above and underground utilities;

3. Increased required lot sizes, yard dimensions, street widths, and off-street parking and loading facilities;

4. Requirements for the location, number, type, size or area of vehicular access points, signs, lighting, landscaping, fencing or screening, building height and coverage, and building security;

5. Submittal of final site plans, land dedications or money-in-lieu of parks or other improvements, and suitable security guaranteeing conditional use requirements;

6. Limiting the number, size, location height and lighting of signs;

7. Requirements for the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas and drainage areas;

8. Requirements for design features which minimize potentially harmful environmental impacts such as noise, vibration, air pollution, glare, odor and dust.

E. Time Limits. Authorization of a conditional use shall be void after one year or such lesser time as the approval may specify unless substantial construction, in the city's determination, has taken place. The hearing authority may extend authorization for an additional period, not to exceed one year, upon a written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 16.48.060 of this title.

F. Revocation. Any departure from approved plans not authorized by the commission shall be cause for revocation of applicable building and occupancy permits. Furthermore, if, in the city's determination, a condition or conditions of CUP approval are not or cannot be satisfied, the CUP approval, or building and occupancy permits, shall be revoked. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 00-1104 § 1 (part); Ord. 97-1019 § 1 (part); Ord. 86-851 §§ 4.302--4.302.06)

Chapter 16.60

VARIANCES

Sections:

16.60.010 Generally.
16.60.020 Administrative variance.

16.60.010 Generally.

A. Authorization. The commission may authorize variances from the standard requirements of this code where it can be shown that, owing to special and unusual circumstances related to a specific property, strict application of this code would cause undue or unnecessary hardship. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use is located. In granting a variance, the commission may attach conditions which it finds necessary to protect the best interests of surrounding properties and neighborhoods, and otherwise achieve the purposes of this code.

B. Approval Criteria. No variance request shall be granted unless each of the following is found:

1. Exceptional and extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the effective date of this code, topography, or other circumstances over which the applicant has no control.

2. The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity.

3. The authorization of the variance will not be materially detrimental to the purposes of this code, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the goals, objectives and policies of the comprehensive plan.

4. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

5. The hardship does not arise from a violation of this code.

C. Application Content. An application for a variance shall be filed with the city and accompanied by a fee, as determined by Section 16.48.060(A). The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The applicant is responsible for submitting a complete application which addresses the review criteria of this chapter and other applicable sections of this code. Except for variances authorized under Section 16.60.020(A), variance requests shall be subject to public notice and hearings per Chapter 16.50.

D. Time Limits. Authorization of a variance shall be void after one year or such lesser time as the approval may specify unless substantial construction in the city's determination has taken place. The commission may extend authorization for an additional period not to exceed one year upon a written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 16.48.060(A).

E. Revocation. Any departure from approved plans not authorized by the commission shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the city's de-

termination, a condition or conditions of variance approval are not or cannot be satisfied, the variance or building and occupancy permits, shall be revoked. (Ord. 98-1053 § 1 (part): Ord. 92-943 § 3 (part): Ord. 86-851 §§ 4.401--4.401.05)

16.60.020 Administrative variance.

A. Authorization to Grant or Deny Variances to On-Site Requirements. The city manager or his or her designee may authorize a variance from the standards of this code relating to dimensional and on-site requirements, except lot area; provided, however, that no variance under this section shall be greater than twenty-five (25) percent of the requirement from which the variance is sought.

B. Criteria for Variances Granted Under Section 16.60.010(C).

1. In the case of a yard or other dimensional variance, except lot area, the applicant shall address the findings in Section 16.60.010(B) as well as show the approval will result in:

a. More efficient use of the site;

b. Preservation of natural features, where appropriate;

c. Adequate provisions of light, air and privacy to adjoining properties; and

d. Adequate access.

2. In the case of a variance to the dimensional standards for off-street parking spaces or the minimum required number of off-street parking spaces, the applicant shall show that approval will provide adequate off-street parking in relation to user demand. The following factors may be considered in granting such an exception:

a. Special characteristics of users which indicate low demand for off-street parking (e.g., low income, elderly);

b. Opportunities for joint use of nearby off-street parking facilities;

c. Availability of public transit; and

d. Natural features of the site (topography, vegetation and drainage) which would be adversely affected by application of required parking standards.

C. Procedures for Variances Granted Under Section 16.60.020(A).

1. An administrative variance shall be decided by the city manager or his or her designee unless an individual entitled to notice under subsection (C)(2) of this section requests a hearing. If a hearing is requested, the proposal shall be decided by the planning commission. The application fee shall be less than for a variance requested under Section 16.60-.010(A), and as specified in the city fee schedule. If a hearing is requested, the variance must be processed as a regular variance and requires the full fee. The administrative variance fee shall be credited against the regular variance fee in such circumstances. If the applicant then decides to withdrawn the request, the original fee is nonrefundable.

2. The city shall notify the applicant and all property owners within one hundred (100) feet of the proposal by mailed notice. Any property owner or person present may present written comments to the city which address the relevant criteria and standards. Such comments must be received by the city within ten calendar days from the date on the notice.

3. If a property owner or a person residing or doing business within the one hundred (100) feet of the proposal presents written comments as described in subsection (C)(2) of this section, that individ-

ual may also request that a public hearing be held by the planning commission on the proposal. A request for a hearing must be submitted in writing and received within ten calendar days from the date on the notice.

4. If no public hearing is requested as described in subsection (C)(3) of this section, the manager shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all the relevant variance requirements. The applicant may appeal this decision to the planning commission.

5. If a public hearing is requested as provided in subsection (C)(3) of this section, or the manager's decision is appealed as provided in subsection (C)(4) of this section, the hearing shall be conducted pursuant to Chapter 16.50 of this title.

6. The decision of the planning commission may be appealed to the city council by a party to the hearing in accordance with Chapter 16.52 and shall be a review of the record supplemented by oral arguments relevant to the record presented by the parties. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 4.402-- 4.402.03)

Chapter 16.62

TEMPORARY USES

Sections:

16.62.010 Generally.
16.62.020 Permit approval.

16.62.010 Generally.

A. Purpose. Approval may be granted for structures or uses which are temporary or seasonal in nature, such as temporary real estate offices and construction offices, provided such uses are consistent with the intent of the underlying zoning district and comply with other provisions of this code.

B. Application and Fee. An application for a temporary use shall be filed with the city and accompanied by the fee specified in Section 16.48.060(A). The applicant is responsible for submitting a complete application which addresses all review criteria. Temporary use permits shall be subject to the requirements set forth in Chapter 16.50. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 4.501--4.501.02)

16.62.020 Permit approval.

A. Findings of Fact. A temporary use permit (TUP) may be authorized by the city manager or his or her designee pursuant to Chapter 16.50 provided that the applicant demonstrates that the proposed use:

1. Generally conforms to the standards and limitations of the zoning district in which it is located;

2. Meets all applicable city and county health and sanitation requirements;

3. Meets all applicable Uniform Building Code requirements.

B. Time Limits. The temporary use or structure shall be removed upon expiration of the temporary use permit, unless renewed by the city manager or his or her designee. In no case shall a temporary use permit be issued for a period exceeding one year, unless the permit is renewed pursuant to this chapter.

C. Additional Conditions. In issuing a temporary use permit, the city manager or his or her designee may impose reasonable conditions as necessary to preserve the basic purpose and intent of the underlying zoning district. These conditions may include, but are not limited to the following: increased yard dimensions; fencing, screening or landscaping to protect adjacent or nearby property; limiting the number, size, location or lighting of signs; restricting certain activities to specific times of day; and reducing the duration of the temporary use permit to less than one year.

D. Any departure from approved plans not authorized by the city manager or his or her designee shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the city's determination, a condition or conditions of TUP approval are not or cannot be satisfied, the TUP approval, or building and occupancy permits, shall be revoked. (Ord. 98-1053 § 1 (part): Ord. 86-851 § 4.502--4.502.03)

Chapter 16.64

INTERPRETATION OF SIMILAR USES

Sections:

16.64.010 Generally.
16.64.020 Application content.
16.64.030 Approvals.

16.64.010 Generally.

Where an interpretation is required as to the applicability of the provisions of this code to a proposed land use which is not specifically listed or otherwise clearly indicated as allowed, conditionally allowed or prohibited, a written request for an interpretation may be submitted to the city manager or his or her designee. (Ord. 98-1053 § 1 (part): Ord. 86-851 § 4.601)

16.64.020 Application content.

The request shall be submitted with a fee pursuant to Section 16.48.060(B) and shall include information on the following characteristics of the proposed use:

A. Description of the activity to be conducted on the site;
B. Noise and odor characteristics;
C. Description of material or product storage requirements;
D. Amount and type of traffic to be generated;
E. Description of the structures required. (Ord. 98-1053 § 1 (part): Ord. 86-851 § 4.602)

16.64.030 Approvals.

The city manager or his or her designee may authorize a use to be included among the allowed uses, if the use (1) is similar to and of the same generally type as the uses specifically allowed; (2) is consistent with the comprehensive plan; and (3) has similar intensity, density, off-site impacts and impacts on community facilities as uses permitted in the zone. The action of the city manager or his or her designee may be appealed to the commission in accordance with Chapter 16.52. (Ord. 98-1053 § 1 (part): Ord. 90-906 § 4: Ord. 86-851 § 4.603)

Division V. Community Design

Chapter 16.66

SITE PLANNING

Sections:

16.66.010 Purpose.
16.66.020 Site plan review.

16.66.010 Purpose.

A. Generally. Division V of this title is intended to establish a process and define a set of development standards to guide physical development in the city consistent with the community development plan and this code.

B. Objectives. Site planning review is intended to:

1. Encourage development that is compatible with the existing natural man-made environment, existing community activity patterns, and community identity;

2. 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:

a. The scale, mass, height, areas, appearance and architectural design of buildings and other development structures and features,

b. Vehicular and pedestrian ways and parking areas,

c. Existing or proposed alteration of natural topographic features, vegetation and waterways. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 5.101--5.101.02)

16.66.020 Site plan review.

A. Review Required. Except for single and two-family uses, and manufactured homes located on individual residential lots per Chapter 16.40, but including manufactured home parks, no building permit shall be issued for a new building or structure, or for the substantial alteration of an existing structure or use, and no sign permit shall be issued for the erection or construction of a sign relating

to such building or structure until the proposed development has been reviewed in accordance with Chapter 16.50. For the purposes of this section, the term "substantial alteration" shall mean any development activity as defined by this code, that generally requires a building permit and may exhibit one or more of the following characteristics:

1. The activity alters the exterior appearance of a structure, building or property;

2. The activity involves changes in the use of a structure, building or property from residential to commercial or industrial;

3. The activity involves nonconforming uses as defined in Chapter 16.42;

4. The activity constitutes a change in a city-approved plan, per subsection C of this section;

5. The activity is subject to site plan review by other requirements of this code;

6. Review of any proposed activity indicates that the project does not meet the standards of subsection D of this section.

B. Exemptions. The city shall make an initial determination whether a proposed project requires a site plan review or whether the project is exempt. The city manager or his or her designee is authorized to waive site plan review when a proposed development activity clearly does not represent a substantial alteration to the building or site involved. The findings of the city manager or his or her designee shall be made in writing to the applicant. The action of the city manager or his or her designee may be appealed per Chapter 16.52.

C. Plan Changes and Revocation.

1. Changes. Construction, site development, landscaping, and other development activities shall be carried out in accordance with the site development plans per Chapter 16.50. Any proposed changes to approved plans shall be submitted for review to the city. Changes that are found to be substantial, as defined by subsection A of this section, that conflict with original approvals or that otherwise may conflict with the standards of subsection D of this section, shall be submitted for supplemental review together with a fee equal to one-half the original site plan review fee.

2. Revocation. Any departure from approved plans shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the city's determination, a condition or conditions of site plan approval are not or cannot be satisfied, the site plan approval, or building and occupancy permits, shall be revoked.

D. Required Findings. No site plan approval shall be granted unless each of the following is found:

1. The proposed development meets applicable zoning district standards and all provisions of Divisions V, VI, VIII and IX of this title;

2. The proposed development can be adequately served by services conforming to the community development plan, including but not limited to water, sanitary facilities, storm water, solid waste, parks and open space, public safety, electric power, and communications;

3. Covenants, agreements, and other specific documents are adequate, in the city's determination, to assure an acceptable method of ownership, management, and maintenance of structures, landscaping, and other on-site features;

4. The proposed development preserves significant natural features to the maximum feasible extent, including but not limited to natural drainageways, wetlands, trees, vegetation, scenic views, and

topographical features, and conforms to the applicable provisions of Division VIII of this title and Chapter 5 of the community development code.

5. For proposed site plans in the office commercial (OC), office retail (OR), retail commercial (RC), general commercial (GC), lighting industrial (LI) and general industrial (GI) zones, except in the old town overlay zone, the proposed site plan shall satisfy the requirements of Chapter 16.83, Highway 99W Capacity Allocation Program, unless excluded therein.

E. Approvals. The application shall be reviewed pursuant to Chapter 16.50 and action taken to approve, approve with conditions, or deny the application for site plan review. The action shall include appropriate findings of fact as required by subsection D of this section. The action may be appealed to the council in accordance with Chapter 16.52.

F. Time Limits. Site plan approvals shall be void after one year unless construction on the site has begun, as determined by the city. The city may extend site plan approvals for an additional period not to exceed one year, upon written request from the applicant showing adequate cause for such extension, and payment of an extension application fee per section 16.48.060(A). (Ord. 00-1104 § 1 (part); Ord. 98-1053 § 1 (part): Ord. 90-906 § 5; Ord. 86-851 §§ 5.102--5.102.05)

Chapter 16.68

LANDSCAPING

Sections:

16.68.010 Landscaping plan.
16.68.020 Landscaping materials.
16.68.030 Landscaping standards.
16.68.040 Installation and maintenance.

16.68.010 Landscaping plan.

All proposed developments for which a site plan is required pursuant to Section 16.66.020 of this title shall submit a landscaping plan which meets the standards of this chapter. All areas not occupied by structures, paved roadways, walkways, or patios shall be landscaped or maintained according to an approved site plan. (Ord. 86-851 § 5.201)

16.68.020 Landscaping materials.

A. Varieties. Required landscaped areas shall include an appropriate combination of evergreen or deciduous trees and shrubs, evergreen ground cover, and perennial plantings. Trees to be planted in or adjacent to public rights-of-way shall meet the requirements of this chapter.

B. Establishment of Healthy Growth and Size. Required landscaping materials shall be established and maintained in a healthy condition and of a size sufficient to meet the intent of the approved landscaping plan. Specifications shall be submitted showing that adequate preparation of the topsoil and subsoil will be undertaken.

C. Nonvegetative Features. Landscaped areas as required by this chapter may include architectural features interspersed with planted areas, such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, decorative paving, and graveled areas. Artificial plants are prohibited in any required landscaped area.

D. Existing Vegetation. All developments subject to site plan review as per Section 16.66.010(A) and required to submit landscaping plans as per this chapter shall preserve existing trees, woodlands and vegetation on the site to the maximum extent possible, as determined by the commission, in addition to complying with the provisions of Section 16.116.060 of this title. (Ord. 94-991 § 1 (part); Ord. 86-851 §§ 5.202--5.202.04)

16.68.030 Landscaping standards.

A. Perimeter Screening and Buffering. A minimum six foot high sight-obscuring wooden fence, decorative masonry wall, or evergreen screen shall be required along property lines separating single and two-family uses from multifamily uses, and along property lines separating residential zones from commercial or industrial uses. In addition, plants and other landscaping features may be required by the commission in locations and sizes necessary to protect the privacy of residences and buffer any adverse effects of adjoining uses.

B. Parking and Loading Areas

1. Total Landscaped Area. A minimum of ten percent of the lot area used for the display or parking of vehicles shall be landscaped in accordance with this chapter.

2. Adjacent to Public Rights-of-Way. A landscaped strip at least ten feet in width shall be provided between rights-of-way and any abutting off-street parking, loading, or vehicle use areas. Landscaping shall include any combination of evergreen hedges, dense vegetation, earth berm, grade, change in grade, wall or fence, forming a permanent year-round screen, except in clear vision areas as per Section 16.46.030 of this title.

3. Perimeter Landscaping. A ten foot wide landscaped strip shall be provided between off-street parking, loading, or vehicular use areas on separate abutting properties or developments. A minimum six foot high sight-obscuring fence or plantings shall also be provided, except where equivalent screening is provided by intervening buildings or structures.

4. Interior Landscaping. A minimum of fifty (50) percent of required parking area landscaping shall be placed in the interior of the parking area. Landscaped areas shall be distributed so as to divide large expanses of pavement, improve site appearance, improve safety, and delineate pedestrian walkways and traffic lanes. Individual landscaped areas shall be no less than sixty-four (64) square feet in area and shall be provided after every fifteen (15) parking stalls in a row.

5. Landscaping at Points of Access. When a private accessway intersects a public right-of-way or when a property abuts the intersection of two or more public rights-of-way, landscaping shall be planted and maintained so that minimum sight distances shall be preserved pursuant to Section 16.46.010 of this title.

C. Visual Corridors. New developments shall be required to establish landscaped visual corridors along Highway 99W and other arterial and collector streets, consistent with the natural resources and recreation plan map, Appendix C of the community development plan, Part II, and the provisions of Chapter 16.116 of this title (Ord. 86-851 §§5.203--5.203.03)

16.68.040 Installation and maintenance.

A. Deferral of Improvements. Landscaping shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping is filed with the city. "Security" may consist of a performance bond payable to the city, cash, certified check, or other assurance of completion approved by the city. If the installation of the landscaping is not completed within six months, the security may be used by the city to complete the installation.

B. Maintenance of Landscaped Areas. All landscaping shall be maintained in a manner consistent with the intent of the approved landscaping plan. Failure to maintain landscaped areas shall result in the revocation of applicable occupancy permits and business licenses. (Ord. 86-851 §§ 5.204--5.204.02)

Chapter 16.70

OFF-STREET PARKING AND LOADING

Sections:

16.70.010 Generally.
16.70.020 Off-street parking standards.
16.70.030 Off-street loading standards.

16.70.010 Generally.

A. Off-Street Parking Required. No building permit shall be issued until plans are approved providing for off-street parking and loading space as required by this code Any change in uses or structures that reduces the current off-street parking and loading spaces provided on site, or that increases off-street parking or loading requirements shall be unlawful and a violation of this code, unless additional off-street parking or loading areas are provided in accordance with Section 16.70.020, or unless a variance from the minimum or maximum parking standards is approved in accordance with Chapter 16.60, Variances.

B. Deferral of Improvements. Off-street parking and loading spaces shall be completed prior to the issuance of occupancy permits, unless the city determines that weather conditions, lack of available surfacing materials, or other circumstances beyond the control of the applicant make completion impossible. In such circumstances, security equal to one hundred twenty-five (125) percent of the cost of the parking and loading area is provided the city. "Security" may consist of a performance bond payable to the city, cash, certified check, or other assurance of completion approved by the city. If the installation of the parking or loading area is not completed within six months, the security may be used by the city to complete the installation.

C. Joint Use. Two or more uses, structures or parcels of land may utilize jointly the same parking and loading spaces when the peak hours of operation do not substantially overlap provided that satisfactory evidence is presented to the city, in the form of deeds, leases or contracts clearly establishing the joint use.

D. Multiple Uses. When several uses occupy a single structure or parcel of land, the total requirements for off-street parking and loading shall be the sum of the requirements of the several uses computed separately, with a reduction of ten to twenty-five (25) percent to account for cross-patronage of adjacent businesses or services.

E. Prohibited Uses. Required parking, loading and maneuvering areas shall not be used for long-term storage or sale of vehicles or other materials, and shall not be rented, leased or assigned to any person or organization not using or occupying the building or use served.

F. Location. Residential off-street parking spaces shall be located on the same lot as the residential use. For other uses, required off-street parking may include adjacent on-street parking spaces, nearby public parking and shared parking located within five hundred (500) feet of the use.

G. Marking. All parking, loading or maneuvering areas shall be clearly marked and painted. All interior drives and access aisles shall be clearly marked and signed to show the direction of flow and maintain vehicular and pedestrian safety.

H. Drainage. Parking and loading areas shall include storm water drainage facilities approved by the city engineer.

I. Repairs. Parking and loading areas shall be kept clean and in good repair. Breaks in paved surfaces shall be repaired, broken or splintered wheel stops shall be replaced and painted parking space boundaries and directional symbols shall be maintained in a readable condition.

J. Parking and Loading Plan. An off-street parking and loading plan, drawn to scale, shall accompany requests for building permits or site plan approvals, except for single and two-family dwellings, and manufactured homes on residential lots. The plan shall show but not be limited to:

1. Delineation of individual parking and loading spaces and dimensions;
2. Circulation areas necessary to serve parking and loading spaces;
3. Location of accesses to streets, alleys and properties to be served, and any curb cuts;
4. Landscaping as required by Chapter 16.68 of this title;
5. Grading and drainage facilities;
6 Signing and bumper guard specifications.
7. Bicycle parking facilities as specified in Section 16.70.020(C)(5) of this chapter.
8. Parking lots more than three acres in size shall provide street-like features along major driveways including curbs, sidewalks, and street trees or planting strips.

K. Parking Districts. The city may establish a parking district (i.e., permits or signage) in residential areas in order to protect residential areas from spillover parking generated by adjacent commercial, employment or mixed-use areas, or other uses that generate a high demand for parking. The district request shall be made to the city manager who will forward a recommendation to the city council for a decision. (Ord. 00-2001 § 3 (part); Ord. 98-1053 § 1 (part), Ord. 86-851 §§ 5.301--5.301.10)

16.70.020 Off-street parking standards.

A. Generally. Where square feet are specified, the area measured shall be the gross building floor area primary to the functioning of the proposed use. Where employees are specified, persons counted shall be those working on the premises, including proprietors, during the largest shift at peak season. Fractional space requirements shall be counted as a whole space. Off-street parking and loading re-

quirements for a use not specifically listed in subsection B of this section shall be determined by the commission based upon the requirements of comparable uses.

B. Minimum and Maximum Parking Standards (Metro spaces are based on one per one thousand (1,000) square feet of gross leasable area).

	Current	Minimum	Max A	Max B
Single, two-family and manufactured homes on lot*	2 per dwelling unit	1 per dwelling unit		
Multifamily	3 per 2 dwelling units	1 under 500 square feet 1.25 per 1 bedroom 1.5 per 2 bedrooms 1.75 per 3 bedrooms	None	None
Hotel or motel	1 per room plus	1 per room	None	None
Boarding house	2 per 3 rooms	None	None	None
General retail or personal service	1 per 200 square feet	4.1 (244 square feet)	5.1	6.2
Vehicles sales, nursery	1 per 1,000 square feet plus 1 per 2 employees	4.1	5.1	6.2
Furniture/appliance store	1 per 500 square feet	4.1	5.1	6.2
Tennis/racquetball court	None	1.0	1.3	1.5
Golf course	8 per hole	None	None	None
Sports club/ recreation facility	None	4.3 (233 square feet)	5.4	6.5
General office	1 per 300 square feet	2.7 (370 square feet)	3.4	4.1
Bank with drive-in	1 per 300 square feet	4.3 (233 square feet)	5.4	6.5
Medical or dental office	1 per 200 square feet	3.9 (256 square feet)	4.9	5.9
Eating or drinking establishment	1 per 100 square feet	15.3 (65 square feet)	19.1	23
Fast food drive-thru	1 per 100 square feet	9.9 (101 square feet)	12.4	14.9
Movie theater	1 per 4 seats	0.3 per seat	0.4	0.5
Daycare	1 per 2 employees plus 1 per 5 children	None	None	None
Elementary and junior high	2 per teacher	None	None	None

	Current	Minimum	Max A	Max B
High school and college	2 per class plus 1 per 10 students	0.2 per students plus teacher	0.3	0.3
Church	1 per 4 seats	0.4 per seat	0.6	0.8
Nursing home	1 per 2 beds, patients	None	None	None
Library	1 per 400 square feet plus 1 per 2 employees	None	None	None
Industrial	1 per employee on large shift	1.6	None	None

* An enclosed building or garage associated with any residential dwelling type cannot be counted towards the parking space requirement for that unit. Further, if the street on which the house has access is less than twenty-eight (28) feet wide, two 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 standard nine by eighteen (18) feet parking space is required.

C. Miscellaneous Standards.

1. Dimensions. For the purpose of this chapter, a “parking space” generally means a minimum stall nine 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 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 parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required. All parking areas shall meet the minimum standards shown in Appendix G to the ordinance codified in this title.

3. Wheel Stops. 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 inches high, located three feet back from the front of the parking stall as shown in Appendix G to the ordinance codified in this title.

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. Bicycle Parking Facilities. Bicycle parking must be located within fifty (50) feet of an entrance to the building. With the permission of the city, bicycle parking may be located in public right-of-way. The recommended minimum number of bicycle parking spaces for each use is described in the following:

MINIMUM RECOMMENDED BICYCLE PARKING SPACES

Use Categories	Minimum Recommended Spaces
RESIDENTIAL CATEGORIES	
Household living	Multi-dwelling--2, or 1 per 10 auto spaces
Group living	All other residential structure type--None 1 per 20 auto spaces
COMMERCIAL CATEGORIES	
Retail sales/service	2, or 1 per 20 auto spaces, whichever is greater
Office	None
Drive-up vehicle servicing	None
Vehicle repair	None
Commercial parking facilities	4, or 1 per 20 spaces, whichever is greater
Commercial outdoor recreation	
Major event entertainment	
Self-service storage	None
INDUSTRIAL CATEGORIES	2, or 1 per 40 spaces, whichever is greater
SERVIGE CATEGORIES	
Basic utilities	Park and ride facilities 2, or 1 per 20 auto spaces
Community service, providers Parks and open areas	2, or 1 per 20 auto spaces, essential service whichever is greater
Schools	High schools, 4 per classroom Middle schools, 2 per classroom Grade schools, 2 per 4th and 5th grade classroom
Collages	2, or 1 per 20 auto spaces, medical whichever is
Centers	greater
Religious institutions	
Daycare uses	
OTHER CATEGORIES	
Agriculture	None
Aviation facilities Detention facilities	Per CU review
Mining, radio and TV towers Utility corridors	None

(Ord. 00-2001 § 3 (part); Ord. 86-851 §§ 5.302--5.302.03)

16.70.030 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 nonresidential uses shall not be less than ten feet in width by twenty-five (25) feet in length and shall have an unobstructed height of fourteen (14) feet. 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 thousand (50,000) square feet--five hundred (500) square feet;

b. Fifty thousand (50,000) square feet or more--seven hundred fifty (750) square feet.

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 Section 16.70.020 of this chapter shall not be used for loading and unloading operations. (Ord. 86-851 §§ 5.303--5.303.02)

Chapter 16.72

ON-SITE CIRCULATION

Sections:

16.72.010 Generally.
16.72.020 Minimum residential standards.
16.72.030 Minimum nonresidential standards.

16.72.010 Generally.

A. 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.

B. Joint Access. Two or more uses, structures, or parcels of land may utilize jointly 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.

C. Connection to Streets.

1. Except for joint access as per subsection B of this section, all ingress and egress to a use or parcel shall connect directly to a public street, excepting alleyways.

2. Required private sidewalks shall extend from the ground floor entrances or the ground floor landing of stairs, ramps or elevators to the public sidewalk or curb of the public street which provides required ingress and egress.

D. Maintenance of Required Improvements. Required ingress, egress and circulation improvements shall be kept clean and in good repair.

E. Access to Major Roadways. Points of ingress or egress to and from Highway 99W and arterials designated on the transportation plan map, attached as Appendix C 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 and arterial roadways. 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.

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 or collector streets, consistent with the transportation plan map and Section VI of the community development plan.

F. Service Drives. Service drives shall be provided pursuant to Section 16.70.030 of this title. (Ord. 86-851 §§ 5.401--5.401.06)

16.72.020 Minimum residential standards.

The minimum standards for private, on-site circulation improvements in residential developments are:

A. Driveways.

1.Single-family. One driveway improved with hard surface pavement with a minimum width of ten feet, not to exceed a grade of fourteen (14) percent.

2. Manufactured Home on Individual Residential Lot. One driveway improved with hard surface pavement with a minimum width of ten feet.

3. Two-family. One driveway improved with hard surface pavement with a minimum width of twenty (20) feet; or two driveways improved with hard surface pavement with a minimum width of ten feet each.

4. Multifamily. Improved hard surface driveways are required as follows:

Units	# Driveways	Minimum One Way Pair	Width	Minimum Two Way	Width
3--49	1	15 feet		24 feet	
50 & above	2	15 feet		24 feet	

B. Sidewalks and Curbs.

1.Single, Two-family, and Manufactured Home on Individual Residential Lot. No on-site sidewalks and curbs are required.

2. Multifamily. A minimum four foot wide sidewalk shall be required on one side of approved driveways connecting a development to public rights-of-way. Curbs shall also be required at a standard approved by the commission. Each dwelling shall be connected to vehicular parking stalls, and

common open space and recreation facilities, by pedestrian pathways having a minimum width of four feet and constructed of all weather material.
(Ord. 86-851 §§ 5.402--5.402.02)

16.72.030 Minimum nonresidential standards.

The minimum standards for private, on-site circulation improvements in nonresidential developments are:

A. Driveways.

1. Commercial. Improved hard surface driveways are required as follows:

Required Parking Spaces	# Driveways	Minimum Width One Way Pair	Minimum Width Two Way
1--49	1	15 feet	24 feet
50 & above	2	15 feet	24 feet

2. Industrial. Improved hard surfaced driveways are required as follows:

Required Parking Spaces	# Driveways	Minimum Width One Way Pair	Minimum Width Two Way
1--249	1	15 feet	24 feet
250 & above	2	15 feet	24 feet

B. Sidewalks and Curbs.

1. Commercial. A minimum four foot wide sidewalk shall be required on one side of approved driveways connecting a development to public rights-of-way. Curbs shall also be required at a standard approved by the commission. Sidewalks may be connected to public rights-of-way other than along driveways if approved by the commission.

2. Industrial. Sidewalks and curbs may be required at the discretion of the commission. (Ord. 86-851 §§ 5.403--5.403.02)

Chapter 16.74

ON-SITE STORAGE

Sections:

16.74.010 Recreational vehicles and equipment.
16.74.020 Solid waste storage.
16.74.030 Material storage.
16.74.040 Outdoor sales and merchandise display.

16.74.010 Recreational vehicles and equipment.

Recreational vehicles and equipment may be stored only within designated and improved off-street parking areas. Such areas shall meet the screening and landscaping requirements of Section 16.68.030 of this title. (Ord. 86-851 §5.501)

16.74.020 Solid waste storage.

All uses shall provide solid waste storage receptacles which are adequately sized to accommodate all solid waste generated on site. All solid waste storage areas and receptacles shall be located out of public view. Solid waste receptacles for multifamily, commercial and industrial uses shall be screened by six foot high sight-obscuring fence or masonry wall and shall be easily accessible to collection vehicles. (Ord. 86-851 § 5.502)

16.74.030 Material storage.

A. Except as otherwise provided herein, external material storage is prohibited, except in commercial and industrial zones where storage areas are approved by the commission as part of a site plan or as per Section 16.74.040 of this chapter.

B. Standards. Except as per Section 16.74.040 of this chapter, all service, repair, storage, and merchandise display activities carried on in connection with any commercial or industrial activity, and not conducted within an enclosed building, shall be screened from the view of all adjacent properties and adjacent streets by a six foot high, sight-obscuring fence. In addition, unless adjacent parcels to the side and rear of the storage area have existing solid evergreen screening or sight-obscuring fencing in place, new evergreen screening no less than three feet in height shall be planted along side and rear property lines. Where other provisions of this code require evergreen screening, fencing, or a landscaped berm along side and rear property lines, the additional screening stipulated by this section shall not be required.

C. Hazardous Materials. Storage of hazardous, corrosive, flammable, or explosive materials, if such storage is otherwise permitted by this code, shall comply with all local fire codes, and federal and state regulations. (Ord. 89-901 § 1: Ord. 86-851 §§ 5.503--5.503.03)

16.74.040 Outdoor sales and merchandise display.

A. Sales Permitted. Outdoor sales and merchandise display activities shall be permitted when such activities are deemed by the commission to be a customary and integral part of a permitted commercial or industrial use. Outdoor sales and merchandise display will be reviewed as conditional uses in accordance with Chapter 16.58 of this title.

B. Standards.

1. Outdoor sales and merchandise display areas shall be kept free of debris. Merchandise shall be stacked or arranged, or within a display structure. Display structures shall be secured and stable.

2. Outdoor sales and merchandise display shall not be located within required yard, building, or landscape setbacks, except where there is intervening right-of-way of a width equal to or greater than the required setback; and shall not interfere with on-site or off-site pedestrian or vehicular circulation.

3. Outdoor retail sales and merchandise display areas for vehicles, boats, manufactured homes, farm equipment, and other similar uses shall be paved with asphalt surfacing, crushed rock, or other dust-free materials.

4. Additional standards may apply to outdoor sales and merchandise display in NC zones, as per Section 16.22.050A of this title. (Ord. 89-901 § 2: Ord. 86-851 § 5.504)

Chapter 16.76

SIGNS*

Sections:

16.76.010 Generally.
16.76.020 Prohibited signs.
16.76.030 Sign regulations by zone.
16.76.040 Temporary/portable signs.
16.76.050 Portable A-frame signs.
16.76.060 Temporary/portable signs and over-the-roadway banner signs.
16.76.070 Banner signs.
16.76.080 Temporary/portable sign violations.

* Prior ordinance history: Ords. 86-851, 98-1053, 01-1124 and 03-1153.

16.76.010 Generally.

A. Sign Permits.

1. Except as otherwise provided in this section and in Sections 16.76.040, 16.76.050, 16.76.060 and 16.76.070, no person shall construct, install, structurally alter or relocate any sign without first obtaining an administrative sign permit from the city as required in Chapter 16.50, and making payment of the fee required by Section 16.48.060(A). In addition, all permitted illuminated signs shall be subject to the provisions of the State Electrical Code and any applicable permit fees.

B. Sign Application. Application for a sign permit shall be made upon forms provided by the city and shall include the following information:

1. Name, address and telephone number of the applicant. Name, address, telephone number and signature of the landowner;

2. Location of the building structure or lot to which or upon which the sign is to be attached or erected;

3. A scaled drawing showing sign design including colors, dimensions, sign size, height above ground, method of attachment, construction and materials, type, source and intensity of illumination and the relationship to any building to which the sign will be attached;

4. A plot plan drawn to scale indicating the location of all buildings, property lines, existing signs, street lights, easements and overhead power lines on the same premises;

5. Name, address and telephone number of the person or firm who will erect, construct and maintain the sign.

C. Exceptions. The following signs shall not require a sign permit but shall conform to all other applicable provisions of this chapter:

1. Traffic signs installed per the Manual of Uniform Traffic Control Devices and other federal, state and local traffic sign regulations.

2. Nameplates not exceeding one square foot in area;

3. Messages on a legally erected, painted or printed advertising sign, theater marque or similar sign specifically designed for the use of replaceable copy;

4. On-site painting, repainting, cleaning and normal maintenance and repair of a sign;

5. Memorial signs or tablets, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials;

6. A construction site sign denoting an architect, engineer, contractor, subdivision or development, not exceeding thirty-two (32) square feet in area, provided that such sign is removed within thirty (30) days from date of issuance of the final occupancy permit or within two years, whichever is less;

7. Portable/temporary signs allowed per Sections 16.76.040, 16.76.050, 16.76.060 and 16.76.070;

8. Public utility signs and other signs required by law;

9. Signs on private property three square feet or less per sign face and under three feet tall when freestanding and installed to be readable on private property.

D. Violations. The city shall order the removal of any sign erected or maintained in violation of the provisions of this chapter. The city shall give ninety (90) days written notice to the owner of the sign or, if the owner of the sign cannot be notified, to the owner of the building, structure or premises on which such sign is located, to remove the sign or to bring it into compliance. After ninety (90) days the city may remove such sign at cost to the owner of the building, structure or premises. All costs incurred by the city will be a lien against the land or premises on which the sign is located and may be collected or foreclosed in the same manner as similar liens.

E. Nonconforming Signs. Signs in existence prior to the effective date of this code or located on land annexed to the city after the effective date of this code, which do not conform to the provisions of this chapter, but which were constructed, erected, or maintained in compliance with all previous regulations, shall be regarded as nonconforming signs and shall be brought into compliance within five years. Any nonconforming sign which is structurally altered, relocated or replaced shall immediately be brought into compliance. Permanent residential development and public and church signs are exempt from this section.

F. Abandoned Signs. Any person who owns or leases a sign shall remove the sign and sign structure when the business advertised is discontinued or moves. The city shall give the owner of the building, structure or premises upon which an abandoned sign is located ninety (90) days written notice for removal of the sign. After ninety (90) days the city may remove such sign at cost to the owner of the building, structure or premises. All costs incurred by the city may be a lien against the land or premises on which such sign is located and may be collected or foreclosed in the same manner as similar liens.

G. Additional Setbacks. Where the supporting member of any sign is permanently erected or affixed to the ground within a setback area established pursuant to Section 16.46.020 of this title, no permit shall be issued for such sign until the owner(s) of the sign and premises upon which the sign will be erected, enter into a written agreement with the city providing the supporting member within

ninety (90) days of written notice by the city. The agreement shall further provide that after ninety (90) days the city may remove such sign at the expense of the owner(s). All costs incurred by the city may be a lien against such land or premises and may be collected or foreclosed in the same manner as similar liens.

H. Construction and Maintenance. Except as otherwise provided in this code, the construction of all signs or sign structures shall conform to applicable provisions of the Uniform Building Code. All signs, supports, braces, guys and anchors and sign sites shall be kept in good repair and maintained in a clean, safe condition.

I. Definitions.

"Commercial center" means any lot, or combination of lots legally bound together by a deed restriction, restrictive covenant or other recorded document, having at least two but no more than three legally permitted businesses on the site.

"Commercial plaza" means any lot, or combination of lots legally bound together by a deed restriction, restrictive covenant or other recorded document, having four or more legally permitted businesses on the site. Any legally permitted off-premise sign on the site must comply with the provisions of this chapter.

Free-Standing Signs.

1. Monument Sign. A sign constructed so that it is erected on grade or set into a hillside. If the monument sign is supported by poles, the sign shall extend to cover the support poles to within four inches of the grade. Each free-standing monument sign shall have no more than two faces.

2. Column Sign. A sign supported by two square columns covered by wood, brick, metal or stone with a minimum width of twenty-four (24) inches and a maximum width of thirty-six (36) inches. The columns must extend uninterrupted from grade level to the base of the sign face.

"Off-Premise Sign" means a sign placed at a location other than on the lot or property where the business or event being advertised or otherwise promoted is located.

"Permanent residential development sign" means any sign erected in association with a single-family attached, single-family detached, duplex or townhome subdivision or planned unit development.

"Pole sign" means a free-standing sign mounted on one vertical support.

"Roof signs" means signs erected in or directly above a roof or parapet of a building or structure.

"Sign face area" means the area of the sign shall be measured as follows if the sign is composed of one or more individual cabinets or sides:

1. The area around and enclosing the perimeter of each cabinet, sign face or module shall be summed and then totaled to determine total area. The perimeter of measurable area shall include all written advertising copy, symbols or logos.

2. If the sign is composed of more than two sign cabinets, sign facia or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single, continuous geometric figure shall be the area of the sign.

"Single business site" means any lot, or combination of lots legally bound together by a deed restriction, restrictive covenant or any other recorded document, having a single legally permitted business on the site.

"Wall sign" means a sign attached to, erected against or painted on a wall of a building. (Ord. 04-006 § 3 (part))

16.76.010

16.76.020 Prohibited signs.

A. Unsafe or Unmaintained Signs. All signs and sign structures must be constructed, erected and maintained to withstand the wind, seismic and other loads as specified in the Uniform Building Code. No sign shall be constructed, erected or maintained in violation of the maintenance provisions of this chapter.

B. Signs on Streets. No sign shall substantially obstruct free and clear vision along streets, or by reason of the position, shape or color, may interfere with, obstruct the view of, or be confused with any authorized traffic signal or device. No sign shall use the words "stop," "look," "danger," or any other similar word, phrase, symbol or character that interferes with or misleads motorists, pedestrians or bicyclists.

C. Obstructing Signs. No sign or sign structure shall be located or constructed so that it obstructs access to any fire escape, exit doorway or other means of egress from a building. No sign or supporting structure shall cover, wholly or partially, any window or doorway in any manner that will substantially limit access to the building in case of fire.

D. Rotating or Revolving Signs. Rotating or revolving signs are prohibited.

E. Illuminated Signs. Flashing signs, exposed reflective type bulbs, strobe lights, rotary beacons, par spots, zip lights and similar devices are prohibited. No exposed incandescent lamp which exceeds twenty-five (25) watts shall be used on the exterior surface of any sign so as to expose the face of such bulb or lamp to a public street. All permitted signs shall bear an approved Underwriters Laboratory label.

F. Changing Image Signs. Any sign that through the use of moving structural elements, flashing or sequential lights, lighting elements, or other automated method, resulting in movement, the appearance of movement or change of sign image or message are prohibited. Changing image signs do not include otherwise static signs where illumination is turned off and back on at a maximum of once every thirty (30) seconds and such change does not involve movement, flashing or changes in intensity of lighting.

G. Directional Signs. Except as permitted by Section 16.76.030(A)(3) of this chapter, directional signs are prohibited.

H. Pole Signs.

I. Signs on Vacant Land. Any sign on unimproved property, unless allowed as a temporary sign under Sections 16.76.040, 16.76.050, 16.76.060 and 16.76.070 shall be prohibited.

J. Permanent Residential Development Signs.

K. Roof Signs.

(Ord. 04-006 § 3 (part))16.76.020

16.76.030 Sign regulations by zone.

A. Residential Zones. No sign requiring a permit shall be allowed in residential or institutional public zones except for the following:

1. Public/Semi-Public Uses. On churches, schools and other public or semi-public located within a residential or institutional public zone:

a. One wall sign not exceeding thirty-six (36) square feet shall be permitted on a maximum of two building elevations.

b. One free-standing sign per street frontage not exceeding thirty-six (36) square feet per sign face shall be permitted. A minimum setback of fifteen (15) feet from the property lines adjacent to public streets is required.

c. Wall signs must be attached flat against the building face. The maximum height of any portion of a free-standing sign shall be limited to eight feet from ground level to at its base.

2. Multifamily Development Signs. One nonilluminated free-standing monument sign per street frontage not exceeding thirty-six (36) square feet per sign face shall be permitted. The maximum height of any portion of a free-standing sign shall be limited to five feet from ground level at its base.

3. Directional Signs. Directional signs may be located at street intersections with the approval of the commission. Such signs shall be no more than one foot by three and one-half feet. Not more than eight signs shall be permitted at any one street intersection. The signs shall be provided by the developer or applicant and turned over to the city with a fee as per Section 16.48.060(A) of this title. The city will erect the signs at heights and locations approved by the commission.

Directional signs may only be permitted for the following uses:

a. Public and private institutions including but not limited to government services, schools, fraternal lodges, and churches;

b. Districts, neighborhoods and other major traffic generators, such as historic districts and shopping centers.

Directional signs for individual businesses and industries are prohibited.

4. Nonresidential Signs. One monument sign not more than sixteen (16) square feet in area identifying a permitted use in a residential zone, shall be allowed.

5. Temporary/Portable Signs. The requirements of Sections 16.76.040, 16.76.050, 16.76.060 and 16.76.070 shall apply.

B. Commercial Zones. No sign requiring a sign permit shall be allowed in commercial zones except for the following:

1. Free-Standing Signs.

a. Number Permitted. One multi-faced, free-standing sign designating the principal goods or services available on the premises shall be permitted. Where the total street frontage exceeds three hundred (300) feet in length, one additional free-standing sign is permitted. No more than one free-standing sign per street frontage shall be permitted. Where two or more signs are allowed, each sign shall be oriented to face a different direction or street frontage. Any off-premise free-standing sign legally located on a single business site shall be considered the sole free-standing sign allowed on the site and shall comply with the provisions of this chapter.

b. Height Limit. Maximum sign height shall not exceed the following:

Single business site	25’
Commercial center	30’
Commercial plaza	35’

The height of the sign shall be measured from the average grade of the building footprint located on site to the highest point of the sign. For sites with more than one building, the average grade of the building closest to the location of the sign shall be used.

c. Clearance. Signs are prohibited over a driveway or parking area.

d. Area.

i. Single Business Site. The maximum sign face area for a single business site shall be no more than one hundred fifty (150) square feet. The total for all free-standing sign faces shall not exceed three hundred (300) square feet.

ii. Commercial Center. The maximum sign face area for a commercial center sign shall be no more than two hundred (200) square feet. The total for all free-standing sign faces shall not exceed four hundred (400) square feet.

iii. Commercial Plaza. The maximum sign face area for a commercial plaza sign shall be no more than three hundred (300) square feet. The total for all free-standing sign faces shall not exceed six hundred (600) square feet.

iv. The maximum sign face area on any sign for any one legally permitted business shall not exceed one hundred fifty (150) square feet.

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 16.46.010.

f. Off-Premise Signs. Sign area will be calculated as part of the permitting business's total square footage requirements as described in Section 16.76.030(B)(4). Any off-premise free-standing sign legally located on a single business site shall be considered the sole free-standing sign allowed on the site and shall comply with the provisions of this chapter.

All off-premise signs oriented to be viewed from State Highway 99W shall be subject to the standards and requirements of the Oregon Administrative Rules and Oregon Revised Statutes administered and enforced by the Oregon Department of Transportation (ODOT). Where there is a conflict between the standards or requirements of the city and the state, the more restrictive standards or requirements shall apply.

2. Wall Signs. Wall signs in combination with banner and projecting signs placed per Section 16.76.070 and defined in Section 16.76.040(A)(3), 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 foot of display windows and designed to be viewed from the exterior of the building shall be included in determining the amount of signing. 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 feet from the wall to which they are attached.

3. Projecting Signs. Projecting signs supported by a wall of a building or structure shall be permitted under the following conditions:

a. Only one projecting sign will be permitted on the same business frontage with wall signs.

b. No projecting sign shall be permitted on the same premises where there is a free-standing sign or roof sign.

c. A projecting sign shall be used solely to identify a business and shall not be used to advertise services or products sold on the premises.

d. No projecting sign shall extend more than three feet above the roof line at the wall or the top of a parapet wall, whichever is higher.

e. No projecting sign shall be located within twenty (20) feet of another projecting sign in the same horizontal plane.

f. No projecting sign shall be supported by a frame, commonly known as an "A frame" or other visible frame located on the roof of a building.

g. No sign shall project to within two feet of the curb of a public street or beyond five feet from the building face, whichever is less.

4. Directional Signs. The requirements of subsection (A)(3) of this section shall apply.

5. Temporary/Portable Signs. The requirements of Sections 16.76.040, 16.76.050, 16.76.060 and 16.76.070 shall apply.

C. Industrial Zones. No sign requiring a permit shall be allowed in industrial zones except for the following:

1. Signs permitted in commercial zones, provided that only one multi-faced free-standing sign designating the principal uses of the premises shall be permitted in any setback area, if the area of any one face of such free-standing sign does not exceed sixty (60) square feet and the total area of all faces of such free-standing sign does not exceed one hundred twenty (120) square feet.

2. Directional Signs. The requirements of subsection (A)(3) of this section shall apply.

3. Temporary/Portable Signs. The requirements of Sections 16.76.040, 16.76.050, 16.76.060 and 16.76.070 shall apply. (Ord. 04-006 § 3 (part))

16.76.040 Temporary/portable signs.

A. Definitions. The following sign types are termed temporary/portable for the purposes of this code.

1. Portable A-Frame Sign. A double-faced portable sign with an A-shaped frame, composed of two sign boards attached at the top and separated at the bottom, and not supported by a structure in the ground.

2. Temporary/Portable Sign. Small movable sign used for a temporary period of time (A-frame signs are considered a temporary portable sign when used for a limited time period as specified by this code).

3. Banner Sign. A sign made of lightweight fabric or other non-rigid material characteristically supported by two or more points and hung on the side of a building.

4. Temporary Over-Roadway Banner Sign. Banner signs placed over a public roadway for a limited period of time.

B. Placement Requirements.

1. Temporary/portable signs must remain movable by hand and shall not be attached or anchored in any way to trees, vehicles, trailers, utility poles, pavement or any public property.

2. Temporary/portable signs shall not obstruct pedestrian and disabled accessible ADA routes of travel, including but not limited to, transit stop areas, disabled parking spaces, disabled access ramps, building entrances and fire escapes.

3. Temporary/portable signs shall not create a traffic hazard by blocking vehicular site distance or be placed within a vehicular travel lane.

4. Temporary/portable signs shall be kept in good condition and shall not be rusty, faded or splintered. (Ord. 04-006 § 3 (part))

16.76.050 Portable A-frame signs.

A. Prohibited Locations.

1. Industrial Zoning Districts. To preserve industrial zoning districts as employment-based manufacturing areas and to encourage retail uses and retail signage in commercial zones, portable A-frame signs are prohibited in industrial zones, including General Industrial (GI) and Light Industrial (LI) zones.

2. Temporary/portable signs are permitted per Section 16.76.060.

B. Permitted Locations.

1. Commercial and Institutional Public Zoning Districts. Each business having a valid city of Sherwood business license which is physically located in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC) or Institutional Public (IP) zoning district may display one portable A-frame sign on private property within twenty-five (25) feet of the main entrance to the business.

Each portable sign shall be a maximum of six square feet per sign face.

Signs shall be sited per Section 16.76.040(B).

2. Multi-family zoning districts including High Density Residential (HDR) and Medium Density Residential High (MDRH). One portable A-frame sign on private property.

Each portable sign shall be a maximum of six square feet per sign face.

Signs shall be sited per Section 16.76.040(B).

3. Old Town Overlay District. Businesses who have a valid city of Sherwood business license and are physically located within the Old Town Overlay District, may display two portable signs on private property or within the public right-of-way in the Old Town Overlay District.

Each portable sign shall be a maximum of six square feet per sign face.

If a business wishes to place a portable sign on the sidewalk in front of someone else's property that business must receive written permission from the property owner whose property is adjacent to where the sign is placed.

Signs shall be sited per Section 16.76.040(B). (Ord. 04-006 § 3 (part))

16.76.050

16.76.060 Temporary/portable signs and over-the-roadway banner signs.

A. Prohibited Locations. Temporary/portable and over-the-roadway banner signs are prohibited in the following locations, unless otherwise approved due to road construction and/or closure per subsection (C)(3) of this section.

1. ODOT right-of-way, including but not limited to Highway 99W.

2. Washington County right-of-way, including but not limited to Roy Rogers Road, Edy Road and Tualatin-Sherwood Road.

B. Temporary/Portable Sign Exemptions.

1. Four off-site temporary/portable signs not exceeding six square feet each per sign face may be displayed without permit from Thursday at 6:00 pm until Sunday at 8:00 pm and on Tuesday.

2. Public notice signs as required by Section 16.50.020(B).

3. Tenants and property owners may display temporary/portable signs a maximum of eight square feet per sign face without permit on private residential property where the tenant or owner resides.

4. Signs shall be sited per Section 16.76.040(B).

C. Permits Required.

1. Temporary/portable sign users that are not exempt per subsection B of this section shall obtain a permit from the city of Sherwood. Permits shall be issued by the planning director without public notice of public hearing per Section 16.50.020(A), Type I review action.

2. A temporary/portable sign user may be permitted to display temporary signs a total of four times in one calendar year for a period of two weeks prior to an event. The signs shall be removed two days following the event. As an alternative to four, two-week periods, signs may be permitted for a two-month period per calendar year for seasonal, temporary events.

3. In the event that the temporary sign is requested by a business whose regular access is blocked due to road construction and/or road closures, temporary/portable signs may be permitted to remain until construction is completed. These signs may be located in ODOT, city of Sherwood or Washington County right-of-ways if approved by these agencies.

4. Signs shall be sited per Section 16.76.040(B).

D. Permit Forms. All temporary sign users requiring permits per this code shall make application on forms provided by the city. Such forms shall be created and maintained by the city manager or his or her designee. A permit fee may be charged and setout in a city council resolution. When placing signs on private property, an owner's signature granting permission to place the sign on their property is required.

E. Permit Types. Temporary sign permits are classified as follows:

1. General Temporary Sign Permit. The sign user may display no more than one temporary sign at up to ten approved locations throughout the city. Temporary signs are limited to six square feet per sign face and shall be spaced a minimum of ten feet apart. Applications must be submitted to the city four weeks prior to the requested date of sign placement.

A temporary sign may be permitted to be larger than six square feet, if one or more of the following criteria is met:

a. The location where the sign is proposed is on a high-speed roadway, thirty-five (35) mph or greater, that warrants a larger sign making the sign readable and improving traffic safety.

b. Installing a larger sign would eliminate the need for several smaller signs reducing visual clutter.

c. The proposed event for which the sign is being permitted is expected to attract a larger number of people and would require closing roads.

2. Temporary Over-the-Roadway Banner Signs. An applicant may be approved for one temporary over-the-roadway banner sign to be attached to power poles. Over-the-roadway banner signs shall be installed only after receiving a permit from Portland General Electric (PGE) or its successor.

Once a PGE permit is obtained, the applicant is required to receive a right-of-way permit from the city engineer.

Over-the-roadway banner signs are allowed at the following locations:

a. North Sherwood Boulevard, north of the south property line of Sherwood Middle School and south of the north property line of Hopkins Elementary School.

3. Pre-approved Temporary Portable Sign Permits. Temporary sign permits may be renewed for reoccurring annual events without submitting for a new permit to the city. However, over-the-roadway banner signs require a new permit from Portland General Electric (PGE). A new permit from the city is required if changes are made to the existing permit. (Ord. 04-006 § 3 (part))

16.76.060

16.76.070 Banner signs.

A. Placement Requirements.

1. Except for banner signs exempted by subsection C of this section, banner signs shall be firmly attached to the side of a building only. No banner sign shall be attached to building roofs, fences, vehicles, trailers, or anything else that is not the side or part of the side of a building.

2. Banner signs shall not cover building windows.

3. Banner signs shall be maintained in good condition. They shall not droop, have frayed ends, and shall be graphically clear and readable. Sun-faded, weather-damaged banner signs are prohibited.

4. Banner signs shall be made of all-weather material.

B. Prohibited Locations. Banner signs are prohibited in all residential and industrial zoning districts.

C. Exemptions. Banner signs not intended to be viewed from a public street.

D. Permitted Locations.

1. Commercial and Institutional Public Zoning Districts.

a. Each business having a valid city of Sherwood business license and who's business is physically located in the Neighborhood Commercial (NC), Office Commercial (OC), Office Retail (OR), Retail Commercial (RC), General Commercial (GC) or Institutional Public (IP) zoning district may display banner signs on private property.

b. Banner sign size shall be regulated per Section 16.76.030(B)(2).

c. Signs shall be displayed per subsection A of this section.

2. Multifamily zoning districts, including High Density Residential (HDR) and Medium Density Residential High (MDRH).

a. One banner sign not exceeding thirty-two (32) square feet per tax lot.

b. Signs shall be displayed per subsection A of this section. (Ord. 04-006 § 3 (part))

16.76.070

16.76.080 Temporary/portable sign violations.

Fines shall be set in a city council resolution.

A. Temporary/Portable Signs, Banner Signs and Over-the-Roadway Banner Signs. Individuals in violation shall be subject to the sign being removed and a fine for the first offense and the fine doubled for each subsequent offense.

B. Portable A-frame Signs.

1. First Violation. Written warning stating corrective action required to bring the portable sign into conformance.

2. Second Violation. Fine.

3. Third Violation. Portable sign removed and held for thirty (30) calendar days. During this period the sign will be returned to the owner subject to a fine. After thirty (30) days the city is no longer responsible for returning the sign.

4. Fourth Violation. The business loses portable sign privileges for one year. City can remove signs and fine for each offense during this one year probation period. (Ord. 04-006 § 3 (part))

Division VI. Public Improvements

Chapter 16.78

GENERAL PROVISIONS

Sections:

16.78.010 Standards.
16.78.020 Future improvements.
16.78.030 Improvement procedures.

16.78.010 Standards.

To ensure the health, safety, and the economic stability of the community, and to establish a quality system of public improvements, the city shall require proposed buildings and development for which public facilities and public rights-of-way are not fully provided or improved to current city standards, to install said improvements. The council may establish specifications to supplement the standards of this code and other applicable ordinances. Except as otherwise provided or authorized, private improvements serving substantially the same function as equivalent public facilities, shall generally be provided and improved at the standards established by this code and other city regulations. (Ord. 05-017 § 3 (Exh.B)(part): Ord. 86-851 § 6.101)

16.78.020 Future improvements.

The location of future public improvements including water, sanitary sewer, storm water, streets, bicycle and pedestrian paths, and other public facilities and rights-of-way, as depicted in Chapters 4, 5, 6 and 7 of the community development plan, are intended as general locations only. The precise alignments and locations of public improvements shall be established during the actual development process and shall be depicted on public improvement plans submitted and approved pursuant to Chapter 16.80 of this title and other applicable sections of this code. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 § 6.102)

16.78.030 Improvement procedures.

Except as otherwise provided, all public improvements shall conform to city standards and specifications and shall be installed in accordance with Chapter 16.80 of this title. No public improvements

shall be undertaken until an improvement plan review fee has been paid, improvement plans have been approved by the city, and an improvement permit has been issued. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 § 6.103)

Chapter 16.80

IMPROVEMENT PLAN REVIEW

Sections:

16.80.010 Preparation and submission.
16.80.020 Construction permit.
16.80.030 Construction.
16.80.040 Acceptance of improvements.

16.80.010 Preparation and submission.

Required improvement plans shall be prepared and stamped by a registered civil engineer certifying compliance with city specifications. Two sets of said plans shall be submitted to the city for review. Improvement plans shall be accompanied by a review fee as per subsection A of this section.

A. Review Fee. Plan review fees are calculated as a percentage of the estimated total cost of improvements and are set by the "Schedule of Development and Business Fees" adopted by resolution of the council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this code.

B. Engineering Agreement. A copy of an agreement or contract between the applicant and registered civil engineer for:

1. Surveying sufficient to prepare construction plans;
2. Preparation of construction plans and specifications;
3. Construction staking, and adequate inspection;
4. Construction notes sufficient to develop accurate as-built plans;
5. Drawing of accurate as-built plans and submission of reproducible mylars to the city;
6. Certificate stating that construction was completed in accordance with required plans and specifications. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 §§ 6.201--6.201.02)

16.80.020 Construction permit.

A. Approval. The city will return one set of plans to the applicant marked "approved" or "modify and resubmit." Plans marked for resubmittal must be corrected in accordance with notations or instructions. After correction and approval, additional plans shall be provided the city for office use, field inspection and submittal to affected agencies.

B. Permit and Fee. Upon approval, the applicant shall obtain a construction permit. The construction permit fee is set by the "Schedule of Development Fees," adopted by resolution of the council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this code.

C. Easement Documents. Necessary construction and/or permanent easements shall be provided in a form acceptable to the city prior to issuance of a construction permit.

D. Improvement Guarantees. Prior to issuance of a construction permit, the applicant shall file the following documents with the city:

1. Liability Insurance. Evidence of public liability and property damage insurance adequate to protect the applicant and the city from all claims for damage or personal injury.

2. Performance Bond. To assure full and faithful performance in the construction of required improvements in accordance with approved construction plans, the applicant shall provide security in an amount equal to one hundred (100) percent of the estimated cost of the improvements. In the event the applicant fails to carry out all provisions of the approved improvement plans and the city has unreimbursed costs or expenses resulting from such failure, the city shall call on the security for reimbursement. Security may be provided in the form of a surety bond executed by a surety company authorized to transact business in the state of Oregon, a cash deposit, or other form of security acceptable to the city. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 §§ 6.202--6.202.04)

16.80.020

16.80.030 Construction.

A. Initiation of Construction. Actual improvements shall not begin, or after a discontinuance, be restarted until the city is notified in writing.

B. Inspection. All construction shall be done to the city's specifications. The city shall perform inspections to verify compliance with approved plans and shall make a final inspection of the construction at such time as the improvements are complete. The city may require changes in typical sections and details, if unusual conditions warrant the change.

C. As-Built Plans. A complete set of reproducible plans showing the public improvements as built shall be filed with the city upon completion of the improvements.

D. Suspension of Improvements Activity. The city shall have the authority to cause a suspension of improvement construction or engineering when, in the opinion of the city, work is not being done to the city's satisfaction. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 §§ 6.203--6.203.04)

16.80.040 Acceptance of improvements.

A. Final Inspection. At such time as all public improvements, except those specifically approved for later installation, have been completed, the applicant shall notify the city of the readiness for final inspection.

B. Notification of Acceptance. The city shall give written notification of the acceptance of the improvements upon finding that the applicant has met the requirements of Chapter 16.80 of this title and the specifications of all approved plans.

C. Maintenance Bond. At the time of city acceptance of public improvements, the applicant shall file with the city a maintenance bond computed at ten percent of the full value of the improvements, to provide for correction of any defective work or maintenance becoming apparent or arising within one year after final acceptance of the public improvements. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 §§ 6.204--6.204.03)

Chapter 16.82

STREETS*

Sections:

16.82.010 Generally.
16.82.015 Street systems improvement fees (SIF).
16.82.020 Required improvements.
16.82.030 Location and design.
16.82.040 Street design.
16.82.050 Sidewalks.
16.82.060 Bike paths.

* Prior ordinance history: Ords. 86-851, 92-947, and 00-1103.

16.82.010 Generally.

A. Creation. Public streets shall be created in accordance with provisions of Section 16.98.040 of this title. Except as otherwise provided, all street improvements and rights-of-way shall conform to standards for the city's functional classification of said streets, as shown on the transportation plan map, attached as Appendix B, in Chapter 6 of the community development plan, and in other applicable city standards.

B. Street Naming.

1. All streets created by the subdivision process 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 subsection C of this section.

4. All streets named shall conform to the general requirements as outlined in subsection D of this section.

5. Private streets, at the request of the owner(s), may be named and addresses issued with the approval of the city. 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 Renaming.

1. An action to rename a street in the city may be initiated by the council:

a. On its own action; or

b. If a person files a petition as described in this section accompanied by a fee reasonably related to the costs of the process.

2. A petition for naming or renaming a street shall include the following:

a. A statement of the reasons for the proposed name change;

b. The names and addresses of all persons owning any real property abutting the road proposed to be renamed;

c. Signatures of either owners of sixty (60) percent of the land abutting the subject road or sixty (60) percent of the owners of land abutting the subject road.

3. Notice and Hearing.

a. When a proceeding has been initiated under this section, the council shall establish a time and place for a hearing to consider whether the proposed name change is in the public interest.

b. At least ten days prior to the date of hearing, notice of the proposed name change shall be provided as follows:

i. Notice by posting in no less than two conspicuous places abutting the subject road; and

ii. Notice by publication in a newspaper of general circulation in the area of the subject road.

c. During or before a hearing under this section, any person may file information with the council that alleges any new matter relevant to the proceedings or controverts any matter presented to the council.

d. After considering the matters presented under this section, the council shall determine whether the name change is in the public interest and shall adopt findings and an ordinance granting or denying the request.

e. When the ordinance becomes final, the council shall cause the ordinance to be recorded with the county clerk who shall cause copies of the ordinance to be filed with the department of public works, the department of assessment and taxation and with the county surveyor.

f. For the purposes of this section, "owner" means the record holder of legal title to the land, except that if there is a purchaser of the land according to a recorded land sale contract, the purchaser is the owner.

D. 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 subsection E of 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 one hundred eighty (180) degrees) at least one thousand (1,000) feet in length or more;

f. Lanes: Short east/west local streets under one thousand (1,000) feet in length;

g. Terraces: short north/south local streets under one thousand (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 one hundred eighty (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.

E. 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 (fifty (50) to one hundred (100) 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. 05-017 § 3 (Exh. B)(part))

16.82.010

16.82.015 Street systems improvement fees (SIF).

A. Purpose. The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development and redevelopment of public rights-of-way, streets, bikepaths, sidewalks, traffic control devices, and appurtenant structures, designed to provide extra system capacity, and as designated on the transportation plan map, attached as Appendix B, and in Chapter 6 of the community development plan. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for street preservation improvements or for routine street system maintenance and operations.

B. Schedule of Charges. SIF's shall be assessed against new development in the city to support extra-capacity street improvements. The SIF for streets shall be set by the "Schedule of Development Fees," adopted by resolution of the council. This schedule is included herein for purposes of information, but is deemed to be separate from and independent of this code.

C. Assessment. Except as otherwise provided by this code or by state law, the SIF is immediately due and payable and shall be collected prior to issuance of any building permits for new residential construction; for alterations or additions to buildings that increase the number of residential dwelling units; or for commercial, industrial, or institutional construction requiring new or additional off-street parking as per Section 16.70.020 of this title.

D. Deferral. Where the SIF due and payable from a single building permit exceeds three thousand dollars ($3,000.00), an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the full SIF is paid in full. (Ord. 05-017 § 3 (Exh. B)(part))

16.82.020 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.

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 twenty-two (22) feet of driving surface shall be provided by the developer.

D. Extent of Improvements. Streets required pursuant to this chapter shall be dedicated and improved consistent with Chapter 6 of the community development plan, the transportation system plan and applicable city standards and specifications included in the standard transportation drawings, and shall include curbs, sidewalks, catch basins, street lights, and street trees. Improvements shall also include any bikeways designated on the transportation system plan map.

Catch basins shall be installed and connected to storm sewers and drainageways. Upon completion of the improvements, monuments shall be reestablished and protected in monument boxes at every public street intersection and all points of curvature and points of tangency of their centerlines. Street signs shall be installed at all street intersections and street lights shall be installed and served from an underground source of supply unless other electrical lines in the development are not underground.

E. Street Modifications.

1. Modifications to standards contained within this chapter and Section 16.46.010 of this title and the standard cross sections contained in Chapter 8 of the adopted Sherwood transportation system plan (TSP), may be granted in accordance with the procedures and criteria set out in this section.

2. Types of Modifications. Requests fall within the following two categories:

a. Administrative Modifications. Administrative modification requests concern the construction of facilities, rather than their general design, and are limited to the following when deviating from standards in this chapter, Section 16.46.010 of this title or Chapter 8 contained in the adopted transportation system plan:

i. Surfacing materials for roads or pedestrian facilities;

ii. Asphalt and/or base rock thickness less than required;

iii. Pavement marking layout;

iv. Exceeding the maximum street grade;

v. Type and/or location of signage;

vi. Channelization;

vii. Intersection interior angles and curb radii less than required;

viii. Utilizing the current set of standards in lieu of the standards that were in place when the applicant's proposed project was vested;

ix. Access-related modifications onto collectors, arterials, and state routes; provided other substantive criteria such as sight distance and limited access points are met; and provided further that access to a lesser classification of road is not available;

x. Needed changes as a result of a field investigation during construction; and

xi. Similar revisions to the standards.

b. Design Modifications. Design modifications deal with the vertical and horizontal geometrics and safety-related issues and include the following when deviating from this chapter, Section 16.46.010 of this title or Chapter 8 cross sections in the adopted transportation system plan:

i. Reduced sight distances;

ii. Vertical alignment;

iii. Horizontal alignment;

iv. Geometric design (length, width, bulb radius, etc.);

v. Design speed;

vi. Crossroads;

vii. Access policy;

viii. A proposed alternative design which provides a plan superior to these standards; and

ix. All other standards.

3. Procedure. A modification request shall be classified as an administrative decision by the city engineer.

a. Administrative Modification. Administrative modifications may be requested at any time and are processed as Type II applications, unless defined under subsection (E)(3)(b) of this section. The application shall include sufficient technical analysis to enable a reasoned decision and shall include a letter of concurrency from the city engineer.

b. Design Modification. Design modifications shall be proposed in conjunction with the application for the underlying development proposal and processed as a Type III application. Design modification requests shall be processed in conjunction with the underlying development proposal unless it is submitted subsequent to the decision for the underlying development proposal. The design modification application shall:

i. Include a written request stating the reasons for the request and the factors which would make approval of the request reasonable;

ii. Include a letter of concurrency from the city engineer;

iii. Be accompanied by a map showing the applicable existing conditions and proposed construction such as contours, wetlands, significant trees, lakes, streams and rivers, utilities, property lines, existing and proposed roads and driveways, existing and projected traffic patterns, and any unusual or unique conditions not generally found in other developments;

iv. In the case of modification requests based upon alleged disproportionality, include an engineering analysis of the standard sought to be modified which contrasts relevant traffic impacts from the development with the cost of complying with the standard; and

v. For crossroad and frontage construction and right-of-way dedication, the application shall include information indicating whether there are geographic or other factors which render connection/completion of the road unfeasible.

4. Street modifications may be granted when criterion (4)(a) and any one of criteria (4)(b) through (4)(f) are met:

a. A letter of concurrency is obtained from the city engineer or designee.

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.

f. In reviewing a modification request, consideration shall be given to public safety, durability, cost of maintenance, function, appearance, and other appropriate factors, such as 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. (Ord. 05-017 § 3 (Exh. B)(part))

16.82.020

16.82.030 Location and design.

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 16.126 of this title, 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 8-8).

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 responds to and expands on the local street connectivity map contained in the TSP.

3. Block Length. For new streets except arterials and principal arterials, block length shall not exceed five hundred thirty (530) feet. The length of blocks adjacent to principal arterials shall not exceed one thousand eight hundred (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 eight hundred (800) to one thousand two hundred (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 adja-

cent neighborhoods), or spacing of full street crossings exceeds one thousand two hundred (1,200) feet, provide bicycle and pedestrian crossings at an average spacing of five hundred thirty (530) feet, unless exceptional habitat quality or length of crossing prevents a connection.

6. Pedestrian and Bicycle Connectivity. Paved bike and pedestrian accessways at least eight feet wide, or 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 three hundred (300) feet. Multi-use paths shall be built according to the pedestrian and bike master plans in the adopted transportation system plan.

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. (Ord. 05-017 § 3 (Exh. B)(part))

16.82.040 Street design.

Standard cross sections showing street design and pavement dimensions are located in the city of Sherwood transportation system plan, technical standards, and the city of Sherwood public works standards, or whichever is most current.

A. Reserve Strips. Reserve strips or street plugs controlling access or extensions to streets shall not be allowed unless necessary for the protection of the public welfare or of substantial property rights. All reserve strips shall be dedicated to the city.

B. Alignment. All proposed streets shall, as far as practicable, be in alignment with existing streets. In no case shall the staggering of streets create a “T” intersection or a dangerous condition. Street offsets of less than one hundred (100) feet will not be allowed.

C. Future Extension. Where necessary to access or permit future subdivision of adjoining land, streets shall extend to the boundary of the development. Dead-end streets less than one hundred (100) feet in length shall either comply with city cul-de-sac standards of subsection E of this section, or shall provide an interim hammerhead turnaround at a location that is aligned with the future street system as shown on the local street connectivity map.

A durable sign shall be installed at the applicant’s expense. These signs shall notify the public of the intent to construct future streets. The sign shall read as follows: “This road will be extended with future development. For more information contact the City of Sherwood at 503-625-4202.”

D. Intersection Angles.

1. Streets shall intersect as near to ninety (90) degree angles as practical, except where topography requires a lesser angle. In no case shall the permitted angle be less than eighty (80) degrees without an approved special intersection design. Streets which contain an acute angle of less than eighty (80) degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for a roadway edge radius of twenty (20) feet and maintain a uniform width between the roadway and the right-of-way line.

2. Principal arterial, arterial, collector streets, or neighborhood routes intersecting with another street shall have at least one hundred (100) feet on tangent adjacent to intersections unless topography requires a lesser distance. Local streets, except alleys, shall have at least fifty (50) feet on tangent adjacent to intersections.

E. Cul-de-Sacs.

1. All cul-de-sacs shall be no more than one hundred (100) feet in length, shall not provide access to more than fifteen (15) dwelling units and shall be used only when exceptional topographical constraints, existing development patterns, or compliance with other standards in this code preclude a street extension and circulation.

2. All cul-de-sacs shall terminate with a circular turnaround no more than forty (40) feet in radius (i.e. from center to edge of pavement) or hammerhead turnaround in accordance with the specifications in the public works standards. The radius of circular turnarounds may be larger when they contain a landscaped island, parking bay in their center, Tualatin Valley Fire and Rescue submits a written request, or an industrial use requires a larger turnaround for truck access.

3. The length of the cul-de-sac shall be measured along the centerline of the roadway from the near side of the intersecting street to the farthest point of the cul-de-sac.

4. Public easements, tracts, or right-of-way shall provide paved pedestrian and bicycle accessways at least six feet wide where cul-de-sacs or dead-end streets are planned, to connect the ends of the streets together, connect to other streets, and/or connect to other existing or planned developments in accordance with the standards of Section 16.82.020(D) of this chapter and other city standards.

F. Grades and Curves. Grades shall not exceed six percent for principal arterials or arterials, ten percent for collector streets or neighborhood routes, and twelve (12) percent for other streets. Centerline radii of curves shall not be less than three hundred (300) feet for principal arterials, two hundred (200) feet for arterials or one hundred (100) feet for other streets. Where existing conditions, such as topography, make buildable sites impractical, steeper grades and sharper curves may be approved. Finished street grades shall have a minimum slope of one-half percent.

G. Streets Adjacent to Railroads. Streets adjacent to railroads shall run approximately parallel to the railroad and be separated by a distance suitable to allow landscaping and buffering between the street and railroad. Due consideration shall be given at cross streets for the minimum distance required for future grade separations and to provide sufficient depth to allow screening of the railroad.

H. Buffering of Major Streets. Where a development abuts Highway 99W, or an existing or proposed principal arterial, arterial or collector street, or neighborhood route, adequate protection for residential properties shall be provided and through and local traffic shall be separated and traffic conflicts minimized. In addition, visual corridors pursuant to Section 16.116.030, and all applicable access provisions of Chapter 16.72 of this title, shall be met. Buffering may be achieved by: parallel

access streets, lots of extra depth abutting the major street with frontage along another street, or other treatment suitable to meet the objectives of this code.

I. Median Islands. As illustrated in Chapter 8 of the adopted transportation system plan, median islands may be used on principal arterial, arterial or collector streets for the purpose of controlling access, or for aesthetic purposes.

J. Curbs. Except in the Old Town overlay district where curbless (woonerf) streets are permitted, curbs shall be installed on both sides of public streets and shall be at least six inches in height.

K. Transit Facilities. Developments along existing or proposed transit routes, as illustrated in Figure 7-2 in the TSP, shall be required to provide areas and facilities for bus turnouts, shelters, and other transit-related facilities to Tri-Met specifications. Transit facilities shall also meet the following requirements:

1. Locate buildings within twenty (20) feet of or provide a pedestrian plaza at major transit stops;

2. Provide reasonably direct pedestrian connections between the transit stop and building entrances on the site;

3. Provide a transit passenger landing pad accessible to disabled persons (if not already existing to transit agency standards);

4. Provide an easement or dedication for a passenger shelter and underground utility connection from the new development to the transit amenity if requested by the public transit provider;

5. Provide lighting at a transit stop (if not already existing to transit agency standards).

L. Traffic Controls. For developments of five acres or more, the city may require a traffic impact analysis to determine the number and types of traffic controls necessary to accommodate anticipated traffic flow. Such analysis will be completed according to specifications established by the city. Review and approval of the analysis by the city, and any improvements indicated, shall be required prior to issuance of a construction permit.

M. Traffic Calming.

1. The following roadway design features, including internal circulation drives, may be required by the city in new construction in areas where traffic calming needs are anticipated:

a. Curb extensions (bulb-outs);

b. Traffic diverters/circles;

c. Alternative paving and painting patterns;

d. Raised crosswalks, speed humps, and pedestrian refuges; and

e. Other methods demonstrated as effective through peer reviewed engineering studies.

2. With approval of the city engineer, traffic calming measures such as speed humps and additional stop signs can be applied to mitigate traffic operations and/or safety problems on existing streets. They should not be applied with new street construction unless approved by the city engineer and Tualatin Valley Fire and Rescue.

N. Vehicular Access Management. All developments shall have legal access to a public road. Access onto public streets shall be permitted upon demonstration of compliance with the provisions of adopted street standards in the city of Sherwood transportation technical standards and the standards of Chapter 6.

1. Measurement.

See following access diagram where R/W = Right-of-Way; and P.I. = Point-of-Intersection where P.I. shall be located based upon a ninety (90) degree angle of intersection between ultimate right-of-way lines.

a. Minimum right-of-way radius at intersections shall conform to city standards. Where city standards do not exist, the county road standards shall apply.

b. All minimum distances stated in the following sections shall be governed by sight distance requirements according to county road standards.

c. All minimum distances stated in the following sections shall be measured to the nearest easement line of the access or edge of travel lane of the access on both sides of the road.

d. All minimum distances between accesses shall be measured from existing or approved accesses on both sides of the road.

e. Minimum spacing between driveways shall be measured from Point "C" to Point "C" as shown below:

2. No use will be permitted to have direct access to a street or road except as specified below. Access spacing shall be measured from existing or approved accesses on either side of a street or road. The lowest functional classification street available to the legal lot, including alleys within a public easement, shall take precedence for new access points.

a. Local Streets. Minimum right-of-way radius is fifteen (15) feet. Access will not be permitted within ten feet of Point "B," if no radius exists, access will not be permitted within twenty-five (25) feet of Point "A." Access points near an intersection with a neighborhood route, collector or arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than ten feet.

b. Neighborhood Routes. Minimum spacing between driveways (Point "C" to Point "C") shall be fifty (50) feet with the exception of single family residential lots in a recorded subdivision. Such lots shall not be subject to a minimum spacing requirement between driveways (Point "C" to Point "C"). In all instances, access points near an intersection with a neighborhood route, collector or arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in an access spacing greater than fifty (50) feet.

c. Collectors. All commercial, industrial and institutional uses with one hundred fifty (150) feet or more of frontage will be permitted direct access to a collector. Uses with less than one hundred fifty (150) feet of frontage shall not be permitted direct access to collectors unless no other alternative exists.

Where joint access is available, it shall be used, provided that such use is consistent with Section 16.72.010(B), Joint access. No use will be permitted direct access to a collector within one hundred (100) feet of any present Point "A." Minimum spacing between driveways (Point "C" to Point "C") shall be one hundred (100) feet. In all instances, access points near an intersection with a collector or arterial shall be located beyond the influence of standing queues of the intersection in accordance with AASHTO standards. This requirement may result in access spacing greater than one hundred (100) feet.

d. Principal Arterials, Arterials, and Highway 99W. Points of ingress or egress to and from Highway 99W, principal arterials, and arterials designated on the transportation plan map, attached as Figure 1 of the community development plan, Part II, shall be limited as follows:

i. 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, principal arterials, and 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.

ii. Other private ingress or egress from Highway 99W, principal arterials, and arterial roadways shall be minimized. Where alternatives to Highway 99W, principal arterials, 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 road. 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 rights-of-way is created. When the alternative access is available, the temporary access to Highway 99W shall be closed.

iii. 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 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 reviewed and approved by the city engineer after considering the applicant's compliance with this chapter.

b. An application for an access management plan shall explain the need for the modification and demonstrate that the modification maintains the classified function and integrity of the facility. References to standards or publications used to prepare the access management application shall be included with the application, including citations and numbers of engineering publications used to demonstrate compliance.

c. An access management plan shall address the safety and operational problems which would be encountered should a modification to the access spacing standards be granted. An access management plan shall be prepared and certified by a traffic or civil engineer registered in the state of Oregon. An access management plan shall at minimum contain the following:

i. The minimum study area shall include the length of the site's frontage plus the distance of the applicable access spacing standard on each side of the subject property, as set forth in Section 16.82.050(B) of this title, measured from the property lines or access point(s), whichever is greater. For example, a property with five hundred (500) feet of frontage on an arterial (required six hundred

(600) foot access spacing standard) shall have a minimum study area which is one thousand seven hundred (1,700) (one thousand two hundred (1,200) + five hundred (500)) feet in length.

ii. The access management plan shall address the potential safety and operational problems associated with the proposed access point. The access management plan shall review both existing and future access for all properties within the study area as defined above.

iii. The access management plan shall include a comparison of all alternatives examined. At a minimum, the access management plan shall evaluate the proposed modification to the access spacing standard and the impacts of a plan utilizing the county standard for access spacing. Specifically, the access management plan shall identify any impacts on the operations and/or safety of the various alternatives.

iv. The access management plan shall include a list of improvements and recommendations necessary to implement the proposed access modification, specifically addressing all safety and operational concerns identified.

v. Notice for a proposed access management plan shall include all property owners within the study area defined above.

4. Access in the Old Town (OT) Overlay Zone.

a. 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.

b. Partial Access Management Plan.

i. A partial access management plan shall include:

(A) Drawings identifying proposed or modified access points;

(B) A list of improvements and recommendations necessary to implement the proposed or modified access;

(C) A written statement identifying impacts to and mitigation strategies for facilities related to the proposed access points, especially considering safety impacts to all travel modes, operations, and the streetscape including on-street parking, tree spacing and pedestrian and bike facilities. The lowest functional classification street available to the lot, including alleys within a public easement, shall take precedence for new access points.

ii. Access permits shall be required even if no other land use approval is requested. (Ord. 05-017 § 3 (Exh. B)(part))

16.82.040

16.82.050 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, major or minor arterials, or in special industrial districts, the commission 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 commission.

B. Sidewalk Design Standards.

1. Arterial Streets. Arterial and collector streets shall have minimum eight-foot wide sidewalks/multi-use path, located as required by this code.

2. Local Streets. Local streets shall have minimum five-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.

1. 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 three hundred thirty (330) feet except where prevented by topography, barriers such as railroads or highways, or environmental constraints such as rivers and streams. (Ord. 05-017 § 3 (Exh. B)(part))

16.82.060 Bike paths.

If shown on the transportation plan map, attached as Appendix B, or in Chapter 5 of the community development plan, bicycle paths shall be installed in public rights-of-way, in accordance with city specifications. Bike lanes shall be installed on both sides of designated roads, should be separated from the road by a twelve (12) inch stripe, not a curb, and should be a minimum of five feet wide. Bike paths should not be combined with a sidewalk. (Ord. 05-017 § 3 (Exh. B)(part))

Chapter 16.83

HIGHWAY 99W CAPACITY ALLOCATION PROGRAM (CAP)

Sections:

16.83.010 Purpose.
16.83.020 Exclusions.
16.83.030 Definitions.
16.83.040 Standard requirements.
16.83.050 Trip analysis.
16.83.060 Trip allocation certificate.
16.83.070 Other provisions.

16.83.010 Purpose.

The purpose of the Highway 99W capacity allocation program is to:

A. Prevent failure of Highway 99W through Sherwood;

B. Preserve capacity on Highway 99W over the next twenty (20) years for new development within Sherwood;

C. Preserve land values in Sherwood by preventing failure of one of the city's key transportation links;

D. Insure improvements to Highway 99W and adjacent primary roadways are constructed at the time development occurs; and

E. Minimize the regulatory burden on developments that have minimal impact on Highway 99W. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 00-1104 § 1 (part))

16.83.020 Exclusions.

The following types of projects and activities are specifically excluded from the provisions of this program:

A. Churches;

B. Elementary, middle, and high schools; and

C. Changes in use that do not increase the number of trips generated by the current use. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 00-1104 § 1 (part))

16.83.030 Definitions.

"Base application" means the site plan or conditional use application which invokes the provisions of this chapter.

"Capacity" means the maximum number of peak hour vehicle trips that Highway 99W through Sherwood may accommodate at the level of service standard assuming full build-out of all land zoned for residential and industrial development in Sherwood.

"Full access intersections" mean the following intersections on Highway 99W in Sherwood: Sunset, Meinecke, Edy/N. Sherwood, Tualatin-Sherwood/Scholls-Sherwood (Roy Rogers Road, and Home Depot (Adams Street).

"ITE manual" means the latest edition of the publication titled "Trip Generation" by the Institute of Transportation Engineers.

"Level of service (LOS) standard" means the lowest acceptable level of service on a transportation corridor within Sherwood as stated in the standard requirements section.

"Mitigation" means improvements to the transportation system that increase or enhance capacity.

"Net trips" mean the number of trips generated by a regulated activity during the p.m. peak hours. Net trips equal new trips, diverted trips, and trips from existing activities on a site that will remain. Net trips do not include: pass-by trips, internal trips, trips from existing facilities that will be removed, and trips reduced due to implementation of transportation demand strategies.

"Peak hour" means a consecutive sixty (60) minute period during the twelve (12) p.m. hours of an average day, which experience the highest sum of traffic volumes on a roadway.

"Regulated activity" means project(s) or activities proposed in the base application.

"Site trip limit" means the trip limit multiplied by the acreage of the site containing the regulated activity.

"Trip allocation certificate" means a certificate or letter from the city engineer specifying that a regulated activity meets the trip limit and specifying any required mitigation.

"Trip analysis" means a study or report that specifies the net trips from a regulated activity and analyzes the trip distribution and assignment from the activity.

"Trip limit" means the maximum number of trips per acre from regulated activities that can be accommodated without violating the LOS standard. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 00-1104 § 1 (part))

16.83.030

16.83.040 Standard requirements.

A. All regulated activities shall acquire a trip allocation certificate prior to approval of their base application. Lack of a trip allocation certificate shall be the basis for denial of a base application.

B. A trip analysis is required for all regulated activities prior to being considered for a trip allocation certificate.

C. The level of service standard for Highway 99W through Sherwood through the year 2020 is "E".

D. The trip limit for a regulated activity shall be forty-three (43) net trips per acre.

E. Mitigation shall not be required for regulated activities occurring on land zoned general industrial (GI) or light industrial (LI) when the activity produces less than eight net trips per acre. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 00-1104 § 1 (part))

16.83.050 Trip analysis.

A. Purpose. The first step in the process of seeking a trip allocation certificate is preparation of a trip analysis by the applicant for the regulated activity. The purpose of the trip analysis is to evaluate whether the net trips from a regulated activity exceed the site trip limit.

B. Timing. The trip analysis shall be submitted with the relevant base application. Base applications without a trip analysis shall be deemed incomplete.

C. Format. At a minimum, the trip analysis shall contain all the following information:

1. The type and location of the regulated activity;

2. A tax map clearly identifying the parcel(s) involved in the trip analysis;

3. Square footage used to estimate trips, in accordance with methods outlined in the ITE manual;

4. Description of the type of activity, especially as it corresponds to activities described in the ITE manual;

5. Copy of the ITE manual page used to estimate trips;

6. Acreage of the site containing the regulated activity calculated to two decimal points.

7. Trip distributions and assignments from the regulated activity to all full access intersections impacted by ten or more trips from the regulated activity with identification of the method used to distribute trips from the site;

8. Copies of any other studies utilized in the trip analysis;

9. Summary of the net trips generated by the regulated activity in comparison to the site trip limit;

10. Signature and stamp of a professional engineer, registered in the state of Oregon, with expertise in traffic or transportation engineering, who prepared the analysis.

D. Methods.

1. The trip analysis and trip generation for an activity shall be based on the ITE manual.

2. If a trip generation for the proposed use is not available in the ITE manual or the applicant wishes to dispute the findings in the ITE manual, the trip generation calculation may be based on an analysis of trips from five sites with the same type of activity as that proposed.

E. Modification of Trip Analysis Requirements. The city engineer may waive, in writing, some of the requirements of the trip analysis if:

1. The proposed regulated activity is part of a previously approved trip allocation certificate that meets the requirements of this chapter and the applicant demonstrates, to the satisfaction of the city

engineer, that the applicable provisions of the previously approved trip allocation certificate shall be met; or

2. The city engineer determines, upon receipt of a letter of request from the applicant, that less information is required to accomplish the purposes of this chapter. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 00-1104 § 1 (part))

16.83.050

16.83.060 Trip allocation certificate.

A. General.

1. Trip allocation certificates shall be issued by the city engineer.

2. Trip allocation certificates shall be valid for the same period as the land use or other city approval for the regulated activity.

3. The city engineer may invalidate a trip allocation certificate when, in the city engineer's judgment, the trip analysis that formed the basis for award of the trip allocation certificate no longer accurately reflects the activity proposed under the base application.

B. Approval Criteria.

1. Upon receipt of a trip analysis, the city engineer shall review the analysis. The trip analysis shall meet both of the following criteria to justify issuance of a trip allocation certificate for the regulated activity:

a. Adequacy of analysis; and

b. Projected net trips less than the site trip limit.

2. Adequacy of analysis. The city engineer shall judge this criterion based on the following factors:

a. Adherence to the trip analysis format and methods described in this chapter;

b. Appropriate use of data and assumptions; and

c. Completeness of the trip analysis.

C. Mitigation.

1. The trip allocation certificate shall specify required mitigation measures for the regulated activity.

2. Mitigation measures shall include improvements to Highway 99W and nearby transportation corridors that, in the judgment of the city engineer, are needed to meet the LOS standard and provide capacity for the regulated activity.

3. Engineering construction plans for required mitigation measures shall be submitted and approved in conjunction with other required construction plans for the regulated activity.

4. Mitigation measures shall be implemented in tandem with work associated with the regulated activity.

5. Failure to implement required mitigation measures shall be grounds for revoking the regulated activity's base application approval. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 00-1104 § 1 (part))

16.83.070 Other provisions.

A. Acreage Calculation for a Regulated Activity.

1. Acreage calculations used to calculate net trips per acre in the trip analysis must use the entire area of the tax lot(s) containing the regulated activity, less one hundred (100) year flood plain area, in accordance with FIRM map for Sherwood.

2. If the site contains existing uses, the net trips generated by these uses shall be included in the calculation of net trips generated from the site.

B. Partial Development of a Site.

1. If a regulated activity utilizes a portion of a vacant tax lot, such that the site could be further developed in the future, the applicant shall identify the potential uses for the vacant portion and reserve trips for that portion of the site in accordance with the uses identified. These reserve trips shall be included in the calculation of the net trips generated from the site.

2. The trip allocation certificate shall not be issued if the proposed future uses of the vacant area and the reserve trips are unrealistic in the opinion of the city engineer. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 00-1104 § 1 (part))

Chapter 16.84

SANITARY SEWERS

Sections:

16.84.010 Required improvements.
16.84.020 Design standards.
16.84.030 Service availability.

16.84.010 Required improvements.

Sanitary sewers shall be installed to serve all new developments and shall connect to existing sanitary sewer mains. Provided, however, that when impractical to immediately connect to a trunk sewer system, the use of septic tanks may be approved, if sealed sewer laterals are installed for future connection and the temporary system meets all other applicable city, Unified Sewerage Agency and state sewage disposal standards. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 § 6.401)

16.84.020 Design standards.

A. Capacity. Sanitary sewers shall be constructed, located, sized, and installed at standards consistent with this code, the sanitary sewer service plan map attached as Appendix F, Chapter 7 of the community development plan, and other applicable Unified Sewerage Agency and city standards, in order to adequately serve the proposed development and allow for future extensions.

B. Over-Sizing.

1. When sewer facilities will, without further construction, directly serve property outside a proposed development, gradual reimbursement may be used to equitably distribute the cost of that oversized system.

2. Reimbursement shall be in an amount estimated by the city to be a proportionate share of the cost for each connection made to the sewer by property owners outside of the development, for a period of ten years from the time of installation of the sewers. The boundary of the reimbursement area and the method of determining proportionate shares shall be determined by the city. Reimbursement shall only be made as additional connections are made and shall be collected as a surcharge in addition to normal connection charges. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 §§ 6.402--6.402.02)

16.84.030 Service availability.

Approval of construction plans for new facilities pursuant to Chapter 16.80 of this title, and the issuance of building permits for new development to be served by existing sewer systems shall include certification by the city that existing or proposed sewer facilities are adequate to serve the development. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 § 6.403)

Chapter 16.86

WATER SUPPLY

Sections:

16.86.010 Required improvements.
16.86.020 Design standards.
16.86.030 Service availability.

16.86.010 Required improvements.

Water lines and fire hydrants conforming to city and fire district standards shall be installed to serve all building sites in a proposed development. All water lines shall be connected to existing water mains. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 § 6.501)

16.86.020 Design standards.

A. Capacity. Water lines providing potable water supply shall be sized, constructed, located and installed at standards consistent with this code, the water service plan map, attached as Appendix D, Chapter 7 of the community development plan, and with other applicable city standards and specifications, in order to adequately serve the proposed development and allow for future extensions.

B. Fire Protection. All new development shall comply with the fire protection requirements of Chapter 16.90 of this title, the applicable portions of Chapter 7 of the community development plan, and the fire district.

C. Over-Sizing.

1. When water mains will, without further construction, directly serve property outside a proposed development, gradual reimbursement may be used to equitably distribute the cost of that oversized system.

2. Reimbursement shall be in an amount estimated by the city to be the proportionate share of the cost of each connection made to the water mains by property owners outside the development, for a period of ten years from the time of installation of the mains. The boundary of the reimbursement area and the method of determining proportionate shares shall be determined by the city. Reimbursement shall only be made as additional connections are made and shall be collected as a surcharge in addition to normal connection charges. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 §§ 6.502--6.502.03)

16.86.030 Service availability.

Approval of construction plans for new water facilities pursuant to Chapter 16.80 of this title, and the issuance of building permits for new development to be served by existing water systems shall include certification by the city that existing or proposed water systems are adequate to serve the development. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 § 6.503)

Chapter 16.88

STORM WATER*

Sections:

16.88.010 Required improvements.
16.88.015 Storm water system improvement fees (SIF).
16.88.020 Design standards.
16.88.030 Service availability.

* Prior ordinance history: Ords. 86-851 and 00-1092.

16.88.010 Required improvements.

Storm water facilities, including appropriate source control and conveyance facilities, shall be installed in new developments and shall connect to the existing downstream drainage systems consistent with the comprehensive plan and the requirements of the Unified Sewerage Agency's water quality regulations contained in their Design and Construction Standards R&O 00-7, or its replacement. (Ord. 05-017 § 3 (Exh. B)(part))

16.88.015 Storm water system improvement fees (SIF).

A. Purpose. The SIF shall be reserved and used exclusively for the acquisition, expansion, extension, and capital development or redevelopment of public storm water conveyance systems, specific street improvements designed to direct and control storm water flows, storm water treatment facilities, storm water detention or retention ponds, or other storm water facilities, designed to provide extra system capacity, and as designated on the storm drainage plan map, attached as Appendix E, in Chapter 7 of the community development plan, or in the plans of Washington County's storm water management authority. The SIF may also be utilized for expenditures relating to repayment of debt for such improvements. The SIF may not be used for storm water system preservation improvements or for routine storm water system maintenance and operations.

B. Schedule of Charges. SIF's shall be assessed against new development in the city to support extra-capacity storm water improvements. The SIF for storm water shall be set by the "Schedule of Development Fees" adopted by resolution of the council. This schedule is included herein for the purposes of information, but is deemed to be separate from and independent of this code.

C. Assessment. Except as otherwise provided, the SIF is immediately due and payable and shall be collected prior to the issuance of any building permits for new construction, or for alterations or additions to buildings or sites that increase the area of impermeable surface.

D. Deferral. Where the SIF due and payable from a single building permit exceeds three thousand dollars ($3,000.00), an administrative deferral may be granted until an occupancy permit is issued. No occupancy permit shall be issued until the SIF is paid in full. (Ord. 05-017 § 3 (Exh. B)(part))

16.88.020 Design standards.

A. Capacity. Storm water drainage systems shall be sized, constructed, located, and installed at standards consistent with this code, the storm drainage master plan map, attached as Exhibit E, Chapter 7 of the community development plan, other applicable city standards, the Unified Sewerage Agency's Design and Construction Standards R&O 00-7 or its replacement, and hydrologic data and improvement plans submitted by the developer.

B. On-Site Source Control. Storm water detention and groundwater recharge improvements, including but not limited to such facilities as dry wells, detention ponds, and roof top ponds shall be constructed to limit the site discharge of storm water from a development to a level below that produced by a twenty-five (25) year storm on the undeveloped site.

C. Conveyance System. The size, capacity and location of storm water sewers and other storm water conveyance improvements shall be adequate to serve the development and accommodate upstream and downstream flow. If an upstream area discharges through the property proposed for development, the drainage system shall provide capacity to receive the floodwater discharge from the upstream area. If downstream drainage systems are not sufficient to receive an increase in floodwater caused by new development, provisions shall be made by the developer to increase the downstream capacity. (Ord. 05-017 § 3 (Exh. B)(part))

16.88.020

16.88.030 Service availability.

Approval of construction plans for new storm water drainage facilities pursuant to Chapter 16.80 of this title, and the issuance of building permits for new development to be served by existing storm water drainage systems shall include certification by the city that existing or proposed drainage facilities are adequate to serve the development. (Ord. 05-017 § 3 (Exh. B)(part))

Chapter 16.90

FIRE PROTECTION*

Sections:

16.90.010 Required improvements.
16.90.020 Standards.
16.90.030 Miscellaneous requirements.

* Editor's note: The title of Chapter 16.90 was amended by § 3 of Ord. 05-017.

16.90.010 Required improvements.

When land is developed so that any commercial or industrial structure is further than two hundred fifty (250) feet or any residential structure is further than five hundred (500) feet from an adequate water supply for fire protection, as determined by the fire district, the developer shall provide fire protection facilities necessary to provide adequate water supply and fire safety. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 § 6.701)

16.90.020 Standards.

A. Capacity. All fire protection facilities shall be approved by and meet the specifications of the fire district, and shall be sized, constructed, located, and installed consistent with this code, Chapter 7 of the community development plan, and other applicable city standards, in order to adequately protect life and property in the proposed development.

B. Fire Flow. Standards published by the Insurance Services Office, entitled "Guide for Determination of Required Fire Flows" shall determine the capacity of facilities required to furnish an adequate fire flow. Fire protection facilities shall be adequate to convey quantities of water, as determined by ISO standards, to any outlet in the system, at no less than twenty (20) pounds per square inch residual pressure. Water supply for fire protection purposes shall be restricted to that available from the city water system. The location of hydrants shall be taken into account in determining whether an adequate water supply exists.

C. Access to Facilities. Whenever any hydrant or other appurtenance for use by the fire district is required by Chapter 16.90 of this title, adequate ingress and egress shall be provided. Access shall be in the form of an improved, permanently maintained roadway or open paved area, or any combination thereof, designed, constructed, and at all times maintained, to be clear and unobstructed. Widths, height clearances, ingress and egress shall be adequate for district firefighting equipment. The fire district, may further prohibit vehicular parking along private accessways in order to keep them clear and unobstructed, and cause notice to that effect to be posted.

D. Hydrants. Hydrants located along private, accessways shall either have curbs painted yellow or otherwise marked prohibiting parking for a distance of at least fifteen (15) feet in either direction, or where curbs do not exist, markings shall be painted on the pavement, or signs erected, or both, given notice that parking is prohibited for at least fifteen (15) feet in either direction. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 §§ 6.702--6.702.04)

16.90.030 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 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 Chapter 16.90 of this title. (Ord. 05-017 § 3 (Exh. B)(part): Ord. 86-851 §§ 6.703--6.703.03)

Chapter 16.92

PUBLIC AND PRIVATE UTILITIES*

Sections:

16.92.010 Purpose.
16.92.020 Standard.
16.92.030 Underground facilities.
16.92.040 Exceptions.
16.92.050 Private streets.

* Prior ordinance history: Ord. 86-851.

16.92.010 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. (Ord. 05-017 § 3 (Exh. B)(part))

16.92.020 Standard.

A. Installation of utilities shall be provided in public utility easements and shall be sized, constructed, located and installed consistent with this code, Chapter 7 of the community development code, and applicable utility company and city standards.

B. Public utility easements shall be a minimum of eight feet in width unless a reduced width is specifically exempted by the city engineer.

C. Where necessary, in the judgment of the city manager or his or her 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. 05-017 § 3 (Exh. B)(part))

16.92.030 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 aboveground installation, because the points of connection to existing utilities make underground installation impractical, or for other reasons deemed acceptable by the city. (Ord. 05-017 § 3 (Exh. B)(part))

16.92.040 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 aboveground. The city reserves the right to approve location of all surface-mounted transformers. (Ord. 05-017 § 3 (Exh. B)(part))

16.92.050 Private streets.

The construction of new private streets shall be prohibited unless it provides principal access to two or fewer 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. 05-017 § 3 (Exh. B)(part))

Division VII. Subdivisions and Partitions

Chapter 16.94

GENERAL PROVISIONS

Sections:

16.94.010 Purpose.
16.94.020 Platting authority.

16.94.010 Purpose.

Subdivision and land partitioning 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. 98-1053 § 1 (part): Ord. 86-851 §7.101)

16.94.020 Platting authority.

A. Approval Authority.

1. The approving authority for preliminary and final plats of subdivisions and partitions, shall be in accordance with Section 16.50.010 of this title.

2. Approval of subdivisions and partitions is required in accordance with this code before a plat for any such subdivision or partition may be filed or recorded with Washington County. Appeals to a decision may be filed pursuant to Chapter 16.52.

B. Future Partitioning. When subdividing tracts into large lots which may be re-subdivided, 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.

C. Required Setbacks. All required building setback lines as established by this code shall be shown in the subdivision plat or included in the deed restrictions.

D. Property Sales. No property shall be disposed of, transferred, or sold until required subdivision or partition approvals are obtained, pursuant to this code. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 7.102--7.102.04)

Chapter 16.96

PRELIMINARY PLATS

Sections:

16.96.010 Generally.

16.96.010 Generally.

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

B. Action. The city shall review preliminary plat applications submitted in accordance with Chapter 16.54 and approve, approve with conditions, or deny the application. The action of the city shall be noted on two copies of the preliminary plat, including references to any attached documents describing any conditions or restrictions. One copy shall be returned to the applicant with a notice of decision and one retained by the city along with other applicable records.

C. Required Findings No preliminary plat shall be approved unless:

1. Streets and roads conform to plats approved for adjoining properties as to widths, alignments, grades and other standards, unless the city determines that the public interest is served by modifying streets or road patterns;

2. Streets and roads held for private use are clearly indicated on the plat and all reservations or restrictions relating to such private roads and streets are set forth thereon;

3. The plat complies with the comprehensive plan and applicable zoning district regulations;

4. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat;

5. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this code;

6. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this code;

7. Tree and woodland inventories have been submitted and approved per Section 16.116.060 (Ord. 98-1053 § 1 (part): Ord. 94- 991 § 1 (part); Ord. 86-851 §§ 7.201-- 7.201.03)

Chapter 16.98

FINAL PLATS

Sections:

16.98.010 Generally.
16.98.020 Final plat information.
16.98.030 Final plat review.
16.98.040 Creation of streets.

16.98.010 Generally.

A. Time Limits. Within twelve (12) months after approval of the preliminary plat, a final plat shall be submitted. The subdivider shall submit to the city the original drawings, the cloth, and fifteen (15) prints of the final plat, and all supplementary information required by or pursuant to this code.

B. Extensions. After the expiration of the twelve (12) month period following preliminary plat approval, the plat must be resubmitted for new approval. The city may, upon written request by the applicant, grant an extension up to six months upon a written finding that the facts upon which approval was based have not changed to an extent sufficient to warrant refiling of the preliminary plat and that no other development approval would be affected.

C. Staging. The city may authorize platting and development to proceed in stages that exceed one year, but in no case shall the total time period for all stages be greater than five years. Each stage shall conform to the applicable requirements of this code. Portions platted or developed after the passage of one year may be required to be modified in accordance with any change to the comprehensive plan or this code. (Ord. 98-1053 § 1 (part): Ord. 90-906 § 6; Ord. 86-851 §§ 7.301--7.301.03)

16.98.020 Final plat information.

A. Shown on Plat. The following information shall be shown on the final plat:

1. Date of approval, scale, north arrow, legend and controlling topography such as creeks, highways and railroads;

2. Legal description of the plat boundaries;

3. Existing surveys related to the plat by distances and bearings, and referenced as follows:

a. The location and description of all stakes, monuments and other evidence used to determine the boundaries of the subdivision,

b. Adjoining corners of all contiguous subdivisions,

c. Section, township, range, donation land claim lines and boundaries of any lots within previously recorded subdivision plats within or adjacent to the plat,

d. Location and description of all monuments found or established in making the survey of the subdivision or required to be installed by the provisions of this code;

4. Tract, block and lot boundary lines, and street rights-of-way and centerlines, with dimensions, bearings, radii, arcs, delta angles, points of curvature and tangent bearings. Normal highwater lines for any creek or other body of water shall be shown. Error of closure shall be within the limits of one foot in four thousand (4,000) feet. No ditto marks shall be used. Lots containing one acre or more shall be shown to the nearest 0.01 feet. Bearings shall be shown to the nearest thirty (30) seconds with basis of bearings;

5. The width of streets being dedicated, the width of any existing rights-of-way, and the widths on each side of the centerline. For streets on curvature, curve data shall be based on the street centerline, and in addition to centerline dimensions shall indicate the radius and central angle. This data may be shown in a table;

6. Easements within or adjacent to the plat denoted by fine dotted lines, clearly identified, and, if already of record, a recorded reference. If any easement is not of record, a statement of the easement showing the widths of the easement and the lengths and bearings of the lines thereof, and sufficient ties thereto, shall be properly referenced in the certificate of dedication;

7. Lot numbers beginning with the number “1” and numbered consecutively in each block. Block numbers, if used, should begin with the number “1” and continue consecutively without omission or duplication. The numbers shall be solid, of sufficient size and thickness to stand out, and so placed as not to obliterate any figure. Block numbers in addition to a subdivision of the same name shall be a continuation of the numbering in the plat last filed;

8. Land parcels to be dedicated for any purpose are to be distinguished from lots intended for sale, and titled to identify their intended use;

9. The following certificates, which may be combined where appropriate:

a. A certificate signs and acknowledged by all parties having any record title interest in and to the land subdivided, consenting to the preparation and recording of the map and dedicating all parcels of land shown on the final map and intended for public use,

b. An affidavit signed by the engineer or the surveyor responsible for the survey and final map, the signature of such engineer or surveyor to be accompanied by a professional seal,

c. Provisions for all other certifications required.

B. Submitted With Plat. The following information shall be submitted with the final plat:

1. A preliminary title report issued by a title insurance company in the name of the owner of the land, showing the interest of all parties;

2. Sheets and drawings showing the following:

a. Traverse data showing the error of closure, including the coordinates of the boundary of the subdivision and ties to section corners and donation land claim corners,

b. Ties to existing monuments, proposed monuments, adjacent subdivisions, street corners and state highway stationing;

3. Copies of any deed restrictions and dedications, including building setbacks;

4. Proof that all taxes and assessments on the tract are paid for the current year. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 7.302--7.302.02)

16.98.030 Final plat review.

A. Subdivision Agreement. The subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision pursuant to Division VI of this title, or execute and file with the city an agreement specifying the period within which all required improvements and repairs shall be completed, and providing that if such work is not completed within the period specified, the city may complete the same and recover the full cost and expense thereof from the subdivider. Such agreement may also provide for the construction of the improvements in stages.

B. Performance Security. The subdivider shall provide monetary assurance of full and faithful performance in the form of a bond, cash or other security acceptable to the city in an amount equal to one hundred (100) percent of the estimated cost of the improvements.

C. Staff Review. If the city review determines that the final plat is in full conformance with the preliminary plat and this code, the final plat shall be referred to the city manager or his or her designee for final approval. If the final plat is not in full conformance, the subdivider shall be advised of necessary changes or additions.

D. Plat Approval. When the city manager or his or her designee determines that the plat conforms to all requirements, the plat shall be approved. Approval of the plat does not constitute an acceptance by the city of the responsibility for maintenance or development of any street or other easement shown on the plat.

E.County Approval. After approval, the city shall transmit the final map, tracing, and other data to Washington County, to determine that there has been compliance with all provisions of state and local statutes. The county may make such checks in the field as necessary to verify that the map is sufficiently correct on the ground. When the county finds the documents in full conformance and has been paid the statutory fee for such service, approval of the plat shall be given by applicable county officers. Approval of the final plat shall be null and void if the plat is not recorded within sixty (60) days after the date of the last required approving signatures have been obtained.

F. Effective Date. Subdivision approval shall become final upon the recording with the county of the approved subdivision plat or partition map together with any required documents. Development permits may be issued only after final approval, except for activities at the preliminary plat phase, specifically authorized by this code.

G. Required Findings. No final subdivision plat shall be approved unless:

1. All required public streets and floodplain areas are dedicated without any reservation or restriction other than easements for public utilities and facilities;

2. Streets and roads held for private use have been approved by the city;

3. The plat complies with the standards of the underlying zoning district and other applicable standards of this code and is in conformity with the approved preliminary plat;

4. The plat dedicates to the public all required common improvements and areas, including but not limited to streets, floodplains, parks, and sanitary sewer, storm water and water supply systems;

5. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the subdivided land, as determined by the city and are in compliance with city standards. For the purposes of this section:

a. Adequate water service shall be deemed to be connected to the city water supply system,

b. Adequate sanitary sewer service shall be deemed to be connected to the city sewer system,

c. The adequacy of other public facilities such as storm water and streets shall be determined by the commission based on applicable city policies, plans and standards for such facilities;

6. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this code. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 7.303--7.303.07)

16.98.040 Creation of streets.

A. Approval. The final plat shall provide for the dedication of all streets for which approval has been given by the city. Approval of the final plat shall constitute acceptance of street dedications.

B. Exceptions. The council, upon recommendation by the city manager, may approve the creation and dedication of a street without full compliance with this code. The applicant may be required to submit additional information and justification necessary to determine the proposal’s acceptability. The city may attach such conditions as necessary to provide conformance to the standards of this code. One or more of the following conditions must apply:

1. The street creation is required by the city and is essential to general traffic circulation;

2. The tract in which the road or street is to be dedicated is an isolated ownership of one acre or less.

C. Easements. Any access which is created to allow partitioning for the purpose of development, or transfer of ownership shall be in the form of a dedicated street; provided, however, that easements may be allowed when:

1. The access is to a parcel exceeding five acres in size, and used for agriculture, horticulture, grazing, or timber growing; or

2. The easement is the only reasonable method by which the rear portion of an unusually deep lot, large enough to warrant partitioning into two or more parcels, may obtain access. Such easement shall conform to all other access provisions of this code. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 7.304--7.304.03)

Chapter 16.100

DESIGN STANDARDS

Sections:

16.100.010 Blocks.
16.100.020 Easements.
16.100.030 Pedestrian and bicycle ways.
16.100.040 Lots.

16.100.010 Blocks.

A. Size. The length, width and shape of blocks shall be designed to provide adequate building sites for the uses proposed, and for convenient access, circulation, traffic control and safety.

B. Length. Blocks shall not exceed five hundred thirty (530) feet in length, except blocks adjacent to arterial streets which shall not exceed one thousand eight hundred (1,800) feet, unless adjacent subdivision or topographical conditions justify a variation. (Ord. 00-1103 § 3 (part), Ord. 98-1053 § 1 (part); Ord. 86-851 §§ 7.401--7.401.02)

16.100.020 Easements.

A. Utilities. Easements for sewers, drainage, water mains, electric lines or other utilities shall be dedicated or provided for by deed. Easements shall be a minimum of ten feet in width and centered on rear or side lot lines; except for tie-back easements, which shall be six feet wide by twenty (20) feet long on side lot lines at the change of direction.

B. Drainages. Where a subdivision is traversed by a watercourse, drainage way, channel or street, drainage easements or rights-of-way shall be provided conforming substantially to the alignment and size of the drainage.

(Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 7.402--7.402.02)

16.100.030 Pedestrian and bicycle ways.

Pedestrian or bicycle ways may be required to connect cul-de-sacs, divide through an unusually long or oddly shaped block, or to otherwise provide adequate circulation. (Ord. 98-1053 § 1 (part): Ord. 86-851 § 7.043)

16.100.040 Lots.

A. Size and Shape. Lot size, width, shape and orientation shall be appropriate for the location and topography of the subdivision, and shall comply with applicable zoning district requirements, with the following exceptions:

1. Lots in areas not served by public sewer or water supply, shall conform to any special Washington County health department standards.

B. Access. All lots in a subdivision shall abut a public street.

C. Double Frontage. Double frontage and reversed frontage lots are prohibited except where essential to provide separation of residential development from railroads, traffic arterials, adjacent nonresidential uses, or to overcome specific topographical or orientation problems. A five-foot wide or greater easement for planting and screening, may be required.

D. Side Lot Lines. Side lot lines shall, as far as practicable, run at right angles to the street upon which the lots face, except that on curved streets side lot lines shall be radial to the curve of the street.

E. Grading. Grading of building sites shall conform to the following standards, except when topography of physical conditions warrant special exceptions:

1. Cut slopes shall not exceed one and one-half feet horizontally to one foot vertically.

2. Fill slopes shall not exceed two feet horizontally to one foot vertically. (Ord. 98- 1053 § 1 (part): Ord. 86-851 §§ 7.404--7.404.05)

Chapter 16.102

LAND PARTITIONS

Sections:

16.102.010 Generally.
16.102.020 Subdivision compliance--Generally.
16.102.030 Dedications.
16.102.040 Filing requirements.

16.102.010 Generally.

A. Approval Required. A tract of land or contiguous tracts under a single ownership shall not be partitioned into two or more parcels until a minor partition application has been approved by the city manager or his or her designee.

B. City Action. The city manager or his or her designee shall review the minor partition applications submitted in accordance with Chapter 16.54 and shall approve, approve with conditions or deny the application. The action of the city manager or his or her designee shall be noted on two copies of the partition, including references to any attached documents describing any conditions or re-

strictions. One copy shall be returned to the applicant with a notice of decision and one retained by the city with other applicable records.

C, Required Findings. Minor partitions shall not be approved unless:

1. No new rights-of-way, roads or streets are created, except for widening of existing rights-of-way. Partitions creating such new streets shall be processed as subdivisions;

2. The partition complies with the standards of the underlying zoning district and other applicable standards of this code;

3. The partition dedicates to the public all required common improvements and areas including but not limited to streets, parks, floodplains, and sanitary sewer, storm water, and water supply systems;

4. Adequate water, sanitary sewer and other public facilities exist to support the proposed use of the partitioned land, as determined by the city and are in compliance with city standards. For the purposes of this section:

a. Adequate water service shall be deemed to be connected to the city water supply system,

b. Adequate sanitary sewer service shall be deemed connected to the city sewer system if sewer lines are within one hundred fifty (150) feet of the partition or if the lots created are less than fifteen thousand (15,000) square feet in area. Installation of private sewage disposal facilities shall be deemed adequate on lots of fifteen thousand (15,000) square feet or more if the private system is permitted by county health and city sewer lines are not within one hundred fifty (150) feet,

c. The adequacy of other public facilities such as storm water and streets shall be determined by the city manager or his or her designee based on applicable city policies, plans and standards for such facilities;

5. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this code.

D. Future Developability. In addition to the findings required by subsection C of this section, the city manager or his or her designee must find, for any partition creating lots averaging one acre or more, that the lots may be repartitioned or resubdivided in the future in full compliance with the standards of this code. The city manager or his or her designee may require the applicant to submit partition drawings or other data confirming that the property can be resubdivided. If repartitioning or resubdividing in full compliance with this code is determined not to be feasible, the city manager or his or her designee shall either deny the proposed partition, require its redesign, or make a finding and condition of approval that no further partitioning or subdivision may occur, such condition to be recorded against the property. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 7.501-- 7.501.04)

16.102.020 Subdivision compliance--Generally.

A. Generally. If a partition exceeds two acres and within one year is repartitioned into more than two parcels, and any single parcel is less than one acre in size, full compliance with the subdivision regulations of this code may be required. (Ord. 98-1053 § 1 (part): Ord. 86-851 §§ 7.502, 7.502.01)

16.102.030 Dedications.

A. Generally. The city's requirements for dedication of public lands per this code, including road rights-of-way and greenways, shall apply to partitions. Actual public improvements may not be required at the time of partition, at the discretion of the city manager or his or her designee.

B. Dedications Acceptance. The city manager shall accept all public dedications by his or her signature on the partition plat prior to filing with the county.

C. Owner Declaration. If a property is being dedicated or donated for public use, the mortgage of trust deed holder of the property shall sign a declaration to that effect on the partition plat, or file an affidavit consenting to the plat. (Ord. 98-1053 § 1 (part): Ord. 86-85 1 §§ 7.503--7.503.03)

16.102.040 Filing requirements.

A. Generally. Within twelve (12) months after city approval of a minor land partition, a partition plat shall be submitted to Washington County in accordance with its final partition plat and recording requirements.

B. Extension. After expiration of the twelve (12) months period following partition approval, the partition must be resubmitted for new approval. The city manager or his or her designee may upon written request by the applicant, grant an extension up to twelve (12) months upon a written finding that the facts have not changed to an extent sufficient to warrant refiling of the partition and that no other development approval would be affected. (Ord. 98-1053 § 1 (part:) Ord. 86-851 §§7.504--7.504.02)

Chapter 16.104

PROPERTY LINE ADJUSTMENTS

Sections:

16.104.010 Generally.
16.104.020 Filing requirements.

16.104.010 Generally.

The city manager or his or her designee may approve a property line adjustment without public notice or a public hearing provided that no new lots are created and that the adjusted lots comply with the applicable zone requirements. If the property line adjustment is processed with another development application, all applicable standards of the code shall apply. (Ord. 86-851 § 7.601)

16.104.020 Filing requirements.

If a property line adjustment is approved by the city, it does not become final until reviewed and approved by Washington County in accordance with its property line adjustment recording requirements. (Ord. 86-851 § 7.602)

Division VIII. Environmental Resources

Chapter 16.106

GENERAL PROVISIONS

Sections:
16.106.010 Purpose.

16.106.010 Purpose.

Division VIII of this title 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. 86-851 § 8.100)

Chapter 16.108

SPECIAL RESOURCE ZONES

Sections:
16.108.010 Generally.
16.108.020 Flood plain (FP) overlay zone.

16.108.010 Generally.

Special resource zones are established to provide for the 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. (Ord. 86-85 1 § 8.201)

16.108.020 Flood plain (FP) overlay zone.

A. Purpose.

1. 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 waterflow 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.

2. FP zoning districts are defined as 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 subsection (A)(3) of this section. These FEMA documents are adopted by reference as part of this code, and are on file in the office of the city public works director.

3. 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.

B. Greenways. The VP zoning districts overlaying the Rock Creek and Cedar Creek flood plains are designated greenways in accordance with Chapter 5 of the community development plan. All developments in these two flood plains shall be governed by the policies in Chapter 5 of the community development plan, Chapter 16.116 of this title, in addition to the requirements of this section and the United Sewerage Agency's Design and Construction Standards R&O 00-7, or its replacement. For any new development subject to subdivision, partition, conditional use permit, or site plan review as per this code, all lands within a designated greenway or any other land within the base flood shall be dedicated outright to the public as per Chapter 5, Natural Resources, policy 1, and Chapter 5, Recreational Resources, Part 6, notwithstanding any development allowances contained in this chapter.

C. Development Application.

1. Provided land is not required to be dedicated as per subsection B of this section, a conditional use permit (CUP) shall be approved before any use, construction, fill, or alteration of a flood plain, floodway, or watercourse, or any other development begins within any FP zone, except as provided in subsection D of this section.

2. Application for a CUP for development in a flood plain shall conform to the requirements of Chapter 16.58 of this title 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.

3. The following specific information is required in a flood plain 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:

a. Elevations in relation to mean sea level of the lowest floor (including basement) of all structures;

b. Elevations in relation to mean sea level to which any structure has been flood proofed;

c. That the flood proofing methods for any structure meet the requirements of subsection H of this section;

d. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;

e. A base flood survey and impact study made by a registered civil engineer;

f. 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;

g. Any other information required by this chapter, by any applicable federal regulations, or as otherwise determined by the city to be necessary for the full and proper review of the application.

4. Where elevation data is not available as per subsection (A)(2) of this section, or from other sources as per subsection (A)(3) of this section, a flood plain CUP shall be reviewed using other relevant data, as determined by the city, such historical information, high water marks, and other evidence of past flooding. The city may require utility structures and habitable building floor elevations, and building floodproofing, to be at least two feet above the probable base flood elevation, in such circumstances where more definitive flood data is not available.

D. Permitted Uses. In the FP zone the following uses are permitted outright, and do not require a CUP, provided that floodway flow, or flood plain capacity, will not be impeded, as determined by the city, and when greenway dedication is not required as per subsection B of this section.

1. 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;

2. 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;

3. Public streets and appurtenant structures, and above and underground utilities, subject to the provisions of subsections G and H of this section;

4. 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 flood plain.

E. Conditional Uses. In the FP zone the following uses are permitted as conditional uses, subject to the provisions of this chapter and Chapter 16.58 of this title and when greenway dedication is not required as per subsection B of this section.

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

F. Prohibited Uses. In the FP zone the following uses are expressly prohibited:

1.The storage or processing of materials that are buoyant, flammable, contaminants, explosive, or otherwise potentially injurious to human, animal or plant life;

2. Public and private sewerage treatment systems, including drainfields, septic tanks and individual package treatment plants;

3. Any use or activity not permitted in the underlying zoning district;

4. Any use or activity that, in the city's determination, will materially alter the stability or storm drainage absorption capability of the flood plain;

5. 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 flood plain;

6. 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 subsection D of this section and unless certification by a registered engineer or architect is provided demonstrating that the use, activity, or encroachment shall not result in any increase to flood levels during the occurrence of the base flood discharge.

G. Flood Plain Development.

1. Flood Plain Alterations.

a. Flood Plain Survey. The flood plain, including the floodway and flood fringe areas, shall be surveyed by a registered 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 mean sea level data and be field-located from recognized valid benchmarks.

b. Grading Plan. Alteration of the existing topography of flood plain 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 and for areas immediately adjacent to a stream or drainageway, two feet for ground slopes between five and ten percent, and five feet for greater slopes.

c. Fill and Diked Lands.

i. Proposed flood plain fill or diked lands may be developed if a site plan for the area to be altered within the flood plain is prepared and certified by a registered civil engineer and approved by the commission pursuant to the applicable provisions of this code.

ii. 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.

d. Alteration Site Plan. The certified site plan prepared by a registered civil engineer or architect for an altered flood plain area shall show that:

i. 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.

ii. 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 flood plain or increase in flood heights.

iii. Proposed flood plain 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.

iv. No serious environmental degradation shall occur to the natural features and existing ecological balance of upstream and downstream areas.

v. Ongoing maintenance of altered areas is provided so that flood-carrying capacity will not be diminished by future erosion, settling, or other factors.

e. Subdivisions and Partitions. All proposed subdivisions or partitions including land within an FP zone shall establish the boundaries of the base flood by survey and shall dedicate said land as per subsection B of this section. The balance of the land and development shall:

i. 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;

ii. Provide, for each parcel or lot intended for structures, a building site shall be provided, which is at, or above, the base flood elevation, and meets all setback standards of the underlying zoning district.

H. Flood Plain Structures. Structures in the FP zone shall be subject to the following conditions, in addition to the standards of the underlying zoning district:

1. Generally.

a. All structures, including utility equipment, and manufactured housing, shall be anchored to prevent lateral movement, flotation, 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.

b. The lowest floor elevation of a structure designed for human occupancy shall be at least one and one-half feet above the base flood elevation and the building site shall comply with the provisions of subsection (G)(1) of this section.

c. The lower portions of all structures shall be floodproofed 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.

d. The finished ground elevation of any underfloor crawl space shall be above the grade elevation of an adjacent street, or natural or approved drainageway unless specifically approved by the city. A positive means of drainage from the low point of such crawl space shall be provided.

2. Utilities.

a. 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.

b. 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.

c. Water supply and sanitary sewer systems shall be approved by the Washington County Health Department, and shall be designed to minimize or eliminate the infiltration of floodwaters into the systems, or any discharge from systems into floodwaters.

3. Residential Structures.

a. All residential structures shall have the lowest floor, including basement, elevated to at least one and one-half feet above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be 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:

i. 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.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

4. Nonresidential Construction.

a. All commercial, industrial or other nonresidential 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:

i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

iii. 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 chapter;

iv. Nonresidential structures that are elevated, not floodproofed, must meet same standards for space below the lowest floor as per subsection (H)(3)(b) of this section.

I. Additional Requirements.

1. Dimensional standards for developments in the FP zone shall be the same as in the underlying zoning district, except as provided in subsection I of this section.

2. Approval of a site plan pursuant to Chapter 16.66 of this title 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:

a. Increasing the required lot sizes, yard dimensions, street widths, or off-street parking spaces;

b. Limiting the height, size, or location of buildings;

c. Controlling the location and number of vehicle access points;

d. Limiting the number, size, location, or lighting of signs;

e. Requiring diking, fencing, screening, landscaping, or other facilities to protect the proposed development, or any adjacent or nearby property;

f. Designating sites for open space or water retention purposes;

g. Construction, implementation, and maintenance of special drainage facilities and activities. (Ord. 00-1092 § 3 (part); Ord. 88 879 § 3: Ord. 86-851 §§ 8.202--8.202.09)

Chapter 16.110

PROCEDURES

Sections:

16.110.010 Applicability.
16.110.020 Conformance.
16.110.030 Additional information.
16.110.040 Referenced statutes and rules.
16.110.050 Exceptions.

16.110.010 Applicability.

The standards of Chapters 16.110 through 16.126 of this title, and applicable portions of Chapter 5 of the community development plan, shall apply to any new uses or changes to existing uses in commercial, industrial and institutional zones, except as per Section 16.110.050 of this chapter. (Ord. 86-851 § 8.301.01)

16.110.020 Conformance.

Conformance with the standards of Chapters 16.110 through 16.126 of this title shall, at a minimum, be certified in writing by a professional engineer and submitted with the application for site plan review required by Chapter 16.66 of this title, except as per Section 16.110.050 of this chapter. The written certification shall include:

A. Statement certifying that the proposed commercial, industrial or institutional use, if properly managed and operated, will comply with city environmental performance standards, and citing evidence supporting the certification;

B. Copies of any applicable state permits or recent test results, if available, which would indicate compliance with city environmental performance standards. (Ord. 86-851 §8.301.02)

16.110.030 Additional information.

A. Prior to accepting any land use application to which Chapters 16.110 through 16.126 of this title apply, the city manager or his or her designee, may determine that additional expertise in evaluating the application, due to the complexity of its impact on environmental resources, is warranted. Under such circumstances, the city may contract with a professional engineer or other qualified consultant to evaluate and make recommendations on specific application elements relative to city environmental resource standards.

B. Upon the city's determination that additional expertise is needed, the applicant shall deposit a sum equal to the estimated cost, as determined by the city, of such professional services. If the actual cost of such services is more than estimate, the applicant shall be responsible for the difference, provided however, that the applicant's financial responsibilities will not exceed ten percent of the estimate without prior written authorization. If the cost of such services is less than the estimate, the balance of the deposit shall be returned to the applicant upon final action on their land use application. (Ord. 86-851 § 8.301.03)

16.110.040 Referenced statutes and rules.

The federal, state, or regional statutes and rules cited in Chapters 16.110 through 16.126 of this title are made part of this code by reference. The statutes and rules cited are as current at the time of adoption of this code. If a referenced statute or rule is amended by federal, state or regional agencies, this code must be amended for the new statute or rule to take precedence. (Ord. 86-851 § 8.301.04)

16.110.050 Exceptions.

The city shall make an initial determination whether a proposed development is subject to any of the standards of this division, or whether the development is exempt. The city manager or his or her designee is authorized to waive all or some of these standards when a proposed development clearly does not represent a substantial impact on the city's environmental resource standards as per Chapters 16.110 through 16.126 of this title. The findings of the city manager or his or her designee shall be made in writing, and copies shall be forwarded to the applicant and the commission. The action of the city manager or his or her designee may be appealed as per Chapter 16.52 of this title. (Ord. 86-851 § 8.301.05)

Chapter 16.112

MINERAL RESOURCES

Sections:

16.112.010 Permitted activities.
16.112.020 Special conditions.

16.112.010 Permitted activities.

Mineral extraction and processing, including sand and gravel pits, rock crushers, concrete and asphalt mixing plants, are permitted in the GI zone as conditional uses, subject to Chapter 16.58 of this title, and the following special conditions. (Ord. 86-851 § 8.302.01)

16.112.020 Special conditions.

The following special conditions apply to mineral extraction and processing activities:

A. The applicant shall provide a plan for the land from which the sand and gravel will be excavated showing contours on at least five foot intervals, and all improvements on the land and within three hundred (300) feet of the property.

B. Mineral extraction and processing shall not be permitted closer than thirty (30) feet to the boundary of adjacent property, nor closer than three hundred (300) feet to any existing residence, unless the owner or owners of such adjacent property sign a written consent to a lesser distance, and the commission approves such lesser distance. The commission may set greater separations as warranted by specific site conditions.

C. The commission shall specify depth, degree of bank slopes and the distance from any public structures, for all excavations made in or near stream beds. The commission shall determine setbacks from public rights-of-way when excavations are near such rights-of-way.

D. Sand and gravel shall be excavated in such a manner so as to leave an average of two feet, or more if specified by the commission, of undisturbed material over the entire excavation tract. Excavations shall be conducted so that excavated areas will not collect and retain stagnant water.

E. After dry pit sand and gravel excavations have been completed, the operator shall evenly spread excess waste materials over the bottom of the pit, and then shall evenly spread topsoil to a minimum depth of one and one-half feet, unless evidence is produced that the land excavated had less than one and one-half feet of topsoil prior to commencement of operations.

F. Haulage roads within the excavation tract shall be maintained in a reasonably dust-free condition. Hours of operation, unless otherwise specified by the commission, shall be from six a.m. to seven p.m.

G. Rock crushers, concrete and asphalt mixing plants may be permitted; providing that the crushers and plants are accessory to the sand and gravel operations and primarily use materials excavated on-site.

H. The operator shall post security in a form acceptable to the city in a sum equal to the number of acres within the excavation tract, multiplied by five hundred dollars ($500.00), to ensure full compliance with all of the terms and regulations pertaining to the extraction and processing of sand and

gravel. The minimum amount of such bond shall be two thousand five hundred dollars ($2,500.00) and the maximum amount twenty-five thousand dollars ($25,000.00).

I. The operator shall furnish evidence of liability insurance of not less than fifty thousand dollars ($50,000.00) for any negligent act or omission in the operation or maintenance of sand and gravel pit, and the extraction and production of sand and gravel, and all activities connected with, or incidental thereto.

J. Prior to commission action on a conditional use permit, the action shall be advertised as per Chapter 16.50 of this title, and the property shall be posted as to the proposed use for a period of fifteen (15) days. This posting shall consist of a sign or signs, the number of which shall be determined by the city, three feet by four feet, posted in conspicuous locations visible from public rights-of-way (Ord. 86-851 § 8.302.02)

Chapter 16.114

SOLID WASTE

Sections:

16.114.010 Solid waste facilities.
16.114.020 Solid waste incinerators.
16.114.030 Accessory use solid waste facilities.
16.114.040 Multiple purpose solid waste facility.
16.114.050 Temporary solid waste facility.
16.114.060 Application contents.
16.114.070 Review procedures and burden of proof.
16.114.080 Conditions of approval and enforcement.
16.114.090 Site improvements

16.114.010 Solid waste facilities.

Solid waste facilities are permitted in the general industrial (GI) and light industrial (LI) zones as described in those sections of the code. Permitted solid waste facilities are subject to the review procedures, site improvements and other standards of this chapter. (Ord. 93-966 § 3 (part): Ord. 86-851 §8.303.01)

16.114.020 Solid waste incinerators.

The operation of solid waste incinerators for any commercial, industrial, or institutional purpose is prohibited in the city. For the purposes of this chapter, solid waste is defined as per ORS 459.005(24), and includes infectious wastes as per ORS 459.386(2). Provided said incineration or burning is otherwise properly permitted, this prohibition shall not apply to furnaces, incinerators, or stoves burning wood or wood-based products, petroleum products, natural gas, or to other fuels or materials not defined as solid waste, to yard debris burning, or to small-scale specialized incinerators utilizing solid waste produced as a by-product on-site and used only for energy recovery purposes. Said small-scale specialized incinerators must be integral to and part of, but clearly ancillary second-

ary and incidental to, a permitted or conditionally permitted use in the city, and cannot utilize infectious wastes or any fuels derived from infectious wastes. This prohibition shall not apply to solid waste incinerators lawfully permitted to operate prior to September 5, 1990, but shall apply to any expansion, alteration, or modification of such a use or any applicable permits. (Ord. 93-966 § 3 (part): Ord. 86-851 § 8.303.02)

16.114.030 Accessory use solid waste facilities.

The following solid waste facilities are permitted, subject to the applicable regulations of the zone, as an accessory use to a permitted or conditional use without being subject to the conditional use review:

A. Household hazardous waste depot, provided the facility is accessory to a public facility or to a use in an industrial zone;

B. Small scale specialized incinerator, provided the facility complies with Section 16.114.020 of this chapter and does not accept more than two hundred and twenty (220) pounds per day of waste from off-site;

C. Recycling drop boxes, provided they also comply with Section 16.114.090(E)(5) of this chapter. (Ord. 93-966 § 3 (part): Ord. 86- 851 § 8.303.03)

16.114.040 Multiple purpose solid waste facility.

A solid waste facility may include more than one kind of facility as defined in Chapter 16.08, Definitions, of this title. An application that includes more than one kind of facility is permitted in a given zone only if all of the uses proposed in the facility are permitted in that zone. If any of the uses proposed are allowed only as a conditional use in the zone, then all of the uses proposed shall be considered conditional uses. (Ord. 93-966 § 3 (part): Ord. 86-851 § 8.303.04)

16.114.050 Temporary solid waste facility.

The following solid waste facilities may be approved as a temporary use in any zone without being subject to conditional use review if the use operates not more than three days per calendar month, subject only to the dimensional requirements of the underlying zone (e.g., setbacks and height) and the applicable provisions of Section 16.114.090, Site improvements, of this chapter, and the appropriate requirements of Sections 16.114.060 through 16.114.080 of this title:

A. Household hazardous waste;

B. Resource recovery facility;

C. Yard debris depot. (Ord. 93-966 § 3 (part): Ord. 86-851 § 8.303.05)

16.114.060 Application contents.

A. In addition to submitting land use application forms provided by the city, and in accordance with other sections of this code, the applicant shall describe at least the following features of the proposed facility:

1. Capacity and projected life;

2. The population or industries to be served;

3. The amount of solid waste that is expected to be accommodated at the facility from the population or industries to be served, including maximum daily and monthly amounts and average annual volume and weight of waste to be received;

4. For a landfill, planned future uses of the site after closure;

5. The quantity of each type of waste stream projected to be accommodated at the facility. Examples of waste streams include domestic waste, commercial and institutional waste, industrial waste, construction and demolition waste, agricultural waste, sewage sludge, and contaminated cleanup materials;

6. The operating characteristics of the facility, including equipment used, hours of operation, and volume, distribution, and type of traffic associated with the use, and a traffic study if required by Section 16.114.090 of this chapter;

7. The kind or kinds of facility or facilities proposed, based on the solid waste facility definitions in Chapter 16.08, Definitions, of this title.

B. The applicant shall submit the following information as part of the application, unless the planning director finds that, given the scale and nature of the facility, a requested item will not materially aid the approval authority in reviewing the proposal, and the item is not otherwise required to be submitted under this code.

1. A written description of the location of the site with respect to known or easily identifiable landmarks and access routes to and from the area the facility will serve;

2. A legal description of the tract or tracts to be used for the facility;

3. Except for an accessory facility, a map or maps showing the location of the site, existing and approved land uses within a minimum two hundred and fifty (250) foot radius of the boundary of the site inside the regional urban growth boundary or within a minimum five hundred (500) foot radius of the site outside the regional urban growth boundary; public water supply wells, surface waters, access roads within that radius; historic sites, areas of significant environmental concern or resources, or significant environmental features identified in the community development plan, Part 2, within the applicable radius; other existing or approved manmade or natural features relating to the facility; and a north arrow, bar scale, and drawing date;

4. Except for an accessory use or temporary facility, an aerial photograph of the site and the area within the relevant radius with the boundary of the site outlined;

5. Except for an accessory or temporary facility, a map or maps showing the existing topography of the site with contour intervals not to exceed two feet if slopes are less than five percent, not to exceed five feet if slopes are more than five percent, and not to exceed ten feet if slopes are more than twenty (20) percent; natural features of the site including water bodies and wetlands; the boundary of the one hundred (100) year flood plain based on Federal Emergency Management Agency data; public easements of record; manmade features including buildings, utilities, fences, roads, parking areas, and drainage features; boundaries of existing waste disposal areas and soil borrow areas, if any; locations of borings, piezometers, monitoring wells, test pits, water supply wells, and facility monitoring or sampling points and devices; a benchmark; and a north arrow, bar scale, and drawing date;

6. For a landfill, data regarding average annual and monthly precipitation and evaporation and prevailing wind direction and velocity, based on data from the National Oceanic and Atmospheric Administration or other federal or state agency, or from on-site measurements;

7. For a landfill, information regarding minimum, maximum, and average annual flow rates and monthly variations of streams on the site, based on stream gauging data collected by the U.S. Geological Service or other federal or state agency supplemented with reliable site specific data as available;

8. A map or maps showing and describing the type and size of existing vegetation on the site, and identifying vegetation to be removed and retained;

9. A grading plan showing site elevations when grading is completed, including any modifications to drainage channels and any required retaining walls or other means of retaining cuts or fills;

10. A site plan showing proposed structures, signs, parking, outdoor storage, landscaping, berms, fencing, and other features of the facility;

11. Responses to the applicable standards of Section 16.114.090 of this title;

12. If other local, state or federal permits are required for construction and operation of the proposed facility:

a. The applicant shall submit a copy of such permit(s), or

b. The applicant shall submit:

i. A schedule for submitting the required permits; a description of the requirements of the laws and regulations applicable to such other local, state or federal permits; a summary of how the applicant proposes to comply with the requirements; a list of which regulations require local land use approval; and a list of potentially conflicting local, state or federal standards, and

ii A copy of any application filed for another local, state or federal permit for the proposed facility within ten working days after it is filed with the local, state or federal agency, and

c. A copy of any written correspondence or published notice from the local, state or federal agency regarding that application within ten working days after the applicant receives that correspondence or notice from the local, state or federal agency. (Ord. 93-966 §3 (part): Ord. 86-851 § 8.303.06)

16.114.070 Review procedures and burden of proof.

A. Before accepting an application as complete, the planning director may decide additional expertise is warranted to evaluate it due to exceptional circumstances, the complexity of the proposed facility, or its potential impacts. The planning director may hire a professional engineer with the necessary expertise to make a written evaluation of the specific application elements required pursuant to this code.

1. The written evaluations shall be available no later than thirty (30) days after the applicant submits a deposit to pay for the work. Within ten days after the written evaluation is available, the planning director shall determine whether the application is complete and advise the applicant in writing accordingly, listing any additional information required to make the application complete.

2. The planning director shall draft a work program and estimate the cost of hiring a professional engineer with the necessary expertise for the written evaluation and shall advise the applicant of that cost, which shall not exceed ten (10) times the application fee (or other reasonable limit) unless approved by the applicant. The applicant shall deposit a sum equal to the estimated cost of such services before the application is deemed complete. If the cost of such services is less than estimated, the city shall refund any excess to the applicant. If the cost of such services is more than estimated, the city shall bill the applicant for such additional cost; provided, the cost of such services shall not exceed

one hundred ten (110) percent of the estimated cost unless the applicant or the city agrees in writing to assume such additional cost.

3. The provision does not authorize the city to collect money from an applicant for independent evaluation of ongoing operations or performance review of a facility. A fee may be required pursuant to Section 16.114.080F of this chapter before renewal, but not at the time of application or approval.

B. An application for a solid waste facility under this code is complete if any written evaluation required under subsection A of this section has been completed, and if:

1. The application includes substantial evidence that the proposed facility will comply with the applicable development standards in Section 16.114.090 of this chapter or conditions that may be necessary to ensure compliance; or

2. The application includes substantial evidence that the proposed facility is likely to comply with the applicable development standards in Section 16.114.090 of this chapter, identifies any necessary evidence not yet submitted, and provides a reasonable schedule for its submission;

3. The application includes information required to be submitted under Section 16.114.060 of this title, except to the extent waived by the planning director.

C. The city shall provide public notice and an opportunity for submission of written information and/or for a public hearing to consider compliance within the terms of this code.

D. An applicant for a solid waste facility bears the burden of proving that a facility complies with this code. The following presumptions and procedures apply when evaluating compliance with the burden of proof:

1. An applicant is rebuttably presumed to have met the burden of proof if the application includes substantial evidence that the facility will comply with the standards for establishment of the facility in Section 16.114.090 of this chapter and conditions proposed by the planning director to ensure such compliance.

2. Substantial evidence can be rebutted only by evidence of equal or greater probative value. For instance, testimony from a professional engineer about a given subject in which an engineer has expertise may be rebutted only by testimony or evidence from another professional engineer or a person similarly qualified about that subject. Testimony from an expert witness regarding matters relevant to the expertise of the witness cannot be rebutted by testimony from a non-expert witness. This subsection does not limit what may be introduced as testimony; it affects the weight to be accorded that testimony.

3. If evidence of equal probative value is offered that a given facility does and does not comply with a given standard or that a proposed condition is or is not adequate to ensure compliance, the approval authority shall weight the evidence, identify which evidence it accepts as the basis for its decision, and explain why that evidence is accepted and why contrary evidence is rejected.

4. The approval authority shall issue all necessary land use compatibility statements to the applicant or to applicable local, state, or federal agencies, and a final decision with appropriate findings, conclusions and conditions of approval if, after the appropriate review process, it finds there is substantial evidence that the facility complies with all applicable provisions of this code and city laws incorporated by reference, subject to appropriate conditions, and that such evidence was not effectively rebutted and does not need to be supplemented.

5. If, after a public hearing (or another initial level of review; for instance, the close of the public record following public notice and an opportunity to file written comments), the approval authority finds that:

a. There is substantial evidence that the facility complies with some applicable provisions of this code and such evidence was not rebutted and does not need to be supplemented to resolve disputes;

b. There is not substantial evidence that the facility complies with one or more applicable provisions of this code, or evidence necessary for approval was rebutted or requires augmenting to resolve disputes; and

c. It is likely that the applicant will provide the remaining necessary substantial evidence within six months, the approval authority shall:

i. Issue a written final decision approving the proposed facility in concept that, among other things:

(A) Identifies standards with which the application complies and provide findings and conclusions showing why it complies, based on substantial evidence in the record, and subject to appropriate conditions of approval,

(B) Identifies evidence the applicant must submit to show the proposed facility complies with other applicable provisions of this code, imposes a schedule for its submission, and includes any requirements pursuant to subsection A of this section, and

(C) Describes how that substantial evidence will be reviewed, including any public notice and hearing requirements,

ii. Issues all necessary land use compatibility statements to the applicant or to applicable local, state, or federal agencies.

6. The approval authority shall issue a final decision that denies the application if, after the appropriate review process, it finds that:

a. The record does not contain substantial evidence that the facility complies with all applicable provisions of this code or could comply given the imposition of conditions, in which case the decision shall identify the section(s) about which the record does not contain substantial evidence; or

b. There is more persuasive and at least equally substantial evidence contrary to evidence that the proposed use complies with applicable standards of this code or could comply given the imposition of conditions, in which case the decision shall identify the provisions for which evidence against the facility overwhelmed the evidence in favor; and

c. The applicant declines to supplement the record regarding standards identified pursuant to subsections (D) and (D)(6)(a) and (b) of this section, or it is not likely that substantial evidence necessary to address standards identified pursuant to subsections (D) and (D)(6)(a) and (b) of this section will be available within six months after the date of the decision. (Ord. 93-966 § 3 (part): Ord. 86-851 § 8.303.07)

16.114.080 Conditions of approval and enforcement.

A. The approval authority may approve an application for a facility subject to conditions of approval. Conditions of approval shall be reasonably related to impacts of the facility, the requirements of this code and provisions incorporated herein. In no instance may an approval authority impose as a condition of approval a requirement that a facility be publicly or privately owned. All facilities ap-

proved pursuant to this code shall be subject to a condition requiring that landscaping, air and water quality structures and devices, signs, structures, paved areas, and other features of the facility be maintained in good condition, and that such features be replaced if they fail to survive or are rendered ineffective over time.

B. Conditions of approval may require an applicant to submit a written statement or permit from state or federal agencies responsible for administering a regulation to which the proposed facility is subject, if the record does not contain such a statement or permit.

1. Such a condition may fulfill provisions of code sections relating to noise, odors, ground and surface water, air quality and treatment and storage that the facility comply with state or federal regulations, subject to a further condition that the applicant submit a written statement or permit showing the proposed facility complies with the applicable state or federal regulation before a building permit is issued for the facility; and

2. Such a condition shall require appropriate review and allow modification of the decision and conditions of approval regarding the application if a state or federal permit substantially changes a proposed facility from what was approved by the city in ways relevant to applicable provisions of Section 16.114.090 of this chapter.

C. All facilities approved pursuant to this code shall comply with applicable state and federal regulations as a condition of approval. Approval of a facility pursuant to this code does not preclude imposition of more stringent state or federal regulations adopted after the effective date of this code.

D. Any facility that is required to obtain a franchise or license from the Metropolitan Service District (Metro) shall obtain the franchise or license and provide a copy of it to the city before a building permit is issued for the facility.

E. The city shall enforce the conditions of approval pursuant to Section 16.02.040, Violation--Penalty, of this title. If Metro issues a franchise or license for the facility, the city shall send to Metro a copy of any written correspondence or notices city sends to the applicant regarding enforcement of conditions of approval. Metro may remedy violations of conditions of approval regarding the facility and charge the franchisee or licensee for the cost of such remedial action unless provided otherwise in the franchise or license.

F. The city may periodically conduct a performance review of an approved facility to determine whether it continues to comply with the criteria and standards then applicable and to modify conditions of approval that apply to the facility so that it continues to comply. The approval authority shall specify the time for any performance review. The city may impose a fee for performance review. (Ord. 93-966 §3 (part): Ord. 86-851 § 8.303.08)

16.114.090 Site improvements.

A. Setbacks, Landscaping and Site Design Impacts.

1. The facility shall comply with the setback requirements and height limits of the underlying zone. However, if the facility adjoins a commercial zone, the minimum setback shall be one hundred (100) feet, and if the facility adjoins a residential or open space zone, the minimum setback shall be two hundred (200) feet.

2. Structures, exterior storage and processing areas, and vehicle maneuvering and parking are prohibited in setbacks required pursuant to subsection (A)(1) of this section, except that:

a. The approval authority may reduce the required setback if it finds that a lesser setback will not adversely affect the privacy, use, or visual character of existing uses on adjoining land, based on the scale and design of the use or structure(s), landscaping and buffers, or on the topography, vegetation, or other natural features of the site;

b. Minor building features such as eaves, chimneys, fire escapes, bay windows, uncovered stairs, wheelchair ramps, and uncovered decks no more than three feet above grade may extend up to twenty (20) percent into a required setback;

c. Attached mechanical structures such as heat pumps, air conditioners, emergency generators, and water pumps may extend into a required setback, except adjoining or across a street from an abutting residential zone;

d. Fences, walls, berms, landscaping, access drives, and an entry sign(s) are permitted in the setback; and

e. Notwithstanding the preceding, structures shall be situated so they comply with the Uniform Building Code, state of Oregon Structural Specialty Code, as adopted in Oregon.

3. Exterior building surfaces shall be finished. Metal used on the exterior of the building shall be anodized or painted; galvanized or coated steel shall not be left unpainted.

4. Buildings with walls containing more than two thousand five hundred (2,500) square feet above grade shall incorporate fascias, canopies, arcades, or multiple colors or building materials to break up large wall surfaces visually into areas of one thousand (1,000) square feet or less, unless it would be contrary to the purpose of the wall, such as for retaining earth or for structural support.

5. Attached mechanical structures and roof-mounted equipment shall be screened from ground-level view at adjoining public streets and property zoned residential or open space. Screening may include landscaping, sight-obscuring fencing or other features.

6. The facility shall not cause glare or lights to shine off site in excess of one-half foot-candle onto non-industrial zoned land, based on a written statement certified by a professional engineer.

7. Structures shall not obstruct scenic views or vistas identified in the community development plan, Part 2, although structures may be visible from off site.

8. Major activity areas of the site, such as loading and delivery areas, shall be oriented away from adjoining land zoned for residential or open space uses.

9. At least twenty (20) percent of the facility site shall be landscaped with living vegetation in an appropriate medium, such as yard debris compost. Landscaped areas shall have a permanent irrigation system equipped with automatic controls. Where landscaping is situated in required setbacks or adjoins buildings and other structures, it shall include evergreen species at least six feet above grade at planting and situated not farther apart than the radius of the crown of a mature specimen. The approval authority may waive or reduce the level of landscaping where necessary to allow sight distance for vehicular traffic, to enable views of signs or other features of the facility that should be visible to enhance the function of the facility, or to protect solar access to adjoining property. The approval authority may require larger or more numerous trees where necessary to reduce the potential adverse visual effects of a facility. Existing significant vegetation shall be retained, where feasible, and may substitute for other required vegetation. Landscaping in setbacks and parking lots counts toward the twenty (20) percent.

B. Historic Resource Impacts. The facility shall not adversely affect historic resources listed in the community development plan, Part 2, (or inventory of historic resources adopted by the city). A facility complies with this standard if the site and adjoining land do not contain an identified historic resource and are not in an historic district. If the site or adjoining land contains such a resource, then the applicant shall show the facility design preserves the historic resource character.

C. Operating Impacts.

1. Exterior activities are prohibited between ten p.m. and seven a.m. daily, except that vehicles may continue to enter and exit the site and maintenance may be conducted at all hours if they do not violate applicable provisions of Section 16.120.010, Noise, Section 16.120.020, Vibration, and subsections (A)(6) and (8) and (I)(2) of this section during any hours.

2. For a solid waste transfer station, most solid waste may be stored in an open pit or floor inside a building for up to twenty-four (24) hours or in a sealed container on the site for up to seventy-two (72) hours. Separated recycled materials may be stored on the site for up to thirty (30) days in unsealed containers.

D. Signage Impacts.

1. Signs shall comply with sign regulations of Chapter 16.76 of this title, except as provided herein.

2. If the facility is open to the public, the applicant shall provide a sign(s) at each public entrance to the facility that is clearly legible and visible from the adjoining public road. The sign shall identify the name of the facility, the name and telephone number of the operator, and hours of operation of the facility. The entry sign(s) may be up to thirty-two (32) square feet per side and up to ten feet above grade, unless the zone allows larger signs. Directional information to orient drivers shall be included on the entry sign(s) or on interior signs.

3. A sign(s) describing recommended access routes to the facility, materials accepted, instructions for correct preparation of accepted materials, recycling services, and fees for disposing materials shall be posted at the facility. Signs interior to the site shall be coordinated and consistent in appearance.

4. Signs that use recycled materials, including recycled plastic, are encouraged. Sign quality and appearance shall be appropriate to the character of the area, as determined by the approval authority.

E. Outdoor Storage Impacts.

1. No mixed solid waste or recovered material shall be stored outside in unsealed containers, except:

a. In a landfill or composting facility approved for that purpose;

b. Solid waste or recovered material that is inert; or

c. As otherwise allowed in this subsection E. In all circumstances, outdoor storage of hazardous waste is prohibited.

2. Source-separated materials other than yard debris and wood waste shall be stored in containers in an area enclosed on at least three sides and roofed except that in a rural zone, such materials shall be enclosed on any side visible from adjoining public or private property and roofed.

3. Wood waste, yard debris, and solid waste in sealed containers may be stored outdoors if it complies with the applicable dimensional and design standards. Yard debris shall be removed from the site on at least a weekly basis.

4. Storage areas larger than two cubic yards for recovered materials shall be enclosed.

5. Drop boxes for recyclable materials on the site of a solid waste facility shall be painted and maintained in good repair, situated on a paved surface and emptied before collected items exceed the height of the box or within five days of becoming full. The applicant shall post a notice on any recycling drop box, stating that only domestic recyclable or reusable materials, such as paper, cardboard, glass, tin, aluminum, plastic and clothing are permitted. The notice shall also state that yard debris, appliances, or other large items that may be repairable, recyclable or reusable are prohibited, unless the box is designed for that purpose. The name and telephone number of the operator shall also be posted on the box.

6. Outdoor storage areas shall not be visible when viewed from a height of five feet at the edge of the property, except as provided above. A facility complies with this standard when outdoor storage is enclosed within a sight-obscuring fence, wall, berm, or landscaping at least six feet high, but not more than ten feet high A wood fence is sight-obscuring when attached vertical or horizontal fence boards are separated by not more than one-fourth inch. A metal fence consisting of chain link or woven fabric is sight-obscuring when water and insect resistant wood or plastic slats are inserted in the fence material so they are separated by not more than three-eighths inch. Landscaping is sight-obscuring when it includes evergreen material at least six feet high and not more than two feet on center at planting.

F. Litter Impacts.

1. For purposes of litter control, an area described as the “primary impact area” shall be established around the proposed facility. The primary impact area is the area within which litter and illegally dumped solid waste is presumed to be a result of the presence of a solid waste facility. Illegally dumped waste consists of solid waste in excess of two cubic yards at a given location, and litter includes lesser amounts of solid waste at a given location.

2. The primary impact area shall extend at least one-half mile from the facility boundary along primary routes to the facility, as identified in the traffic study. The approval authority may expand the primary impact area based on specific conditions or if otherwise warranted based on annual review of illegal dumping and litter patterns in the area.

3. Except as specified in subsection (F)(5) of this section, the applicant shall submit to city a plan to eliminate litter in the primary impact area. The plan shall include at least the following:

a. A proposed delineation of the primary impact area;

b. Appropriate gates, signs and other traffic control devices to direct traffic to the facility along approved routes that, to the extent possible, avoid public parks, residential and retail districts and major public attractions;

c. Establishment of a patrol to remove litter along designated routes within the primary impact area on a schedule that, in the opinion of the approval authority, is sufficient to prevent accumulation of litter;

d. Provisions for the removal of illegally dumped waste within the primary impact area within twenty-four (24) hours of discovery;

e. Provisions to make available written information that describes access routes to the facility, fees for wastes permitted at the facility, surcharges for delivery of uncovered loads, if appropriate, and recycling incentives; and

f. For a landfill, a description of measures to be used to minimize blowing of litter from the site, such as periodic application of cover material, spraying with liquid, or use of portable fencing.

4. The facility operator shall be responsible for the cost of collecting, removing and disposing of litter and illegally dumped waste within the primary impact area. In addition, the operator shall take reasonable measures to assist the city in identifying sources of illegal waste. If the city identifies a source of illegal waste, the city may take measures to reimburse the operator for the cost of collection and proper disposal of the waste.

5. The requirements of this subsection F shall not apply to a facility that is not open to the public and receives waste only in sealed containers, or to any facility involved exclusively in recycling.

G. Vector Control Impacts. For any facility where solid waste could sustain or attract rodents or insects, because of the solid waste in question or the environmental characteristics of the site, the applicant shall submit and implement a plan to reduce the potential for rodent and insect propagation using methods designed to minimize nuisance conditions and health hazards.

H. Traffic Circulation and Access.

1. Access requirements for a facility shall be based on the number and type of vehicle trips generated by the facility. The number of trips generated per day shall be based on the most recent version of the Trip Generation Manual of the Institute of Traffic Engineers, except that the applicant may submit a trip generation study certified by a professional traffic engineer of other similar facilities as the basis for trip generation by the proposed facility. If a proposed facility is not listed in the Trip Generation Manual and a trip generation study of other similar facilities is not available, then the number and type of vehicle trips generated by the proposed facility shall be based on the figures for the use most similar to the proposed facility for which the Trip Generation Manual contains data.

2. The applicant shall identify designated routes for vehicular traffic generated by the proposed facility and shall provide written information to facility users describing and promoting use of those routes. Designated routes shall be selected to minimize traffic on non-arterial streets and shall not include streets in residential zones if nonresidential streets provide access.

3. For a facility that generates more than two hundred (200) vehicle trips per day, the applicant shall submit a traffic study by a professional traffic engineer that shows the facility will not cause traffic volumes that exceed the capacity of the street based on the capacity assumptions of the transportation master plan of the city, or that cause any intersection affected by that traffic to have a Level of Service E. If the proposed facility will cause street capacity to be exceeded or create a Level of Service E at any intersection, the applicant shall propose street modifications acceptable to the city to meet the requirements of this subsection. Unless otherwise provided by agreement with the city, all expenses related to street improvements necessitated by the proposed facility shall be borne by the applicant.

4. A facility in an urban zone shall provide for a deceleration/turn lane at proposed access points to separate facility-bound traffic from other traffic if deemed warranted by the traffic study required in subsection (I)(3) of this section. The lane shall accommodate at least two stacked vehicles and shall taper at a ratio of not less than twenty-five (25) in one to match the standard roadway width.

I. Odor Impacts.

1. The applicant shall demonstrate that the facility meets the requirements of Chapter 16.124 of this title and:

a. Will incorporate the best practicable design and operating measures to reduce the potentials or odors detectable off-site from such things as waste stored or being processed on site, spillage of waste, venting of dust, residual amounts of waste in operating areas of the site, and vehicle odors in stacking, maneuvering and staging areas; and

b. Will not cause unusual or annoying odors, considering the density of the surrounding population, the duration of the emissions, and other factors relevant to the impact of such emissions.

2. Open burning of solid waste will not be allowed unless:

a. Open burning is consistent with standards of the DEQ; or

b. The facility is outside the area where open burning is banned, and a permit is not required by DEQ.

J. Ground and Surface Water Impacts.

1. The applicant shall demonstrate that the facility will:

a. Collect all waste water from production, washing down of equipment and vehicles, and similar activities and discharge the water to a public sanitary sewer if:

i. The sewer adjoins or can be extended to the site based on applicable rules of the sewer service provider, and

ii. The sewer has the capacity to accommodate waste water from the facility as determined by the sewer service provider or by a professional civil engineer; or

b. Incorporate an alternative sanitary waste disposal method that is or will be approved by DEQ; or

c. Incorporate an alternative waste disposal method that is consistent with applicable water quality standards and will not cause drinking water supplies to violate applicable water quality standards; or

d. Not generate waste water, and will divert and/or contain storm water so that it does not enter solid waste on the site.

2. Prior to construction of the facility, the applicant shall obtain all required permits relating to discharges of waste water and storm water from the facility. The operator of the facility shall comply with all directives of state and federal agencies related to protection of ground and surface water resources potentially affected by the facility.

3. At the request of the approval authority, the applicant shall submit to the approval authority copies of any groundwater self-monitoring programs and analyses of potential surface and groundwater impacts related to the facility that area required to be submitted to the DEQ.

4. At the request of the approval authority, an applicant for a landfill, mixed waste compost facility, wood waste recycling facility, yard debris depot or processing facility shall submit copies of its leachate collection and treatment plan and program prepared by a professional civil engineer for submittal to the DEQ, if one has been required by the DEQ.

5. An applicant for a household hazardous waste depot, hazardous waste treatment and storage facility, material recovery facility, solid waste depot or transfer station shall submit and implement a plan and program prepared by a professional civil engineer to collect, pretreat and dispose waste water from the floor or operating area of such facility and to prevent surface water from mixing with solid waste spills.

6. The applicant shall submit and implement a plan prepared by a professional civil engineer to reduce the amount of waste water caused by hosing down equipment, tipping areas, platforms and other facility features, such as by using high pressure/low flow washing systems, compressed air or vacuum equipment for cleaning.

7. The applicant shall submit and implement a plan prepared by a professional civil engineer or landscape architect to collect storm water from all impervious areas of the site and to properly manage storm water. The applicant shall comply with state and federal regulations governing storm water discharges, and obtain required storm water discharge permits in a timely fashion. To the extent consistent with a storm water discharge permit issued for the facility, storm water shall be managed in the following manner:

a. Storm water disposal shall comply with the storm drainage master plan of the city.

b. If a storm sewer with adequate capacity is not available, the applicant shall:

i. Retain storm water on site; and/or

ii. Detail storm water on-site and discharge it from the site at no greater rate than before development of the facility; or

iii. Discharge storm water at full rate to public drainage features, such as a roadside ditch or regional drainage facility, if there is adequate capacity to accommodate it as determined by a professional civil engineer or landscape architect. If discharging water at full rate would exceed the capacity of downstream drainage features, the applicant shall:

(A) Provide a detention pond or ponds to contain water in excess of the system's capacity, and/or

(B) Identify improvements to downstream drainage features necessary to accommodate the increased volume or rate of flow without adversely affecting adjoining property and either:

(1) Provide such improvements before operation of the facility, or

(2) Contribute necessary funds to the city and Unified Sewerage Agency so that the city and Unified Sewerage Agency can undertake such improvements,

(C) If off-site improvements are required to accommodate storm water from the site, prior to issuance of a building permit for the facility, the applicant, the city and Unified Sewerage Agency shall execute an agreement to pay back the applicant for the cost of improvements to the extent those improvements exceed the storm drainage needs generated by the facility.

8. Except as otherwise provided by the storm drainage master plan of the city and Unified Sewerage Agency the collection and disposal system shall be sized to accommodate peak flows from a twenty-five (25) year storm event, based on the flow from the area that includes the site and the basin that drains onto it, assuming permitted development of that area, as determined by a professional civil engineer or landscape architect.

9. Before storm water is discharged from the site or into the ground, the applicant will direct it through features to remove sediment, grease and oils, and water soluble materials in the water. Such features shall comply with the storm drainage standards of the city and Unified Sewerage Agency.

10. The applicant shall submit and implement a plan prepared by a professional civil engineer or landscape architect to reduce the potential for erosion along natural and constructed drainageways and across slopes during and after construction.

11. For a landfill, the approval authority may require that the applicant submit a copy of its closure plan as prepared for submittal to the DEQ.

K. Methane Gas Impacts.

1. The applicant shall submit a statement from a professional engineer that the facility will not generate significant quantities of methane gas emissions; or

2. The applicant shall submit and implement a methane gas control program prepared by a professional engineer that describes how:

a. The facility will not generate methane gas in excess of twenty-five (25) percent of the lower explosive limit for methane in facility structures or in excess of the lower explosive limit at the facility boundary,

b. The gas shall be collected and vented, incinerated, or put to or prepared for a productive use, and

c. Methane will be measured in structures and at the facility boundary, consistent with applicable DEQ standards.

L. Air Quality Impacts. A facility shall not cause detrimental air quality impacts. A facility complies with this standard if the applicant obtains all required air contaminant discharge permits and the facility is operated in conformance with Chapter 16.120 of this title and all applicable DEQ air quality standards and requirements.

M. Treatment and Storage Facilities (Hazardous Waste). The applicant for a proposed treatment and storage facility shall comply with Oregon Administrative Rules Chapter 340, Division 120, and any other applicable state or federal law, by obtaining all state and federal permits necessary for operation of the facility. (Ord. 93-966 § 3 (part): Ord. 86-85 1 § 8.303.09)

Chapter 16.116

PARKS AND OPEN SPACE

Sections:

16.116.010 Purpose.
16.116.020 Multifamily developments.
16.116.030 Visual corridors.
16.116.040 Density transfer and park reservation.
16.116.050 Trees along public streets or on other public property.
16.116.060 Trees on property subject to certain land use applications.

16.116.010 Purpose.

This chapter is intended to assure the provision of a system of public and private recreation and open space areas and facilities consistent with this code and applicable portions of Chapter 5 of the community development plan. (Ord. 86-851 § 8.304.01)

16.116.020 Multifamily developments.

A. Standards. Except as otherwise provided, recreation and open space areas shall be provided in new multifamily residential developments to the following standards:

1. Open Space A minimum of twenty (20) percent of the site area shall be retained in common open space. Required yard, parking, or maneuvering areas may not be substituted for open space.

2. Recreation Facilities. A minimum of fifty (50) percent of the required common open space shall be suitable for active recreational use. Recreational spaces shall be planted in grass or otherwise suitably improved. A minimum area of eight hundred (800) square feet and a minimum width of fifteen (15) feet shall be provided.

3. Minimum Standards. Common open space and recreation areas and facilities shall be clearly shown on site development plans and shall be physically situated so as to be readily accessible to and usable by all residents of the development.

4. Terms of Conveyance. Rights and responsibilities attached to common open space and recreation areas and facilities shall be clearly specified in a legally binding document which leases or conveys title, including beneficial ownership to a home association, or other legal entity. The terms of such lease or other instrument of conveyance must include provisions suitable to the city for guaranteeing the continued use of such land and facilities for its intended purpose, continuity of property maintenance; and, when appropriate, the availability of funds required for such maintenance and adequate insurance protection. (Ord. 86-85 1 §8.304.03)

16.116.030 Visual corridors.

A. Corridors Required. New developments with frontage on Highway 99W, or arterial or collector streets designated on the transportation plan map, attached as Appendix C, or in Section VI of the community development plan, shall be required to establish a landscaped visual corridor according to the following standards:

Category	Width
Highway 99W	25 feet
Arterial	15 feet
Collector	10 feet

In residential developments where fences are typically desired adjoining the above described major streets, the corridor may be placed in the road right-of-way between the property line and the sidewalk.

B. Landscape Materials. The required visual corridor areas shall be planted as specified by the commission to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section 16. 1 16.050 of this chapter, shall be planted in the corridor by the developer. The improvements shall be included in the subdivision compliance agreement.

C. Establishment and Maintenance. Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Chapter 16.68 of this title. To assure continuous maintenance of the visual corridors, the commission may require that the development rights to the corridor areas be dedicated to the city or that restrictive covenants be recorded prior to the issuance of a building permit.

D. Required Yard. Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited or trees be removed from within the required visual corridor.

E. Pacific Highway 99W Visual Corridor. At the time of development or redevelopment, property with frontage on Pacific Highway 99W zoned residential or office commercial shall provide the following landscape improvements, in addition to subsections A through D of this section:

1. Provide a landscape plan for the highway median paralleling the subject frontage. In order to assure continuity, appropriate plant materials and spacing, the plan shall be coordinated with the city planning department and ODOT;

2. Provide a visual corridor landscape plan with a variety of trees and shrubs. Fifty (50) percent of the visual corridor plant materials shall consist of groupings of at least five native evergreen trees a minimum of ten feet in height each, spaced no less than fifty (50) feet apart. Deciduous trees shall be a minimum of four inches DBH and twelve (12) feet high, spaced no less than twenty-five (25) feet apart. (Ord. 00-1103 § 3 (part); Ord. 86-851 §8.304.04)

16.116.040 Density transfer and park reservation.

A. Density Transfer.

1. When a proposed development includes lands designated on the natural resources and recreation plan map, attached as Appendix C, or in Chapter 5 of the community development plan, for the uses specified in this chapter, density transfers may be authorized to other portions of the site in exchange for the dedication of those lands.

2. Residential densities as a result of density transfers shall not exceed the maximum allowed for the zone in which the development is proposed, as measured against the area of the site prior to dedication.

3. Nonresidential densities shall as a result of density transfers not exceed eighty (80) percent building coverage on buildable portions of the site.

4. Density transfers shall be allowed only when the portion of the site to which density is transferred can accommodate the additional density without causing undue adverse effects on the surrounding area, including public facilities and services, and is otherwise compatible with the applicable zoning district, as determined by the city.

B. Park Reservations. Areas designated on the natural resources and recreation plan map, attached as Appendix C, or in Chapter 5 of the community development plan, which have not been dedicated pursuant to this chapter and Section 16.108.020(B) of this title, may be required to be reserved upon the recommendation of the city parks board, for purchase by the city within a period of time not to exceed three years. (Ord. 86-851 § 8.304.05)

16.116.050 Trees along public streets or on other public property.

A. Trees Along Public Streets. Trees are required to be planted by the land use applicant to the following specifications along public streets abutting or within any new development. Planting of such trees shall be a condition of development approval. The city shall be subject to the same stand-

ards for any developments involving city-owned property, or when constructing or reconstructing city streets.

1. Tree Location. On private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines. The land use applicant may, at their option, provide for a minimum four foot deep continuous planter strip between curb and sidewalk for the purposes of street tree planting. The city may grant a corresponding reduction in right-of-way or street width, or equivalent on-street parking requirements.

2. Tree Size. A minimum trunk diameter of two inches DBH and minimum height of six feet.

3. Tree Spacing. A minimum of one tree for every twenty-five (25) feet of public street frontage, or two trees for every buildable lot, whichever yields the greater number of trees. Double fronting lots shall have a minimum of one street tree for every twenty-five feet of frontage. Corner lots shall have a minimum of three street trees.

4. For minor arterial and major collector streets, the city may require planted medians in lieu of paved twelve foot wide center turning lanes, planted with trees to the specifications of subsection A of this section.

5. Tree Types. As per Table 16.116.050 of this chapter.

B. Prohibited Trees and Shrubs.

1.Poplar, conifer, cottonwood, willow, ailanthus, any other native tree species, and fruit and nut trees, are prohibited along public streets as such trees tend to grow in such manner as to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same.

2. Poplar, cottonwood, and willow trees are prohibited on other public or private property not along public streets, when, in the city's determination, such trees may tend to interfere with or damage public streets and utilities, or cause an unwarranted increase in the maintenance costs of same. English ivy, holly and Himalayan blackbemes are also prohibited on public property.

C. Removal and Cutting of Trees.

1. For the purposes of this section, "removal and cutting" shall be defined as the falling or removal of a tree, or any other deliberate action by any person, the natural result of which is to cause the death or substantial destruction of the tree. Prohibited removal and cutting activities do not include normal trimming or pruning when done in accordance with generally accepted arborcultural practices. The authorizations required by subsection C of this section shall not apply to any removal or cutting associated with development activities authorized by the land use approvals contemplated by Section 16.116.060 of this chapter. Subsection C of this section shall only govern the removal or cutting of trees along public streets or of trees and woodlands on public property not part of a land use application.

2. Any tree located on public property or along public streets, as per this chapter, shall not be subsequently removed or cut without the authorization of the parks advisory board, unless removal or cutting is necessitated by the tree:

a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees; or

b. Obstructing public ways or sight distance so as to cause a safety hazard; or

c. Interfering with or damaging public or private utilities; or

d. Being defined as a nuisance as per city nuisance abatement ordinances; or

e. Otherwise becoming a hazard to life or property, in the city's determination.

3. All requests for authorization to remove or cut trees or woodland shall be made in writing stating the reasons and circumstances necessitating said removal or cutting. The parks advisory board shall consider the request in open session at any duly convened board meeting. Any board authorization for the removal and cutting of such trees or woodlands shall be made in writing, setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in city records, as per other notices of decision required by this code. Any tree or woodland removed as per this section shall be replaced with a new tree or trees selected from Table 16.116.050 of this chapter. The party initiating the request for tree or woodland removal shall be responsible for all costs of said replacement, including installation. This section shall apply to any party requesting tree or woodland removal or cutting, including the city.

4. In the specific circumstances listed in subsection (C)(2) of this section only, the city manager or his or her designee may administratively authorize the immediate removal of such trees or woodlands without parks advisory board review. Any administrative authorization for the removal or cutting of such trees or woodlands shall be made in writing setting out the reasons for the removal or cutting, and any limitations or conditions attached thereto. Such written authorization shall be issued to the party requesting the removal or cutting, and maintained in city records as per other notices of decision required by this code. Any tree or woodland removed as per this section shall be replaced with a new tree or trees selected from Table 16.116.050 of this chapter. The party initiating the request for tree or woodland removal shall be responsible for all costs of said replacement, including installation. This section shall apply to any party requesting tree or woodland removal or cutting, including the city.

D. Trees on Private Property. Any tree, woodland or any other vegetation located on private property, regardless of species or size, that interferes with or damages public streets or utilities, or causes an unwarranted increase in the maintenance costs of same, may be ordered removed or cut by the city manager or his or her designee without parks advisory board review. Any order for the removal or cutting of such trees, woodlands or other vegetation, shall be made and processed as per applicable city nuisance abatement ordinances.

B. Penalties. The abuse, destruction, defacing, cutting, removal, mutilation or other misuse of any tree planted on public property or along a public street as per this section, shall be subject to the penalties defined by Section 16.02.040 of this title and other penalties defined by applicable ordinances and statutes, provided that each tree so abused shall be deemed a separate offense. (Ord. 94-991 § 1 (part): Ord. 92-943 § 3 (part): Ord. 86-851 § 8.304.06)

Table 16.116.050

STREET TREES

Recommended Street Trees

Acer - Maple

Acer platanoides cavalier - Cavalier Norway Maple
- p. cleveland - Cleveland Norway Maple
- p. cleveland - Cleveland II Norway Maple
- p. columnare - Columnar Norway Maple
- p. fairway - Fairway Sugar Maple
- p. olmsted - Olmsted Norway Maple
- p. summershade - Summershade Maple

Acer rubrum red sunset - Red Sunset Maple (Old Town)
- r. royal red - Royal Red Maple
- r. gerling - Gerling Red Maple
- r. tilford - Tilford Red Maple

Carpinus - Hornbeam
- Carpinus betulus pyramidals - Pyramidal European Hornbeam
- b. columnaris - Pyramidal European Hornbeam
- b. fastigiata - Pyramidal European Hornbeam

Cercidiphyllum - Katsura Tree
- c. japonicum - Katsura Tree

Cercix, canadenis - Canadian Red Bud

Fraxinus - Ash
- americana - White Ash
- americana - Autumn Purple Ash
- angustifolia dr. pirone - Dr. Pirone Ash
- oxycarpa flame - Flame Ash
- raywoodi - Raywood Ash
- latifolia - Oregon Ash

Ginkgo
- bilboa - Maidenhair Tree
- bilboa - Autumn Gold
- bilboa - Fairmount

Gleditsia
- triacanthos sunburst - Honey Locust

Liquidamber

styraciflua - American Sweetgum

Liriodenrod
tulipifera - Tulip Tree

Magnolia
grandiflora vars - Evergreen Magnolia
grandiflora - Southern Magnolia
kobus dr. merrill - Dr. Merrill Magnolia

Platanus
aceriflora - London Plane Tree

Purnus - Cherry - Plum
avium plena - Double Flowering Cherry
avium scanlon - Scanlon Globe Cherry
serrulata vars (nonweeping) - Japanese Cherry
okame - Okame Cherry
blireana - Blireana Plum
cerasifera newport - Newport Plum
pissardi - Pissardi Plum
thundercloud - Thundercloud Plum
vesuvius - Krauter’s Vesuvius Plum
maacki - Amur Chokecherry
serrula - Redbark Cherry
padus alterti - Alberti Cherry
spaethi - Spaethi Cherry
virginiana var. mellanocarpa canada red - Chokecherry
padus - European Birdcherry
grandiflora - Bigflowered Birdcherry
berg - Rancho Birdcherry
purpurea - Purpleleaf Birdcherry

Quercus
palustris - Pin Oak
rubra - Red Oak

Tilia - Linden
americana - American Linden
cordata - Little Leaf Linden
glenleven - Glenleven Linden
redmond - Redmond Linden

euchlora - Crimean Linden
tomentosa - Silver Linden
bicentennial - Bicentennial Linden
greenspire - Greenspire Linden
salem - Salem Linden

Recommended Trees Under Power Lines

Acer ginnala -- Amur Maple
Acer campestre -- Hedge Maple
Acer palmatum -- Japanese Maple
Acer griseum -- Paperbark Maple
Acer circinatum -- Vine Maple
Amelanchier x grandiflora -- Apple Serviceberry
Amelanchier canadensis -- Shadblow Serviceberry
Cercis canadensis -- Eastern Redbud
Clerodendrum trichotomum -- Glorybower Tree
Cornus florida -- Flowering Dogwood
Cornus kousa -- Japanese Dogwood
Crataegus phaenopyrum -- Washington Hawthorn
Crataegus x lavallei -- Lavelle Hawthorn
Fraxinus excelsior globosum -- Globe-Headed European Ash
Fraxinus ornus -- Flowering Ash
Fraxinus oxycarpa aureopolia -- Golden Desert Ash
Koelreuteria paniculata -- Goldenrain Tree
Laburnum x waterii -- Golden Chain Tree
Malus -- Flowering Crabapple
Prunus -- Flowering Cherry
Pyrus calleryana -- Flowering Pear “Cleveland Select”
Styrax japonica -- Japanese Snowbell
Syringa reticulata -- Japanese Tree Lilac

Prohibited Street Trees

Acer, Silver Maple
Acer, Boxelder
Ailanthus, gladulosa - Tree-of-heaven
Betula; common varieties of Birch
Ulmus; common varieties of Elm
Morus; common varieties of Mulberry
Salix; common varieties of willow

Coniferous Evergreen (Fir, Pine, Cedar, etc.) (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 92-943 § 3 (part): Ord. 86-851 Appx. J)

16.116.050

16.116.060 Trees on property subject to certain land use applications.

A. Generally. The purpose of this section is to establish processes and standards which will minimize cutting or destruction of certain trees and woodlands within the city. This chapter is intended to help protect the scenic beauty of the city; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

1. All planned unit developments subject to Chapter 16.36 of this title, site developments subject to Section 16.68.020 of this title, and subdivisions subject to Chapter 16.96 of this title, shall be required to preserve trees or woodlands, as defined by this section to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the city comprehensive plan, as determined by the city. This section shall not apply to any PUD, site development or subdivision, or any subdivision phase of any PUD, having received an approval by the commission prior to the effective date of Ordinance No. 94-991, except for subsection (C)(5) of this section, which shall apply to all building permits issued after the effective date of that ordinance.

2. For the inventory purposes of this section, a tree is a living woody plant having a trunk diameter as specified below at four and one-half feet above mean ground level at the base of the trunk, also known as diameter breast height (DBH). Trees planted for commercial agricultural purposes, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this section, as are any living woody plants under five inch DBH.

a. Douglas fir, ponderosa pine, western red cedar, white oak, big leaf maple, American chestnut: ten inches or greater;

b. All other tree species: five inches or greater. In addition, any trees of any species of five inch or greater DBH that are proposed for removal as per the minimally necessary development activities defined in subsection (C)(3) of this section shall be inventoried.

3. For the inventory purposes of this section, a woodland is a biological community dominated by trees covering a land area of twenty thousand (20,000) square feet or greater at a density of at least fifty (50) trees per every twenty thousand (20,000) square feet with at least fifty (50) percent of those trees of any species having a five inch or greater DBH. Woodlands planted for commercial agricultural purposes, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this section.

B. Tree and Woodland Inventory.

1. To assist the city in making its determinations on the retention of trees and woodlands, the land use applications referenced in subsection A of this section shall include a tree and woodland inventory and report, in both map and narrative form, addressing the standards in subsection C of this section, and a written report by an arborist, forester, landscape architect, botanist, or other qualified professional, as determined by the city, that generally evaluates the nature and quality of the existing trees and woodlands on the site and also provides information as to the extent and methods by which

trees and woodlands will be retained. The inventory shall include a resume detailing the qualified professional's applicable background and experience. The city may also require the submission of additional information as per Section 16.110.030 of this title.

2. In addition to the general requirements of this section, the tree and woodland inventory's mapping and reports shall include, but are not limited to, the following specific information. Mapping shall include a composite map, illustrating as much required information as possible while retaining map readability:

a. The location of the property subject to the land use application and tree and woodland inventory, including street addresses, assessors' map and tax lot numbers, and a vicinity map;

b. Mapping indicating the location of trees and woodlands, as defined by subsections (A)(2) and (A)(3) of this section. Mapping shall include typical tree root zones, given tree species, size, condition and location. For any woodland, inventory data and mapping is required only for the group, rather than on a tree by tree basis;

c. Mapping and other inventory data shall include, but is not limited to, the boundaries and/or types of soils, wetlands, and floodplains underlying the tree or woodland; site hydrology, drainage, and slope characteristics; the condition, density, form, root zone and aspect of the tree or woodland, including in the case of a woodland, associated understory;

d. Mapping and other inventory data shall be of sufficient detail and specificity to allow for field location of trees and woodlands by the city, and shall include but is not limited to, existing and proposed property lines, topography at the intervals otherwise specified for the type of land use application being considered, and any significant manmade or natural features that would tend to aid in such field location;

e. The number, size, species, condition, and location of trees and woodlands proposed for removal, the timing and method of such removal, and the reason(s) for removal;

f. The number, size, species, condition, and location of trees and woodlands proposed for retention, and the methods by which such trees and woodlands shall be maintained in a healthy condition both during and subsequent to development activity;

g. Proposed mitigation and replacement efforts as per subsection D of this section, including a description of how proposed replacement trees will be successfully replanted and maintained on the site.

C. Tree and Woodland Retention.

1. The commission, or in the case of planned unit developments (PUD), the council acting on the commission's recommendation, shall make findings identifying all trees and woodlands, or additional trees not inventoried, that merit retention. Alternatively, the city may require planting of new trees in lieu of retention as per subsections (D)(1) through (D)(3) of this section, or acquire said trees and woodlands as per subsection (D)(4) of this section. Prior to making any such determinations or recommendations, the commission and council shall receive and consider the recommendations of the city parks advisory board. Special consideration shall be given in making these determinations to the retention of replanting of trees native to the Willamette Valley and Western Oregon, except in areas where such trees are prohibited as per Section 16.116.050B of this chapter.

2. To require retention of trees or woodlands as per subsection B of this section, the commission or council must make specific findings that retention of said trees or woodlands furthers the purposes

and goals of this section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the city comprehensive plan, and are:

a. Within a significant natural area, one hundred (100) year floodplain, city greenway, jurisdictional wetland or other existing or future public park or natural area designated by the city comprehensive plan; or

b. A landscape or natural feature as per applicable policies of the city comprehensive plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes; or

c. Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Unified Sewerage Agency stormwater management plans and standards or the city comprehensive plan; or

d. Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways; or

e. Otherwise merit retention because of unusual size, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the city.

3. In general, the city shall permit only the removal of trees, woodlands, and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the land use application under consideration. For the development of PUDs and subdivisions, minimally necessary activities will typically entail tree removal for the purposes of constructing city and private utilities, streets, and other infrastructure, and minimally required site grading necessary to construct the development as approved. For site developments, minimally necessary activities will typically entail tree removal for the purposes of constructing city and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and city required site improvements such as driveways and parking lots.

4. The notice of decision issued for the land use applications subject to this chapter shall indicate which trees and woodlands will be retained as per subsection (C)(2) of this section, which may be removed or shall be retained as per subsection B of this section, and which shall be mitigated as per subsection D of this section, and any limitations or conditions attached thereto. The applicant shall prepare and submit a final tree and woodland plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or mitigated as per the notice of decision. Such plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments excavation techniques, temporary drainage systems, and like methods.

5. At the time of building permit issuance for any development of a site containing trees or woodlands identified as per subsection C of this section, the building official shall permit only the removal of trees, woodlands and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the building permit application under consideration. The permit shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. Minimally necessary activities will typically entail tree removal for the purposes of construction of city and private

utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and city required site improvements such as driveways and parking lots. A fee for this inspection shall be established as per Section 16.48.060A of this title, provided however that said inspection is not deemed to be a land use action.

6. When a tree or woodland within an approved site plan, subdivision or planned unit development subsequently proves to be so located as to prohibit the otherwise lawful siting of a building or use, retention of said trees or woodlands may be deemed sufficient cause for the granting of a variance as per Chapter 16.60 of this title, subject to the satisfaction of all other applicable criteria in Chapter 16.60 of this title.

7. All trees, woodlands, and vegetation located on any private property accepted for dedication to the city for public parks and open space, greenways, significant natural areas, wetlands, floodplains, or for storm water management or for other purposes, as a condition of a land use approval, shall be retained outright, irrespective of size, species, condition or other factors. Removal of any such trees, woodlands, and vegetation prior to actual dedication of the property to the city shall be cause for reconsideration of the land use plan approval.

D. Mitigation.

1. The city may require mitigation for the removal of any trees and woodlands identified as per subsection C of this section, if, in the city's determination, retention is not feasible or practical within the context of the proposed land use plan or relative to other policies and standards of the city comprehensive plan. Such mitigation shall not be required of the applicant when removal is necessitated by the installation of city utilities, streets and other infrastructure in accordance with adopted city standards and plans. Provided, however, that the city may grant exceptions to established city street utility and other infrastructure standards in order to retain trees or woodlands if, in the city's determination, such exceptions will not significantly compromise the functioning of the street, utility or other infrastructure being considered. Mitigation shall be in the form of replacement by the planting of new trees.

2. Replacement trees required as part of mitigation as per this chapter shall, as determined by the city, be generally of a substantally similar species, size and quantity to those trees proposed for removal, taking into account soils slopes, hydrology, site area, and other relevant characteristics of the site on which the mitigation is proposed. In consideration of the foregoing factors the city may require replacement trees to be replanted at greater than a 1 : 1 ratio. Exotic or nonnative trees shall generally be replaced with species native to the Willamette Valley or Western Oregon, except where such native trees are prohibited by Section 16.116.050(B)(2) of this chapter. Said replacement trees shall be in addition to trees along public streets required by Section 16.116.050A of this chapter. Standards for trees along public streets may be different than those for trees required for retention or replacement under this chapter.

3. If replacement trees of the species, size or quantity being removed are not available, or cannot be successfully replanted due to soils, slopes, hydrology, site area, or other relevant characteristics of the site, the city many require:

a. Different species of trees to be submitted; or

b. Replacement trees to be planted on another, more suitable site within the city; or

c. Cash payments equivalent to the fair market value of the otherwise required replacement trees, including estimated installation costs, said payments to be set aside by the city in a dedicated fund for eventual purchase and planting of trees when suitable sites become available.

4. The commission may also make recommendation to the council, based on the recommendation of the parks advisory board, that trees or woodlands identified as per this chapter be purchased by the city, if such trees cannot otherwise be retained as part of the proposed land use plan, obtained as a parks and open space or other dedication to the city, or otherwise be mitigated as per subsection D of this section.

E. Penalties. Violations of this section shall be subject to the penalties defined by Section 16.02.040 of this title, provided that each designated tree or woodland unlawfully removed or cut shall be deemed a separate offense. (Ord. 86-851 § 8.304.07)

Chapter 16.118

WETLAND, HABITAT AND NATURAL AREA STANDARDS

Sections:

16.118.010 Generally.
16.118.020 Standards.

16.118.010 Generally.

Unless otherwise permitted, residential, commercial, industrial, and institutional uses in the city shall comply with the following wetland, habitat and natural area standards if applicable to the site as identified on the city's wetland inventory and the comprehensive plan natural resource inventory. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 86-851 § 8.305.01)

16.118.020 Standards.

A. The applicant shall identify and describe the significance and functional value of wetlands on the site and protect those wetlands from adverse effects of the development. A facility complies with this standard if it complies with the criteria of subsections (A)(1)(a) and (A)(1)(b) of this section:

1. The facility will not reduce the area of wetlands on the site, and development will be separated from such wetlands by an area determined by the Unified Sewerage Agency's Design and Construction Standards R&O 00-7 or its replacement, provided Section 16.114.090(A) of this title does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the following among other means:

a. A natural condition such as topography, soil, vegetation or other feature isolates the area of development from the wetland;

b. Impact mitigation measures will be designed, implemented, and monitored to provide effective protection against harm to the wetland from sedimentation, erosion, loss of surface or ground water supply, or physical trespass;

c. A lesser setback complies with federal and state permits, or standards that will apply to state and federal permits, if required.

2. If existing wetlands are proposed to be eliminated by the facility, the applicant shall demonstrate that the project can, and will develop or enhance an area of wetland on the site or in the same drainage basin that is at least equal to the area and functional value of wetlands eliminated.

B. The applicant shall provide appropriate plans and text that identify and describe the significance and functional value of natural features on the site (if identified in the community development plan, Part 2) and protect those features from impacts of the development or mitigate adverse effects that will occur. A facility complies with this standard if:

1. The site does not contain an endangered or threatened plant or animal species or a critical habitat for such species identified by federal or state government (and does not contain significant natural features identified in the community development plan, Part 2, natural resources and recreation plan).

2. The facility will comply with applicable requirements of the zone.

3. The applicant will excavate and store topsoil separate from subsurface soil, and shall replace the topsoil over disturbed areas of the site not covered by buildings or pavement or provide other appropriate medium for re-vegetation of those areas, such as yard debris compost.

4. The applicant will retain significant vegetation in areas that will not be covered by buildings or pavement or disturbed by excavation for the facility; will replant areas disturbed by the development and not covered by buildings or pavement with native species vegetation unless other vegetation is needed to buffer the facility; will protect disturbed areas and adjoining habitat from potential erosion until replanted vegetation is established; and will provide a plan or plans identifying each area and its proposed use.

5. Development associated with the facility will be set back from the edge of a significant natural area by an area determined by the Unified Sewerage Agency's Design and Construction Standards R&O 00-7 or its replacement, provided Section 16.114.090(A) does not require more than the requested setback. Lack of adverse effect can be demonstrated by showing the same sort of evidence as in subsection (A)(1) of this section. (Ord. 01-1119 § 1 (Exh. A)(part): Ord. 00-1092 § 3 (part); Ord. 93-966 § 3 (part): Ord. 86-851 § 8.305.02)

Chapter 16.120

NOISE AND VIBRATION STANDARDS

Sections:

16.120.010 Noise.
16.120.020 Vibration.

16.120.010 Noise.

A. All otherwise permitted commercial, industrial 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.

B. 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:

1. 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.

2. 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.

3. If the use exceeds applicable noise standards as per subsection (B)(2) 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.

C. Exceptions. This section 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, flightpaths or other routes. This section also does not apply to noise produced by humans or animals. Nothing in this section shall preclude the city from abating any noise problem as per applicable city nuisance and public safe ordinances. (Ord. 87869 § 4; Ord. 86-851 §§8.306--8.306.03)

16.120.020 Vibration.

A. Generally. All otherwise permitted commercial, industrial and institutional uses shall not cause discernable vibrations that exceed a peak of 0.002 gravity at the property line of the originating use, except for vibrations that last five minutes or less per day, based on a certification by a professional engineer.

B. Exceptions. This section 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, flightpaths or other routes. Nothing in this section shall preclude the city from abating any vibration problem as per applicable city nuisance and public safety ordinances. (Ord. 86-851 §§ 8.307--8.307.02)

Chapter 16.122

AIR QUALITY

Sections:

16.122.010 Generally.
16.122.020 Proof of compliance.

16.122.030 Exceptions.

16.122.010 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 34-021-060.

B. Incinerators, if otherwise permitted by Section 16.114.020 of this title, shall comply with the standards set forth in OAR 34025850 through 340-25-905.

C. Uses for which a state air contaminant discharge permit is required as per OAR 340-028-1700 through 340-028-1730 shall comply with the standards of OAR 340-028-1900 through 340-028-2000. (Ord. 98-1049 § 8; Ord. 86-851 § 8.308.01)

16.122.020 Proof of compliance.

Proof of compliance with air quality standards as per Section 16.122.010 of this chapter 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. 86-85 1 § 8.308.02)

16.122.030 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. 86-851 § 8 308 03)

Chapter 16.124

ODORS, HEAT AND GLARE

Sections:

16.124.010 Odors.
16.124.020 Heat and glare.

16.124.010 Odors.

A. 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 discernable at any point beyond the boundaries of the development site.

B. 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 char-

acteristics of surrounding populations and uses, the duration of any odorous emissions, and other relevant factors.

C. Exceptions. Nothing in this section shall preclude the city from abating any odor problem as per applicable city nuisance and public safety ordinances. (Ord. 86-851 §§ 8.309--8.309.03)

16.124.020 Heat and glare.

A. 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 foot candle when adjoining properties are zoned for residential uses.

B. Exceptions. Nothing in this section shall preclude the city from abating any heat and glare problem as per applicable city nuisance and public safety ordinances. (Ord. 93-966 §3 (part): Ord. 86-851 §§ 8.310, 8.310.01)

Chapter 16.126

ENERGY CONSERVATION

Sections

16 126 010 Purpose.
16 126 020 Standards.
16.126.030 Variance to permit solar access

16.126.010 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. 86- 851 § 8.311.01)

16.126.020 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 nine a.m. and three p.m. 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. 86-851 §8.311.02)

16.126.030 Variance to permit solar access.

Variances from zoning district standards relating to height, setback and yard requirements, approved as per Chapter 16.60 of this title, 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. 86-851 § 8.311.03)

Division IX. Historic Resources

Chapter 16.128

GENERAL PROVISIONS

Sections:
16.128.010 Purpose.

16.128.010 Purpose.

Division IX 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 and activities on the quality of the city's historic and cultural resources. (Ord. 02-1128 § 3 (part): Ord. 94-990 § 1 (part): Ord. 86-851 § 9.100)

Chapter 16.130

SPECIAL RESOURCE ZONES*

Sections:
16.130.010 Generally.

* Prior ordinance history: 00-2001.

16.130.010 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 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. 02-1128 § 3 (part): Ord. 94-990 § 1 (part): Ord. 86-851 § 9.201)

Chapter 16.131

OLD TOWN (OT) OVERLAY DISTRICT

Sections:

16.131.010 Purpose.
16.131.020 Objectives.
16.131.030 Permitted uses.
16.131.040 Conditional uses
16.131.050 Prohibited uses.
16.131.060 Dimension standards.
16.131.070 Community design.
16.131.080 Standards for all commercial, institutional and mixed use structures.

16.131.010 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, 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 Chapter 16.134. Furthermore, the OT district is divided into two distinct areas, the "Smockville" and the "Old Cannery Area" which have specific criteria or standards re-lated to height and off-street parking. (Ord. 02-1128 § 3 (part))

16.131.020 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 manmade 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, appearance 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 water-ways. (Ord. 02-1128 § 3 (part))

16.131.030 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, Chapter 16.24; the HDR zone, Chapter 16.18; and the MDRL zone, Chapter 16.14; provided, that uses permitted outright on any given property are limited to those permitted in the underlying zoning district, unless otherwise specified by Sections 16.130.020 and 16.130.040.

B. In addition to the home occupations permitted under Chapter 16.38, antique and curio shops, cabinet making, arts and crafts galleries, artists cooperatives, and bookshops, are permitted subject to the standards of Chapter 16.38 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 guest rooms, in either the underlying RC, HDR or 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 16.64.

G. Offices of 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 one-hundred (100) feet of Columbia Street, within the Old Town overlay district. (Ord. 02-1128 § 3 (part))

16.131.040 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 16.110.

A. Uses permitted as conditional uses in the RC zone, Section 16.24.030, HIDR zone, Section 16.18.030, and the MIDRL zone, Section 16.14.030, 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 Sections 16.313.020 through 16.131.040. (Ord. 02-1128 § 3 (part))

16.131.050 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, HIDR or MDRL zones:

A. Adult entertainment businesses.

B. Manufactured homes on individual lots.

C. Manufactured home parks.

D. Restaurants with drive-through. (Ord. 02-1128 § 3 (part))

16.131.060 Dimensional standards.

In the OT overlay zone, the dimensional standards of the underlying RC, HDR and MIDRL 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 taller buildings in the Old Town area consistent with a traditional mixed-use building type of ground floor active uses with housing or office uses above.

Except as provided in subsection 16.131.080(C) below, the maximum height of structures on RC zoned property shall be forty (40) feet in the Smockville Area and fifty-five (55) feet 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. 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 least sixteen (16) feet in height.

D. Coverage. Home occupations permitted as per Chapter 16.38 and Section 16.131.030 may occupy up to fifty (50) percent of the entire floor area of all buildings on a lot. (Ord. 02-1128 § 3 (part))

16.131.070 Community design.

Standards relating to off-street parking and loading, environmental resources, landscaping, historic resources, access and egress, signs, parks and open space, on-site storage, and site design as per Divisions V, VIII and IX shall apply, in addition to the Old Town design standards, below:

A. Generally In reviewing site plans, as required by Chapter 16.66 the city shall utilize the design standards of Section 16.131.080.

B. Landscaping for Residential Structures

1. Perimeter screening and buffering, as per Section 16.68.030, is not required for approved home occupations.

2. Minimum landscaped areas are not required for off-street parking for approved home occupations.

3. Landscaped strips, as per subsections 16.68.030(B)(3) and 16.116.030(A), may be a minimum of five feet in width, except when adjoining alleys, where landscaped strips are not required.

4. Fencing and interior landscaping, as per subsection 16.68.030(B), are not required.

C. Off-Street Parking. For all property and uses within the Smockville Area of the Old Town overlay district off-street parking is not required. For all property and uses within the Old Cannery Area of the Old Town overlay district, requirements for off-street automobile parking shall be no more than sixty-five (65) percent of that normally required by Section 16.70.020. Shared parking agreements may be approved, subject to the standards of Section 16.70.010.

D. Off-Street Loading.

1. Off-street loading spaces for commercial uses may be shared and aggregated in one or several locations in a single block, provided that the minimum area of all loading spaces in a block, when

taken together, shall not be less than sixty-five (65) percent of the minimum standard that is otherwise required by subsection16.70.020(B).

2. For all property and uses within the Smockville Area of the Old Town overlay district, off-street loading is not required.

E. Signs. In addition to signs otherwise permitted for home occupations, as per Section 2.203.01, one exterior sign, up to a maximum of sixteen (16) square feet in surface area, may be permitted for each approved home occupation.

F. Nonconforming Uses. When a nonconforming lot, use, or structure within the OT overlay zone has been designated a landmark as per Chapter 16.134, or when a nonconforming lot within the OT overlay zone is vacant, and the proposed change will, in the city's determination, be fully consistent with the goals and standards of the OT overlay zone and other city guidelines to preserve, restore, and enhance historic resources, nonconforming use restrictions contained in Chapter 16.42 may be waived by the commission.

G. Downtown Street Standards. All streets shall conform to the downtown street designations and street standards in the City of Sherwood Street Cross-sections dated May 1999, and as hereafter amended. Streetscape improvements shall conform to the construction standards and specifications adopted by Ordinance 98-1065, and as hereafter amended. (Ord. 02-1128 § 3 (part))

16.131.080 Standards for all commercial, institutional and mixed use structures.

The standards in this section apply to development of all new principal commercial, institutional and mixed-use structures in the Old Town Design overlay zone. These standards also apply to exterior alterations in this zone, when the exterior alteration requires full compliance with the requirements of applicable building codes.

A. Building Placement and the Street. The purpose of this standard is to create an attractive area when commercial or mixed-use structures are set back from the property line. Landscaping, an arcade, or a hard-surfaced expansion of the pedestrian path must be provided between a structure and the street.

Structures built to the street lot line are exempt from the requirements of this subsection. Where there is more than one street lot line, only those frontages where the structure is built to the street lot line are exempt from the requirements of this paragraph. All street-facing elevations must comply with one of the following options:

1. Option 1: Foundation landscaping. All street-facing elevations must have landscaping along their foundation. This landscaping requirement does not apply to portions of the building façade that provide access for pedestrian or vehicles to the building. The foundation landscaping must meet the following standards:

a. The landscaped area must be at least thirty (30) percent of the linear street frontage;

b. There must be at least one three-gallon shrub for every three lineal feet of foundation in the landscaped area; and

c. Ground cover plants must fully cover the remainder of the landscaped area.

2. Option 2: Arcade. All street-facing elevations must have an arcade as a part of the primary structure, meeting the following requirements:

a. The arcade must be at least three feet deep between the front elevation and the parallel building wall;

b. The arcade must consist of one or a series of arched openings that are at least six feet wide. The arcade, or combination of them, should cover a minimum of sixty (60) percent of the street facing elevation;

c. The arcade elevation facing a street must be at least fourteen (14) feet in height and at least twenty-five (25) percent solid, but no more than fifty (50) percent solid;

d. The arcade must be open to the air on three sides; none of the arcade's street facing or end openings may be blocked with walls, glass, lattice, glass block or any other material; and

e. Each dwelling that occupies space adjacent to the arcade must have its main entrance opening into the arcade.

3. Option 3: Hard-surface sidewalk extension. The area between the building and the street lot line must be hard-surfaced for use by pedestrians as an extension of the sidewalk.

a. The building walls may be set back no more than six feet from the street lot line.

b. For each one hundred (100) square feet of hard-surface area between the building and the street lot line at least one of the following amenities must be provided.

i. A bench or other seating.

ii. A tree.

iii. A landscape planter.

iv. A drinking fountain.

v. A kiosk.

B. Reinforce the Corner. The purpose of this standard is to emphasize the corners of buildings at public street intersections as special places with high levels of pedestrian activity and visual interest. On structures with at least two frontages on the corner where two city walkways meet, the building must comply with at least two of these options.

1. Option 1: The primary structures on corner lots at the property lines must be at or within six feet of both street lot lines. Where a site has more than one corner, this requirement must be met on only one corner.

2. Option 2: The highest point of the building's street-facing elevations at a location must be within twenty-five (25) feet of the corner.

3. Option 3: The location of a main building entrance must be on a streetfacing wall and either at the corner, or within twenty-five (25) feet of the corner.

4. Option 4: There is no on-site parking or access drives within forty (40) feet of the corner.

5. Option 5: Buildings shall incorporate a recessed entrance(s) or open foyer(s), a minimum of three feet in depth to provide architectural variation to the facade. Such entrance(s) shall be a minimum of ten percent of the ground-floor linear street frontage.

C. Residential Buffer. The purpose of this standard is to provide a transition in scale where the Old Town overlay district is adjacent to a lower density residential zone. Where a site in the Old Town design overlay district abuts or is across a street from a residential zone, the following is required.

On sites that directly abut a residential zone, the following must be met:

1. In the portion of the site within twenty-five (25) feet of the residential zone, the building height limits are those of the adjacent residential zone; and,

2. A six-foot deep area landscaped to at least the subsection 16.68.030(B)(3) standard must be provided along the property line across the street from the lower density residential zone. Pedestrian and bicycle access is allowed, but may not be more than six feet wide.

D. Main Entrance. The purpose of this standard is to locate and design building entrances that are safe, accessible from the street, and have weather protection.

1. Location of main entrance. The main entrance of the principal structure must face a public street (or, where there is more than one street lot line, may face the corner). For residential developments these are the following exceptions:

a. For buildings that have more than one main entrance, only one entrance must meet this requirement.

b. Entrances that face a shared landscaped courtyard are exempt from this requirement.

2. Front porch design requirement. There must be a front porch at the main entrance to residential portions of a mixed-use development, if the main entrance faces a street. If the porch projects out from the building it must have a roof. If the roof of a required porch is developed as a deck or balcony it may be flat, otherwise it must be articulated and pitched. If the main entrance is to a single dwelling unit, the covered area provided by the porch must be at least six feet wide and four feet deep. If the main entrance is to a porch that provides the entrance to two or more dwelling units, the covered area provided by the porch must be at least nine feet wide and seven feet deep.

E. Off-Street Parking and Loading Areas. The purpose of this standard is to emphasize the traditional development pattern in Old Town where buildings connect to the street, and where off-street vehicular parking and loading areas are of secondary importance.

1. Access to off-street parking areas and adjacent residential zones. Access to off-street parking and loading areas must be located at least twenty (20) feet from any adjacent residential zone.

2. Parking lot coverage. No more than fifty (50) percent of the site may be used for off-street parking and loading areas.

3. Vehicle screening. Where off-street parking and loading areas are across a local street from a residential zone, there must be a six-foot wide landscaped area along the street lot line that meets the Section 16.68.030 standard.

F. Exterior Finish Materials. The purpose of this standard is to encourage high quality materials that are complementary to the traditional materials used in Old Town.

1. Plain concrete block, plain concrete, corrugated metal, full-sheet plywood, synthetic stucco, and sheet pressboard are not allowed as exterior finish material, except as secondary finishes if they cover no more than ten percent of the surface area of each façade. Composite boards manufactured from wood or other products, such as hardboard or hardplank, may be used when the board product is less than six inches wide. Foundation materials may be plain concrete block when the foundation material does not extend for more than an average of three feet above the finished grade level adjacent to the foundation wall.

2. Where there is an exterior alteration to an existing building, the exterior finish materials on the portion of the building being altered or added must visually match the appearance of those on the existing building. However, if the exterior finishes and materials on the existing building do not meet the standards of subsection (F)(1) above, any material that meets the standards of subsection (F)(1) may be used.

G. Roof-Mounted Equipment. The purpose of this standard is to minimize the visual impact of roof-mounted equipment. All roof-mounted equipment, including satellite dishes and other communications equipment, must be screened using one of the methods listed below. Solar heating panels are exempt from this standard.

1. A parapet as tall as the tallest part of the equipment.

2. A screen around the equipment that is as tall as the tallest part of the equipment.

3. The equipment is set back from the street-facing perimeters of the building three feet for each foot of height of the equipment.

H. Ground Floor Windows. The purpose of this standard is to encourage interested and active ground floor uses where activities within buildings have a positive connection to pedestrian in Old Town. All exterior walls on the ground level which face a street lot line, sidewalk, plaza or other public open space or right-of-way must meet the following standards.

1. Windows must be at least fifty (50) percent of the length and twenty-five (25) percent of the total ground-level wall area. Ground-level wall areas include all exterior wall areas up to nine feet above the finished grade. This requirement does not apply to the walls of residential units or to parking structures when set back at least five feet and landscaped to at least the Section 16.68.030(B) standard.

2. Required window areas must be either windows that allow views into working areas or lobbies, pedestrian entrances, or display windows set into the wall. The bottom of the windows must be no more than four feet above the adjacent exterior grade.

I. Distinct Ground Floor. The purpose of this standard is to emphasize the traditional development pattern in Old Town where the ground floor of buildings is clearly defined. This standard applies to buildings that have any floor area in non-residential uses. The ground level of the primary structure must be visually distinct from upper stories. This separation may be provided by one or more of the following:

1. A cornice above the ground level;

2. An arcade;

3. Changes in material or texture; or

4. A row of clerestory windows on the building's street-facing elevation.

J. Roof. The purpose of this standard is to encourage traditional roof forms consistent with existing development patterns in Old Town. Roofs should have significant pitch, or if flat, be designed with a cornice or parapet. Buildings must have either:

1. A sloped roof with a pitch no flatter than 6/12; or

2. A roof with a pitch of less than 6/12 and a cornice or parapet that meets the following:

a. There must be two parts to the cornice or parapet. The top part must project at least six inches from the face of the building and be at least two inches further from the face of the building than the bottom part of the cornice or parapet.

b. The height of the cornice or parapet is based on the height of the building as follows:

i. Buildings sixteen (16) to twenty (20) feet in height must have a cornice or parapet at least twelve (12) inches high.

ii. Buildings greater than twenty (20) feet and less than thirty (30) feet in height must have a cornice or parapet at least eighteen (18) inches high.

iii. Buildings thirty (30) feet or greater in height must have a cornice or parapet at least twenty-four (24) inches high.

K. Base of Buildings. Buildings must have a base on all street-facing elevations. The base must be at least two feet above grade and be distinguished from the rest of the building by a different color and material. (Ord. 02-1128 § 3 (part))

Chapter 16.132

LANDMARKS ADVISORY BOARD

Sections:

16.132.010 Generally.
16.132.020 Officers, minutes and voting.
16.132.030 Conflicts of interest.
16.132.040 Powers and duties.

16.132.010 Generally.

A. The city landmarks advisory board shall consist of seven members to be appointed by the council for terms of two years. Two members may be nonresidents of the city, provided they reside within the Sherwood portion of the urban growth boundary. Landmarks board members shall receive no compensation for their services, but shall be reimbursed for duly authorized expenses.

B. A landmarks board member may be removed by a majority vote of the council for misconduct or nonperformance of duty, as determined by the council. Any vacancy shall be filled by the council for the unexpired term of the predecessor in office.

C. Landmarks board membership may be drawn from all segments of the community, provided however, that the council shall strive to appoint individuals in a variety of professions to the landmarks board, and shall give preference to owners of historic properties, architects, real estate brokers, attorneys, builders, historians, and other professions providing background and expertise relevant to historic preservation.

D. No more than two landmarks board members shall be engaged principally in the buying, selling, or developing of real estate for profit as individuals, or be members of any partnership, or officers or employees of any corporation that is engaged pnncipally in the buymg selling, or developing of real estate for profit. No more than two members shall be engaged in the same kind of business, trade, or profession. (Ord. 94-990 § 1 (part): Ord. 86-851 § 9.301)

16.132.020 Officers, minutes and voting.

A. The landmarks board shall, at its first meeting in each odd-numbered year, elect a chair and vice-chair who shall be voting members and who shall hold office at the pleasure of the landmarks board.

B. Before any meeting of the landmarks board, public notice shall be given as required by state statute and this code. Accurate records of all landmarks board proceedings shall be kept by the city, and maintained on file in the city recorder's office.

C. A majority of members of the landmarks board shall constitute a quorum. A majority vote of those members, not less than a quorum, present at an open meeting of the landmarks board shall be necessary to legally act on any matter before the landmarks board. The landmarks board may make and alter rules of procedure consistent with the laws of the state of Oregon, the city charter, and city ordinances (Ord. 94-990 § 1 (part): Ord. 86-851 § 9.301.01)

16.132.030 Conflicts of interest.

A. Landmarks board members shall not participate in any landmarks board 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, a member shall not participate when an action involves any business in which they have been employed within the previous two years, or any business with which they have a prospective partnership or employment.

B. Any actual or potential interest by a landmarks board member in an action as per subsection A of this section shall be disclosed by that member at the meeting of the landmarks board where the action is being taken. Landmarks board members shall also disclose any prehearing or ex parte contacts with applicants, officers, agents, employees, or any other parties to an application before the landmarks board. Ex parte contacts with a landmarks board member shall not invalidate a final decision or section of the landmarks board 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. (Ord. 94-990 § 1 (part): Ord. 86-851 § 9.301.02)

16.132.040 Powers and duties.

Except as otherwise provided by law, the landmarks board 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, and city ordinances. The landmarks board shall:

A. Recommend to the council the designation of certain historic and cultural resources, structures, buildings, places, sites, landscapes and areas as landmarks or historic districts, in accordance with Chapter 16.134 of this title. Subject to the approval of the council, the board may employ the services of a qualified architect or historian in the designation process The landmark alteration contained in Chapter 16.136 of this title shall only apply to designated landmarks or historic districts.

B. Review and take action, or make recommendations, on building alteration applications for designated landmarks and in designated historic districts, in accordance with Chapter 16.136 of this title and if the building alteration involves site plan application as per Chapter 16.66 of this title, the board shall substitute for the planning commission and act as the approving authority for such applications.

C. For any land use application, other than site plan review, that is for a designated landmark or in a designated historic district, the board shall provide formal written recommendations to the planning commission, prior to the commission's decision on the application.

D. Cooperate with and enlist the assistance of persons, organizations, corporations, foundations, and public agencies in matters involving historic preservation, rehabilitation, and reuse.

E. Advise and assist owners of landmarks on the physical and financial aspects of historic preservation, rehabilitation, and reuse, especially with respect to publishing or making available guidelines on historic preservation, and identifying and publicizing tax benefits and grant and loan opportunities.

F Determine an appropriate system of marks and signs for designated landmarks and historic districts. (Ord. 94-990 § 1 (part): Ord. 86-851 § 9.301.03)

Chapter 16.134

LANDMARK DESIGNATION

Sections:

16.134.010 Generally.
16.134.020 Effect of designation.
16.134.030 Procedures.
16.134.040 Standards.

16.134.010 Generally.

A. The landmarks board shall make recommendations on the designation of structures, buildings, places landscapes and sites, having special historical, architectural, or cultural significance, as historic landmarks or historic districts.

B. Subject to the procedures and standards of Sections 16.134.030 and 16.134.040 of this chapter, historic resources may be designated as landmarks having primary or secondary significance based on the historic, architectural, site, and use evaluation criteria contained in Section 16.134.040 of this chapter. (Ord. 94-990 § 1 (part): Ord. 86-851 § 9.401.01)

16.134.020 Effect of designation.

A. Any historic resource designated as per this chapter, shall be subject to Chapter 16.136 of this title except as otherwise provided by this code. Any building or site that is considered for landmarks designation, but rejected as per this chapter, may not be reconsidered for a minimum period of two years. The classification of any designated landmark once established as per this chapter may not be reconsidered for a minimum period of two years.

B. The landmark alteration criteria contained in Chapter 16. 136 of this title shall apply only to designated landmarks or historic districts. Historic resources designated as landmarks of either primary or secondary significance that are within a special historic resource zone or historic district are subject to Chapter 16.136 of this title. Historic resources designated as landmarks of either primary or secondary significance that are not within a special historic resource zone or historic district shall not be subject to Chapter 16.136 of this title, except that such primary resources shall be subject to an advisory and nonbinding review by the board prior to issuance of any building or other applicable city permits.

C. Notwithstanding its listing and rating in, or omission from, a historic resources inventory, or its designation or rejection as a landmark, any structure, building, place, landscape, site, or area within a special historic resource zone may be subject to the standards of that zone. Any structure, building, place, site, or area within a designated historic district shall be subject to Chapter 16.136 of this title where so required by this code, and may be subject to the standards of that district. (Ord. 94-990 § 1 (part): Ord. 86-851 § 9.401.02)

16.134.030 Procedures.

A. Except as otherwise provided herein, the council, commission, landmarks board, the owners of a potential landmark, or a citizen may initiate historic landmark or district designation in accordance with this chapter. Application for landmark designation shall be made on forms provided by the city. A proposed designation shall be processed as a plan amendment. The landmarks board shall conduct a public hearing concerning the proposed designation and provide public notice in accordance with Chapter 16.50 of this title. The landmarks board shall provide a report and recommendation on the proposed designation to the council.

B. Initiation of consideration of a new historic district designation, or amendment to any established historic district, may be initiated by the council, commission, or landmarks board or by petition specifying a proposed district boundary and signed by at least twenty-five (25) percent of the property owners within the proposed district. A proposed designation shall be processed as a plan amendment. The landmarks board shall conduct a public hearing concerning the proposed designation and provide public notice in accordance with Chapter 16.50 of this title. The landmarks board shall provide a report and recommendation on the proposed designation to the council.

C. Upon receipt of the report and recommendation of the landmarks board, the council shall conduct a further public hearing as per Chapter 16.50 of this title. Approval of the landmark or district designation shall be in the form of an ordinance. If a resource or area is approved for designation by the council, it shall be listed as a designated historic landmark or district in the community development plan element of the city comprehensive plan.

D. Once city action on historic district designation is complete, the designation shall not go into effect until the city has adopted design guidelines and standards for the district, similar to those adopted for the Smockville Old Town Historic District, Appendix I. Unless otherwise impractical, historic district design guidelines and standards should be developed and considered concurrently with historic district designation. (Ord. 94-990 § 1 (part): Ord. 86-851 § 9.401.03)

16.134.040 Standards.

In determining whether historic resources or groups of historic resources should be designated as landmarks of either primary or secondary significance or as historic districts, the landmarks board and council shall make written findings with respect to the following factors.

A. That the potential historic resource has a quality or significance in American or local history, architecture, archeology, engineering or culture, and retains its historic integrity in terms of location, design, setting, materials, workmanship, feeling and association, and:

1. Is associated with events or persons significant in American or local history; or

2. Embodies the distinctive characteristics of a type, style, period, or method of construction or architecture, or represents the work of a master craftsperson, architect or builder, or possesses significant artistic, aesthetic or architectural values; or

3. Has yielded, or may be likely to yield, information important in American or local prehistory or history; or

4. Is listed on the National Register of Historic Places.

B. The board and council shall also examine and make findings regarding specific uses allowed in the zoning districts where the proposed landmark lies, identify consistencies and/or conflicts with the allowed uses and proposed designation, and determine the economic, social, environmental and energy (ESEE) impacts of designation on the proposed landmark and adjacent allowed uses.

C. The board, after considering the criteria in subsection A of this section and the ESEE analysis required by subsection B of this section, shall recommend to the council approval of the landmark's designation as a primary or secondary historic resource approval with conditions, or determine that the resource should not receive any landmarks designation. The council's final decision on the board's recommendation shall be in the form of an ordinance amending the community development plan element of the city comprehensive plan and listing the resource as a designated historic site, approving the designation with conditions, or determining that the resource should not receive any landmarks designation. (Ord. 94-990 § 1 (part) Ord. 86-851 § 9.401.04)

Chapter 16.136

LANDMARK ALTERATION

Sections:

16.136.010 Procedures.
16.136.020 Alteration standards.
16.136.030 Variances to alteration standards.
16.136.040 Landmark designation Incentives.

16.136.010 Procedures.

A. Alteration Application.

1. Application for any alteration of a designated landmark, except as per subsection C of this section, shall be made on forms provided by the city.

2. The following information shall be required in an application for alteration of a landmark:

a. The applicant's name and address;

b. The property owner's name(s) and address(es), if different from the applicant's and a statement of authorization to act on behalf of the owner signed by the owner;

c. The street address or other easily understood geographical reference to the landmark property;

d. A drawing or site map illustrating the location of the landmark;

e. A statement explaining compliance with the applicable approval criteria of this chapter, as appropriate;

f. Ten sets of plan drawings to include site, landscaping and elevations, drawn to scale;

g. Photographs of the landmark which show all exterior features;

h. A list of owners of property (fee title) within one hundred (100) feet of the subject property together with their current mailing addresses;

i. Any other information deemed necessary by the city manager or his or her designee.

3. The landmarks board shall conduct a public hearing concerning the proposed landmark alteration and provide public notice in accordance with Chapter 16.50 of this title. If the alteration involves site plan review as per Chapter 16.66 of this title, the board shall also act for the commission as the site plan approving authority. The landmarks board decision shall be based on compliance with the review standards in Section 16.136.020 of this chapter and shall consider the original finding made in the landmark designation process as per Chapter 16.134 of this title.

4. In any alteration action, the landmarks board shall give full consideration and weight to the importance of the landmark, its landmarks classification and designation, any adverse economic or visual impacts on adjacent landmarks, special historic resource zones, or historic districts, and, if the proposed landmark is within a special historic resource zone or designated historic district, the standards and guidelines of that zone or district.

B. Appeals. A decision rendered by the landmarks board regarding approval, approval with conditions, or denial of a permit for construction, alteration, removal, or demolition of a designated landmark, may be appealed to the council as per Chapter 16.52 of this title.

C. Exceptions.

1. Nothing in this chapter shall be construed to prevent the maintenance or repair of any exterior architectural feature which does not involve a change in design, material or appearance of such feature, or which the building official shall determine is required for the public safety due to an unsafe or dangerous condition. Except as otherwise provided in this chapter and subsection (C)(2) of this section, if no city building permit or land use approval is otherwise required, facade alterations which, in the city's determination, adversely impact or lessen a landmark's historic character, shall be subject to landmark alteration review. Such alterations subject to review could include, but are not limited to painting of facade elements or construction of materials normally left unpainted within the historic context of the landmark; replacement of windows, transoms, awnings, doors, exterior lighting, or other exterior features; the addition and replacement of exterior heating, ventilating and air conditioning equipment, except for temporary equipment such as portable in-window air conditioners; or any overlay of an existing facade with new siding materials.

2. Normal maintenance and repair of historic resources are not subject to landmark alteration review, except as specified in subsection (C)(1) of this section. Normal maintenance and repair activities generally exempted from subsection A of this section shall include, but are not limited to:

a Repairing or providing a new foundation that does not result in raising or lowering the building elevation provided however that the city must find that foundation materials and craftsmanship do not contribute to the historical and architectural significance of the landmark;

b. Installation of storm windows and doors, insulation, caulking, weatherstripping and other energy efficient improvements which complement or match the existing color, detail and proportions of the landmark;

c. Painting, sandblasting, chemical treatments, and related exterior surface preparation, except for surface preparations that result in the landmark becoming further removed from its original historic appearance, where the landmark would not have been originally painted, or where the preparation could damage exterior surfaces;

d. Repair or replacement of electrical, plumbing, mechanical systems, sewer, water and other utility systems, and equipment which does not alter a designated landmark's exterior appearance;

e. Repair or replacement of building and site features when work is done in kind to closely match existing materials and form. Such features include fencing, roofing, vents, porches, cornices, siding, doors, balustrades, stairs, trim, windows, driveways, parking areas, retaining walls, signs, awnings, gutters and roof drain systems, hand rails and guardrails;

f. Necessary structural repairs, as determined by the city building official that do not significantly alter or destroy the landmark's historic appearance;

g. Masonry repair or cleaning, including repointing and re-building chimneys, if mortar is matched to original composition, and powerwashing if done at no more than six hundred (600) psi with mild detergent;

h. Any other exterior repair, replacement or maintenance that, in the city's determination, does not result in the landmark becoming further removed from its original historic appearance.

3. Landmarks designated as primary historic resources as per Chapter 16.134 of this title that are not within special historic resource zones or historic districts shall be subject to landmarks alteration review, but such review shall be advisory and nonbinding. Landmarks designated as secondary historic resources as per Chapter 16.134 of this title that are not within special historic resource zones or designated historic districts shall not be subject to Chapter 16.136 review or compliance.

4. Except as otherwise provided in this chapter, interior alterations not visually or structurally modifying a designated landmarks external appearance or facade shall not be subject to landmarks alteration review, unless the interior is specifically cited as part of the reason for the landmarks designation, as per Section 16.134.040 of this title.

5. Signs shall be subject to Chapter 16.76 of this title only, provided that the city manager or his or her designee finds that the proposed sign or signs comply with the standards of this chapter and the guidelines and standards of any applicable special historic resource zones or designated historic districts. These findings shall be prepared and reviewed as per subsection (A)(2) of this section. (Ord. 94-990 § 1 (part) Ord. 86-851 §§ 9.501--9.501.03)

16.136.020 Alteration standards.

The following general standards are applied to the review of alteration, construction, removal, or demolition of designated landmarks that are subject to this chapter. In addition, the standards and guidelines of any applicable special resource zone or historic district shall apply. In any landmark alteration action, the landmarks board shall make written findings indicating compliance with these standards.

A. Generally.

1. Every reasonable effort has been made by the property owner, in the city's determination, to provide a use of the landmark which requires minimal alteration of the structure, site, or area.

2. In cases where the physical or structural integrity of a landmark is questionable, that the proposed alterations are the minimum necessary to preserve the landmark's physical or structural integrity or to preserve the feasibility of the continued occupation or use of the landmark given its structural condition.

3. In cases where the landmark has been significantly altered in the past, that it is technically feasible to undertake alterations tending to renovate, rehabilitate, repair or improve the landmark to historic standards given those prior alterations.

4. The compatibility of surrounding land uses, and the underlying zoning designation of the property on which the historic resource is sited, with the historic resources continued use and occupation, and with the renovation, rehabilitation, repair, or improvement of the resource to historic standards.

5. Alterations shall be made in accordance with the historic character of the landmark as suggested by the historic resources inventory and other historic resources and records. Alterations to landmarks within special historic districts shall, in addition, be made in accordance with the standards and guidelines of that zone or district.

6. Alterations that have no historic basis and that seek to create a thematic or stylistic appearance unrelated to the landmark's or historic district's history and original or later significant additions architecture shall not be permitted.

B. Architectural Features.

1. The distinguished original qualities or character of a landmark shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided. Distinctive stylistic or architectural features or examples of skilled craftsmanship which characterize a landmark shall be preserved.

2. Deteriorated architectural features shall be restored wherever possible. In the event replacement is necessary, the new materials should match the material being replaced in composition, design, color, texture, and other visual qualities.

3. Repair or replacement of missing architectural features should be based, wherever possible, on accurate duplications of said features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

4. The surface cleaning of landmarks shall be undertaken using methods generally prescribed by qualified architects and preservationists. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.

5. Contemporary design for alterations and additions to landmarks may be allowed when such alterations and additions do not, in the city's determination, destroy significant historical, architectural, or cultural features, and such design is compatible with the size, scale, color, material, and character of the designated landmark or historical district.

6. Whenever possible, new additions or alterations to landmarks shall be done in such a manner that, if such additions or alterations were removed in the future, the historic form and integrity of the landmark would be unimpaired. (Ord. 94-990 § 1 (part): Ord. 86-851 §§ 9.502--9.502.02)

16.136.030 Variances to alteration standards.

A. Generally.

1. Any variances to landmark alteration standards shall be considered as per Chapter 16.60 of this title provided however, that the commission shall first receive and consider a report and recommendation of the landmarks board, in addition to considering the criteria specified in subsection (A)(2) of this section. Variances to landmark alteration standards as per Chapter 16.60 of this title, shall be considered only if the landmark has been subject to the full landmark alteration review procedure as per Section 16.136.010 of this chapter.

2. In any variance action, the landmarks board and the commission shall give full consideration and weight to the importance of the landmark, its classification and designation as a landmark, the standards and guidelines of any applicable special historic resource zones or designated historic districts, the standards of this section, and to any adverse economic or visual impacts and any variance on adjacent landmarks, special historic resource zones, or designated historic districts. (Ord. 94-990 § 1 (part): Ord. 86-851 §§ 9.503, 9.503.01)

16.136.040 Landmark designation incentives.

A. Generally. To facilitate the purposes of this chapter and in recognition of the extraordinary costs sometimes associated with the appropriate preservation of historic resources, incentives shall be made available at the time such resources undergo an alteration subject to this chapter. Such incentives shall be in addition to the activities of the landmarks board required by Section 16.132.040(D) and (E) of this title.

B. Incentives. Any landmark designated as per this chapter, whether primary or secondary, or within or outside of a special historic resource zone or historic district, may be granted one or more of the following incentives, provided that in exercising or accepting any incentive contained herein, a landmark not otherwise subject to this chapter shall thereafter be subject to all the terms and conditions of this chapter. Incentives shall be granted only if the proposed alteration has undergone landmarks alteration review and is fully consistent with Chapter 16.134 of this title and the landmark's designation as per Chapter 16.134 of this title. Monetary incentives, such as property tax rebates and fee waivers, may be granted in any combination, as determined by the landmarks board, provided however, that the total amount of the monetary incentives shall not exceed the additional cost of the historically appropriate alteration over that of a more conventional improvement, also as determined by the landmarks board.

1. Property Tax Rebates.

a. A property owner who has expended funds for labor and materials necessary to comply with this chapter, may apply to the city for rebate of the city' s portion of real property taxes levied and collected by the Washington County Department of Assessment and Taxation for the fiscal real property tax year following the tax year in which the investment for labor and materials was made by the owner, and for each subsequent tax year thereafter for not to exceed ten tax years. In no event shall the total rebates paid by the city to the applicant exceed the total cost of the labor and materials expense necessary to comply with this chapter. The applicant shall submit with the application, on a form to be provided by the city, such verification of the expenditures for labor and materials, as shall be determined sufficient by the city.

b. No rebates shall be allowed for any property for which real property tax payments are delinquent, nor shall rebates continue to be paid for a property which ceases to meet the standards of this title as a qualifying historical resource. No rebates shall be allowed for tax payments made in the year the funds are expended for compliance with this chapter or any year prior thereto.

c. Nothing in this section shall be deemed to obligate the city to rebate any taxes levied and paid for the benefit of any other governmental entity, and shall apply only to real property taxes assessed, levied, and payable to the city of Sherwood by the Washington County Department of Assessment and Taxation.

2. City Fee Waiver.

a. The city building official shall waive all building permit fees established by the current Uniform Building Code Fee Schedule that would normally be applicable to a landmarks alteration.

b. The city planning director shall waive all required land use application fees established by the city that would normally be applicable to a landmarks alteration, including any fees for processing the landmarks alteration application itself.

3. Building Code Variances. Consistent with Section 104(f) of the Uniform Building Code, the city building official is authorized to permit alterations to designated landmarks without conformance to all requirements of the uniform building code or other applicable codes adopted by the city provided:

a. The landmark has been designated as per Chapter 16.134 of this title, and the alteration is fully consistent with this chapter; and

b. The altered landmark will be no more hazardous based on life safety, fire safety and sanitation than the existing landmark.

c. The alteration is approved by the landmarks board. (Ord. 94-990 § 1 (part): Ord. 86-851 §§ 9.504--9.504.02)

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