



## ORDINANCE 2023-002

### **AMENDING DIVISIONS I, II, III, IV, VII, AND VIII OF THE SHERWOOD ZONING AND COMMUNITY DEVELOPMENT CODE AND REPEALING ORDINANCE 2022-006 ESTABLISHING TIME, PLACE, AND MANNER RESTRICTIONS ON PSILOCYBIN SERVICE CENTERS AND THE MANUFACTURING OF PSILOCYBIN PRODUCTS**

**WHEREAS**, The Sherwood Zoning and Community Development Code has not undergone a general code cleanup since 2018; and

**WHEREAS**, the City has undertaken a work program to create a development code that meets new state laws, corrects previous errors, increases consistency between sections and clarifies language; and

**WHEREAS**, the Sherwood Planning Commission helped guide the proposed amendments with the opportunity for public input; and

**WHEREAS**, the proposed amendments establish, time, place, and manner restrictions on psilocybin service centers and the manufacturing of psilocybin products within the Sherwood Zoning and Community Development Code; and

**WHEREAS**, the proposed amendments were subject to full and proper notice and review, and a public hearing was held before the Planning Commission on January 24, 2023; and

**WHEREAS** the proposed amendments were reviewed for compliance and consistency with the Comprehensive Plan, and regional and state regulations and found to be in compliance; and

**WHEREAS**, the Sherwood Planning Commission recommended approval of the proposed text amendments to City Council; and

**WHEREAS**, the Sherwood City Council held two public hearings on February 21, 2023, and March 7, 2023, to take public testimony and deliberate; and

**WHEREAS**, the Sherwood City Council has received and reviewed the land use record prepared before the Planning Commission, and, after considering the applicable standards, the City Council determined that the proposed development code update meets the required criteria for approval; and

**WHEREAS**, the Planning Commission findings to support the final decision are included as Exhibit 2 to this ordinance;

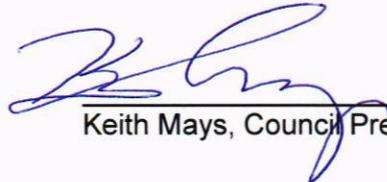
**NOW, THEREFORE, THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:**

**Section 1.** After full and due consideration of the application, the Planning Commission recommendation, the record, and evidence presented at the public hearings, the City Council finds that the proposed text amendments of the indicated sections of the Sherwood Zoning and Community Development Code meet the applicable criteria. The findings of fact relied upon by the City Council are attached as Exhibit 2 to this ordinance

**Section 2.** The proposed amendments to the Sherwood Zoning and Community Development Code in Exhibit 1, attached to this Ordinance, are hereby **APPROVED**.

**Section 3.** This ordinance shall become effective the 30<sup>th</sup> day after its enactment by the City Council and approval by the Mayor.

**Duly passed by the City Council this March 7, 2023.**

  
Keith Mays, Council President

3/7/2023  
Date

Attest:

  
Sylvia Murphy, MMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Standke	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Giles	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Scott	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Brouse	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rosener	<u>Absent</u>	<input type="checkbox"/>

Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division I. - GENERAL PROVISIONS  
Chapter 16.10 DEFINITIONS  
Exhibit B1

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## ***Chapter 16.10 DEFINITIONS***

### **16.10.010 Generally**

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

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

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016)

### **16.10.020 Specifically**

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

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**Psilocybin manufacturing facility:** A building or structure used in whole or in part for the means of manufacturing, planting, cultivation, growing, harvesting, production, preparation, propagation, compounding, conversion, or processing of psilocybin or a psilocybin product, either directly or indirectly by, extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of psilocybin or a psilocybin product or labeling or relabeling of its container.

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**Model home:** A structure constructed as and intended to be occupied as a residential dwelling unit that is temporarily used as an example of the type of residential dwelling units to be constructed in a subdivision prior to the completion of required public improvements. A model home may also include a sales office within the unit.

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**Psilocybin Service Centers:** an establishment defined under ORS 475A.220 which provides psilocybin services to clients before, during, and after the client's consumption of a psilocybin product and may include preparation administration and integration sessions.

Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
 Division II. - LAND USE AND DEVELOPMENT  
 Chapter 16.31 INDUSTRIAL LAND USE DISTRICTS

**16.31.020 Uses**

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

Uses	LI	GI	EI <sup>1</sup>
<b>RESIDENTIAL</b>			
• Single dwelling unit, including a manufactured home, for one (1) security person employed on the premises and their immediate family	P	P	P
<b>CIVIC</b>			
• Hospitals	C	N	N
• Police and fire stations and other emergency services	C	C	C
• Vehicle testing stations	C	C	C
• Postal services - Public	C	C	C
• Postal substations when located entirely within and incidental to a use permitted outright	C	C	C
• Public and private utility structures, including but not limited to telephone exchanges, electric substations, gas regulator stations, treatment plants, water wells, and public work yards	P	P	C
• Small-scale power generation facilities	P	P	P
• Large-scale power generation facilities	C	P	C
• Public recreational facilities including parks, trails, playfields and sports and racquet courts on publicly owned property or under power line easements	C	C	C
<b>COMMERCIAL</b>			
• Commercial Trade Schools, commercial educational services and training facilities	P	P	C
<b>Entertainment/recreation</b>			
• Country clubs, sports and racquet clubs and other similar clubs	C	C	C
• Indoor recreation facilities such as arcades, mini-golf, or bounce house facilities <sup>2,3</sup>	C	C	C
<b>Hospitality and lodging</b>			
• Hotel/Motel	C <sup>1</sup>	N	N
<b>Motor vehicle related</b>			
• Motorized vehicle and sport craft repairs and service	C	C	N
• Motorized vehicle and sport craft repair and service clearly incidental and secondary to and customarily associated with a use permitted outright or conditionally	P	P	P
• Automotive, boat, trailer and recreational vehicle storage	C	C	C <sup>4</sup>
• Vehicle fueling stations or car wash facilities <sup>5</sup>	C	C	C
• Junkyards and salvage yards	N	N	N
• Manufactured home sales and display area	N	N	N
<b>Office and professional support services</b>			
• Business and professional offices <sup>3</sup>	P	P	P

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• Business support services such as duplicating, photocopying, mailing services, fax and computer facilities <sup>3</sup>	P	P	P
• Any incidental business, service, processing, storage or display, not otherwise permitted, that is essential to and customarily associated with a use permitted outright, provided said incidental use is conducted entirely within an enclosed building	P	P	P
<b>Childcare</b>			
• Day cares, preschools, and kindergartens, when clearly secondary to a permitted use	P	P	P
• Day cares, preschools, and kindergartens as a stand-alone use <sup>3</sup>	C	C	C
<b>General retail - sales oriented</b>			
• Incidental retail sales or display/showroom directly associated with a permitted use and limited to a maximum of 10% of the total floor area of the business <sup>3</sup>	P	P	P
• Medical marijuana dispensary, not exceeding 3,000 square feet of gross square footage	p6	p6	N
• Tool and equipment repair, rental and sales, including truck rental <sup>7</sup>	P	P	P
• Retail plant nurseries and garden supply stores (excluding wholesale plant nurseries)	P	P	N
• Wholesale building material sales and service	C	P	N
• Retail building material sales and lumber yards <sup>3</sup>	C	P	N
<b>Personal services</b>			
• Health clubs and studios less than 5,000 square feet in size	P	P	P
• Psilocybin Service Centers	N	p13	N
• Personal services catering to daily customers where patrons pay for or receive a service rather than goods or materials, including but not limited to financial, beauty, pet grooming, and similar services <sup>8</sup>	C	C	C
• Public or commercial parking (non-accessory)	N	N	N
• Veterinarian offices and animal hospitals	C	C	C
• Animal boarding/kennels and pet daycare facilities with outdoor recreation areas <sup>8</sup>	C	C	C
<b>Eating and drinking establishments:</b>			
• Restaurants, taverns, and lounges without drive-thru <sup>3</sup>	C	C	C
• Restaurants with drive-thru services	N	N	N
• On-site cafeteria that is secondary to, and serving employees of, a permitted use	P	P	P
<b>INDUSTRIAL</b>			
• Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products contained wholly within an enclosed building provided exterior odor and noise is consistent with municipal code standards and there is no unscreened storage and not otherwise regulated elsewhere in the code	P	P	P
• Manufacture, compounding, processing, assembling, packaging, treatment, fabrication of products not otherwise prohibited elsewhere in the code provided other off-site impacts are compliant with local, state and federal regulations	C	P	C
• Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of acids, paints, dyes, soaps, ammonia, chlorine, sodium compounds, fertilizer, herbicides, insecticides and similar chemicals	N	C	N
• Psilocybin Manufacturing Facilities	N	p13	N
• Distribution, warehousing and storage associated with a permitted use operating on the same site	P	P	P
• Distribution and warehousing up to 150,000 square feet, provided product(s) are stored within an enclosed building <sup>9</sup>	P	P	P
• Distribution and warehousing greater than 150,000 square feet provided product(s) are stored within an enclosed building <sup>9</sup>	N	P	C
• Mini-warehousing or self-storage	N	P	N

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• Medical or dental laboratories, including biomedical compounding	P	P	P
• Laboratories (not medical or dental)	P	P	P
• Research and development and associated manufacturing	P	P	P
• Contractors' storage and equipment yards	C	P	C <sup>4</sup>
• Building, heating, plumbing or electrical contractors and suppliers, building maintenance services, and similar uses <sup>10</sup>	P	P	P
• Industrial laundry, dry cleaning, dyeing, or rug cleaning plants	C	P	N
• Sawmills	C	C	N
• Sand and gravel pits, rock crushing facilities, aggregate storage and distribution facilities or concrete or asphalt batch plants	N	C	N
• Solid waste transfer stations	N	C	N
The following uses are specifically prohibited in all industrial zones because they have been determined to have adverse environmental, public and aesthetic impacts and are not suitable for location in any of the industrial zones in the City			
• Manufacture, compounding, processing, assembling, packaging, treatment, or fabrication of toxins or explosive materials, or any product or compound determined by a public health official to be detrimental to the health, safety and welfare of the community	N	N	N
• Pulp and paper mills	N	N	N
• Distillation of oil, coal, wood or tar compounds and the creosote treatment of any products	N	N	N
• Metal rolling and extraction mills, forge plants, smelters and blast furnaces	N	N	N
• Meat, fish, poultry and tannery processing	N	N	N
• General purpose solid waste landfills, incinerators, and other solid waste facilities not otherwise permitted in this Code	N	N	N
<b>WIRELESS COMMUNICATION FACILITIES</b>			
• Radio, television, and similar communication stations, including associated transmitters	C	C	C
• Wireless communication towers <sup>11</sup> and transmitters	C	C	C
• Wireless communication facilities on City-owned property	C	C	C
• Wireless communication antennas co-located on an existing tower or on an existing building or structure not exceeding the roof of the structure	P	P	P
<b>OTHER</b>			
Agricultural uses including but not limited to:			
• Farm equipment sales and rentals	N	N	N
• Farming and horticulture	P	P	P
• Raising of animals other than household pets	N	N	N
• Truck and bus yards	N	P	N

<sup>1</sup> See special criteria for the EI zone, 16.31.050 and the Tonquin Employment Area (TEA), 16.31.060.

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

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

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

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

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

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

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

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

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

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

<sup>12</sup>See special standard criteria for hospitality and lodging uses within the Light Industrial Land Use District SZCDC 16.31.040.

<sup>13</sup>See Special Criteria for Psilocybin Service Centers and manufacturing facilities under Section 16.38.040

(Ord. No. 2020-006 , § 2, 7-21-2020; Ord. No. 2016-008, § 2, 6-21-2016; Ord. No. 2015-005, § 2, 5-5-2015; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2012-011, § 2, 8-7-2012)

Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division II. - LAND USE AND DEVELOPMENT  
Chapter 16.38 SPECIAL USES

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## ***Chapter 16.38 SPECIAL USES***

### **16.38.010 General Provisions**

Special uses included in this Section are uses which, due to their effect on surrounding properties, must be developed in accordance with special conditions and standards. These conditions and standards may differ from the development standards established for other uses in the same zoning district. When a dimensional standard for a special use differs from that of the underlying zoning district, the standard for the special use shall apply.

(Ord. 86-851, § 3)

### **16.38.020 Medical Marijuana Dispensary**

#### **A. Characteristics**

1. A medical marijuana dispensary is defined in Section 16.10.020.
2. Registration and Compliance with Oregon Health Authority and Oregon Liquor Control Commission Rules. A medical marijuana dispensary must have a current valid registration with the Oregon Health Authority under ORS 475B.858 or a current valid designation as an exclusively medical license holder by the Oregon Liquor Control Commission under ORS 475B.131. Failure to comply with Oregon Health Authority and Oregon Liquor Control Commission regulations, as applicable, is a violation of this Code.

#### **B. Approval Process**

Where permitted, a medical marijuana dispensary is subject to approval under Section 16.72.010.A.2, the Type II land use process. A medical marijuana dispensary which has already obtained such approval and which is converting from Oregon Health Authority registration to Oregon Liquor Control Commission licensure with an exclusively medical designation, or vice versa, is not required to obtain additional land use approval from the City under this section solely as a result of such license conversion.

#### **C. Standards**

1. Hours of Operation. A medical marijuana dispensary may not be open to the public before 10:00 a.m. and not later than 8:00 p.m. all days of the week.
2. Security Measures Required
  - a. Landscaping must be continuously maintained to provide clear lines of sight from a public right-of-way to all building entrances.
  - b. Exterior lighting must be provided and continuously maintained.
  - c. Any security bars installed on doors or windows visible from a public right-of-way must be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
3. Co-location Prohibited
  - a. A medical marijuana dispensary may not be located at the same address as a marijuana manufacturing facility, including a grow operation.
  - b. A medical marijuana dispensary may not be located at the same address with any facility or business at which marijuana is inhaled or consumed

4. Mobile and Delivery Businesses Prohibited
  - a. A dispensary may not operate as a mobile business as defined in Section 16.10.020.
  - b. A dispensary may not operate to deliver marijuana.
5. Drive-Through and Walk-Up. A medical marijuana dispensary may not engage in product sales outside of the facility or building through means of a walk-up window or drive-through access.
6. Proximity Restrictions

A medical marijuana dispensary may not be located within 1,000 feet of any of the uses listed below. For purposes of this paragraph, the distance specified is measured from the closest points between the property lines of the affected properties:

  - a. An educational institution: public or private elementary, secondary, or career school that is attended primarily by children under 18 years of age.
  - b. Another medical marijuana dispensary.
  - c. A public park or plaza.

(Ord. No. 2018-008, § 2, 10-2-2018; Ord. No. 2015-005, § 2, 5-5-2015)

### **16.38.030 Recreational Marijuana Facilities**

- A. Characteristics
  1. Five types of recreational marijuana facilities are defined in Section 16.010.20.
  2. Recreational marijuana facilities must be licensed by the Oregon Liquor Control Commission. A facility not licensed by the Oregon Liquor Control Commission is not permitted in any zone.
- B. Approval Process. Where permitted, recreational marijuana facilities are subject to approval under 16.72.010.A2, the Type II process in addition to any other required land use review process required by this Code. Applications for approval shall include detailed responses to the applicable standards listed in this section.
  1. An existing Medical Marijuana Dispensary in compliance with Section 16.38.020 (Medical Marijuana Dispensary) which completes a conversion to a recreational marijuana licensee under regulation by the Oregon Liquor License Commission pursuant O.R.S. 475B et seq. shall be exempted from the requirement to complete a Type II process and shall only be required to complete a Type I process under 16.72.010.A1.
- C. General Standards for Recreational Marijuana Facilities
  1. All new construction of recreational marijuana facilities shall comply with 16.90 Site Planning.
    - a. A medical marijuana dispensary which is in compliance with Section 16.38.020 (Medical Marijuana Dispensary) on or before April 1, 2020, and which maintains such compliance until completion of a conversion to a recreational marijuana licensee under regulation by the Oregon Liquor License Commission pursuant to O.R.S. 475B et seq. shall be exempted from 16.90 Site Planning for any new or modified recreational marijuana facilities.
  2. In the case of production facilities, views from the exterior of the building into the production area are prohibited. Views of interior lighting in the production area from the exterior of the building are also prohibited.

3. Only indoor recreational marijuana production is allowed. Exterior growing is prohibited for commercial distribution.
4. Public Access Prohibited. Access to any production, processing, testing laboratory and wholesale facility shall be limited to employees, personnel, and guests over the age of 21, authorized by the facility operator.
5. Security Measures Required
  - a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
  - b. Exterior lighting shall be provided and continuously maintained.
  - c. Any security bars installed on doors or windows visible from the public right-of-way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
  - d. No outdoor storage of marijuana is allowed at any recreational marijuana facilities.
6. Odor Mitigation Measures Required. Production and processing facilities shall install and maintain enhanced ventilation systems designed to prevent detection of marijuana odor from adjacent properties or the public right-of-way. Such systems shall include the following features:
  - a. Installation of activated carbon filters on all exhaust outlets to the building exterior;
  - b. Location of exhaust outlets a minimum of 10 feet from the property line and 10 feet above finished grade; and
  - c. Maintenance of negative air pressure within the facility; or
  - d. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
7. Proximity Restrictions. A recreational marijuana production, processing, testing laboratory or wholesale sales facility shall not be located within 1000 feet of any single-family residential or multi-family residential zone. For purposes of this paragraph, the distance specified is measured from the closest points between property lines of the affected properties.
8. No recreational marijuana facility may be located within the Old Town Overlay District.
9. Recreational Marijuana Facilities (Retailer, Processor, Wholesaler, Producer, or Laboratory) licensed by the Oregon Liquor Control Commission shall only be permitted in zones classified as General Industrial.
  - a. Exception. Any existing medical marijuana dispensary located in an area zoned Light Industrial which is in compliance with Section 16.38.020 (Medical Marijuana Dispensary) on or before April 1, 2020, will be an approved situs for a licensed recreational marijuana facility. This section expressly authorizes the operation of a licensed recreational marijuana facility in the following location zoned Light Industrial:

Tax Lot 2S129A 000500 - Parcel R0547705  
15025 SW Tualatin-Sherwood Rd, Sherwood, OR 97140
  - b. The sale of any property listed at 16.38.030(9) (a) shall not terminate this exception and such exception shall run with the land. A purchaser of the applicable real estate may, but shall not be required, to undertake a "Change of Ownership" review by the Oregon Liquor Control

Commission. A subsequent purchaser of the applicable real estate may seek a new recreational marijuana license from the Oregon Liquor Control Commission unconnected with the license maintained by the prior owner(s).

10. One or more licensed Recreational Marijuana Facilities (Retailer, Processor, Wholesaler, Producer, or Laboratory) shall be permitted on the same tax lot, subject to the proximity restrictions under 16.38.030(D)(7).
- D. Specific Standards for Recreational Marijuana Retail Sales Facilities
1. All new construction of recreational marijuana retail facilities shall comply with 16.90 Site Planning, unless such facility is exempted from 16.90 Site Planning under 16.38.030(C)(1)(a).
  2. Public Access Prohibited. Access to a retail sales facility shall be limited to employees, personnel, and customers over the age of 21.
    - a. A OHA-registered medical marijuana patient or caregiver at least 18 years of age shall be permitted to enter a retail sales facility for the purposes of purchasing medical marijuana.
  3. Hours of Operation
    - a. Retail sales facilities shall operate only between the hours of 10:00 a.m. to 8:00 p.m. Sunday through Thursday.
    - b. Retail sales facilities shall operate only between the hours of 10:00 a.m. to 10:00 p.m. Friday and Saturday.
    - c. An individual facility may set hours within those specified, but may not be open outside those parameters.
  4. Security Measures Required
    - a. Landscaping shall be continuously maintained to provide clear lines of sight from public rights-of-way to all building entrances.
    - b. Exterior lighting shall be provided and continuously maintained consistent with Section 16.154.
    - c. Any security bars installed on doors or windows visible from the public right-of way shall be installed interior to the door or window, in a manner that they are not visible from the public right-of-way.
  5. Mobile or Temporary Businesses Prohibited. A retail sales facility may not operate as a mobile or temporary business as defined in Section 16.10.020.
  6. Drive-in or Drive-Through Facilities Only Permitted Where Authorized by OLCC. A retail sales facility may only operate a drive- in, or drive-through or "curbside delivery" retailer facility, as defined in Section 16.10.020. Nothing in this section shall prohibit a marijuana retailer from operating a delivery service which is compliant with state law and OLCC regulations concerning delivery by a recreational marijuana retailer.
  7. Proximity Restrictions. A retail marijuana facility shall not be located within the specified proximity of any of the uses listed below. For purposes of this paragraph, the distance specified is measured from the closest points between property lines of the affected properties.
    - a. Schools. Within one thousand (1,000) feet of a public or private elementary or secondary school attended primarily by children under 19 years of age.

- b. Other Retail Facilities. Within one thousand (1,000) feet of another retail recreational marijuana facility or any medical marijuana dispensary.
  - c. Public Plazas and Active Use Parks. Within one thousand (1,000) feet of a public plaza or active use park. As used in this paragraph, an active use park includes a public park which includes features such as playground equipment, athletic courts or fields, active use water features, or skating or skateboard features.
8. No recreational marijuana retail facility shall exceed an area of three thousand (3,000) square feet of publicly accessible areas associated with the retail sale of recreational marijuana. No additional size limitations on recreational retail marijuana facilities shall be imposed except as required by state law.

#### 16.38.040 Psilocybin Service Centers & Manufacturing of Psilocybin Products

##### A. Characteristics

- 1. A Psilocybin Service Center is defined in Section 16.10.020.
- 2. Manufacturing of Psilocybin Products is defined in Section 16.10.020
- 3. Registration and Compliance with Oregon Health Authority. A Psilocybin Service Center and manufacturing facility must have a current valid registration with the Oregon Health Authority under ORS 475A. Failure to comply with Oregon Health Authority, as applicable, is a violation of this Code.

##### B. Approval Process

- 1. Where permitted, a Psilocybin Service Center and the manufacturing of psilocybin products is subject to approval under Section 16.72.010.A.2, the Type II land use process, in addition to any other land use review process required by this Code.

##### C. General Standards for Psilocybin Service Centers and Manufacturing of Psilocybin Products

- 1. All new construction of Psilocybin Service Centers and sites manufacturing psilocybin products comply with 16.90 Site Planning.
- 2. In the case of production facilities, views from the exterior of the building into the production area are prohibited. Views of interior lighting in the production area from the exterior of the building are also prohibited.
- 3. Only indoor manufacturing of psilocybin production is allowed. Exterior growing is prohibited.
- 4. Public Access Prohibited. Access to sites manufacturing psilocybin products shall be limited to employees, personnel, and guests over the age of 21, authorized by the facility operator.
- 5. Security Measures Required
  - ~~a. Landscaping must be continuously maintained to provide clear lines of sight from a public right-of-way to all building entrances.~~
  - b. Exterior lighting must be provided and continuously maintained.
  - c. Any security bars installed on doors or windows visible from a public right-of-way must be installed interior to the door or window in a manner that they are not visible from the public right-of-way.
  - d. All storage shall be located within a permanent building and may not be located within a trailer, tent or motor vehicle. Outdoor storage of any material associated with psilocybin

service centers and the manufacturing of psilocybin products is prohibited.

6. **Order Mitigation Measures Required.** Production and processing facilities shall install and maintain enhanced ventilation systems designed to prevent detection of psilocybin odor from adjacent properties or the public right-of-way. Such systems shall include the following features:
  - a. Installation of activated carbon filters on all exhaust outlets to the building exterior;
  - b. Location of exhaust outlets a minimum of ten feet from the property line and ten feet above finished grade; and
  - c. Maintenance of negative air pressure within the facility; or
  - d. An alternative odor control system approved by the Building Official based on a report by a mechanical engineer licensed in the State of Oregon, demonstrating that the alternative system will control odor equally or better than the required activated carbon filtration system.
7. **Co-location Prohibited**
  - a. A Psilocybin Service Center and businesses engaged in the manufacturing of psilocybin products shall not be located at the same address.
8. **Proximity Restrictions**

A Psilocybin Service Center or manufacturing facility may not be located within 1,000 feet of any of the uses listed below. For the purposes of paragraph, the distance specified is measured from the closet points between property lines of the affected properties.

  - a. **Residential Zones.** Any single-family residential or multi-family residential zone.
  - b. **Schools.** A public or private elementary or secondary school attended primarily by children under 19 years of age.
  - c. **Public Plazas and Active Use Parks.** A public plaza or active use park. As used in this paragraph, an active use park includes a public park which includes features such as playground equipment, athletic courts or fields, active use water features, or skating or skateboard features.
  - d. **A Major Commercial Plaza:** Any lot, or combination of lots legally bound together by a deed restriction, restrictive covenant or other recorded document, having fifteen (15) or more legally permitted businesses on the site.
9. Psilocybin Service Centers and the manufacturing of psilocybin products shall only be permitted in zones classified as General Industrial.
10. No Psilocybin Service Center or the manufacturing of psilocybin products may be located within the Old Town Overlay District.
11. No Psilocybin Service Center or the manufacturing of psilocybin products shall exceed an area of three thousand square feet.

D. **Specific Standards for Psilocybin Service Centers and Manufacturing Facilities**

1. Mobile and Delivery Businesses Prohibited

2. Drive-Through and Walk-Up Services. A Psilocybin Service Center and manufacturing facility may not engage in business services outside the facility or building through a walk-up window or drive-through access.

Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division II. - LAND USE AND DEVELOPMENT  
Chapter 16.40 PLANNED UNIT DEVELOPMENT (PUD)\*

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### ***Chapter 16.40 PLANNED UNIT DEVELOPMENT (PUD)\****

#### 16.40.050 Residential PUD

##### A. Permitted Uses

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

1. Varied housing types, including but not limited to single family detached dwellings, duplexes, townhomes, zero-lot line housing and Multi-Family dwellings.
2. Related NC uses which are designed and located so as to serve the PUD district and neighborhood.
3. Private alleyways when designed and constructed to public alleyway standards in the City's Transportation System Plan (TSP).
4. All other uses permitted within the underlying zoning district in which the PUD is located.

##### B. Conditional Uses

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

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#### **16.40.020 Preliminary Development Plan**

A. A PUD Preliminary Development Plan shall be submitted for the review and approval in accordance with Chapter 16.72. PUDs may be considered only:

1. On sites that are unusually constrained or limited in development potential, as compared to other land with the same underlying zoning designation, because of:
  - a. Natural features such as floodplains, wetlands, and extreme topography, or
  - b. Man-made features, such as parcel configuration and surrounding development, but not including man-made features on or resulting from other parcels owned by any owner of the property subject to the PUD application;
2. On parcels of land within an Urban Renewal District where flexibility and creativity in design may result in greater public benefit than strict adherence to the code; or
3. In other areas deemed appropriate by Council during the adoption of a concept plan required by a Metro UGB expansion.

##### B. Content

The Preliminary Development Plan application shall include the following documentation:

1. Existing conditions map(s) showing: All properties, existing uses, and zoning districts within three hundred (300) feet, topography at five (5) foot intervals, floodplain, significant natural vegetation and features, private and public facilities including but not limited to utilities, streets, parks, and buildings, historic and cultural resources, property boundaries, lot lines, and lot dimensions and area.

2. Listing of all property owners adjacent to the proposed PUD as per Section 16.72.020, 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, historic and cultural resources, other public and utility structures, and any other dedicated land features or structures, the parceling, lot consolidation, adjustments, 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 describing: the intent of the PUD and how general PUD standards as per this Chapter are met, details of the particular uses, densities, building types and architectural controls proposed, 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 must also include a preliminary subdivision plat and meet all requirements of Chapter 16.120. The preliminary subdivision will be processed concurrently with the PUD.
6. Privately maintained trails for public use shall conform to the public trails standards in the Transportation System Plan (TSP).
7. Architectural Pattern Book: A compendium of architectural elevations, details, and colors of each building type shall be submitted with any PUD application. The designs shall conform to the site plan urban design criteria in Section 16.90.020(G) or any other applicable standards in this Code. A pattern book shall act as the architectural control for the homeowner's association or the commercial owner. An Architectural Pattern Book shall address the following:
  - a. Illustrative areas within the development application covered by the pattern book.
  - b. An explanation of how the pattern book is organized, and how it is to be used.
  - c. Define specific standards for architecture, color, texture, materials, and other design elements.
  - d. Include a measurement or checklist system to facilitate review of the development for conformity with the pattern book.
  - e. Include the following information for each building type permitted outright or conditionally proposed in the PUD:
    - (1) Massing, facades, elevations, roof forms, proportions, materials, and color palette.
    - (2) Architectural relevance or vernacular to the Pacific Northwest.
    - (3) Doors, windows, siding, and entrances, including sash and trim details.
    - (4) Porches, chimneys, light fixtures, and any other unique details, ornamentation, or accents.
    - (5) A fencing plan with details that addresses the relationship between public space and maintaining individual privacy subject to Section 16.58.020.

Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division II. - LAND USE AND DEVELOPMENT  
Chapter 16.46 MANUFACTURED HOMES\*

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***Chapter 16.46 MANUFACTURED HOMES\****

**16.46.010 Manufactured Homes on Individual Residential Lots**

A. Generally

One (1) manufactured home may be located on an individual lot zoned MDRL or MDRH, provided that the manufactured home meets the standards contained in Chapter 16.12 and subsection B of this Section.

B. Standards

1. Each manufactured home shall be multi-sectional 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 (3) feet in height for each twelve (12) feet in width.
4. The manufactured home shall meet the residential design standards contained in Chapter 16.14.
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 in paragraphs 1 to 6 of this subsection, 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. 94-983-A § 3; 91-922, § 3)

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Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division II. - LAND USE AND DEVELOPMENT  
Chapter 16.64 DUAL USE OF REQUIRED SPACE\*

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***Chapter 16.64 DUAL USE REQUIRED SPACE\****

**16.64.010 Generally**

- A. Except as otherwise provided, no lot area, setback, yard, landscaped area, or open space required by this Code shall be considered as providing the required lot area, setback, yard, landscaped area, or open space for another lot or development site under the provisions of this Code.
- B. No off-street parking or loading area required by this Code shall be permitted for another use except as provided in Section 16.94, Off-Street Parking and Loading.
- C. No off-street parking or loading area required by this Code shall be permitted for storage unless otherwise approved through land use review and approval.

(Ord. 91-922, § 3)

## **Division III. ADMINISTRATIVE PROCEDURES**

### ***Chapter 16.70 GENERAL PROVISIONS***

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#### **16.70.020 Neighborhood Meeting**

- A. The purpose of the neighborhood meeting is to solicit input and exchange information about the proposed development.
- B. Applicants of Type III, IV, and V applications are required to hold a meeting, at a public location for adjacent property owners and recognized neighborhood organizations that are within 1,000 feet of the subject application, prior to submitting their application to the City. Notification of the neighborhood meeting shall be mailed 14 calendar days prior to the meeting date. Affidavits of mailing, sign-in sheets and a summary of the meeting notes must be included with the application when submitted. Applicants for Type II land use action are encouraged, but not required to hold a neighborhood meeting.
  - 1. Projects requiring a neighborhood meeting in which the City or Urban Renewal District is the property owner or applicant shall also provide published and posted notice of the neighborhood meeting consistent with the notice requirements in 16.72.020.

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Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division III. - ADMINISTRATIVE PROCEDURES  
Chapter 16.72 PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

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***Chapter 16.72 PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS***

**16.72.010 Generally**

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C. Approval Criteria

1. The approval criteria for each development permit application shall be the approval standards and requirements for such applications as contained in this Code. Each decision made by a Hearing Authority or Appeal Authority shall list the approval criteria and indicate whether the criteria are met. It is the applicant's burden to demonstrate to the Hearing Authority and Appeal Authority how each of the approval criteria are met. An application may be approved with conditions of approval imposed by the Hearing Authority or Appeal Authority. On appeal, the Appeal Authority may affirm, reverse, amend, refer, or remand the decision of the Hearing Authority.
2. In addition to Section 1 above, all Type IV quasi-judicial applications shall also demonstrate compliance with the Conditional use criteria of Section 16.82.020\_ except for residential and multi-family land use applications, including subdivisions.-

**Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE**  
**Division IV. – PLANNING PROCEDURES**  
**Chapter 16.84 Variances**

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**Chapter 16.84 - VARIANCES**

[...]

16.84.030 - Types of Variances

As provided in this Section, there are three types of variances: Adjustments, Class A variance and Class B variance; the type of variance required depends on the extent of the variance request and the discretion involved in the decision making process.

A. Adjustments

1. Generally and Approval Process: The following Adjustments and Residential Design Checklist with Adjustment are reviewed using a Type I procedure, as governed by Chapter 16.72, using the approval criteria in Subsection 2, below:
    - a. Front yard setbacks Up to a 5 percent change to the front yard setback standard in the land use district.
    - b. Rear yard setbacks Up to a 5 percent reduction of the dimensional standards for the rear yard setbacks required in the base land use district so long as the three foot setback is maintained based on Building Code requirements where applicable.
    - c. Interior side yard setbacks: Adjustments to interior side yard setbacks for all residential housing types are not allowed.
    - d. Landscape area up to a 5 percent reduction in landscape area (overall area or interior parking lot landscape area.
    - e. A 5 percent increase or decrease in other Code standards or dimensions not otherwise specifically identified in this section and not applicable at the time of the subdivision or partition approval.
    - f. Up to a 5 percent adjustment to one or more of the residential design standards of Section 16.14, Table 16.14-1.A-C (no adjustments to the Detailed Design standards in 16.14, Table 16.14-1.D are permitted).
  2. Approval Criteria: Adjustments subject to the provisions of this section shall be granted if the applicant demonstrates compliance with all of the following criteria:
    - a. The adjustment requested is required due to the lot configuration, or other conditions of the site;
    - b. The adjustment does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
    - c. The adjustment will not result in violation(s) of any other adopted ordinance or code standard; each code standard to be modified shall require a separate adjustment request.
    - d. An application for an adjustment is limited to one lot or parcel per application.
    - e. No more than three adjustments may be approved for one lot or parcel in 12 months.
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B. Class B Variances

1. Generally
  - a. The Class B variance standards apply to individual platted and recorded lots only.
  - b. A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use zoning district.
  - c. Front yard setbacks: Up to a 10 percent change to the front yard setback standard in the land use district.
  - d. Rear yard setbacks: Up to a 10 percent reduction of the dimensional standards for the rear yard setbacks required in the base land use district so long as the three foot setback is maintained if required by the Building Code requirements.
  - e. Interior side yard setbacks: Variances to interior side yard setbacks for all residential housing types are not allowed.
  - f. A 10 percent or less increase or decrease in other Code standards or dimensions not otherwise specifically identified in this section.
  - g. Between 5 percent and 10 percent adjustment to one or more of the residential design standards of Section 16.14, Table 16.14-1.A-C .
2. Approval Process: Class B variances and Residential Design Checklist with Class B Variance shall be reviewed using a Type II procedure. In addition to the application requirements contained in Chapter 16.72.010, the applicant shall provide a written narrative describing the reason for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 3.
3. Approval Criteria (subject to the provisions of this section): The City shall approve, approve with conditions, or deny an application for a Class B Variance based on the following criteria:
  - a. The variance requested is required due to the lot configuration, or other conditions of the site;
  - b. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
  - c. The variance will not result in violation(s) of any other adopted ordinance or code standard; each code standard to be modified shall require a separate variance request.
  - d. An application for a Class B variance is limited to three or fewer lots per application.
  - e. The variance will have minimal impact to the adjacent properties.
  - f. The variance is the minimum needed to achieve the desired result and the applicant has considered alternatives.

C. Class A Variances

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Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division IV. - PLANNING PROCEDURES  
Chapter 16.86 TEMPORARY USES

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## ***Chapter 16.86 TEMPORARY USES<sup>1</sup>***

### **16.86.010 Purpose**

This section recognizes that temporary uses serve a useful purpose in the life of the community. Temporary uses are characterized by their short-term or seasonal nature and by the fact that permanent changes are not made to the site. Such activities have a potential to have adverse impacts on surrounding property created by the temporary activity therefore specific requirements are necessary as discussed herein.

(Ord. No. 2012-001, § 2, 1-3-2012)

### **16.86.020. Temporary Uses - No Permits Required**

#### **A. Applicability**

1. Short-term events with an approved City of Sherwood Special Event Permit such as festivals, farmers markets and local events.
2. Short-term events, two (2) weeks in duration or less, including but not limited to fireworks sales, tent sales, sidewalk sales, book sales, craft sales, tree sales or rummage sales.
3. Tree and plant sales are limited to four (4) weeks in duration.

#### **B. Criteria**

1. No permit or review is required for short-term events that receive approval through the City of Sherwood Special Event Permit.
2. No permit or review is required for short-term events described in section A.2 and A.3 above, however, they must meet the following criteria;
  - a. The operations take place on private property for which the applicant has permission to use. No part of the site or use shall be located in the public right-of-way, unless a right-of-way permit has been previously granted by the City Engineer.
  - b. The event must take place on an improved site that has received site plan approval per Chapter 16.90.
  - c. The use shall not result in cars stacking onto a public street or interfering with on-site traffic circulation.
  - d. Pedestrian pathways such as sidewalks, bike path, walkways and breezeways shall not be blocked.

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<sup>1</sup>Editor's note(s)—Ord. No. 2012-001, § 2, adopted January 3, 2012, amended the Code by, in effect, repealing former Ch. 16.86, §§ 16.86.010 and 16.86.020, and adding a new Ch. 16.86. Former Ch. 16.86 pertained to similar subject matter, and derived from Ord. No. 86-851; Ord. No. 91-922; Ord. No. 98-1053; and Ord. No. 2010-015, adopted October 5, 2010.

- e. Wheelchair paths and handicapped parking spaces shall not be blocked.
- f. The use shall not eliminate required off street parking.
- g. Temporary uses shall obtain TVF&R approval, if applicable.
- h. Temporary uses permitted by these criteria are not exempt from any other required permits such as temporary portable sign permits, City business license, sanitation facility permits, electrical permits, or any other required city, county or state permit.
- i. The use shall comply with applicable noise, odor, nuisance, fire code and comply with other provisions of this Code.
- j. Food vendors are only permitted when associated with an approved special event permit or permitted as permanent outdoor sales and subject to 16.98.040.A.1.

C. Enforcement

If a short-term event described in section A.2 and A.3 above is found to be out of compliance with the above criteria, the City shall enforce compliance or require the removal of the event in accordance with the City's code compliance procedures and 16.02.040.

(Ord. No. 2012-001, § 2, 1-3-2012)

### **16.86.030 Temporary Uses - Requiring Permits**

A. Applicability

Approval may be granted for structures or uses which are temporary or seasonal in nature, such as temporary sale offices within a model home or trailer construction trailers and offices, and model homes provided such uses are consistent with the intent of the underlying zoning district and comply with other provisions of this Code. These activities are intended to be in use for a limited duration and shall not become a permanent part of a site.

B. Application and Fee

An application for a temporary use shall be filed with the City and accompanied by the fee specified in the adopted fee schedule. 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 16.72 and shall be evaluated pursuant to a Type I procedure

C. Permit Approval

1. Findings of Fact

A temporary use permit (TUP) may be authorized by the City Manager or his/her designee pursuant to Chapter 16.72 provided that the applicant submits a narrative and detailed site plan that demonstrates that the proposed use:

- a. Generally conforms to the standards and limitations of the zoning district in which it is located.
- b. Meets all applicable City and County health and sanitation requirements.
- c. Meets all applicable Uniform Building Code requirements.
- d. On-site real-estate offices, Construction offices and construction trailers shall not be approved until land use approval and building permits, if applicable, have been issued.
- e. Complies with temporary outdoor sales standards, if applicable.

## 2. 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/her designee.

- a. Temporary sale offices, construction offices, and trailers shall not be issued for a period exceeding one (1) year. The applicant may request a renewal for additional time to allow completion of the project provided that the applicant provides a narrative describing the need for additional time and an anticipated date of project completion.
- b. Other temporary uses, not otherwise exempt per 16.86.020.B, shall be issued a permit for up to one (1) year to accommodate the duration of the proposed temporary use.

Renewals may be provided as follows:

- (1) Temporary sales office: A renewal permit may be obtained for a period of one (1) year after providing a narrative discussing how the use will remain temporary and how the use is not and will not become permanent.
- (2) Model homes: A temporary use permit shall not be issued for a period exceeding two (2) years. The applicant may request a renewal for one (1) additional year provided that the applicant provides a narrative describing the need for additional time and the anticipated date to discontinue the model home use.
- (3) For all other temporary uses not defined as a temporary sales office or model home: a renewal permit may be obtained for a period of one year providing a narrative discussing how the use will remain temporary and how the use is not and will not become permanent.
- (4) A temporary use permit shall not be renewed for more than three consecutive years; however, a renewal may be obtained annually for uses that do not exceed a four-month period of time per year.

## 3. Conditions

In issuing a temporary use permit, the City Manager or his/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:

- a. increased yard dimensions;
- b. fencing, screening or landscaping to protect adjacent or nearby property;
- c. limiting the number, size, location or lighting of signs;
- d. restricting certain activities to specific times of day; and
- e. reducing the duration of the temporary use permit to less than one (1) year.

## 4. Revocation

Any departure from approved plans not authorized by the City Manager or his/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.

## D. Model Homes

This section permits the construction of model homes in conjunction with preliminary approval of residential subdivisions pursuant to Chapter 16.120, Subdivisions, of this title. When the use of the model home is discontinued, the structure converts to the intended use as a residential dwelling unit.

1. Approval Criteria. A model home may be constructed and occupied only for the purposes set forth in this section and consistent with its definition prior to final plat recording and subject to the following approval criteria:
  - a. Prior to the final plat recording, one model home may be constructed per legal lot of record if the lot had a previous residential home.
  - b. If the model home is proposed prior to the final plat recording: The lot must be vacant, and the home foundation for the proposed model home(s) must be surveyed by a person who is registered in Oregon as a land surveyor and holds a valid certificate consistent with State Law. The surveys must establish the location of the model home structure consistent with the dimensional requirements of a lot on the approved preliminary residential subdivision.
  - c. If the model home is proposed after the final plat recording, the applicant shall submit a plot plan showing the location of the model home structure is consistent with the dimensional requirements of a lot on the approved recorded plat.
  - d. The proposed model home shall be in compliance with residential development standards in Chapter 16.12, including applicable dimensional requirements including, but not limited to, maximum height, minimum setbacks, and minimum lot size of the approved preliminary residential subdivision.
  - e. Adequate parking shall be available to serve the model home site. No model home may be temporarily occupied where on-street parking is not available on a public right-of-way or private street that is immediately adjacent to the lot. Where adjacent on-street parking is inadequate, additional temporary off-street parking may be required. Temporary off-street parking must be removed and adequate landscaping installed consistent with this title, prior to any sale of the model home or lot. At least four parking spaces shall be provided for each model home, either off-street or on-street, and shall be shown on a site plan.
  - f. Adequate emergency vehicle access shall be available to model home(s) during both construction and temporary occupancy, as approved by the City.
  - g. Adequate water supply for firefighting, as approved by the City, shall be provided to each model home lot prior to installation of combustible materials.
  - h. All required public and private utilities within the public right-of-way or private street shall be installed and accepted by the City prior to the model home being discontinued and converted to the intended use as a residential home. All utility installations must be inspected and accepted by the City consistent with this title.
  - i. The number of model homes in a residential subdivision may be allowed as follows after plat recording:
    1. Between one (1) and ten (10) residential lots, one model home;
    2. Between eleven (11) and fifty (50) residential lots, three model homes;
    3. Between fifty-one (51) and one hundred (100) residential lots, five model homes;
    4. More than one hundred one (101) residential lots, seven model homes;
  - j. If more than one model home is proposed, the model homes shall be contiguous to one another and within the same platted phase of the development.

- k. No variances under Chapter 16.84, Variances, shall be permitted to accommodate the model home.
  - l. Water meter connection for a model home is prohibited unless all public improvements required by the subdivision have been constructed, inspected, and accepted by the City Engineering Department. If all public improvements have been constructed, inspected and accepted by the City, the model home must connect to the city's water and sanitary sewer system. A water meter must be installed upon converting the model home to the intended use as a residential home.
  - m. Adequate pedestrian access must be available to the model homes, as approved by City of Sherwood Engineering Department.
2. Remedial Action. In the event that the City determines the model home has encroached on a property line or has violated any applicable standards, the following steps shall be taken to correct the violation:
- a. The City shall provide notice to the applicant identifying the violation and requesting correction of the violation within sixty (60) days of the date of the notice. The City may require more or less time on a case-by-case basis. The time required to cure the encroachment does not extend or modify the timeline for submitting a final plat subject to section 16.120.050 or the termination of the model home approval as set forth below.
  - b. The applicant shall correct the violation within the time provided in the notice unless otherwise agreed to by the City in writing.
  - c. The City will not accept an application for a final plat until such time as the violation is corrected. In the event an application is already filed before the violation is detected, the City shall deny the final plat as not consistent with the preliminary approval unless the violation is corrected.

(Ord. No. 2012-001, § 2, 1-3-2012)

Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division V. - COMMUNITY DESIGN  
Chapter 16.90 SITE PLANNING\*

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## ***Chapter 16.90 SITE PLANNING\****

### **16.90.010 Purpose**

Site planning review is intended to:

- 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. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 86-851, § 3)

### **16.90.020 Site Plan Review**

#### **A. Site Plan Review Required**

Site Plan review is required prior to any substantial change to a site or use that is not subject to Residential Design Checklist or Residential Design Review, does not meet the criteria of a minor or major modification per 16.90.030, issuance of building permits for a new building or structure, or for the substantial alteration of an existing structure or use. Exemptions noted below.

Site Plan Review is required for the following development:

- 1. Multi-dwelling
- 2. Commercial
- 3. Industrial
- 4. Mixed-use

For the purposes of Section 16.90.020, the terms "substantial change" and "substantial alteration" 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 and is not considered a modification.
- 2. The activity involves changes in the use of a structure, building, or property from residential to commercial or industrial and is not considered a modification.
- 3. The activity involves non-conforming uses as defined in Chapter 16.48.
- 4. The activity constitutes a change in a City approved plan, per Section 16.90.020 and is not considered a modification.

5. The activity is subject to site plan review by other requirements of this Code.
6. The activity increases the size of the building by more than 100% (i.e. the building more than doubles in size), regardless of whether it would be considered a major or minor modification.

B. Exemption to Site Plan Requirement

1. Single Family detached and middle housing developments are exempt from Site Plan Review but are required to complete either a Residential Design Checklist or Residential Design Review per Chapter 16.89, unless otherwise noted.
2. Manufactured homes located on individual residential lots per Section 16.46.010, and including manufactured home parks.

C. Reserved

D. Required Findings

No site plan approval will be granted unless each of the following is found:

1. The proposed development meets applicable zoning district standards and design standards in Division II, and all provisions of Divisions V, VI, VIII and IX.
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 extent feasible, including but not limited to natural drainage ways, wetlands, trees, vegetation (including but not limited to environmentally sensitive lands), scenic views, and topographical features, and conforms to the applicable provisions of Division VIII of this Code and Chapter 5 of the Community Development Code.
5. For developments that are likely to generate more than 400 average daily trips (ADTs), or at the discretion of the City Engineer, the applicant must provide adequate information, such as a traffic impact analysis (TIA) or traffic counts, to demonstrate the level of impact to the surrounding transportation system. The developer is required to mitigate for impacts attributable to the project, pursuant to TIA requirements in Section 16.106.080 and rough proportionality requirements in Section 16.106.090. The determination of impact or effect and the scope of the impact study must be coordinated with the provider of the affected transportation facility.
6. The proposed commercial, Multi-Family dwelling, institutional or mixed-use development is oriented to the pedestrian and bicycle, and to existing and planned transit facilities. Urban design standards include the following:
  - a. Primary, front entrances are located and oriented to the street, and have significant articulation and treatment, via facades, porticos, arcades, porches, portal, forecourt, or stoop to identify the entrance for pedestrians. Additional entrance/exit points for buildings, such as a postern, are allowed from secondary streets or parking areas.
  - b. Buildings are located adjacent to and flush to the street, subject to landscape corridor and setback standards of the underlying zone.
  - c. The architecture of buildings are oriented to the pedestrian and designed for the long term and be adaptable to other uses. Aluminum, vinyl, and T-111 siding are prohibited. Street facing

elevations have windows, transparent fenestration, and divisions to break up the mass of any window. Roll up and sliding doors are acceptable. Awnings that provide a minimum 3 feet of shelter from rain are required unless other architectural elements are provided for similar protection, such as an arcade.

- d. Multi-family development requires a minimum of 15 percent of the area of the primary building elevation adjacent to a public right-of-way to include windows and entrance doors, and for the side building elevation, adjacent to a public right-of-way or public accessway, a minimum of 10 percent glazing of the area is required.
- e. As an alternative to the standards in Section 16.90.020.D.6.a—d, the following Commercial Design Review Matrix may be applied to any commercial, multi-family, institutional or mixed use development (this matrix may not be utilized for developments within the Old Town Overlay). A development must propose a minimum of 60 percent of the total possible points to be eligible for exemption from the standards in Section 16.90.020.D.6.a—d. In addition, a development proposing between 15,001 and 40,000 square feet of floor area, parking or seating capacity and proposing a minimum of 80 percent of the total possible points from the matrix below may be reviewed as a Type II administrative review, per the standards of Section 16.72.010.A.2.

COMMERCIAL DESIGN REVIEW MATRIX

Design Criteria	Possible Points				
	0	1	2	3	4
Building Design (21 Total Points Possible; Minimum 12 Points Required)					
These standards may be applied to individual buildings or developments with multiple buildings.					
Materials <sup>1</sup>	Concrete, artificial materials (artificial or "spray" stucco, etc.)	Cultured stone, brick, stone, decorative patterned masonry, wood	A mixture of at least two (2) materials (i.e. to break up vertical facade)	A mixture of at least three (3) materials (i.e. to break up vertical facade)	A mixture of at least three (3) of the following materials: brick, stone, cultured stone, decorative patterned masonry, wood
Roof Form <sup>2</sup>	Flat (no cornice) or single-pitch (no variation)	Distinctive from existing adjacent structures (not applicable to expansion of same building) or either variation in	Distinctive from existing adjacent structures (not applicable to expansion of same building) and either variation in	—	—

<sup>1</sup>No aluminum or T-111 siding permitted.

<sup>2</sup>Pictures and/or artistic renderings must be submitted for review by the Planning Commission if metal roofs are proposed.

		pitch or flat roof with cornice treatment	pitch or flat roof with cornice treatment		
Commercial Glazing <sup>3</sup>	0—20% glazing on street-facing side(s)	>20% glazing on at least one street-facing side (inactive, display or façade windows)	>20% glazing on all street-facing sides (inactive, display or façade windows)	>20% glazing on at least one street-facing side (active glazing—actual windows)	>20% glazing on all street-facing sides (active glazing—actual windows)
Multi-Family Glazing	Multi-family development requires a minimum of 15 percent of the area of the primary building elevation adjacent to a public right-of-way to include windows and entrance doors, and for side building elevations, adjacent to a public right-of-way or public accessway, a minimum of 10 percent glazing of the area is required.				
Fenestration on street-facing elevation(s)	One distinct "bay" with no vertical building elements	Multiple "bays" with one or more "bay" exceeding 30 feet in width	Vertical building elements with no "bay" exceeding 30 feet in width	Vertical building elements with no "bay" exceeding 20 feet in width	—
Entrance Articulation	No weather protection provided	Weather protection provided via awning, porch, etc.	—	Weather protection provided via awning, porch, etc. and pedestrian amenities such as benches, tables and chairs, etc. provided near the entrance but not covered	Weather protection provided via awning, porch, etc. and pedestrian amenities such as benches, tables and chairs, etc. provided near the entrance and covered
Structure Size <sup>4</sup> to discourage "big box"	Greater than 80,000 square feet	60,000—79,999 square feet	40,000—59,999 square feet	20,000—39,999 square feet	Less than 20,000 square feet

<sup>3</sup> Two (2) points if there is only one street-facing side and it is >20% glazing with inactive windows.

<sup>4</sup>If multiple buildings are proposed, average the building sizes in the development.

style development					
<b>Building Location and Orientation (6 Total Points Possible; Minimum 3 Points Required)</b>					
Location <sup>5</sup>	Building(s) not flush to any right-of-way (including required PUE adjacent to ROW, setbacks or visual corridor) (i.e. parking or drive aisle intervening)	Building(s) located flush to right-of-way on at least one side (with the exception of required setbacks, easements or visual corridors)	Buildings flush to all possible right-of-way (with the exception of required setbacks, easements or visual corridors) (i.e. "built to the corner")	—	—
Orientation	Single-building site primary entrance oriented to parking lot	—	Single-building site primary entrance oriented to the pedestrian (i.e. entrance is adjacent to public sidewalk or adjacent to plaza area connected to public sidewalk and does not cross a parking area)	—	—
	Multiple building site primary entrance to anchor tenant or primary	—	Multiple building site primary entrance to anchor tenant or	—	—

<sup>5</sup>If multiple buildings are proposed in one development, one point is awarded if one or more buildings are located adjacent to one or more rights-of-way and two points are awarded if there is at least one building adjacent to each right-of-way.

	entrance to development oriented to parking lot		primary entrance to development oriented to the pedestrian		
Secondary Public Entrance <sup>6</sup> 6			Secondary public pedestrian entrance provided adjacent to public sidewalk or adjacent to plaza area connected to public sidewalk		
<b>Parking and Loading Areas (13 Total Points Possible; Minimum 7 Points Required)</b>					
Location of Parking	Greater than 50 percent of required parking is located between any building and a public street	25—50 percent of required parking is located between any building and a public street	Less than 25 percent of required parking is located between any building and a public street	No parking is located between any building and a public street	—
Loading Areas	Visible from public street and not screened	Visible from public street and screened	Not visible from public street	—	—
Vegetation	At least one "landscaped" island every 13—15 parking spaces in a row	At least one "landscaped" island every 10—12 parking spaces in a row	At least one "landscaped" island every 8—9 parking spaces in a row	At least one "landscaped" island every 6—7 parking spaces in a row	—

<sup>6</sup>If primary entrance is oriented to the pedestrian, the project is automatically given these points without need for a second entrance.

Number of Parking Spaces <sup>7</sup>	>120%	101—120%	100%	<100% (i.e. joint use or multiple reduction) (1 bonus)	—
Parking Surface	Impervious	Some pervious paving (10—25%)	Partially pervious paving (26—50%)	Mostly pervious paving (>50%)	—
<b>Landscaping (24 Total Point Possible, Minimum 14 Points Required)</b>					
Tree Retention <sup>8</sup>	Less than 50% of existing trees on-site retained	51—60% of existing trees on-site retained	61—70% of existing trees on-site retained	71—80% of existing trees on-site retained	81—100% of existing trees on-site retained
Mitigation Trees <sup>9</sup>	Trees mitigated off-site or fee-in-lieu	25—50% of trees mitigated on-site	51—75% of trees mitigated on-site	76—100% of trees mitigated on-site	—
Landscaping Trees <sup>10</sup>	Less than one tree for every 500 square feet of landscaping	1 tree for every 500 square feet of landscaping	2 trees for every 500 square feet of landscaping	3 trees for every 500 square feet of landscaping	4 trees for every 500 square feet of landscaping
Landscaped Areas	Greater than 35% of landscaped areas are less than 100 square feet in size	Less than 25% of landscaped areas are less than 100 square feet in size	No landscaped areas are less than 100 square feet in size	—	—
Landscaping Trees greater than 3-inch Caliper	<25%	25—50%	>50%	—	—
Amount of Grass <sup>11</sup>	>75% of landscaped areas	50—75% of landscaped areas	25—49% of landscaped areas	<25% of landscaped areas	—

<sup>7</sup>Percent of minimum required.

<sup>8</sup>Based on tree inventory submitted with development application.

<sup>9</sup>When no mitigation is required, the project receives zero points.

<sup>10</sup>In addition to mitigated trees on-site, does not include Water Quality Facility Plantings.

<sup>11</sup>Shrubs and drought resistant ground cover are better.

Total Amount of Site Landscaping <sup>12</sup>	<10% of gross site	10—15% of gross site	16—20% of gross site	21—25% of gross site	>25% of gross site
Automatic Irrigation	No	Partial	Yes	—	—
<b>Miscellaneous (10 Total Points Possible; Minimum 5 Points Required)</b>					
Equipment Screening (roof)	Equipment not screened	Equipment partially screened	Equipment fully screened	Equipment fully screened by materials matching building architecture/finish	—
Fences and Walls <sup>13</sup>	Standard fencing and wall materials (i.e. wood fences, CMU walls etc.)	—	Fencing and wall materials match building materials	—	—
On-Site Pedestrian Amenities Not Adjacent to Building Entrances	No	Yes; 1 per building	Yes; more than 1 per building	—	—
Open Space Provided for Public Use	No	Yes; <500 square feet	Yes; 500—1,000 square feet	Yes; >1,000 square feet	—
Green Building Certification				LEED, Earth Advantage, etc. (Bonus)	

- e. As an alternative to the standards in Sections 16.90.020.D.6.a—c, the Old Town Design Standards (Chapter 16.162) may be applied to achieve this performance measure.
  - f. As an alternative to the standards in Sections 16.90.020.D.6.a.—e, an applicant may opt to have a design review hearing before the Planning Commission to demonstrate how the proposed development meets or exceeds the objectives in Section 16.90.010.B of this Code. This design review hearing will be processed as a Type IV review with public notice and a public hearing.
7. Industrial developments provide employment opportunities for citizens of Sherwood and the region as a whole. The proposed industrial development is designed to enhance areas visible from arterial and

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Schools automatically receive the full 3 points and are not penalized for amount of grass.

<sup>12</sup>Includes visual corridor.

<sup>13</sup>Including retaining walls.

collector streets by reducing the "bulk" appearance of large buildings. Industrial design standards include the following:

- a. Portions of the proposed industrial development within 200 feet of an arterial or collector street and visible to the arterial or collector (i.e. not behind another building) must meet any three of the following five design criteria:
  - (1) Primary building entries – entries open to the general public  
Primary building entries should be readily identifiable and well-defined through the use of pedestrian scale improvements such as, but not limited to, projections, recesses, columns, roof structures, extra landscaping, hardscapes, seating, or other design elements.
  - (2) A minimum of two (2) building materials used to break up vertical facade street facing frontages (no T-111 or aluminum siding).
  - (3) Maximum thirty-five (35) foot setback for all parts of the building from the property line separating the site from all arterial or collector streets (required visual corridor falls within this maximum setback area).
  - (4) Parking is located to the side or rear of the building when viewed from the arterial or collector.
  - (5) Loading areas are located to the side or rear of the building when viewed from the arterial or collector. If a loading area is visible from an arterial or collector, it must be screened with vegetation or a screen made of materials matching the building materials.
- b. A minimum 15% window glazing shall be required for all frontages facing an arterial or collector.
- c. All roof-mounted equipment shall be required to be screened with materials complimentary to the building design materials.
- d. As an alternative to Section 16.90.020.D.7.a-c, an applicant may opt to have a design review hearing before the Planning Commission to demonstrate how the proposed development meets or exceeds the applicable industrial design objectives below (this design review hearing will be processed as a Type IV review):
  - (1) Provide high-value industrial projects that result in benefits to the community, consumers and developers.
  - (2) Provide diversified and innovative working environments that take into consideration community needs and activity patterns.
  - (3) Support the City's goals of economic development.
  - (4) Complement and enhance projects previously developed under the industrial design standards identified in Section 16.90.020.D.7.
  - (5) Enhance the appearance of industrial developments visible from arterials and collectors, particularly those considered "entrances" to Sherwood, including but not limited to: Highway 99W, Tualatin-Sherwood Road and Oregon Street.
  - (6) Reduce the "bulk" appearance of large industrial buildings as viewed from the public street by applying exterior features such as architectural articulation, windows and landscaping.
  - (7) Protect natural resources and encourage integration of natural resources into site design (including access to natural resources and open space amenities by the employees of the site and the community as a whole).

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Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division V. - COMMUNITY DESIGN  
Chapter 16.90 SITE PLANNING\*  
Exhibit B12

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### 16.90.030 Site Plan Modifications and Revocation

#### A. Modifications to Approved Site Plans

##### 1. Major Modifications to Approved Site Plans

- a. Defined. A major modification review is required if one or more of the changes listed below are proposed:
  - (1) A change in land use (i.e. residential to commercial, commercial to industrial, etc.);
  - (2) An increase in density by more than ten (10) percent, provided the resulting density does not exceed that allowed by the land use district;
  - (3) A change in setbacks or lot coverage by more than ten (10) percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district;
  - (4) A change in the type and/or location of access-ways, drives or parking areas negatively affecting off-site traffic or increasing Average Daily Trips (ADT) by more than 100;
  - (5) An increase in the floor area or height proposed for non-residential use by more than ten (10) percent;
  - (6) A reduction of more than ten (10) percent of the area reserved for common open space; or
  - (7) Change to a condition of approval that was specifically applied to this approval (i.e. not a "standard condition"), or a change similar to items identified in Section 16.90.030.A.1.a.(1)—(2) as determined by the Review Authority.
- b. Approval Criteria. An applicant may request a major modification as follows:
  - (1) Upon the review authority determining that the proposed modification is a major modification, the applicant must submit an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The review authority may require other relevant information, as necessary, to evaluate the request.
  - (2) The application is subject to the same review procedure (Type II, III or IV) and decision making body as the initial project approval, except that adding a Conditional Use to an approved Type II project is reviewed using a Type III procedure. The approval criteria and standards in effect at the time of the current land use submittal apply to the modification request.
  - (3) The scope of review is limited to the modification request and does not open the entire site up for additional review unless impacted by the proposed modification. For example, a request to modify a parking lot requires site design review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping.
  - (4) Notice must be provided in accordance with Chapter 16.72.020.
  - (5) The decision maker approves, denies, or approves with conditions an application for major modification based on written findings of the criteria.

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2. Minor Modifications to Approved Site Plans

- a. A Minor Modification is any modification to a land use decision or approved development plan that is not within the description of a major modification.
- b. Minor Modification Review Procedure. An application for approval of a minor modification is reviewed by the review authority using a Type I review procedure under Section 16.72.010.A. Minor modifications involve only clear and objective Code standards.
- c. Minor Modification Applications. An application for minor modification must include an application form, filing fee and narrative, updated Clean Water Services (CWS) Service Provider Letter or equivalent acknowledgement from CWS, and a site plan using the same plan format as in the original approval if possible. The review authority may require other relevant information, as necessary, to evaluate the request.
- d. Minor Modification Approval Criteria. The review authority approves, denies, or approves with conditions an application for minor modification based on written findings that the modification is in compliance with all applicable requirements of the Development Code in effect at the time of the current land use submittal and continues to comply with the conditions of approval in the original decision, and the modification is not a major modification.

B. Revocation

Any departure from an approved plan is 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, will be revoked.

(Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2014-012, § 3, 7-17-2014; Ord. No. 2011-011, § 1, 10-4-2011)

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Chapter 16.96 ON-SITE CIRCULATION

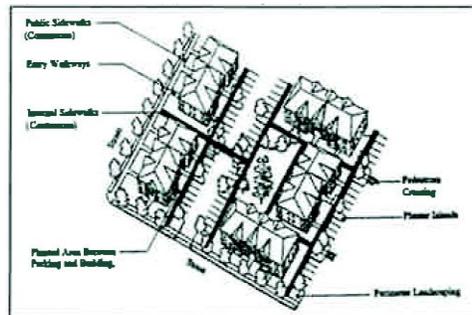
## ***Chapter 16.96 ON-SITE CIRCULATION***

### **16.96.010 General Requirements for Onsite Pedestrian Circulation**

#### **A. Purpose**

All new development, (except single-family detached and middle housing types), shall provide a continuous system of private pathways/sidewalks. The on-site facilities shall connect to adjacent residential areas and neighborhood activity centers within one-half mile of the development. Neighborhood activity centers include but are not limited to existing or planned schools, parks, shopping areas, transit stops or employment centers.

On-Site Circulation System (Multi-Family Example)



#### **B. Maintenance**

No building permit or other City permit shall be issued until plans for pedestrian 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. Required ingress, egress and circulation improvements shall be kept clean and in good repair.

#### **C. Joint Pedestrian Access**

Two (2) or more uses, structures, or parcels of land may utilize the same ingress and egress when the combined ingress and egress of all uses, structures, or parcels of land satisfied the other requirements of this Code, provided that satisfactory legal evidence is presented to the City in the form of deeds, easements, leases, or contracts to clearly establish the joint use.

#### **D. Connection to Streets**

1. Except for joint access per this Section, all ingress and egress to a use or parcel shall connect directly to a public street, excepting alleyways with paved sidewalk.
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.

(Ord. No. 2012-008, § 2, 7-17-2012; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 2005-009, § 6; Ord. 86-851)

## 16.96.020 Minimum Residential Pedestrian Circulation standards

Minimum standards for private, onsite pedestrian circulation improvements in residential developments:

### A. Sidewalks, Pathways and Curbs

1. Single Family Detached, middle housing types, and Manufactured Homes on Individual Residential Lot: No onsite sidewalks and curbs are required when not part of a proposed partition or subdivision. Pedestrian circulation standards for subdivisions and partitions are located in Section 16.106.060 Sidewalks. For cottage clusters, on-site pedestrian pathways are required consistent with Section 16.14.040.
2. Multi-family:
  - a. A system of private pedestrian sidewalks/pathways extending throughout the development site shall connect each dwelling unit to vehicular parking areas, common open space, storage areas, recreation facilities, adjacent developments, transit facilities within five hundred (500) feet of the site, and future phases of development. Main building entrances shall also be connected to one another.
  - b. Required private pathways/sidewalks shall extend from the ground floor entrances or the ground floor landing of stairs, ramps or elevators, on one (1) side of approved driveways connecting to the public sidewalk or curb of the public street that provides required ingress and egress. Curbs shall also be required at a standard approved by the Review Authority.
  - c. Private Pathway/Sidewalk Design. Private pathway surfaces shall be concrete, brick/masonry pavers, or other durable surface, at least five (5) feet wide and conform to ADA standards. Where the system crosses a parking area, driveway or street, it shall be clearly marked with contrasting paving materials or raised crosswalk (hump).
  - d. Exceptions Private pathways/sidewalks shall not be required where physical or topographic conditions make a connection impracticable, where buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or pathways would violate provisions of leases, restrictions or other agreements.

(Ord. No. 2012-008, § 2, 7-17-2012; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 2005-009, §§ 5, 8; 91-922)

## 16.96.030 Minimum Non-Residential Pedestrian Circulation Standards

Minimum standards for private, onsite pedestrian circulation improvements in non-residential developments:

### A. Sidewalks and Curbs

1. A private pathway/sidewalk system extending throughout the development site shall be required to connect to existing development, to public rights-of-way with or without improvements, to parking and storage areas, and to connect all building entrances to one another. The system shall also connect to transit facilities within five hundred (500) feet of the site, future phases of development, and whenever possible to parks and open spaces.

2. Curbs shall also be required at a standard approved by the Hearing Authority. Private pathways/sidewalks shall be connected to public rights-of-way along driveways but may be allowed other than along driveways if approved by the Hearing Authority.
3. Private Pathway/Sidewalk Design. Private pathway surfaces shall be concrete, asphalt, brick/masonry pavers, or other pervious durable surface. Primary pathways connecting front entrances to the right of way shall be at least 6 feet wide and conform to ADA standards. Secondary pathways between buildings and within parking areas shall be a minimum of four (4) feet wide and/or conform to ADA standards. Where the system crosses a parking area, driveway or street, it shall be clearly marked with contrasting paving materials or raised crosswalk (hump). At a minimum all crosswalks shall include painted striping.
4. Exceptions. Private pathways/sidewalks shall not be required where physical or topographic conditions make a connection impracticable, where buildings or other existing development on adjacent lands physically preclude a connection now or in the future considering the potential for redevelopment; or pathways would violate provisions of leases, restrictions or other agreements.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 2005-009, § 8; Ord. 86-851)

### **16.96.040 General Requirements for On-Site Vehicle Circulation**

#### **A. Maintenance**

No building permit or other City permit shall be issued until plans for vehicle 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 (2) or more uses, structures, or parcels of land are strongly encouraged to utilize jointly the same ingress and egress when the combined ingress and egress of all uses, structures, or parcels of land satisfy 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. In some cases, the City may require a joint access to improve safety, vision clearance, site distance, and comply with access spacing standards for the applicable street classification.

#### **C. Connection to Streets**

Except for joint access per this Section, all ingress and egress to a use or parcel shall connect directly to a public street, excepting alleyways.

#### **D. Maintenance of Required Improvements**

Required vehicle ingress, egress and circulation improvements shall be kept clean and in good repair.

#### **E. Service Drives**

Service drives shall be provided pursuant to Section 16.94.030.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2005-009 § 8)

### **16.96.050 Minimum Residential Vehicle Circulation Standards**

Minimum standards for private, on-site vehicle circulation improvements in residential developments:

#### **A. Driveways**

1. Single-Family Detached with or without an Accessory Dwelling Unit (ADU). One (1) driveway improved with hard surface pavement with a minimum width of ten (10) feet and maximum width of 24 ft., not to exceed a grade of 14%. Lots with more than 60 ft. of frontage on a public street are permitted a maximum width of 30 ft. Permeable surfaces and planting strips between driveway ramps are encouraged in order to reduce stormwater runoff.
2. Duplex: One (1) shared driveway improved with hard surface pavement with a minimum width of twenty (20) feet; or two (2) driveways improved with hard surface pavement with a minimum width of ten (10) feet each. Permeable surfaces and planting strips between driveway ramps are encouraged in order to reduce stormwater runoff.
3. Townhome: A maximum of one (1) driveway per unit improved with hard surface pavement with a minimum width of ten (10) feet. See also the provisions of 16.14.020.D.
4. Triplex and Quadplex: See the provisions of 16.14.030.A.
5. Cottage Clusters: See the provisions of 16.14.040.C
6. Multi-Family: Improved hard surface driveways are required as follows:

Number of Units	Number of Driveways	One Way Drive Width (Pair)	Two Way Drive Width
5—49	1	15 feet	24 feet
50 or more	2	15 feet	24 feet

### 16.96.060 Minimum Non-Residential Vehicle Circulation Standards

Minimum standards for private, on-site circulation improvements in non-residential developments:

A. Driveways

1. Commercial and Mixed-Use: Improved hard surface driveways are required as follows:

Required Parking Spaces	Number of Driveways	Minimum Width One-Way (Pair)	Minimum Width Two-Way
1—49	1	15 feet	24 feet
50 or more	2	15 feet	24 feet

2. Industrial: Improved hard surfaced driveways are required as follows:

Required Parking Spaces	Number of Driveways	Minimum Width One-Way (Pair)	Minimum Width Two-Way
1—249	1	15 feet	24 feet
250 or more	2	15 feet	24 feet

3. Surface materials are encouraged to be pervious when appropriate, considering soils, anticipated vehicle usage, and other pertinent factors.

## **Division VII. LAND DIVISIONS, SUBDIVISIONS, PARTITIONS, LOT LINE ADJUSTMENTS AND MODIFICATIONS<sup>1</sup>**

### ***Chapter 16.120 SUBDIVISIONS<sup>2</sup>***

#### **16.120.010 Purpose**

Subdivision regulations are intended to promote the public health, safety and general welfare; lessen traffic congestion; provide adequate light and air; prevent overcrowding of land; and facilitate adequate water supply, sewage and drainage.

(Ord. No. 2011-011, § 1, 10-4-2011)

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(Ord. No. 2011-011, § 1, 10-4-2011)

#### **16.120.040 Approval Criteria: Preliminary Plat**

No preliminary plat shall be approved unless:

- A. 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.
- B. 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.
- C. The plat complies with applicable zoning district standards and design standards in Division II, and all provisions of Divisions IV, VI, VIII and IX. The subdivision complies with Chapter 16.128 (Land Division Design Standards).
- D. Adequate water, sanitary sewer, and other public facilities exist to support the use of land proposed in the plat.
- E. Development of additional, contiguous property under the same ownership can be accomplished in accordance with this Code.
- F. Adjoining land can either be developed independently or is provided access that will allow development in accordance with this Code.

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<sup>1</sup>Editor's note(s)—Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the title of Div. VII.

<sup>2</sup>Editor's note(s)—Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the Code by, in effect, repealing former Ch. 16.120, §§ 16.120.010 and 16.120.020, and adding a new Ch. 16.120. Former Ch. 16.120 pertained to general provisions, and derived from Ord. 86-851; Ord. 98-1053; and Ord. No. 2010-015, adopted October 5, 2010.

- G. Tree and woodland inventories have been submitted and approved as per Section 16.142.060.
- H. The plat clearly shows the proposed lot numbers, setbacks, dedications and easements.
- I. A minimum of five percent (5%) open space has been provided per Section 16.142.030 (Parks, Open Spaces and Trees-Single-Family Residential Subdivisions), if applicable.
- J. Privately maintained trails for public use shall conform to the public trails standards in the Transportation System Plan (TSP).

(Ord. No. 2021-010 , § 2, 12-7-2021; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2011-011, § 1, 10-4-2011)

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Title 16 - ZONING AND COMMUNITY DEVELOPMENT CODE  
Division VII. - LAND DIVISIONS, SUBDIVISIONS, PARTITIONS, LOT LINE ADJUSTMENTS AND MODIFICATIONS  
Chapter 16.122 LAND PARTITIONS

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## ***Chapter 16.122 LAND PARTITIONS<sup>1</sup>***

### **16.122.010 Generally**

#### **A. Approval Required**

A tract of land or contiguous tracts under a single ownership shall not be partitioned into two (2) or more parcels until a partition application has been approved by the City Manager or his/her designee.

#### **B. City Action**

The City Manager or his/her designee shall review the partition applications submitted in accordance with Section 16.70 and shall approve, approve with conditions or deny the application.

(Ord. No. 2011-011, § 1, 10-4-2011)

### **16.122.020 Approval Criteria: Preliminary Plat**

Partitions shall not be approved unless:

- A. The partition complies with applicable zoning district standards and design standards in Division II, and all provisions of Divisions IV, VI, VIII and IX, and complies with Chapter 16.128 (Land Division Design Standards).
- B. 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.
- C. The applicant must demonstrate adequate water, sanitary sewer and other public facilities exist to support the proposed use of the partitioned land. For the purposes of this section:
  1. Adequate water service shall mean: the ability to connect to the City water supply system and the City water supply system has the capacity to provide service in compliance with City standards.
  2. Adequate sanitary sewer service shall mean: the ability to connect to the City sanitary sewer system and the City sanitary sewer system has the capacity to provide service in compliance with City standards if City sanitary sewer lines are located within three-hundred (300) feet of any point of the lot lines of the partition.
  3. Installation of private on-site septic sewage disposal facilities shall be deemed adequate when the lots proposed are 15,000 square feet or more if the private on-site septic system is permitted by Washington County Health and City sewer lines are not within three-hundred (300) feet.

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<sup>1</sup>Editor's note(s)—Ord. No. 2011-011, § 1, adopted October 4, 2011, amended the Code by, in effect, repealing former Ch. 16.122, § 16.122.010, and adding a new Ch. 16.122. Former Ch. 16.122 pertained to preliminary plats, and derived from Ord. 86-851; Ord. 91-922; Ord. 94-991; Ord. 98-1053; Ord. No. 2010-015, adopted October 5, 2010; and Ord. No. 2011-009, adopted July 19, 2011.

4. The adequacy of other public facilities such as storm water and streets shall be determined by the City Manager or his/her designee based on applicable City policies, plans and standards for said facilities.
- D. Adjoining land can be developed, or is provided access that will allow future development, in accordance with this Code.
- E. Future Development Ability

In addition to the findings required by Section 16.122.010, the City Manager or his/her designee must find, for any partition creating lots averaging one (1) acre or more, that the lots may be re-partitioned or resubdivided in the future in full compliance with the standards of this Code. The City Manager or his/her designee may require the applicant to submit partition drawings or other data confirming that the property can be resubdivided. If re-partitioning or resubdividing in full compliance with this Code is determined not to be feasible, the City Manager or his/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, said condition to be recorded against the property.

(Ord. No. 2011-011, § 1, 10-4-2011)

### **16.122.030 Final Partition Plat**

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## Division VIII. ENVIRONMENTAL RESOURCES

### *Chapter 16.132 GENERAL PROVISIONS AND CONFORMANCE*

#### **16.132.010 Purpose**

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

#### **16.132.020 Applicability**

The standards of this Chapter, and applicable portions of the Comprehensive Plan, shall apply to all Chapters in Division VIII. Environmental Resources, except for Chapter 16.134 Floodplain Overlay, for any new uses or changes to existing uses in commercial, industrial and institutional zones.

(Ord. 91-922, § 3)

#### **16.132.030 Conformance**

Conformance with the standards of this Chapter shall, at a minimum, be certified in writing by a professional engineer and submitted with the application for site plan review required by Chapter 16.90, except as per Section 16.136.050. 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. 91-922, § 3)

#### **16.132.040 Additional Information**

- A. Prior to accepting any land use application to which this Chapter applies, the City Manager or his/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 estimated, the applicant shall be responsible for the difference, provided however, that the applicant's financial responsibilities will not exceed ten percent (10%) 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.

### **16.132.050 Referenced Statutes and Rules**

The Federal, State or regional statutes and rules cited in this Chapter 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.

### **16.132.060 Exceptions**

The City shall make an initial determination whether a proposed development is subject to any of the standards of this Chapter, or whether the development is exempt. The City Manager or his/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 this Chapter. The findings of the City Manager or his/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/her designee may be appealed as per Chapter 16.76.

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

### **Sections:**

### **16.134.010 Generally**

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

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled, "The Flood Insurance Study for Washington County, Oregon and Incorporated Areas," (flood insurance study) dated October 19, 2018, with accompanying Flood Insurance Maps are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file with the Sherwood City Engineer at Sherwood City Hall.

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2018-006, § 2, 10-2-18; Ord. No. 2016-013, § 1, 10-18-2016; Ord. 91-922, § 3)

### **16.134.020 Purpose**

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

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

be applied to all areas within the base flood, and shall supplement the regulations of the underlying zoning district.

- B. FP zoning districts are areas within the base flood as identified by the Federal Emergency Management Agency (FEMA) in a Flood Insurance Study (FIS) and in Flood Insurance Rate Maps (FIRM) published for the City and surrounding areas, or as otherwise identified in accordance with Section 16.134.020C. These FEMA documents are adopted by reference as part of this Code, and are on file at the City.
- C. When base flood elevation data is not available from the FIS or FIRM, the City shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state, or other source, and standards developed by the FEMA, in order to administer the provisions of this Code.
- D. In areas where a regulatory floodway has not been designated, and where the Flood Insurance Study indicates that it is possible to calculate a floodway, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 88-870)

### **16.134.030 Greenways**

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

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 88-879)

### **16.134.040 Development Review and Floodplain Administrator Duties**

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

3. That the flood proofing methods for any structure meet the requirements of this section, Floodplain Structures.
  4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
  5. A base flood survey and impact study made by a registered civil engineer.
  6. Proof all necessary notifications have been sent to, and permits have been obtained from, those federal, state, or other local government agencies for which prior approval of the proposed development is required.
  7. Any other information required by this section, by any applicable federal regulations, or as otherwise determined by the City to be necessary for the full and proper review of the application.
- E. The floodplain administrator shall review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 16.134.070.F are met.
- F. Where base flood elevation data is provided through the Flood Insurance Study, FIRM or required under Section 16.134.020.C the local Floodplain Administrator shall:
1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures, and
  2. If the structure has been floodproofed in accordance with Sections 16.134.090.A.3 and D.1.a, then obtain the elevation (in relation to mean sea level) to which the structure was floodproofed, and
  3. Maintain all elevation and floodproofing certificates required under Section 16.134.040.D, and
  4. Maintain for public inspection all records pertaining to the provisions of this ordinance.
- G. Where elevation data is not available as per subsection D of this section, or from other sources as per Section 16.134.020.C, a floodplain CUP shall be reviewed using other relevant data, as determined by the City, such as historical information, high water marks, and other evidence of past flooding. The City may require utility structures and habitable building floor elevations, and building flood proofing, to be at least two feet above the probable base flood elevation, in such circumstances where more definitive flood data is not available.
- H. The floodplain administrator shall:
1. Notify adjacent communities, the Department of Land Conservation and Development and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration as required in Section 16.134.100.C.
  2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- I. The floodplain administrator shall make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation. Such appeals shall be granted consistent with the standards of Section 60.6 of the Rules and Regulations of the National Flood Insurance Program (44 CFR 59-76).
- J. Variances to any standard within the floodplain overlay shall comply with the provisions of the Code of Federal Regulations (CFR) section 44 CFR 60.6(a)(1)–(7).

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; 88-879)

### **16.134.050 Permitted Uses**

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

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

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2000-1092, § 3; 91-922)

### **16.134.060 Conditional Uses**

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

Greenways:

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

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3; 88-879)

### **16.134.070 Prohibited Uses**

In the FP zone the following uses are expressly prohibited:

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

- E. Any use or activity that, in the City's determination, could create an immediate or potential hazard to the public health, safety and welfare, if located in the floodplain.
- F. Any use, activity, or encroachment located in the floodway, including fill, new construction, improvements to existing developments, or other development, except as otherwise allowed by Section 16.134.050 and unless certification by a registered professional engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the use, activity, or encroachment will not result in any increase to flood levels during the occurrence of the base flood discharge.
  - a. If paragraph F of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard provisions of Sections 16.134.080 and .090, or ASCE 24, whichever is more stringent.
- G. The storage of recreational vehicles. This is the most restrictive provision wherein.

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

### **16.134.080 Floodplain Development**

#### **A. Floodplain Alterations**

##### **1. Floodplain Survey**

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

##### **2. Grading Plan**

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

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

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

##### **4. Alteration Site Plan**

- a. The certified site plan prepared by a registered civil engineer or architect for an altered floodplain area shall show that:
  - (1) Proposed improvements will not alter the flow of surface water during flooding such as to cause a compounding of flood hazards or changes in the direction or velocity of floodwater flow.

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

All proposed subdivisions or partitions including land within an FP zone must establish the boundaries of the base flood by survey and dedicate said land as per Section 16.134.030. The balance of the land and development must:

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

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

### **16.134.090 Floodplain Structures**

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

- A. Generally
1. All structures, including utility equipment, and manufactured housing dwellings, shall be anchored to prevent lateral movement, floatation, or collapse during flood conditions, and shall be constructed of flood-resistant materials, to standards approved by the City, State Structural and Plumbing Specialty Codes and applicable building codes.
  2. The lowest floor elevation of a structure designed for human occupancy must be at least one and one-half feet above the base flood elevation and the building site must comply with the provisions of Section 16.134.080.A.

3. The lower portions of all structures shall be flood proofed according to the provisions of the State Structural and Plumbing Specialty Code to an elevation of at least one and one-half feet above the base flood elevation.
  4. The finished ground elevation of any under floor crawl space shall be above the grade elevation of an adjacent street, or natural or approved drainage way unless specifically approved by the City. A positive means of drainage from the low point of such crawl space shall be provided.
  5. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- B. Utilities
1. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities located within structures shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  2. Electrical service equipment, or other utility structures, shall be constructed at or above the base flood elevation. All openings in utility structures shall be sealed and locked.
  3. Water supply and sanitary sewer systems (not prohibited under section 16.134.070.B shall be approved by the Washington County Health Department, and shall be designed to minimize or eliminate the infiltration of floodwaters into the systems, or any discharge from systems into floodwaters.
    - a. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with Washington County Health Authority and Oregon Department of Environmental Quality.
- C. Residential Structures
1. All residential structures shall have the lowest floor, including basement, elevated to at least one and one-half feet above the base flood elevation.
  2. Fully enclosed areas below the lowest floor that are subject to flooding are not permitted unless they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered engineer or architect, or must meet or exceed the following minimum criteria:
    - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
    - b. The bottom of all openings shall be no higher than one foot above grade.
    - c. Openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.
  3. Shall be constructed with materials resistant to flood damage.
- D. Non-Residential Construction
1. All commercial, industrial or other non-residential structures shall have either the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
    - a. Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.

- b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - c. Be certified by a Registered Professional Engineer or Architect that the design and methods of construction are in accordance with accepted standards of practice for meeting all provisions of this Section. A record of such certificates shall be maintained by the Floodplain Administrator in accordance with Section 16.134.040.A.
  - d. Nonresidential structures that are elevated and not flood proofed must meet the same standards for space below the lowest floor as per Section 16.134.090.C.2.
- E. Manufactured Dwellings
- 1. Manufactured dwellings supported on solid foundation walls shall be constructed with flood openings that comply with paragraph C.2 of this section;
  - 2. The bottom of the longitudinal chassis frame beam in A zones (excluding coastal A zones), shall be at or above BFE;
  - 3. The manufactured dwelling shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques), and;
  - 4. Electrical crossover connections shall be a minimum of 12 inches above BFE.

F. Recreational Vehicles

Except where prohibited under Section 16.134.070.G Recreational vehicles placed on sites are required to:

- 1. Be on the site for fewer than 180 consecutive days, and
- 2. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- 3. Meet the requirements of paragraph E of this section and the elevation and anchoring requirements for manufactured dwellings.

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

### **16.134.100 Additional Requirements**

- A. Dimensional standards or developments in the FP zone are the same as in the underlying zoning district, except as provided in Section 16.134.100.
- B. Approval of a site plan pursuant to Chapter 16.90 that includes portions of the FP overlay may be conditioned by the City to protect the best interests of the surrounding area or the community as a whole, and to carry out the terms of the Comprehensive Plan. These conditions may include, but are not limited to:
  - 1. Increasing the required lot sizes, yard dimensions, modifying street widths, or off-street parking spaces.
  - 2. Limiting the height, size, or location of buildings.
  - 3. Controlling the location and number of vehicle access points.
  - 4. Limiting the number, size, location, or lighting of signs.

5. Requiring diking, fencing, screening, landscaping, or other facilities to protect the proposed development, or any adjacent or nearby property.
  6. Designating sites for open space or water retention purposes.
  7. Construction, implementation, and maintenance of special drainage facilities and activities.
- C. FEMA Notification.
1. Notify FEMA within six months of project completion when a conditional letter of map revision (CLOMR) has been obtained from FEMA or when development altered a watercourse, modified floodplain boundaries, or modified base flood elevations. This notification shall be provided as a letter of map revision (LOMR).
  2. The applicant is responsible for preparing technical data to support the LOMR application and paying any processing or application fees to FEMA.
  3. The floodplain administrator is under no obligation to sign the Community Acknowledgement Form, which is part of the CLOMR/LOMR application, until the applicant demonstrates that the project will or has met the requirements of this Code and all applicable state and federal laws.

(Ord. No. 2018-009, § 2, 10-16-2018; Ord. No. 2016-013, § 1, 10-18-2016; Ord. No. 2015-003, § 2, 3-17-2015; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 88-879, § 3)

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## ***Chapter 16.136 MINERAL RESOURCES\****

### **Sections:**

#### **16.136.010 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 16.82, and the following special conditions.

(Ord. 91-922, § 3)

#### **16.136.020 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 (5) 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 (2) 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 (1-½) feet, unless evidence is produced that the land excavated had less than one and one-half (1-½) 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 6:00 AM to 7:00 PM.
- 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 action on a conditional use permit, the action shall be advertised as a Type III application per Chapter 16.72

## ***Chapter 16.138 SOLID WASTE\****

### **Sections:**

#### **16.138.010 Solid Waste Facilities**

Solid waste facilities are defined in 16.10.020 of this Code and 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. No. 2010-015, § 2, 10-5-2010; Ord. 93-966, § 3)

#### **16.138.020 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 section, solid waste is defined as per ORS 459.005(24), and includes infectious wastes as per ORS 459.386(4). 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 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 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. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3)

### **16.138.030 Accessory Use Solid Waste Facilities**

- A. 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:
1. Household hazardous waste depot, provided the facility is accessory to a public facility or to a use in an industrial zone.
  2. Small scale specialized incinerator, provided the facility complies with Section 16.140.020 and does not accept more than two-hundred twenty (220) pounds per day of waste from off-site.
  3. Recycling drop boxes, provided they also comply with Section 16.140.090.E.5.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 93-966, § 3; 91-922)

### **16.138.040 Multiple Purpose Solid Waste Facility**

A solid waste facility may include more than one kind of facility as defined in Section 16.10.020, Definitions. Any 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. No. 2010-015, § 2, 10-5-2010; Ord. 93-966, § 3; 91-922)

### **16.138.050 Temporary Solid Waste Facility**

- A. 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 (3) 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 16.138.090, Site Improvements and the appropriate requirements of Sections 16.140.060 through 16.138.080:
1. Household hazardous waste.
  2. Resource Recovery Facility.
  3. Yard debris depot.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 93-966, § 3; 91-922)

### **16.138.060 Application Contents**

- A. In addition to submitting land use application forms provided by the City of Sherwood, 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 project 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 clean-up 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 16.138.090 of this Code.
  7. The kind or kinds of facility or facilities proposed based on the solid waste facility definitions in Section 16.10.020, Definitions.
- B. The applicant shall submit the following information as part of the application, unless the City Manager or his/her designee 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 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 table.
  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 (2) feet if slopes are less than five percent (5%), not to exceed five (5) feet if slopes are more than five percent (5%), and not to exceed ten (10) feet if slopes are more than twenty percent (20%); natural features of the site including water bodies wetlands; the boundary of the one-hundred (100) year floodplain 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 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 16.138.090 of this Code.
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:
    - (1) 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
    - (2) A copy of any application filed for another local, state or federal permit for the proposed facility within ten (10) 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 (10) working days after the applicant receives that correspondence or notice from the local, state or federal agency.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 93-966, § 3; 91-922)

### **16.138.070 Review Procedures and Burden of Proof**

- A. Before accepting an application as complete, the City Manager or his/her designee may decide additional expertise is warranted to evaluate it due to exceptional circumstances, the complexity of the proposed facility, or its potential impacts. The City Manager or his/her designee 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 (10) days after the written evaluation is available, the City Manager or his/her designee 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 City Manager or his/her designee 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 percent (110%) 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 on-going operations or performance review of a facility. A fee may be required pursuant to Section 16.138.080F 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 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 16.138.090 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 16.140.090, 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 16.140.060 of this Code, except to the extent waived by the City Manager or his/her designee.
- 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 16.138.090 and conditions proposed by the City Manager or his/her designee 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 (6) months, the approval authority shall:
    - (1) 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 above; and
      - (c) Describes how that substantial evidence will be reviewed, including any public notice and hearing requirements.
    - (2) 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 6a and 6b above, or it is not likely that substantial evidence necessary to address standards identified pursuant to subsections D and 6a and 6b above will be available within six (6) months after the date of the decision.

(Ord. 93-966, § 3; 91-922)

### **16.138.080 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 approved 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 16.138.090.
- 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, Violations. 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; 91-922)

### **16.138.090 Site Improvement**

- 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 A1 above, 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 (3) feet above grade may extend up to twenty percent (20%) 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 twenty-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 (0.5) footcandle 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 percent (20%) 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 (6) 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 percent (20%).

**B. Historic Resource Impacts**

The facility shall not adversely affect historic resources listed in Division IX of this code (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 10:00 PM and 7:00 AM 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 Chapters 16.144, Noise, 16.146, Vibration, and subsections A6, A8 and I2 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 16.102, 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 (10) 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 subsection E of this Section. 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 (3) sides and roofed except that in a rural zone, such material 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 (2) 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 (5) 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 (5) 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 (6) feet high, but not more than ten (10) feet high. A wood fence is sight obscuring when attached vertical or horizontal fence boards are separated by not more than one-fourth ( $\frac{1}{4}$ ) 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 ( $\frac{3}{8}$ ) inch. Landscaping is sight obscuring when it includes evergreen material at least six (6) feet high and not more than two (2) 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 (2) 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 ( $\frac{1}{2}$ ) 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 5 of this Section, the applicant shall submit to the 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 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 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 H.3 of this Section. The lane shall accommodate at least two (2) stacked vehicles and shall taper at a ratio of not less than twenty-five in one (25:1) to match the standard roadway width.

I. Odor Impacts

1. The applicant shall demonstrate that the facility meets the requirements of Chapter 16.152, 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:
    - (1) The sewer adjoins or can be extended to the site based on applicable rules of the sewer service provider, and
    - (2) 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 are 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, pre-treat 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:
      - (1) Retain storm water on site; and/or
      - (2) Detail storm water on-site and discharge it from the site at no greater rate than before development of the facility; or

- (3) 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:
    - (i) Provide such improvements before operation of the facility, or
    - (ii) Contribute necessary funds to the City and USA so that the City and USA 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 USA 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 USA, 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 USA.
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 percent (25%) 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 16.150 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 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. No. 2010-015, § 2, 10-5-2010; Ord. 93-966, § 3)

## ***Chapter 16.140 PARKS, TREES AND OPEN SPACES<sup>1</sup>***

### **16.140.010 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 the City's adopted Comprehensive Plan. The standards of this section do not supersede the open space requirements of a Planned Unit Development, found in Chapter 16.40 - Planned Unit Development (PUD).

(Ord. No. 2011-009, § 2, 7-19-2011; Ord. 2006-021; 91-922, § 3)

### **16.140.020 Multi-Family Dwelling Developments**

A. Standards

Except as otherwise provided, recreation and open space areas shall be provided in new Multi-Family dwelling residential developments to the following standards:

1. Open Space

A minimum of twenty percent (20%) 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 percent (50%) 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

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<sup>1</sup>Editor's note(s)—Ord. No. 2012-003, § 2, adopted May 1, 2012, amended the Code by retitling Ch. 16.142. Formerly, Ch. 16.142 was entitled "Parks and Open Spaces."

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. No. 2021-010 , § 2, 12-7-2021; Ord. No. 2011-009, § 2, 7-19-2011; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 91-922, § 3)

### **16.140.030 All Residential Subdivisions**

- A. A minimum of five percent (5%) of the net buildable site (after exclusion of public right-of-way and environmentally constrained areas) shall be maintained as "open space". Open space must include usable areas such as public parks, swimming and wading pools, grass areas for picnics and recreational play, walking paths, and other like space. The following may not be used to calculate open space:
  - 1. Required yards or setbacks.
  - 2. Required visual corridors.
  - 3. Required sensitive areas and buffers.
  - 4. Any area required to meet a standard found elsewhere in this code.
- B. Enhanced streetscapes such as "boulevard treatments" in excess of the minimum public street requirements may count toward a maximum of 10,000 square feet of the open space requirement.
  - 1. Example: if a 52-foot-wide right-of-way [ROW] is required for a 1,000 foot-long street and a 62-foot wide ROW with 5-foot additional plantings/meandering pathway is provided on each side of the street, the additional 10-foot-wide area x 1,000 linear feet, or 10,000 square feet, counts toward the open space requirement.
- C. The open space shall be conveyed in accordance with one of the following methods:
  - 1. By dedication to the City as public open space (if acceptable to the City). Open space proposed for dedication to the City must be acceptable to the City Manager or the Manager's designee with regard to the size, shape, location, improvement, environmental condition, and budgetary and maintenance abilities;
  - 2. By leasing or conveying title (including beneficial ownership) to a corporation, homeowners' association or other legal entity, with the City retaining the development rights to the open space. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the City.
- D. The density of a residential subdivision shall be calculated based on the net buildable site prior to exclusion of open space per this Section.
  - 1. Example: a 40,000 square foot net buildable site would be required to maintain 2,000 square feet (5%) of open space but would calculate density based on 40,000 square feet.
- E. If a proposed residential subdivision contains or is adjacent to a site identified as open space or park and recreation area in a Concept Plan or Parks and Recreation Master Plan, or has been identified for acquisition by the Sherwood Parks and Recreation Board, establishment of open space shall occur in the designated areas if the subdivision contains the park site, or immediately adjacent to the parks site if the subdivision is adjacent to it.

- F. If the proposed residential subdivision does not contain or is not adjacent to a site identified as open space or parks and recreation area in a Concept Plan or Parks and Recreation Master Plan, otherwise identified for acquisition by the Parks and Recreation Board, the applicant may elect to convey off-site park/open space.
- G. This standard does not apply to a residential partition provided that a development may not use phasing or series partitions to avoid the minimum open space requirement. A partition of land that was part of an approved partition within the previous five (5) years shall be required to provide the minimum five percent (5%) open space in accordance with subsection (A) above.
- H. The value of the open space conveyed under Subsection (A) above may be eligible for Parks System Development Charges (SDCs) credits based on the methodology identified in the most current *Parks and Recreation System Development Charges Methodology Report*.

(Ord. No. 2021-010 , § 2, 12-7-2021; Ord. No. 2011-009, § 2, 7-19-2011)

**16.140.040 Visual Corridors**

A. Corridors Required

New developments located outside of the Old Town Overlay with frontage on Highway 99W, or arterial or collector streets designated on Figure 8-1 of the Transportation System Plan shall be required to establish a landscaped visual corridor according to the following standards:

	Category	Width
1.	Highway 99W	25 feet
2.	Arterial	15 feet
3.	Collector	10 feet

In residential developments where fences are typically desired adjoining the above described major street the corridor may be placed in the road right-of-way between the property line and the sidewalk. In all other developments, the visual corridor shall be on private property adjacent to the right-of-way.

B. Landscape Materials

The required visual corridor areas shall be planted as specified by the review authority 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 16.140.060, shall be planted in the corridor by the developer. The improvements shall be included in the compliance agreement. In no case shall trees be removed from the required visual corridor.

C. Establishment and Maintenance

Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Chapter 16.92. To assure continuous maintenance of the visual corridors, the review authority 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 within the required visual corridor.

E. Pacific Highway 99W Visual Corridor

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 percent (50%) of the visual corridor plant materials shall consist of groupings of at least five (5) native evergreen trees a minimum of ten (10) feet in height each, spaced no less than fifty (50) feet apart, if feasible. Deciduous trees shall be a minimum of four (4) inches DBH and twelve (12) feet high, spaced no less than twenty-five (25) feet apart, if feasible.

(Ord. No. 2021-010 , § 2, 12-7-2021; Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-009, § 2, 7-19-2011; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2009-005, § 2, 6-2-2009; Ord. 2006-021)

Editor's note(s)—Ord. No. 2011-009, § 2, adopted July 19, 2011, amended the Code by adding a new § 16.142.030, and renumbering former §§ 16.142.030—16.142.080 as new §§ 16.142.040—16.142.090.

### **16.140.050 Park Reservation**

Within a time period not to exceed three (3) years, the City may purchase open space and park and recreation areas in adopted Concept Plans and the Parks and Recreation Master Plan, which have not been dedicated pursuant to Sections 16.140.030 or 16.134.020. An applicant shall make a request to the City's Parks and Recreation Advisory Board for the purchase of open space and/or park and recreation land. After the request is heard, the City's Parks and Recreation Advisory Board will make a recommendation to City Council. The Sherwood City Council is the final decision-maker.

(Ord. No. 2011-009, § 2, 7-19-2011; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; 91-922, § 3)

Note(s)—See editor's note, § 16.142.040.

### **16.140.060 Street Trees**

#### **A. Installation of Street Trees on New or Redeveloped Property.**

Trees are required to be planted to the following specifications along public streets abutting or within any new development or re-development. Planting of such trees shall be a condition of development approval. The City shall be subject to the same standards for any developments involving City-owned property, or when constructing or reconstructing City streets. After installing street trees, the property owner shall be responsible for maintaining the street trees on the owner's property or within the right-of-way adjacent to the owner's property.

1. Location: Trees shall be planted within the planter strip along a newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or as required by the City.
2. Size: Trees shall have a minimum trunk diameter of two (2) caliper inches, which is measured six inches above the soil line, and a minimum height of six (6) feet when planted.
3. Types: Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.
4. Required Street Trees and Spacing:
  - a. The minimum spacing is based on the maximum canopy spread identified in the recommended street tree list in section 16.140.080 with the intent of providing a continuous canopy without

openings between the trees. For example, if a tree has a canopy of forty (40) feet, the spacing between trees is forty (40) feet. If the tree is not on the list, the mature canopy width must be provided to the planning department by a certified arborist.

- b. All new developments shall provide adequate tree planting along all public streets. The number and spacing of trees shall be determined based on the type of tree and the spacing standards described in a. above and considering driveways, street light locations and utility connections. Unless exempt per c. below, trees shall not be spaced more than forty (40) feet apart in any development.
- c. A new development may exceed the forty-foot spacing requirement under section b. above, under the following circumstances:
  - (1) Installing the tree would interfere with existing utility lines and no substitute tree is appropriate for the site; or
  - (2) There is not adequate space in which to plant a street tree due to driveway or street light locations, vision clearance or utility connections, provided the driveways, street light or utilities could not be reasonably located elsewhere so as to accommodate adequate room for street trees; and
  - (3) The street trees are spaced as close as possible given the site limitations in (1) and (2) above.
  - (4) The location of street trees in an ODOT or Washington County right-of-way may require approval, respectively, by ODOT or Washington County and are subject to the relevant state or county standards.
  - (5) For arterial and 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 this subsection.

**B. Removal and Replacement of Street Trees.**

The removal of a street tree shall be limited and in most cases, necessitated by the tree. A person may remove a street tree as provided in this section. The person removing the tree is responsible for all costs of removal and replacement. Street trees less than five (5) inches DBH can be removed by right by the property owner or his or her assigns, provided that they are replaced. A street tree that is removed must be replaced within six (6) months of the removal date.

- 1. Criteria for All Street Tree Removal for trees over five (5) inches DBH. No street tree shall be removed unless it can be found that the tree is:
  - 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. Defined as a nuisance per City nuisance abatement ordinances.
- 2. Street trees between five (5) and ten (10) inches DBH may be removed if any of the criteria in 1. above are met and a tree removal permit is obtained.
  - a. The Tree Removal Permit Process is a Type I land use decision and shall be approved subject to the following criteria:

- (1) The person requesting removal shall submit a Tree Removal Permit application that identifies the location of the tree, the type of tree to be removed, the proposed replacement and how it qualifies for removal per Section 1. above.
  - (2) The person shall post a sign, provided by the City, adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
  - (3) If an objection to the removal is submitted by the City or to the City during the ten (10) calendar day period, an additional evaluation of the tree will be conducted by an arborist to determine whether the tree meets the criteria for street tree removal in Section 1. above. The person requesting the Tree Removal Permit shall be responsible for providing the arborist report and associated costs.
  - (4) Upon completion of the additional evaluation substantiating that the tree warrants removal per Section 1. above or if no objections are received within the ten-day period, the tree removal permit shall be approved.
  - (5) If additional evaluation indicates the tree does not warrant removal, the Tree Removal Permit will be denied.
3. Street trees over ten (10) inches DBH may be removed through a Type I review process subject to the following criteria.
- a. The applicant shall provide a letter from a certified arborist identifying:
    - (1) The tree's condition,
    - (2) How it warrants removal using the criteria listed in Section 1. above, and identifying any reasonable actions that could be taken to allow the retention of the tree.
  - b. The applicant shall provide a statement that describes whether and how the applicant sought assistance from the City, HOA or neighbors to address any issues or actions that would enable the tree to be retained.
  - c. The person shall post a sign, provided by the City, adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
  - d. Review of the materials and comments from the public confirm that the tree meets the criteria for removal in Section 1. above.

C. Homeowner's Association Authorization.

The Planning Commission may approve a program for the adoption, administration and enforcement by a homeowners' association (HOA) of regulations for the removal and replacement of street trees within the geographic boundaries of the association.

1. An HOA that seeks to adopt and administer a street tree program must submit an application to the City. The application must contain substantially the following information:
  - a. The HOA must be current and active. The HOA should meet at least quarterly and the application should include the minutes from official HOA Board meetings for a period not less than eighteen (18) months (six (6) quarters) prior to the date of the application.
  - b. The application must include proposed spacing standards for street trees that are substantially similar to the spacing standards set forth in 16.140.060.A above.

- c. The application must include proposed street tree removal and replacement standards that are substantially similar to the standards set forth in 16.140.060.B above.
    - d. The application should include a copy of the HOA bylaws as amended to allow the HOA to exercise authority over street tree removal and replacement, or demonstrate that such an amendment is likely within ninety (90) days of a decision to approve the application.
    - e. The application should include the signatures of not less than seventy-five (75) percent of the homeowners in the HOA in support of the application.
  2. An application for approval of a tree removal and replacement program under this section shall be reviewed by the City through the Type IV land use process. In order to approve the program, the City must determine:
    - a. The HOA is current and active.
    - b. The proposed street tree removal and replacement standards are substantially similar to the standards set forth in 16.140.060.B above.
    - c. The proposed street tree spacing standards are substantially similar to the standards set forth in 16.140.060.A above.
    - d. The HOA has authority under its bylaws to adopt, administer and enforce the program.
    - e. The signatures of not less than seventy-five (75) percent of the homeowners in the HOA in support of the application.
  3. A decision to approve an application under this section shall include at least the following conditions:
    - a. Beginning on the first January 1 following approval and on January 1 every two (2) years thereafter, the HOA shall make a report to the city planning department that provides a summary and description of action taken by the HOA under the approved program. Failure to timely submit the report that is not cured within sixty (60) days shall result in the immediate termination of the program.
    - b. The HOA shall comply with the requirements of Section 12.20 of the Sherwood Municipal Code.
  4. The City retains the right to cancel the approved program at any time for failure to substantially comply with the approved standards or otherwise comply with the conditions of approval.
    - a. If an HOA tree removal program is canceled, future tree removals shall be subject to the provisions of section 16.140.060.
    - b. A decision by the City to terminate an approved street tree program shall not affect the validity of any decisions made by the HOA under the approved program that become final prior to the date the program is terminated.
    - c. If the city amends the spacing standards or the removal and replacement standards in this section (SZCDC 16.140.060) the City may require that the HOA amend the corresponding standards in the approved street tree program.
  5. An approved HOA tree removal and replacement program shall be valid for five (5) years; however the authorization may be extended as approved by the City, through a Type II Land Use Review.
- D. Exemption from Replacing Street Trees.

A street tree that was planted in compliance with the Code in effect on the date planted and no longer required by spacing standards of section A.4. above may be removed without replacement provided:

1. Exemption is granted at the time of street tree removal permit or authorized homeowner's association removal per Section 16.140.060.C. above.
  2. The property owner provides a letter from a certified arborist stating that the tree must be removed due to a reason identified in the tree removal criteria listed in Section 16.140.060.B.1. above, and
  3. The letter describes why the tree cannot be replaced without causing continued or additional damage to public or private utilities that could not be prevented through reasonable maintenance.
- E. Notwithstanding any other provision in this section, the city manager or the manager's designee may authorize the removal of a street tree in an emergency situation without a tree removal permit when the tree poses an immediate threat to life, property or utilities. A decision to remove a street tree under this section is subject to review only as provided in ORS 34.100.
- F. Trees on Private Property Causing Damage.
- 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/her designee. Any order for the removal or cutting of such trees, woodlands or other vegetation, shall be made and reviewed under the applicable City nuisance abatement ordinances.
- G. 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, and other penalties defined by applicable ordinances and statutes, provided that each tree so abused shall be deemed a separate offense.

(Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-009, § 2, 7-19-2011; Ord. No. 2011-001, §§ 1, 2, 2-15-2011; Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021; Ord. 91-922, § 3)

Note(s)—See editor's note, § 16.140.040.

### **16.140.070 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 trees and woodlands within the City. This Section 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.

B. Applicability

All applications including a Type II - IV land use review, 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 codes, policies, and standards of the City Comprehensive Plan.

C. Inventory

1. To assist the City in making its determinations on the retention of trees and woodlands, land use applications including Type II - IV development shall include a tree and woodland inventory and report. The report shall be prepared by a qualified professional and must contain the following information:
  - a. Tree size (in DBH and canopy area)
  - b. Tree species

- c. The condition of the tree with notes as applicable explaining the assessment
  - d. The location of the tree on the site
  - e. The location of the tree relative to the planned improvements
  - f. Assessment of whether the tree must be removed to accommodate the development
  - g. Recommendations on measures that must be taken to preserve trees during the construction that are not proposed to be removed.
2. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and report shall also include, but is not limited to, the specific information outlined in the appropriate land use application materials packet.
  3. Definitions for the inventory purposes of this Section
    - a. A tree is a living woody plant having a trunk diameter as specified below at Diameter at Breast Height (DBH). Trees planted for commercial agricultural purposes, and/or those subject to farm forest deferral, 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 six (6) inches at DBH. All trees six (6) inches or greater shall be inventoried.
    - b. A woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a six (6) inches or greater at DBH. Woodlands planted for commercial agricultural purposes and/or subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this Section.
    - c. A large stature tree is over 20 feet tall and wide with a minimum trunk diameter of 30 inches at DBH.
- D. Retention requirements
1. Trees may be considered for removal to accommodate the development including buildings, parking, walkways, grading etc., provided the development satisfies of D.2 or D.3, below.
  2. Required Tree Canopy - All Residential Developments subject to Type II—IV land use review.

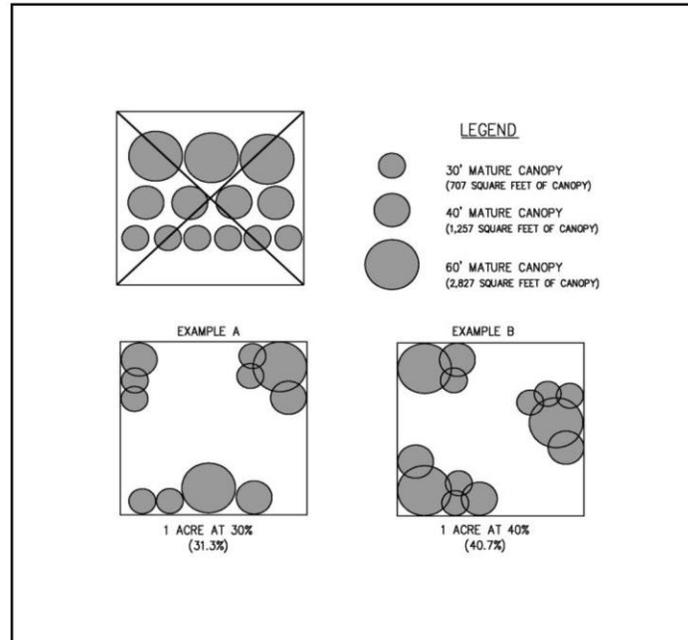
Each net development site shall provide a variety of trees to achieve a minimum total tree canopy of 40 percent. The canopy percentage is based on the expected mature canopy of each tree by using the equation  $\pi r^2$  to calculate the expected square footage of canopy for each tree. The expected mature canopy is counted for each tree regardless of an overlap of multiple tree canopies.

The canopy requirement can be achieved by retaining existing trees or planting new trees. Required street trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the needed canopy cover. A certified arborist or other qualified professional shall provide the estimated tree canopy of the proposed trees to the planning department for review.
  3. Required Tree Canopy - Non-Residential and Multi-Family Dwelling Developments

Each net development site shall provide a variety of trees to achieve a minimum total tree canopy of 30 percent. The canopy percentage is based on the expected mature canopy of each tree by using the equation  $\pi r^2$  to calculate the expected square footage of each tree. The expected mature canopy is counted for each tree even if there is an overlap of multiple tree canopies.

The canopy requirement can be achieved by retaining existing trees or planting new trees. Required landscaping trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the required canopy cover. A certified arborist or other qualified professional shall provide an estimated tree canopy for all proposed trees to the planning department for review as a part of the land use review process.

	Residential (single family detached & duplex developments) subject to Residential Design Checklist or Type I review	Residential (single family detached & duplex developments) subject to Type II-IV review	Old Town & Infill developments	Commercial, Industrial, Institutional Public and Multi-Family dwelling
Canopy Requirement	N/A	40%	N/A	30%
Counted Toward the Canopy Requirement				
Street trees included in canopy requirement	N/A	Yes	N/A	No
Landscaping requirements included in canopy requirement	N/A	N/A	N/A	Yes
Existing trees onsite	N/A	Yes x2	N/A	Yes x2
Planting new trees onsite	N/A	Yes	N/A	Yes
<p>Mature Canopy in Square Feet Equation <math>\pi r^2</math> or <math>(3.14159 * \text{radius}^2)</math> (This is the calculation to measure the square footage of a circle.</p> <p>The Mature Canopy is given in diameter. In gardening and horticulture reference books, therefore to get the radius you must divide the diameter in half.</p> <p>Canopy Calculation Example: Pin Oak                      Mature canopy = 35'</p> <p><math>(3.14159 * 17.5^2) = 962</math> square feet</p>				



4. The City may determine that, regardless of D.1 through D.3, that certain trees or woodlands may be required to be retained. The basis for such a decision shall include; 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, 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 Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
  - d. Necessary in required buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
  - e. Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.
5. Tree retention requirements for properties located within the Old Town Overlay or projects subject to the infill standards of Chapter 16.68 are only subject to retention requirements identified in D.4. above.
6. The Notice of Decision issued for the land use applications subject to this Section shall indicate which trees and woodlands will be retained as per subsection D of this Section, which may be removed or shall be retained as per subsection D of this Section and any limitations or conditions attached thereto.
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.

E. Tree Preservation Incentive

Retention of existing native trees on site which are in good health can be used to achieve the required mature canopy requirement of the development. The expected mature canopy can be calculated twice for existing trees. For example, if one existing tree with an expected mature canopy of 10 feet (78.5 square feet) is retained it will count as twice the existing canopy (157 square feet).

F. Additional Preservation Incentives

1. General Provisions. To assist in the preservation of trees, the City may apply one or more of the following flexible standards as part of the land use review approval. To the extent that the standards in this section conflict with the standards in other sections of this Title, the standards in this section shall apply except in cases where the City determines there would be an unreasonable risk to public health, safety, or welfare. Flexibility shall be requested by the applicant with justification provided within the tree preservation and protection report as part of the land use review process and is only applicable to trees that are eligible for credit towards the effective tree canopy cover of the site. A separate adjustment application as outlined in Section 16.84.030.A is not required.
2. Flexible Development Standards. The following flexible standards are available to applicants in order to preserve trees on a development site. These standards cannot be combined with any other reductions authorized by this code.
  - a. Lot size averaging. To preserve existing trees in the development plan for any Land Division under Division VII, lot size may be averaged to allow lots less than the minimum lot size required in the underlying zone as long as the average lot area is not less than that allowed by the underlying zone. No lot area shall be less than 80 percent of the minimum lot size allowed in the zone;
  - b. Setbacks. The following setback reductions will be allowed for lots preserving existing trees using the criteria in subsection (1) below. The following reductions shall be limited to the minimum reduction necessary to protect the tree.
    - (1) Reductions allowed:
      - (a.) Front yard - up to a 25 percent reduction of the dimensional standard for a front yard setback required in the base zone. Setback of garages may not be reduced by this provision.
      - (b.) Interior setbacks - up to a 40 percent reduction of the dimensional standards for an interior side and/or rear yard setback required in the base zone.
      - (c.) Perimeter side and rear yard setbacks shall not be reduced through this provision.
  - c. Approval criteria:
    - (1.) A demonstration that the reduction requested is the least required to preserve trees; and
    - (2.) The reduction will result in the preservation of tree canopy on the lot with the modified setbacks; and
    - (3.) The reduction will not impede adequate emergency access to the site and structure.
3. Sidewalks. Location of a public sidewalk may be flexible in order to preserve existing trees or to plant new large stature street trees. This flexibility may be accomplished through a curb-tight sidewalk or a

meandering public sidewalk easement recorded over private property and shall be reviewed on a case by case basis in accordance with the provisions of the Engineering Design Manual, Street and Utility Improvement Standards. For preservation, this flexibility shall be the minimum required to achieve the desired effect. For planting, preference shall be given to retaining the planter strip and separation between the curb and sidewalk wherever practicable. If a preserved tree is to be utilized as a street tree, it must meet the criteria found in the Street Tree section, 16.140.060.

4. Adjustments to Commercial and Industrial development Standards. Adjustments to Commercial or Industrial Development standards of up to 20 feet additional building height are permitted provided;
  - a. At least 50% of a Significant Tree stand's of canopy within a development site (and not also within the sensitive lands or areas that areas dedicated to the City) is preserved;
  - b. The project arborist or qualified professional certifies the preservation is such that the connectivity and viability of the remaining significant tree stand is maximized;
  - c. Applicable buffering and screening requirements are met;
  - d. Any height adjustments comply with state building codes;
  - e. Significant tree stands are protected through an instrument or action subject to approval by the City Manager or the City manager's designee that demonstrates it will be permanently preserved and managed as such;
    - (1.) A conservation easement;
    - (2.) An open space tract;
    - (3.) A deed restriction; or
    - (4.) Through dedication and acceptance by the City.

G. Tree Protection During Development

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 protected 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. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless specifically reviewed and recommended by a certified arborist or other qualified professional. Any work within the dripline of the tree shall be supervised by the project arborist or other qualified professional onsite during construction.

H. Penalties

Violations of this Section shall be subject to the penalties defined by Section 16.02.040, provided that each designated tree or woodland unlawfully removed or cut shall be deemed a separate offense.

(Ord. No. 2021-010 , § 2, 12-7-2021; Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-009, § 2, 7-19-2011; Ord. 2006-021; Ord. 91-922, § 3)

Note(s)—See editor's note, § 16.140.040.

### **16.140.080 Trees on Private Property—Not Subject to a Land Use Action**

A. Generally

In general, existing mature trees on private property shall be retained unless determined to be a hazard to life or property. For the purposes of this section only, existing mature trees shall be considered any deciduous tree greater than ten (10) inches diameter at the breast height (dbh) or any coniferous tree greater than twenty (20) inches dbh.

B. Residential (Single Family Detached and Duplex) Standards

In the event a property owner determines it necessary to remove existing mature trees on their property that are not a hazard, they may remove the trees as described below;

1. Removal of up to five (5) trees, or up to 10 percent of the number of trees on site, whichever is greater, within a twelve month period. No review or approval required provided that trees are not located within a wetland, floodplain or protected through prior land use review per section 3.b.(1.) - (5.) below, that the planning department is notified in writing 48 hours prior to removing the tree, including the property address, property owner name and contact information, and provided with the type and size of the tree. Failure to notify the Planning Department shall not result in a violation of this code unless it is determined that the tree removal is located within a wetland, floodplain or protected through prior land use review per section 3.b. (1.) - (5.) below, or in excess of that permitted outright.
2. Removal of six (6) or more trees, or more than 10 percent of the number of trees on site, whichever is greater, within a twelve month period except as allowed in subsection 1, above.
  - a. The applicant shall submit the following;
    - (1.) A narrative describing the need to remove the tree(s),
    - (2.) A statement describing when and how the Homeowner's Association (HOA) was informed of the proposed tree cutting and their response. If there is not an active HOA, the applicant shall submit as statement indicating that there is not a HOA to contact.
    - (3.) A plan showing the location of the tree and
    - (4.) The applicant shall submit a replacement tree plan. Half of the number of trees removed shall be replaced on site with native trees within six months from the date of removal.
3. The City may determine that, regardless of B.1 through B.2, that certain trees or stands of trees may be required to be retained.
  - a. If removal is proposed within a wetland, floodplain or protected through prior land use review per section 3.b. (1.) - (5.) below, the applicant shall submit documentation from a licensed qualified professional in natural resources management such as a wetland scientist, a botanist, or biologist, discussing the proposed tree removal and how it would or would not compromise the integrity of the resource. It shall also discuss the feasibility and practicality of tree removal relative to policies and standards of the City Comprehensive Plan, listed in section 3.b. below.
  - b. The basis for such a City decision shall include; specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical relative to other policies and standards of the City Comprehensive Plan, and are:
    - (1.) Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
    - (2.) 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

- (3.) 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 Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
- (4.) Necessary in required buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
- (5.) Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

C. Non-Residential and Multi-Family Dwelling Standards

In the event a property owner determines it necessary to remove existing mature trees on their property that are not a hazard, they may remove the trees as described below;

1. Trees required by a land use decision after the effective date of this code can be removed. Any trees removed shall be replaced within six months of removing the tree with an appropriate tree for the area.
2. Trees that were not required by land use or planted prior to the effective date of this code can be removed after receiving approval from the City of Sherwood.
  - a. Removal of up to 25 percent of the trees on site can be removed and replaced through a Type I review process. The applicant shall submit the following;
    - (1.) A narrative describing the need to remove the trees,
    - (2.) A plan showing the location of the trees and
    - (3.) A replacement tree plan. One-half (1/2) of the number of trees removed shall be replaced. The replacement shall take place on site with similar trees within six months from the date of removal.
    - (4.) Exemption to replacement. If less than one-half (1/2) of the trees removed will be replanted due to site crowding and constraints precluding the healthy growth of additional trees, a report from a qualified professional shall describe the site specific crowding or constraints, and provide a report to the City requesting the exemption in order to be exempt from replacing the removed trees.
  - b. Removal of more than 25 percent of the trees on site can be removed and replaced through a type II review process. The applicant shall submit the following;
    - (1.) An arborists report describing the need to remove the trees. The cause for removal must be necessitated by the trees,
    - (2.) A plan showing the location of the tree and
    - (3.) A replacement tree plan. Two-thirds of the number of trees removed shall be replaced on site with similar trees within six months from the date of removal.
    - (4.) Exemption to replacement. If less than one-half (1/2) of the trees removed will be replanted due to site crowding and constraints precluding the healthy growth of additional trees, a report from a qualified professional shall describe the site specific crowding or constraints, and provide a report to the City requesting the exemption in order to be exempt from replacing the removed trees.

3. The City may determine that, regardless of C.1 through C.2, that certain trees or stands of trees may be required to be retained.
  - a. The applicant shall submit documentation from a licensed qualified professional in natural resources management such as wetland scientist, botanist or biologist, discussing the proposed tree removal within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, listed in section 3.b. below.
  - b. The basis for such a City decision shall include; 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:
    - (1.) Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
    - (2.) 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
    - (3.) 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 Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
    - (4.) Necessary in required buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
    - (5.) Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined.

(Ord. No. 2021-010 , § 2, 12-7-2021; Ord. No. 2012-003, § 2, 5-1-2012; Ord. No. 2011-009, § 2, 7-19-2011; Ord. No. 2011-001, §§ 1, 2, 2-15-2011; Ord. No. 2010-015, § 2, 10-5-2010)

Note(s)—See editor's note, § 16.142.040.

### 16.140.090 Recommended Street Trees

#### A. Recommended Street Trees:

Common Name	Botanical Name	Canopy Spread (feet)
<b>Acer - Maple</b>		
Cavalier Norway Maple	<i>Acer platanoides cavalier</i>	
Cleveland Norway Maple	p. Cleveland	30
Cleveland II Norway Maple	p. Cleveland	25
Columnar Norway Maple	p. columnare	15
Fairway Sugar Maple (sugar maple)	p. fairway	40
Olmsted Norway Maple	p. olmsted	20—25
Roughbark Maple	<i>Acer triflorum</i>	20
Trident Maple	<i>Acer buergeranum</i>	20

Rocky Mountain Glow Maple	Acer grandidentatum 'Schmidt'	15
David's Maple	Acer davidii	20
Metro Gold Hedge Maple	Acer campestre 'Panacek'	25
Red Sunset Maple (Old Town)	Acer rubrum red sunset - Red Sunset Maple (Old Town) (Provided that a root barrier is installed)	25—40
Royal Red Maple	r. royal red	20—25
Gerling Red Maple	r. gerling	25—35
Tilford Red Maple	r. tilford	30
<b>Carpinus - Hornbeam</b>		
Pyramidal European Hornbeam	Carpinus betulus pyramidalis	30—40
Pyramidal European Hornbeam	b. columnaris	15
Pyramidal European Hornbeam	b. fastigiata	15—20
Eastern Redbud	Cercic, canadensis - Canadian Red Bud	10—20
<b>Ginkgo</b>		
Autumn Gold	biloba	25—35
Fairmount	biloba	15—25
<b>Gleditsia</b>		
Honey Locust	triacanthos sunburst	20—30
<b>Liquidamber</b>		
American Sweetgum	styraciflua	40
<b>Liriodenrod</b>		
<b>Magnolia</b>		
Evergreen Magnolia	grandiflora vars	
Southern Magnolia	grandiflora	40
Dr. Merrill Magnolia	kobus dr. merrill	15—20
Edith Bogue Magnolia	Magnolia grandiflora 'Edith Bogue'	15
<b>Purnus - Cherry - Plum</b>		
Double Flowering Cherry	avium plena	30—40
Scanlon Globe Cherry	avium scanlon	30—40
Japanese Cherry	serrulata vars (nonweeping)	15—30
Okame Cherry	okame	20—30
Blireana Plum	blireana	20
Pissardi Plum	pissardi	10
Krauter's Vesuvius Plum	Vesuvius	15
Amur Chokecherry	maacki	25—30
Redbark Cherry	serrula	20—30
European Birdcherry	padus	35
Bigflowered Birdcherry	grandiflora	10—20
Rancho Birdcherry	berg	15—20
Purpleleaf Birdcherry	purpurea	10—20
Prairifire Crabapple	Malus 'Prairifire'	20
<b>Quercus</b>		

Crimson Spire Oak	Quercus alba x Q. robur 'Crimschmidt'	15
Pin Oak	palustris	35
<b>Tilia - Linden</b>		
American Linden	americana	35—40
Little Leaf Linden	cordata	40
Crimean Linden	euchlora	20—30
Silver Linden	tomentosa	40
Bicentennial Linden	bicentennial	30
Greenspire Linden	greenspire	20
Salem Linden	salem	20—30
Chancellor Linden	Tiliacordata 'Chancole'	20

B. Recommended Street Trees under Power Lines:

- Acer ginnala — Amur Maple 20' spread
- Acer campestre — Hedge Maple 30' spread
- Acer palmatum — Japanese Maple 25' spread
- Acer griseum — Paperbark Maple 20' spread
- Acer circinatum — Vine Maple 25' spread
- Amelanchier x grandiflora — Apple Serviceberry 20' spread
- Amelanchier Canadensis — Shadblow Serviceberry 20' spread
- Cercis Canadensis — Eastern Redbud 25—30' spread
- Clerodendrum trichotomum — Glorybower Tree 20' spread
- Cornus florida — Flowering Dogwood 20-25' spread
- Cornus kousa — Japanese Dogwood 25' spread
- Crataegus phaenopyrum — Washington Hawthorn 25' spread
- Crataegus x lavellei — Lavelle Hawthorn 20' spread
- Fraxinus excelsior globosum — Globe-Headed European Ash 12—15' spread
- Koelreuteria paniculata — Goldenrain Tree 10—20' spread
- Laburnum x waterii — Golden Chain Tree 15' spread
- Malus — Flowering Crabapple 20-25' spread
- Prunus — Flowering Cherry 20—25' spread
- Pyrus calleryana — Flowering Pear "Cleveland Select" 20' spread
- Styrax japonica — Japanese Snowbell 25' spread
- Syringa reticulata — Japanese Tree Lilac 20—25' spread

C. Prohibited Street Trees:

- Acer, Silver Maple
- Acer, Boxelder

Ailanthus, gladiosa - 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.)  
Populus; common varieties of poplar, cottonwood and aspen  
Female Ginkgo

- D. Alternative Street Trees: Trees that are similar to those on the recommended street tree list can be proposed provided that they are non-fruit bearing, non-invasive and not listed on the prohibited street tree list. A letter from a certified arborist must be submitted, explaining why the tree is an equivalent or better street tree than the recommended street trees that are identified in this section.

(Ord. No. 2011-009, § 2, 7-19-2011; Ord. No. 2011-001, §§ 1, 2, 2-15-2011; Ord. No. 2010-015, § 2, 10-5-2010)

Note(s)—See editor's note, § 16.142.040.

## ***Chapter 16.142 WETLAND, HABITAT AND NATURAL AREAS\****

### **Sections:**

#### **16.142.010 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, the Comprehensive Plan Natural Resource Inventory, the Regionally Significant Fish and Wildlife Habitat Area map adopted by Metro, and by reference into this Code and the Comprehensive Plan. Where the applicability of a standard overlaps, the more stringent regulation shall apply.

(Ord. 2006-021; 2001-1119 § 1; 91-922)

#### **16.142.020 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, below:
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 Clean Water Services Design and Construction Standards R&O 00-7 or its replacement provided Section 16.140.090 does not require more than the requested setback.
    - 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 Clean Water Services Design and Construction standards R&O 00-7 or its replacement, provided Section 16.140.090A 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 above.
- C. When the Regionally Significant Fish and Wildlife Habitat map indicates there are resources on the site or within 50 feet of the site, the applicant shall provide plans that show the location of resources on the property. If resources are determined to be located on the property, the plans shall show the value of environmentally sensitive areas using the methodologies described in Sections 1 and 2 below.

The Metro Regionally Significant Fish and Wildlife Habitat map shall be the basis for determining the location and value of environmentally sensitive habitat areas. In order to specify the exact locations on site, the following methodology shall be used to determine the appropriate boundaries and habitat values:

1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a four-step process:
  - a. Located the Water Feature that is the basis for identifying riparian habitat.
    1. Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.
    2. Locate all flood areas within 100 feet of the property.
    3. Locate all wetlands within 150 feet of the property based on the Local Wetland Inventory map and on the Metro 2002 Wetland Inventory map (available from the Metro Data Resource Center, 600 NE Grand Ave., Portland, OR 97232). Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the US Army Corps of Engineers.

- b. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas or are within 100 feet of flood areas. Vegetative cover status shall be as identified on the Metro Vegetative Cover map. In the event of a discrepancy between the Metro Vegetative Cover map and the existing site conditions, document the actual vegetative cover based on the following definitions along with a 2002 aerial photograph of the property;
1. Low structure vegetation or open soils — Areas that are part of a contiguous area one acre or larger of grass, meadow, crop-lands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).
  2. Woody vegetation — Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown-closure) located within 300 feet of a surface stream.
  3. Forest canopy — Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.
- c. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25% (using the Clean Water Services Vegetated Corridor methodology); and
- d. Identify the riparian habitat classes applicable to all areas on the property using Table 8-1 below:

Distance in feet from Water Feature	Development/Vegetation Status			
	Developed areas not providing vegetative cover	Low structure vegetation or open soils	Woody vegetation (shrub and scatted forest canopy)	Forest Canopy (closed to open forest canopy)
<b>Surface Streams</b>				
0-50	Class II	Class I	Class I	Class I
50-100		Class II	Class I	Class I
100-150		Class II if slope >25%	Class II if slope >25%	Class II
150-200		Class II if slope >25%	Class II if slope >25%	Class II if slope >25%
<b>Wetlands (Wetland feature itself is a Class I Riparian Area)</b>				
0-100			Class I	Class I
100-150				Class II
<b>Flood Areas (undeveloped portion of a flood area is a Class I Riparian area)</b>				
0-100			Class II	Class II

2. Verifying boundaries of inventoried upland habitat. Upland habitat was identified based on the existence of contiguous patches of forest canopy, with limited canopy openings. The "forest canopy" designation is made based on analysis of aerial photographs, as part of determining the vegetative cover status of land within the region. Upland habitat shall be as identified on the HCA map. The perimeter of an area delineated as "forest canopy" on the Metro Vegetative Cover map may be adjusted to more precisely indicate the drip line of the trees within the canopied area.

(Ord. 2006-021; 2001-1119, § 1; 91-922)

### **16.142.030 Exceptions to Standards**

In order to protect environmentally sensitive areas that are not also governed by floodplain, wetland and Clean Water Services vegetated corridor regulations, the City allows flexibility of the specific standards in exchange for the specified amount of protection inventoried environmentally sensitive areas as defined in this code.

A. Process

The flexibility of standards is only applicable when reviewed and approved as part of a land use application and shall require no additional fee or permit provided criteria is addressed. In the absence of a land use application, review may be processed as a Type 1 administrative interpretation.

B. Standards modified

1. Lot size — Notwithstanding density transfers permitted through Chapter 16.40, when a development contains inventoried regionally significant fish and wildlife habitats as defined in Section 16.142.020 above, lot sizes may be reduced up to ten percent (10%) below the minimum lot size of the zone when an equal amount of inventoried resource above and beyond that already required to be protected is held in a public or private open space tract or otherwise protected from further development.
2. Setbacks — For residential zones, the setback may be reduced up to thirty percent (30%) for all setbacks except the garage setback provided the following criteria are satisfied:
  - a. The setback reduction must result in an equal or greater amount of significant fish and/or wildlife habitat protection. Protection shall be guaranteed with deed restrictions or public or private tracts.
  - b. In no case shall the setback reduction supersede building code and/or Tualatin Valley Fire and Rescue separation requirements.
  - c. In no case shall the setback be reduced to less than five feet unless otherwise provided for by the underlying zone.
3. Density — per Section 16.10.020 (Net Buildable Acre definition), properties with environmentally sensitive areas on site may opt to exclude the environmentally sensitive areas from the minimum density requirements provided the sensitive areas are protected via tract or restrictive easement. A proposal to remove said area from the density calculation must include: a delineation of the resource in accordance with Section 16.142.020C, the acreage being protected, and the net reduction below the normally required minimum for accurate reporting to Metro.
4. Parking — Per Section 16.94.020.B.6, 10-25% of the required parking spaces may be reduced in order to protect inventoried regionally significant fish and wildlife habitat areas, provided these resources are protected via deed restrictions or held in public or private tracts.
5. Landscaping — Per Section 16.92.030.B.6, exceptions may be granted to the landscaping standards in certain circumstances as outlined in that section.

(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2006-021)

### ***Chapter 16.144 NOISE\****

**Sections:**

### **16.144.010 Generally**

All otherwise permitted commercial, industrial, and institutional uses in the City shall comply with the noise standards contained in OAR 340-35-035. The City may require proof of compliance with OAR 340-35-035 in the form of copies of all applicable State permits or certification by a professional acoustical engineer that the proposed uses will not cause noise in excess of State standards.

(Ord. 91-922, § 3)

### **16.144.020 Noise Sensitive Uses**

When proposed commercial and industrial uses do not adjoin land exclusively in commercial or industrial zones, or when said uses adjoin special care, institutional, or parks and recreational facilities, or other uses that are, in the City's determination, sensitive to noise impacts, then:

- A. The applicant shall submit to the City a noise level study prepared by a professional acoustical engineer. Said study shall define noise levels at the boundaries of the site in all directions.
- B. The applicant shall show that the use will not exceed the noise standards contained in OAR 340-35-035, based on accepted noise modeling procedures and worst case assumptions when all noise sources on the site are operating simultaneously.
- C. If the use exceeds applicable noise standards as per subsection B of this Section, then the applicant shall submit a noise mitigation program prepared by a professional acoustical engineer that shows how and when the use will come into compliance with said standards.

(Ord. 91-922, § 3)

### **16.144.030 Exceptions**

This Chapter does not apply to noise making devices which are maintained and utilized solely as warning or emergency signals, or to noise caused by automobiles, trucks, trains, aircraft, and other similar vehicles when said vehicles are properly maintained and operated and are using properly designated rights-of-way, travel ways, flight paths or other routes. This Chapter also does not apply to noise produced by humans or animals. Nothing in this Chapter shall preclude the City from abating any noise problem as per applicable City nuisance and public safety ordinances.

(Ord. 91-922, § 3)

## ***Chapter 16.146 VIBRATIONS\****

### **Sections:**

### **16.146.010 Generally**

All otherwise permitted commercial, industrial, and institutional uses shall not cause discernible vibrations that exceed a peak of 0.002 gravity at the property line of the originating use, except for vibrations that last five (5) minutes or less per day, based on a certification by a professional engineer.

(Ord. 91-922, § 3)

### **16.146.020 Exceptions**

This Chapter does not apply to vibration caused by construction activities including vehicles accessing construction sites, or to vibrations caused by automobiles, trucks, trains, aircraft, and other similar vehicles when said vehicles are properly maintained and operated and are using properly designated rights-of-way, travelways, flight paths or other routes. Nothing in this Chapter shall preclude the City from abating any vibration problem as per applicable City nuisance and public safety ordinances.

(Ord. 91-922, § 3)

## ***Chapter 16.148 AIR QUALITY\****

### **Sections:**

### **16.148.010 Generally**

All otherwise permitted commercial, industrial, and institutional uses shall comply with applicable State air quality rules and statutes:

- A. All such uses shall comply with standards for dust emissions as per OAR 340-21-060.
- B. Incinerators, if otherwise permitted by Section 16.140.020, shall comply with the standards set forth in OAR 340-25-850 through 340-25-905.
- C. Uses for which a State Air Contaminant Discharge Permit is required as per OAR 340-20-140 through 340-20-160 shall comply with the standards of OAR 340-220 through 340-20-276.

(Ord. 91-922, § 3)

### **16.148.020 Proof of Compliance**

Proof of compliance with air quality standards as per Section 16.148.010 shall be in the form of copies of all applicable State permits, or if permits have not been issued, submission by the applicant, and acceptance by the City, of a report certified by a professional engineer indicating that the proposed use will comply with State air quality standards. Depending on the nature and size of the use proposed, the applicant may, in the City's determination, be required to submit to the City a report or reports substantially identical to that required for issuance of State Air Contaminant Discharge Permits.

(Ord. 91-922, § 3)

### **16.148.030 Exceptions**

Nothing in this Chapter shall preclude the City from abating any air quality problem as per applicable City nuisance and public safety ordinances.

(Ord. 91-922, § 3)

## ***Chapter 16.150 ODORS\****

### **Sections:**

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(Supp. No. 20)

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### **16.150.010 Generally**

All otherwise permitted commercial, industrial, and institutional uses shall incorporate the best practicable design and operating measures so that odors produced by the use are not discernible at any point beyond the boundaries of the development site.

(Ord. 91-922, § 3)

### **16.150.020 Standards**

The applicant shall submit a narrative explanation of the source, type and frequency of the odorous emissions produced by the proposed commercial, industrial, or institutional use. In evaluating the potential for adverse impacts from odors, the City shall consider the density and characteristics of surrounding populations and uses, the duration of any odorous emissions, and other relevant factors.

(Ord. 91-922, § 3)

### **16.150.030 Exceptions**

Nothing in this Chapter shall preclude the City from abating any odor problem as per applicable City nuisance and public safety ordinances.

(Ord. 91-922, § 3)

## ***Chapter 16.152 HEAT AND GLARE\****

### **Sections:**

### **16.152.010 Generally**

Except for exterior lighting, all otherwise permitted commercial, industrial, and institutional uses shall conduct any operations producing excessive heat or glare entirely within enclosed buildings. Exterior lighting shall be directed away from adjoining properties, and the use shall not cause such glare or lights to shine off site in excess of one-half (0.5) foot candle when adjoining properties are zoned for residential uses.

(Ord. 93-966, § 3; 91-922)

### **16.152.020 Exceptions**

Nothing in this Chapter shall preclude the City from abating any heat and glare problem as per applicable City nuisance and public safety ordinances.

(Ord. 93-966, § 3; 91-922)

## ***Chapter 16.154 ENERGY CONSERVATION\****

### **16.154.010 Purpose**

This Chapter and applicable portions of Comprehensive Plan provide for natural heating and cooling opportunities in new developments. The requirements of this Chapter shall not result in development exceeding allowable densities or lot coverage, or the destruction of existing trees.

(Ord. 91-922, § 3)

### **16.154.020 Applicability**

The standards in this Chapter shall apply to any new uses or changes to existing uses in multi-dwelling, commercial, industrial and institutional zones. The standards in this Chapter do not apply to accessory dwelling unit or single detached development in residential zones.

(Ord. No. 2021-010 , § 2, 12-7-2021)

Editor's note(s)—Ord. No. 2021-010 , § 2, adopted December 7, 2021, amended the Code by adding a new 16.156.020, and renumbering former §§ 16.156.020 and 16.156.030 as new §§ 16.156.030 and 16.156.040.

### **16.154.030 Standards**

- A. Building Orientation - The maximum number of buildings feasible shall receive sunlight sufficient for using solar energy systems for space, water or industrial process heating or cooling. Buildings and vegetation shall be sited with respect to each other and the topography of the site so that unobstructed sunlight reaches the south wall of the greatest possible number of buildings between the hours of 9:00 AM and 3:00 PM, Pacific Standard Time on December 21st.
- B. Wind - The cooling effects of prevailing summer breezes and shading vegetation shall be accounted for in site design. The extent solar access to adjacent sites is not impaired vegetation shall be used to moderate prevailing winter wind on the site.

(Ord. No. 2021-010 , § 2, 12-7-2021; Ord. 91-922, § 3)

Note(s)—Former § 16.156.020. See editor's note, § 16.156.020.

### **16.154.040 Variance to Permit Solar Access**

Variations from zoning district standards relating to height, setback and yard requirements approved as per Chapter 16.84 may be granted by the Commission through a Type IV review 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. No. 2021-010 , § 2, 12-7-2021; Ord. 91-922, § 3)

Note(s)—Former § 16.156.030. See editor's note, § 16.156.020.

**CITY OF SHERWOOD**  
**JANUARY 24, 2023**  
**PLANNING COMMISSION RECOMMENDATION**

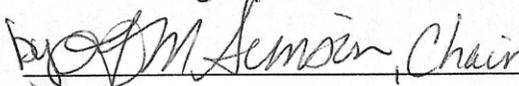


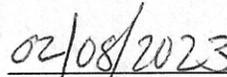
**DEVELOPMENT CODE UPDATE**  
**PLANNING CASE FILE: LU 2022-011-PA**

Hearing Date (PC): January 24, 2023  
Hearing Date (CC): February 21, 2023

**PLANNING COMMISSION HEARING SUMMARY:** The Planning Commission held a public hearing on January 24, 2023, to take testimony and consider on planning case file LU 2022-011-PA. No testimony on the hearing matter was taken, and the Commission voted to close the public hearing. However, Chair Simson stated during the hearing that the commission held four work sessions that were open to the public and the commission did receive public input to review and consider through the work session process. After considering the application materials and the findings in the staff report, the Planning Commission voted to recommend the text amendments to the City Council for adoption with the following modifications.

- 1) Modify and clarify Chapter 16.86, Temporary Uses, section 16.86.030.C.2.b, Time Limits, for the following: 1) temporary sales offices; 2) model homes; 3) all other temporary uses not determined to be a sales office; and 4) maximum limit of a temporary use permit.
- 2) Modify Chapter 16.90, Site Planning, section 16.90.020.D, Required Findings. Add an additional criterion to section 16.90.020.D6.e that would require the same multi-family glazing standards as proposed in the Commercial Design Review Matrix.
- 3) Modify Chapter 16.90, Site Planning, Commercial Review Matrix. Split the Glazing row into two categories 1) Glazing for Commercial uses and 2) Glazing for Multi-Family uses.
- 4) Modify Chapter 16.90, Site Planning, section 16.90.7a.1 to include verbiage relating to pedestrian scale.

  
\_\_\_\_\_  
Jean Simson, Planning Commission Chair

  
\_\_\_\_\_  
Date

**Proposal:** The code clean-up seeks to create development code standards to implement Ballot Measure 109, correct errors, increase consistency between sections, create needed definitions, and clarify code language and intent for implementation. The following are code sections proposed to be amended.

Division I: General Provisions  
16.10 Definitions

Division II: Land Use and Development  
16.31 Industrial Land Uses  
16.38 Special Uses  
16.40 Planned Unit Developments  
16.46 Manufactured Homes  
16.16 Dual Use of Required Space

Division III: Administrative Procedures  
16.70 General Provisions  
16.72 Procedures for Processing Development Permits

Division IV: Planning Procedures  
16.84 Variances  
16.86 Temporary Uses

Division V: Community Development  
16.90 Site Planning  
16.90.030 Site Plan Modification  
16.96 On-Site Circulation Chapter

Division VII: Land Divisions, Subdivisions, Partitions, Lot Line Adjustments and Modifications  
16.120 Subdivisions  
16.122 Land Partitions

Division VII: Environmental Resources  
16.132 General Provisions  
16.134 Floodplain Overlay  
16.136 Procedures  
16.138 Mineral Resources  
16.140 Solid Waste  
16.142 Parks, Trees, Open Spaces  
16.144 Wetland, Habitat and Natural Areas  
16.146 Noise  
16.148 Vibrations

- 16.150 Air Quality
- 16.152 Odors
- 16.154 Heat and Glare
- 16.156 Energy Conservation

There are four substantive changes in the amendment package 1) proposed criteria for model homes in Chapter 16.86 (Temporary Uses) 2) reducing Adjustment and Class B variance percentages in Chapter 16.84 (Variances); 3) a new proposed industrial design criterion in Chapter 16.90 (Site Planning); and 4) allowing psilocybin uses with development standards in the general industrial zone.

## I. BACKGROUND

- A. Applicant: This is a city-initiated amendment; therefore, the applicant is the City of Sherwood
  
- B. Location: The proposed amendments are to the text of the Development Code and generally apply city-wide; however, a new proposed industrial design criterion is proposed for Chapter 16.90, Site Planning, that would only apply to industrial development within 200 feet of an arterial or collector street and visible to the arterial or collector.
  
- C. Review Type: The proposed text amendments require a Type V review, which involves public hearings before the Planning Commission and City Council. The Planning Commission will make a recommendation to the City Council, which will make the final decision. Any appeal of the City Council decision would go directly to the Land Use Board of Appeals.
  
- D. Public Notice: Notice of the application was provided in accordance with § 16.72.020 of the Sherwood Zoning and Development Code (SZDC) as follows: notice was distributed in five locations throughout the City and notice of the application was also published in a local newspaper (Tigard Times) on January 5, and January 19, 2023. City also sent e-notice to the Planning Department news and announcement distribution list.

While the amendments apply citywide, they do not affect the permissible uses of any property; therefore, Measure 56-notice was not required or provided. DLCDC was noticed on 12/23/2022

- E. Review Criteria: The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).
- F. History and Background: The City's Zoning and Community Development Code is regularly reviewed and updated to ensure it complies with regional and state laws, addresses local issues and in response to certain land use applications, cross-references are correct, standards are clear, and any typographical errors are corrected. In addition, over time, trends and values change, and it is necessary to evaluate standards to endure they address current community needs. To that end, the Planning Commission and staff identified needed amendments to the Development Code to create development code standards to implement Ballot Measure 109, correct errors, increase consistency between sections, create needed definitions, and clarify code language and intent.

## II. AFFECTED AGENCY AND PUBLIC COMMENTS

- A. Agency Comments - Notice of the application was sent to affected agencies via email on December 27, 2022. The following responses were received:
  - 1. Scott McKie, Building Official. Email on 12/27/2022. Mr. McKie had a question about model home verbiage. Planning staff has clarified the language in section 16.86.030.D.j per Mr. McKie's comment. See Exhibit A.
- B. Public Testimony - as of the date of this report, no public testimony was received.

## III. APPLICABLE CODE PROVISIONS

The applicable Plan Text Amendment review criteria are 16.80.030.1 and 3

### **16.80.030.1 - Text Amendment Review**

**An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.**

As discussed briefly above, the proposed Code amendments identified are to clarify and create greater flexibility and community design within Sherwood. The Planning Commission held a series of work sessions to discuss the proposed changes and considered public input before the modifications were recommended. The following

discussion separates the chapters that have been amended within the Development Code and provides an additional summary.

### *Division I. General Provisions*

#### *Chapter 16.10, Definitions*

A definition of a model home is proposed. This provides clarity where the Code had been previously silent, ambiguous, or without a clear distinction of what a model home is.

### *Division II. Land Use Development*

#### *Chapter 16.31, Industrial Land Uses & 16.38, Special Uses*

These two chapters have been updated to allow for Psilocybin Service Centers and special standards to apply to these facilities for their use and operation. These changes are proposed due to the voter-approved Ballot Measure 109, the Oregon Psilocybin Services Act. The standards mimic the recreational marijuana facility code language.

#### *Chapter 16.40, Planned Unit Development (PUD)*

The Development Code has allowed for the use alleys, but the City recently adopted a public alley cross-section within its' Transportation System Plan. After adopting a design cross-section for an alley, the Commission asked where they would be used. There are two developments in Sherwood other than the historic downtown core that has utilized alleyways -- Arbor Terrace and Cedar Brook PUDs. The Commission discussed the use of alleys and has recommended the use of private alleys in PUDs that are constructed to public standards. The use of alleys in PUDs means that both the Commission and Council will have the opportunity to review the development. The proposed amendment would allow private alleyways, when designed and constructed to public alleyway standards in the City's Transportation System Plan (TSP), to be permitted outright in residential PUDs.

Another proposed amendment to this chapter is to ensure that privately maintained trails are accessible to the public and utilize the public trail standards in the TSP. This allows clarity on the trail easement widths in PUDs.

#### *Chapter 16.46, Manufactured Homes*

Manufactured homes on individual lots were not addressed during the residential design code update. The proposed code amendment ensures that manufactured homes placed on individual lots (not in spaces manufactured homes parks) will need to meet the residential design standards in §16.14. The existing language in this code section is not clear and objective and does not meet Oregon Revised Statute (ORS) 197.307(4) that requires that local governments adopt and apply clear and objective standards, conditions, and procedures regulating the development of "needed housing."

#### *Chapter 16.64, Dual Use of Required Space*

During the Housing Choices development code update, Chapter 16.64, Dual Use of Required Space, was mistakenly deleted from the code. The chapter has been rewritten for clarity purposes.

### Division III. Administrative Procedures

#### *Chapter 16.70, General Provisions*

Staff receives inquiries about when to send out neighborhood meeting notices. The code does not address a mailing timeframe. This ensures neighbors receive advanced notification about the meeting and can plan accordingly. The proposed amendment requires notification of neighborhood meeting to be mailed 14 calendar days prior to the meeting date.

#### *Chapter 16.72, Procedures for Processing Development Permits*

As stated above, ORS 197.307(4) requires housing standards to be clear and objective. The proposed amendment exempts Type IV housing applications to demonstrate compliance with Conditional Use Permit criteria because it is not clear and objective.

### Division IV. Planning Procedures

#### *Chapter 16.84, Variances*

During the public hearing process to adopt Residential Design Standards, the Planning Commission recommended reducing both the Adjustment and Class B Variance percentages. However, this recommendation was not carried forward through the final staff report and recommendation to Council for consideration at that time. It was a staff oversight. This proposed amendment reduces adjustments from 10% to 5% and Class B Variances from 20% to 10%.

#### *Chapter 16.86, Temporary Uses*

The development code does not have standards and criteria for the use of model homes, but Planning Staff had an internal policy for this use through the temporary use chapter. The code amendment codifies the internal department policy for model homes as a temporary use.

### Division V. Community Design

#### *Chapter 16.90, Site Planning*

(SZCDC 16.90.D.7) The Commission recommends that roof-mounted equipment be screened as a requirement. More often than not, it is a design criterion that is always met in new industrial development. This would reduce the number of design criteria from 6 to 5. The Commission did not want to reduce the number of design criteria but proposed another criterion that focused on the pedestrian scale of front entries of industrial buildings that only applies to industrial development within 200 feet of an arterial or collector street

and is visible to the arterial or collector. The intent of the Industrial design standards is to enhance areas visible from arterial and collector streets by reducing the bulk appearance of large buildings. Building entries should be oriented toward the predominant public view, usually the street frontage. This allows the public to more easily determine where the front entrance is located and provides a more attractive street frontage.

(SZCDC 16.90.020.D.d) As an alternative to the urban design standards in SZCDC 16.90.020.D.6.a-c the Commercial Design Matrix may be applied to any commercial, multi-family, institutional, or mixed use development. Residential Design Standards were adopted per Ordinance 2021-010. The Sherwood Planning Commission discussed the need for residential design standards for many years, and the new standards were supported by the Sherwood 2040 Comprehensive Plan update, and the community had an overall desire for residential design standards through a 2021 Visual Preference Survey and Virtual Open House. The proposed amendment to this section would require multi-family developments that choose to apply the Design Matrix criteria to require a minimum of 15 percent of the area of the primary building elevation adjacent to a public right of way to include windows or entrance doors, and for side building elevations, adjacent to a public right-of-way or public accessway, a minimum of 10 percent glazing of the area is required. This criterion is the same standard applied to all residential housing types (single-family detached/attached, plexes, and townhomes).

(SZCDC 16.90.030) The proposed amendment requires that approval criteria and standards in effect at the time of land use submittal for a modification apply to the request. The amendment makes it clear that current standards apply to a modification request.

#### *Chapter 16.96, On-Site Circulation*

Primarily the proposed amendments re-organize code sections and title headings for clarity. The amendments make it clear that on-site pedestrian access is reviewed for all types of development. It is reorganized for general flow and readability. It also ensures that the provisions are consistent with the Housing Choices amendments for vehicle circulation.

### *Division VII. Land Divisions, Subdivisions, Partitions, Lot Line Adjustments and Modifications.*

#### *Chapter 16.120 Subdivisions*

Added the criteria that privately maintained trails shall conform to public trail standards in the TSP. This allows clarity and consistency on the trail easement widths in Subdivisions and Planned Unit Developments.

#### *Chapter 16.122 Land Partitions*

The amendments to the chapter are for clarity and consistency and are minor in nature.

#### *Chapter 16.132 General Provisions*

Chapter 16.136, Procedures, was struck and merged with Chapter 16.132, General Provisions. The new title is Chapter 16.132, General Provisions and Conformance. Staff is recommending this change to the organizational structure of the code because it was confusing and unclear what standards in this Division applied to what chapter. The amendment brings the conformance criteria into the first chapter of this Division for clarification and better readability and implementation of all the chapters in this Division.

In addition, language was updated referencing the Comprehensive Plan, and the parks reservation process is more clearly defined. The amendments propose removing Ash Trees from the recommended street tree list due to invasive Emerald Ash Borer infestations that can cause significant tree damage. Ash trees can be placed back on the street tree list when the Emerald Ash Borer infestations are no longer considered a risk.

### **Consistency with Comprehensive Plan**

The proposed amendments to the Zoning and Community Development Code have been identified by the staff and Planning Commission as areas that need to be corrected. The proposed amendments are in accordance with the intent and purpose of the zoning districts, and the policies of the Comprehensive Plan, which promote the efficient administration of the Plan and implementing ordinances. The majority of the proposed amendments are administrative updates intended to correct errors and provide clarity. Three of the amendments propose substantive changes to the Code. There do not appear to be any Comprehensive Plan requirements that would conflict with the proposed code language in any of the chapters.

The City's Comprehensive Plan vision is organized around six theme areas. The proposed amendments are consistent with the following six themes and associated goals and policies.

#### Comprehensive Plan Themes

##### Strong Community, Culture, and Heritage

This theme explores the topics of community engagement, historic and heritage resources, as well as civic, arts, and cultural spaces. This theme complies with the following Statewide Land Use Goals: Goal 1, Citizen Involvement; Goal 5, Historic Resources; and Goal 11, Public Facilities and Services. The Planning Commission has held four work sessions on the proposed amendments (September 13, 2022, October 11, 2022, November 8, 2022, and December 13, 2022). All work sessions were noticed and advertised to the public. The proposed amendment package project page on the City's website was created on December 27, 2002. The public hearings are noticed in compliance with city standards.

##### Strategic and Collaborative Governance

This theme explores the topics of urbanization, land use planning and procedures, as well as community health, safety, and natural hazards. This theme complies with the following

Statewide Land Use Goals: Goal 2, Land Use Planning; Goal 7, Natural Hazards, Goal 11, Public Facilities and Services; and Goal 14, Urbanization. As stated above, the Planning Commission has held four work sessions on the proposed amendments, and planning staff has provided open and transparent governance by assuring information is available on the proposed amendment package. Coordination with local service providers, jurisdictions, and regional and state agencies occurred in compliance with city standards.

The code amendments to SZCDC 16.31.020, Industrial Land Districts, and SZCDC 16.90, Site Planning, encourage both multi-family and industrial development to be designed with pedestrian scale elements which include building designs along the public right of ways to be inviting and engaging, which promotes friendly and safe urban design practices.

Code amendments to Division VIII, Environmental Resources, removing the Ash tree from the City's street tree list minimizes impacts and risk to life and property from natural caused hazards. The reorganization of this Division makes it clear what provisions apply to development applications.

**Applicable Regional (Metro) Standards**

There are no known Metro standards that would conflict with the proposed amendments.

**Consistency with applicable Statewide Planning Goals**

Because the comprehensive plan goals and policies are not changing and the Plan has been acknowledged by the State, there are no known conflicts with the proposed text amendments. Staff is unaware of any other state or local regulations that the proposed amendment would conflict with. The language has been drafted in a manner that strives to provide clarity within the Code to staff, property owners, and developers.

**Goal 1 – Public Involvement**

As stated above, the Planning Commission held four work sessions on the proposed amendments, all of which were public meetings, and the proposed draft amendment package was posted on the website on December 27, 2022, routed to agency partners on December 27, 2022, for review and comment. The public hearing dates were noticed in, *The Times*, a newspaper of general circulation, on January 5 and 19, 2023.

**Goal 2 – Land Use Planning**

Goal 2 requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. Cities must build their comprehensive plans on a factual base and follow their plan when making decisions on appropriate zoning. City and county plans must be consistent with one another. Special district and state agency plans, and programs must be coordinated with comprehensive plans.

As described above, the proposed amendment package is not in conflict with goals and policies within the City's adopted Comprehensive Plan, which implements Sherwood

Zoning and Community Development Code. The proposed amendments have been coordinated with local, regional, and state agencies for review and comment.

The proposed amendments have been discussed in several public venues, and staff has always been available to discuss the proposed changes and has invited public comments throughout the course of the discussion. As a whole, the proposed amendments are consistent with Goal 1 (Citizen Involvement) and Goal 2 (Land Use Planning).

#### Goal 3 - Agricultural Lands

This goal does not apply to the City of Sherwood

#### Goal 4 - Forest Lands

This goal does not apply to the City of Sherwood

#### Goal 5 - Natural Resources, Scenic and Historic Areas, and Open Spaces

Goal 5 is a broad statewide planning goal that covers more than a dozen resources. The resources range from wildlife habitats to historic places, and gravel mines. To protect and plan for them, local governments are asked to create a number of inventories. Natural resources are then reviewed, and the jurisdiction develops land use programs to conserve and protect “significant” Goal 5 resources. A few significant resources in Sherwood include the floodplain, wetlands, riparian corridors, and Old Town (historic area).

The proposed amendments are not in direct conflict with Goal 5. As discussed below in Goal 6, Sherwood takes great pride in its urban canopy. The proposed amendment strike Ash trees from the city’s street tree list will serve to protect the existing Ash trees from the Emerald Ash Borer infestation in the State that is destroying Ash tree populations.

#### Goal 6 - Air, Water, and Land Resources Quality

Goal 6 instructs local governments to consider the protection of air, water, and land resources from pollution and pollutants when developing comprehensive plans. The pollutants addressed in Goal 6 include solid waste, water waste, noise and thermal pollution, air pollution, and industry-related contaminants. The City of Sherwood has existing regulations to protect air, water, and land resources from pollution and pollutants. The proposed amendments to the chapters within Division VIII. Environmental Resources make the development code stronger and clearer to implement.

#### Goal 7 - Areas Subject to Natural Hazards

Goal 7 requires local comprehensive plans to address Oregon’s natural hazards. Protecting people and property from natural hazards requires knowledge, planning, coordination, and education. The proposed amendments are not in direct conflict with this goal.

#### Goal 8 – Recreational Needs

Goal 8 requires local governments to plan for the recreation needs of their residents and visitors. The City is in compliance with Goal 8, through its adopted Parks and Recreation

Master Plan. The City's development code sets standards for recreation and open space dedication through the development process to create spaces for residents and visitors to enjoy. The proposed amendments to the PUD and Subdivision chapters of the development code seek to ensure that privately maintained trails are accessible to the public and utilize the public trail standards in the TSP. This standard will help create a uniform trail easement width in planned unit developments and subdivisions. None of the proposed amendments are in direct conflict with this goal.

#### Goal 9 - Economic Development

The purpose of Goal 9 planning is to make sure cities and counties have enough land available to realize economic growth and development opportunities. The city has adopted an Economic Opportunities Analysis and is in the process of a small update to this technical document. The proposed amendments are not in conflict with Goal 9.

#### Goal 10 - Housing

Goal 10 is to ensure that Sherwood has a housing supply that meets community needs is one that offers people a range of different places to live, and different densities to choose from, and does not overburden the financial resources of any group living there. The City has an adopted Housing Needs Analysis 2019-2039 (HNA), Ordinance 2020-10, which meets the requirements of State Land Use Goal 10, Housing and its Administrative Rule 660-007. The proposed amendments will not reduce the amount of land for residential housing or change the City's General Plan/Zoning Map affecting the residential housing supply.

The proposed amendments to Chapter 16.86, Temporary Uses, allow for model homes and sets clear criteria for developers to utilize. Often developers want to showcase a home within a new subdivision and use part of it as a sales office to show customers floor plans and amenities. Establishing a model home as a temporary use is not in direct conflict with Goal 10, Housing.

The proposed amendment to Chapter 16.90, Site Planning, requires multi-family developments to have a minimum of 15 percent of the area of the primary building elevation adjacent to a public right-of-way to include windows or entrance doors, and for side building elevations, adjacent to a public right-of-way or public accessway, a minimum of 10 percent glazing of the area is required. This is the same standard the city applies to all residential housing which is required to meet residential building designs in Chapter 16.14.

The proposed amendments will not change lot dimensional standards, residential densities, or change residential land use designations on the City's General Plan/Zoning Map. The proposed amendments will not further decrease the city's housing supply. The proposed amendments are not in direct conflict with Goal 10.

#### Goal 11 – Public Facilities and Services

Cities in Oregon with a population greater than 2,500 are required to create public facilities plans (water, sanitary sewer, stormwater) that meet current and long-range needs. The proposed amendments are not in conflict with this statewide planning goal.

#### Goal 12 – Transportation

Goal 12 requires cities, counties, and the state to create a transportation system plan that takes into account all relevant modes of transportation: mass transit, air, water, rail, highway, bicycle, and pedestrian. The resulting plan should support a variety of transportation modes so residents are not limited in how they can access the jobs, goods, or services available in different parts of their community.

The City has an adopted Transportation System Plan, which directs policy, programs, and transportation system enhancement projects. The proposed amendments are not in direct conflict with this statewide planning goal.

#### Goal 13 – Energy

Goal 13 requires local governments to consider the effects of their comprehensive planning on energy consumption. There are no statewide administrative goals to implement Goal 13, but Sherwood's adopted Comprehensive Plan has goals and policies that strive to conserve energy through land use goals and policies. The proposed amendments are not in direct conflict with this goal.

#### Goal 14 – Urbanization

The purpose of Goal 14, Urbanization, is to provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. Goal 14 requires the establishment and maintenance of an Urban Growth Boundary (UGB) to ensure the efficient use of land, accommodation of a 20-year projected population and employment growth, and an orderly transition from rural to urban land uses. Metro is responsible for managing the UGB and evaluating whether it needs to be adjusted to accommodate growth over the 20-year planning period under state law. The City must demonstrate that the regional household and employment growth allocated by Metro can be accommodated in an orderly and efficient manner that preserves and enhances livability.

The City's adopted Comprehensive Plan manages residential and employment growth impacts, promotes efficient urban development, and protects natural resources from sprawl. In planning for future growth, the City prepared policies that promote the efficient transition between urban and rural land, planning for and providing adequate public services, and encouraging a mix of housing.

The proposed amendments are not in direct conflict with this statewide planning goal.

#### Goal 15 - Willamette River Greenway

- Goal 16 - Estuarine Resources
- Goal 17 - Coastal Shorelands
- Goal 18 - Beaches and Dunes
- Goal 19 - Ocean Resources

Statewide Planning Goals 15-19 establish requirements for specific geographic areas for the Willamette Valley Greenway and Coastal areas managed by the Oregon Coastal Management Program. The City's adopted Comprehensive Plan does not involve land or resources in these areas; therefore, there are no policies related to these statewide land use planning goals within the Comprehensive Plan document.

**Findings for consistency with applicable Statewide Planning Goals:** As described above, the proposed amendments to the Sherwood Zoning and Community Development Code do not directly conflict with Statewide Planning Goals.

#### ***Transportation Planning Rule Consistency***

**The applicant shall demonstrate consistency with the Transportation Planning Rule, specifically by addressing whether the proposed amendment creates a significant effect on the transportation system pursuant to OAR 660-012-0060. If required, a Traffic Impact Analysis (TIA) shall be prepared pursuant to Section 16.106.080.**

**Finding:** This standard is not applicable to the proposed amendments. The City is not proposing zone changes or impacts to the transportation system pursuant to OAR 660-012-0060. The city's adopted Comprehensive Plan is consistent with the City's adopted TSP and satisfies this standard.

## **V. CONCLUSIONS AND RECOMMENDATIONS**

Based upon the review of the submittal information, review of the code, agency comments, and consideration of the Planning Commission's recommendation, staff finds case file LU 2022-11 fully complies with and meets the intent of all applicable local, regional, and state criteria. **Therefore, staff recommends approval of LU 2022-011.**

### **CITY COUNCIL ALTERNATIVES**

1. Approve the proposed development code amendments with the findings in this staff report
2. Modify the proposed development code amendments and/or findings and approve as modified in compliance with all applicable criteria.
3. Deny the proposed development code amendments based on the Commission's findings
4. Continue the Public Hearing to date certain if more information is needed