



Home of the Tualatin River National Wildlife Refuge

CITY COUNCIL MEETING PACKET

FOR

Tuesday, April 5, 2011

**Sherwood City Hall
22560 SW Pine Street
Sherwood, Oregon**

6:00pm Work Session

7:00pm Regular City Council Meeting



WORK SESSION 6:00 PM

REGULAR CITY COUNCIL MEETING

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. CONSENT:

- A. Approval of March 15, 2011 City Council Minutes
- B. Resolution 2011-028 Appointing John Clifford to the Planning Commission
- C. Resolution 2011-029 Appointing James Copfer to the Planning Commission
- D. Resolution 2011-030 Reappointing Ashley Marshall-O'Dell to the Cultural Arts Commission
- E. Resolution 2011-031 Reappointing Douglas Pederson to the Cultural Arts Commission
- F. Resolution 2011-032 Reappointing Judy Silverforb to the Cultural Arts Commission
- G. Resolution 2011-033 Appointing Kaelie Nielson to the Cultural Arts Commission

5. PRESENTATIONS

- A. Eagle Scout Recognitions
- B. Proclamations

6. NEW BUSINESS

- A. Resolution 2011-034 Authorizing staff to apply for a local government grant from the Oregon Parks and Recreation Department for the construction of a skate park
(Kristen Switzer, Community Services Director)

7. PUBLIC HEARING

- A. Ordinance 2011-003 Amending multiple sections of the Zoning and Community Development Code including Divisions, II, III, and VI
(Michelle Miller, Planning Associate & Julia Hajduk, Planning Manager)

8. CITIZEN COMMENTS

<p style="text-align: center;"><u>AGENDA</u></p> <p style="text-align: center;">SHERWOOD CITY COUNCIL April 5, 2011</p> <p style="text-align: center;">6:00 pm Work Session</p> <p style="text-align: center;">7:00 pm Regular City Council Meeting</p> <p style="text-align: center;">Sherwood City Hall 22560 Pine Street Sherwood, OR 97140</p>
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9. CITY MANAGER REPORT

10. COUNCIL ANNOUNCEMENTS

11. ADJOURN

How to Find Out What's on the Council Schedule:

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To Schedule a Presentation before Council:

If you would like to appear before Council, please submit your name, phone number, the subject of your presentation and the date you wish to appear to the City Recorder Sylvia Murphy by calling 503-625-4246 or by e-mail to: citycouncil@ci.sherwood.or.us.



SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
March 15, 2011

WORK SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:32pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Robyn Folsom, Bill Butterfield, Matt Langer and David Luman. (Councilor Linda Henderson arrived at 6:43pm.)
3. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Jim Patterson, Economic Development Manager Tom Nelson, Community Development Director Tom Pessemier, Police Chief Jeff Groth, Planning Dept. Manager Julia Hajduk, Associate Planner Michelle Miller, and Administrative Assistant Kirsten Allen. (City Attorney Paul Elsner arrived at 6:52pm.)
4. **TOPIC DISCUSSED:** Planning Code Clean-up Phase II, PA II-01, Michelle Miller briefed the Council on a power point presentation (see record, Exhibit A). Staff informed Council this was an overview for the public hearing scheduled for April 5th. Staff was asked to clarify amateur radio tower heights. Council will continue discussions on chickens at a future meeting.
5. **ADJOURNED:** Mayor Mays adjourned the Work Session at 7:01pm and convened to the regular Council Session.

REGULAR COUNCIL MEETING

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 7:11pm.
2. **PLEDGE OF ALLEGIANCE AND ROLL CALL:**
3. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Linda Henderson, Robyn Folsom, Bill Butterfield, Matt Langer and David Luman.
4. **STAFF AND LEGAL COUNSEL PRESENT:** City Manager Jim Patterson, Police Chief Jeff Groth, Community Development Director Tom Pessemier, Finance Director Craig Gibbons, Community Services Director Kristen Switzer, Economic Development Manager Tom Nelson, Operations Supervisor Rich Sattler, Fleet and Facilities Operations Supervisor Darren Caniparoli, and Administrative Assistant Kirsten Allen. City Attorney Paul Elsner.

Mayor Mays addressed the Consent Agenda and asked for a motion.

5. CONSENT AGENDA

- A. Approval of March 1, 2011 City Council Minutes
- B. Resolution 2011-018 Reappointing David Bonfiglio to the Parks and Recreation Board
- C. Resolution 2011-019 Reappointing Brian Stecher to the Parks and Recreation Board
- D. Resolution 2011-020 Adopting criteria to be used in the annual performance evaluation of the City Manager
- E. Resolution 2011-021 Authorizing the City Manager to enter into an Intergovernmental Agreement with Washington County for development of West Nile Virus Response Plan
- F. Resolution 2011-022 Authorizing the City Manager to enter into an Intergovernmental Agreement (IGA) with the Washington County Watershed Technical Committee for the Regional Solid Waste Management Plan
- G. Resolution 2011-023 Authorizing the City Manager to enter into an Intergovernmental Agreement (IGA) with Clean Water Services (CWS) for the Stella Olsen Stage View Corridor

MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCIL PRESIDENT DAVE GRANT. ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays addressed the next agenda item.

6. NEW BUSINESS

- A. Resolution 2011-024 Authorizing the City Manager to surplus vehicles and equipment to the State of Oregon

Fleet and Facilities Operations Supervisor Darren Caniparoli came forward and explained the resolution and stated it authorizes the City Manager to surplus City vehicles and equipment to the State of Oregon, and informed Council that the cost to perform maintenance on these vehicles and equipment exceeds their value. Darren said, individually they are not worth \$5000, but together they are, and the City will save money by having the State sell the surplus.

Mayor Mays thanked Darren and stated that the cost to sell them ourselves might end up costing the City more than they are worth.

Mayor Mays asked for Council questions.

Councilor Luman asked if this included the D.A.R.E Camaro. Darren indicated that it did. Councilor Luman mentioned that it was sad to see it leave Sherwood.

Council President Grant asked if the City just gave the vehicles away to the State. Darren answered that the State either takes a percentage of the sale or a dollar amount, whichever is greater, and the City receives the rest.

Mayor Mays asked for any other comments or a motion on the resolution.

MOTION: FROM COUNCIL PRESIDENT DAVE GRANT TO ADOPT RESOLUTION 2011-024, SECONDED BY COUNCILOR DAVID LUMAN. ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays addressed the next agenda.

B. Resolution 2011-025 Resolution of the City of Sherwood authorizing the issuance of Full Faith and Credit Obligations and General Obligation Refunding Bonds

Finance Director Craig Gibbons introduced Bond Councilor Gülgün Mersereau from K & L Gates and indicated that Ray Bartlett Financial Advisor from Economic and Financial Analysis would be joining them soon. Craig explained that the resolution was to authorize the City Manager to enter into debt in order to refinance the existing line of credit, to provide funding to continue work on the Water Project, and to refinance an existing General Obligation debt. He indicated that the third item was new to the resolution and a result of a conversation with the City's financial advisor who stated that it might be a good time to also refinance the YMCA loan. This conversation was after the March 1st Council work session. Craig stated he thought it would be negligent of him not to include it in the resolution after he found it was an option and he wanted to give Council the opportunity to make that decision before discussing the resolution further.

Councilor Folsom asked if the debt was for the YMCA as stated by Craig or for the Police Station as stated in the resolution. She also asked if this was the loan with a ten year term. Craig replied that it was for the Police Station and indicated that the term of the loan would be the same with lower payments saving approximately \$20k dollars in interest.

Mayor Mays added that this may lighten the burden on taxpayers.

Councilor Luman asked if the refinancing would mature at the same time as the current financing and confirmed that the term was the same, just lower payments. Craig said yes if the funding comes in at a lower rate. Councilor Luman asked if Craig could say how much.

Mayor Mays asked, from the analysis, if Craig recommended that Council keep the refinancing of the debt in the resolution.

Gülgün Mersereau of K & L Gates reiterated that the resolution was the authority to refund the bonds. She said the sale of the bonds can be cancelled if the numbers do not work, moreover the City is already preparing documents to disclose the finances of the City. She said there are differences between a General Obligation backing and a Full Faith and Credit backing. The difference would be about \$3000-\$4000 in extra work.

Mayor Mays asked for comments from the Council.

Councilor Luman stated that he did not see any reason not to look.

Mayor Mays agreed that if it makes sense after the analysis, and it saves the taxpayers' dollars, then let's save them money.

Councilor Luman stated he likes the way staff was proactive to take a look at all of the opportunities to save money.

Craig confirmed that the risk is in the money spent to upgrade the statements to do it.

Mayor Mays asked if staff still recommended asking Council for the authority to review.

Craig Gibbons answered that he not recommend we go do it, but recommends that the phrase is left in the resolution should it prove beneficial to move forward.

Mayor Mays asked for any other comments.

Councilor Folsom asked if we pass the resolution do we need to amend the resolution to say the YMCA. Craig confirmed that it is the Police Station.

Councilor Luman asked if the addition of the GO Loan changes the City's bond rating.

Gülgün said that because it replaces an existing loan and is not an additional loan, it should not affect it.

Craig Gibbons continued to brief Council on the remainder of the resolution and said there is a ten million dollar line of credit to refinance and a four million dollar loan to proceed with the water project. Craig explained the water master plan for getting a reliable water source for the City of Sherwood and the process that the city had gone through since 2005 to get to this point in the water project. Craig said, yet to complete is to finish the last segment of the pipeline, make improvements at the water treatment plant, and negotiate the costs of the plant operation with the City of Wilsonville. Craig said, Resolution 2011-025 is for authority to find permanent financing for the \$10 million line of credit and borrow \$4 million to continue work on the water project. Craig informed the Council that Ray Bartlett, financial advisor, has incorporated all funding and future funding into his analysis.

Craig indicated that a later resolution would address water rates. He said the initial estimate for the water only rates, for the average homeowner, was estimated to be \$68 by 2009. The proposed resolution will put rates at about \$58 per household. Water rates have increased slower than as estimated by the original estimates. Rates in the future could go up based on negotiations with Wilsonville, or could go down based on population growth, unbudgeted SDC fees or operation costs.

Mayor Mays thanked Craig and commented he appreciated all the work done by City staff, the consultants, and Councilors to continue to use best practices to keep rates as low as possible for our community.

Mayor Mays asked for Council questions or comments.

Councilor Luman stated he agrees with the Mayor that staff has done a good job and asked if water rates going down meant the individual water rates would decrease. Mayor Mays suggested that the rates going down would mean future rate increases for water customers would not be as great. In short, the anticipated increases will be less if the population grows and development increases, SDC help, and if operation costs are controlled.

Mayor Mays commented on how source costs are controlled because the Willamette River is free. Water providers that were not chosen by the City are continually raising their rates.

Mayor Mays asked for questions from Council.

Councilor Folsom commented on how hard it was for the Council to raise rates but understands how wise a decision the water project has turned out to be. Councilor Folsom said she wants

citizens to understand that Council has really looked at and considered the issues and is trying to control costs. She stated that it is fiscally responsible to continue to create a water source for our community.

With no other Council comments, Mayor Mays asked for a motion.

MOTION: FROM COUNCILOR DAVID LUMAN TO APPROVE RESOLUTION 2011-025, SECONDED BY COUNCILOR BILL BUTTERFIELD. ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays suggested Council address Resolution 2011-027 before Resolution 2011-026.

C. Resolution 2011-027 Setting rates for water use and repealing Resolution 2009-018

Finance Director Craig Gibons, Gülgün Mersereau and Ray Bartlett remained at the table.

Craig explained that this resolution concurrent with the debt funding provided by Resolution 2011-025 shows a potential lender that the City is serious about taking care of its debt. Resolution 2011-027 calls for an increase of water rates on July 1, 2011 of 7.5% and on January 1, 2012 an increase of 4%. The rate increases are within the framework of the rates that were set in 2006.

Mayor Mays asked for Council questions.

Councilor Folsom stated that the resolution repeals Resolution 2009-018 and asked what it was. Craig answered that it is the resolution setting the current water rates.

Councilor Henderson asked for the reason for increasing the rate twice? Ray Bartlett answered that it was easier on the rate payer and allowed for an adjustment, if needed, should population change and demand change.

City Attorney Paul Elsner recommended that the resolution include the wording that the resolution be effective immediately upon approval as required by state statute.

MOTION: FROM MAYOR MAYS TO AMEND RESOLUTION 2011-027 TO ADD A SECTION THAT STATES THAT THE RESOLUTION IS EFFECTIVE UPON PASSAGE, SECONDED BY COUNCILOR DAVID LUMAN. ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays asked if there were any more comments, with no comments received the following motion was made.

MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE THE AMENDED RESOLUTION 2011-027, SECONDED BY COUNCILOR BILL BUTTERFIELD. ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays addressed Resolution 2011-026.

D. Resolution 2011-026 Appointing new Audit Firm

Finance Director Craig Gibons explained that the City has completed a Request for Proposals process in order to retain a new audit firm. He said eight responses were received which were narrowed down to three. The interview team consisting of Finance Director Craig Gibons,

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Accounting Supervisor Julie Blums, PW Program Manager Amy Burns, and Economic Development Manager Tom Nelson all supported Talbot, Korvola, and Warwick LLP (TKW), but recognized that they were the highest bid. Craig informed Council he was able to negotiate with TKW and they lowered their bid and asked for a five year contract in return. This five year contract is contingent on the completion of the previous year's audit.

Mayor Mays complimented Craig on being able to get a better deal. Craig stated that he wanted the Council to have access to the best.

Mayor Mays asked for Council questions.

Councilor Butterfield asked if the price drop made TKW lower than the other firms thus making their price more competitive. Craig answered that they did and in addition they would be analyzing City business processes to improve performance.

Councilor Folsom asked what the previous firm charged the City. Craig said it was less, that they had bid this year as well, and that their bid was competitive with the rest. Councilor Folsom asked if it was typical for a city to change auditors. Craig answered that it was and that the City had used the previous firm for at least 8 years if not more. Councilor Folsom then asked if Robert Moody from TKW was the same who had been a Finance Director for the City. Craig said that it was and that he was the only one who had experience on the other side of the table. Councilor Folsom commented that she liked the experience and was excited by the idea of training City Councilors as well.

City Manager Jim Patterson thanked Council and said as it was due to their comments and questions that helped City staff map out the criteria for choosing a new audit firm and thanked the Council for their efforts to understand.

Mayor Mays asked for Council comments.

Councilor Luman commented that he likes the fact that the new firm will assist in City processes to help the City become more efficient.

Mayor Mays commented that after a growth spurt, the City is on a shelf of growth and now is a good time to move forward in this direction.

Councilor Langer commented, for the benefit of the public, that the information presented tonight is a lot of material and has been in Council's hands for some time and there have also been work sessions to explain the material. He indicated that the decisions made tonight have not been made quickly, but with much contemplation.

Mayor Mays asked for other Council comments or discussion. With none received, the Mayor asked for a motion.

MOTION: FROM COUNCIL PRESIDENT DAVE GRANT TO APPROVE RESOLUTION 2011-026, SECONDED BY COUNCILOR LINDA HENDERSON. ALL COUNCIL MEMBERS VOTED IN FAVOR.

Mayor Mays addressed the next agenda item.

7. CITIZEN COMMENTS

Carolyn DeBartola, 15525 SW Thrasher Way Sherwood, commented that her water bill has a lot of fees that do not relate to water. She asked about the street light fee on her water bill she asked for an explanation of its origin.

Mayor Mays explained that the water utility bill covered water, sewer, and storm sewer as dictated by Clean Water Services. The bill is broken down so that it is clear where all the money goes. In addition, several years ago, in order to meet the growing needs of street maintenance and the cost of street lights, the Council placed a \$5 fee on the utility bill for residential, with a \$10 fee for commercial. When the City brought the utility billing back in house the Council and the Budget Committee wanted to be more clear about where the money went.

Ms. DeBartola asked if this fee was not part of the general fund in the past and why it is no longer.

The mayor answered that there were two reasons. Property tax limitations fell short of paying for essential services; street maintenance, lights, parks, libraries, police, etc. The other being the gas tax that is shared by jurisdictions has remained steady, but the cost of gas and street maintenance has gone up. Similar situations have taken place with other taxes such as a franchise fee with phone bills. When people stop subscribing to land lines that revenue that was also used for streets went away. The result is that communities, Sherwood included, have put that fee on the utility bill.

Ms. DeBartola questioned why there was not any notification that these fees would be charged on her water bill and what else could she expect in the future.

Mayor Mays commented that the City was trying to communicate and be honest by being transparent on the fees. He mentioned that articles are put in the Archer and the City Council and Budget Meetings are broadcast via public access in an effort to reach out.

City Manager Jim Patterson interjected that the fee is not a new fee, but that the Budget Committee and Council decided to break down the \$5 street fee to a \$2 street fee and a \$3 street light fee. It now shows up as a new line item on your bill but the \$5 fee has been there for three years. The break out is a direct result of action that was taken by the Budget Committee and Council in the last budget.

Ms. DeBartola stated that she had a \$5 street fee and a \$3 light fee.

Mayor Mays agreed that such an issue will need to be looked into. He mentioned that the fee schedule is looked into annually as part of the budget process. There is currently a review of the street maintenance fee to assure that it is at the right level to maintain our streets. The state legislature also passed a new gas tax that went into effect in January of this year. The City is waiting to see if the gas tax is enough to meet the City's street maintenance needs.

Ms. DeBartola asked that an article be placed in the Archer when the time comes.

Mayor Mays asked if anyone else would like to give public comment.

Gene Stewart, PO Box 534 Sherwood, came forward and congratulated the City on choosing a good firm to do the audit. Mr. Stewart believes there will be some good results coming from the decision.

Councilor Folsom and Councilor Luman acknowledged that coming from a CPA that it meant a lot to hear it.

With no other citizen comments, Mayor Mays addressed the next agenda item.

8. CITY MANAGER REPORT

City Manager Patterson turned a few minutes over to Finance Director Craig Gibbons who compared the projected expenditures with the actual budget. Craig stated that the City is staying within the legal limitations.

Mayor Mays commented that the report demonstrates that Jim Patterson and city staff are being wise with the use of community dollars that may result than a higher than estimated reserve.

City Manager Patterson then pointed to the excellent operation of the Fieldhouse by Recreation Coordinator Lance Gilgan and said revenue is up by about 5% and Lance and his staff under Community Services Director Kristen Switzer leadership are doing a terrific job. As the Fieldhouse is open late on weekends, this requires a dedicated staff. Mr. Patterson suggested we can make success stories like that at the Field House elsewhere in the City.

Mr. Patterson announced that April is National Library Month with April 10-16th being National Library Week. National Library Month was first sponsored in 1958 by the American Library Association. We have lots of people who visit our library, so it will be a special month as we celebrate libraries.

Mayor Mays addressed the next agenda item.

9. COUNCIL ANNOUNCEMENTS

Councilor Butterfield stated he continues to try to meet all City employees and said he and Councilor Langer went to the Police Station to meet staff. Councilor Butterfield complimented Police Chief Groth on his great staff. Councilor Butterfield said he feels the City and management are going out of their way to do a great job with minimal staff.

Councilor Luman commented that Sherwood has fewer officers per capita than other jurisdictions. Chief Groth confirmed that the City has about a 1.3-1.4/ 1000 officer ratio where the average is about 1.7-2.0/1000 ratio. Council Luman commented that the Planning Commission continues to revise the Planning Code and bring it up to date. He mentioned on Thursday, March 17, he will be attending the YMCA Board Meeting.

Councilor Henderson reminded of an free concert scheduled for March 18th, the Travis Brass Band from the US Air Force Band of the Golden West at 7 pm at the Sherwood High School PAC.. Ms. Henderson reported the Sherwood Cultural Arts Steering Committee continues to develop the business plan and discussed the proposed budget for the Cultural Arts Center. On March 31st they will be developing a mission statement. Councilor Henderson, Councilor Folsom, and Councilor Butterfield serve on the committee with a number of citizens and staff members. A public meeting will be held April 7th and 14th. PARC resources, out of Bend, Oregon is developing a business plan in hopes of making the Center self-sustaining in the near future after it opens.

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Councilor Folsom reminded the community of an upcoming event, Voices for the Performing Arts concert to be held with Michael Allen Harrison in May, which now has a new format. Ms. Folsom explained the format as follows; The first half of the concert will be with community choirs and Michael Allen Harrison. Citizens are invited to participate in the second half of the show by competing in a talent contest with cash prizes for two divisions. Ages 16 and older will compete for \$100, \$200, and \$300 prizes. Ages 15 and under will compete for \$50, \$75, and \$100 prizes. Visit the foundations website at www.vpafoundation.org to find out how to upload your application to YouTube. On the night of the concert, audience members will be able to vote for their favorite contestant by texting. Look for posters that say Big Time Small Town Talent Contest.

Mayor Mays reported he went to Washington DC to advocate for our City and communities the area for Federal dollars. He was joined by several regional elected officials and Washington County was well represented. Officially, it was for JPAC a subsidiary of Metro. Mayor Mays attended several meetings about funds. He found that jurisdictions should continue to keep asking for Federal dollars. Mayor Mays stated that he was on his way to a meeting when he heard about the earthquake in Japan. Just two weeks ago he had obtained a presentation from the Oregon Red Cross about the possibility of an earthquake off the coast of Oregon. The earthquake hit close to home because of our sister city in Japan (which was not directly affected) but many families in Sherwood host Japanese exchange students. Our sympathies go out to Japan as well as those living on the Oregon Coast who have been affected.

Mayor Mays recessed the City Council Meeting to an executive session at 8:27pm.

EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 8:37pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Linda Henderson, Robyn Folsom, Bill Butterfield, Matt Langer and David Luman.
3. **STAFF PRESENT:** City Manager Jim Patterson and City Attorney Paul Elsner.
4. **TOPIC DISCUSSED:** Performance Evaluation of the City Manager, Pursuant to ORS 192.660 (2)(i). Council entered into discussion about the City Managers performance and all members participated in the discussion consistent with the criteria adopted in open session.
5. **ADJOURNED:** Mayor Mays adjourned the Executive Session at 9:49pm and reconvened to the regular Council session at 9:50pm.

REGULAR COUNCIL MEETING

1. **CALL TO ORDER:** Mayor Mays reconvened at 9:50pm
2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Linda Henderson, Robyn Folsom, Bill Butterfield, Matt Langer and David Luman.
3. **STAFF & LEGAL COUNSEL PRESENT:** City Manager Jim Patterson, Community Development Director Tom Pessemier, IT Director Brad Crawford and City Attorney Paul Elsner.

Mayor Mays stated that the City Manager has just received his review the review is done annually and all Councilors would be given an opportunity to give a summary. Mayor Mays stated he feels that across the board the Council is thankful that Jim is City Manager and that he is doing things the right way, striving to improve in what he does and what the City does and to use best practices. The Mayor stated he is proud to have Mr. Patterson on board and wants him to remain for a long time. Mayor Mays stated he wants the citizens of Sherwood to know that the right person is leading the City, citing several issues discussed in the Council meeting earlier tonight.

Councilor Luman said he appreciates Jim's passion for his job and the City and hopes that everyone is aware of how much Mr. Patterson cares for this city. Mr. Luman echoed the Mayor's sentiments that Jim is doing a good job.

Councilor Butterfield stated he agrees with the previous comments. Councilor Butterfield said he understands the value of have a great leader and believes Jim is doing a great job.

Council Henderson commented that it has been a difficult year on many levels. There has been a lot learned in the past year by members of the council and leaders in the community. She said Mr. Patterson continues to help the community and the Council find its role and assure transparency to the community members. Ms. Henderson thanked Mr. Patterson for encouraging her to be a better member of Council and the community, indicating that Mr. Patterson will often offer a global perspective to her challenges. Councilor Henderson stated that the City is lucky to have Jim and asked that he ask the Council for things when he is not getting what he needs from Council.

Council President Grant stated he believes it has been a smooth transition from the previous City Manager and that Mr. Patterson is the right person, for the right time, and for the future of the city as it moves forward. Council President Grant said he has watched the City Manager improve and appreciates that there is always a plan to improve. He said a lot of cities would like to have someone with the set of skills and leadership.

Councilor Folsom said she would not take much time to add to what has already been said. Councilor Folsom said she appreciates that Jim wants to make the Council a better, more effective team. Council Folsom said she appreciates the personal growth she has received by being a City Council member and the mentoring she has received from the City Manager to understand what it means to be a City Councilor and a better citizen.

Councilor Langer said he is new at being a City Council member but has work with Mr. Patterson in the past. He said a measure of a leader can be made by the people he surrounds himself with. Professionally, Mr. Langer said he has nothing but rave reviews for Mr. Patterson and the City staff, not only from himself, but from Mr. Langer's business associates. Mr. Langer stated Sherwood is his hometown and the city means a great deal to him. Councilor Langer said he is very proud to have Mr. Patterson as our leader of this healthy and vibrant city. Mr. Langer stated that he does not give praise lightly.

Mayor Mays stated that it is quite clear the Council is happy with Mr. Patterson's performance. The other public portion of the City Manager's review is any adjustments to compensation. Per the contract, City Council can give a raise or bonus.

Council President Grant said he views a bonus as a reward for a completed goal and is open to creating the structure for a bonus, but feels a raise in salary is more in order.

Mayor Mays stated that within the city a step increase is typically 2-2.5%.

Councilor Luman said he would potentially support an increase but asks Council to be cognizant and good stewards of what can be done.

Council President Grant said he feels that the Sherwood City Manager pay scale is behind as compared to like cities.

Councilor Folsom said she is very concerned about the economic times and compared with raises or COLA's not given in the private sector.

City Manager Patterson thanked Council for their kind comments. Mr. Patterson said he is also concerned about economic times. Mr. Patterson said he is happy to have a job and values the work he does in the City, with the Council, and in the community. He finds the praise he has received as invaluable and would like to defer greater compensation at this time to a future time of Council's choice.

Councilor Luman acknowledged the gesture and stated that Mr. Patterson should at least receive the COLA. Mayor Mays stated that by contract the City Manager will receive the COLA. Mr. Patterson stated that he would like to reserve the right to determine, as he works with his team, as to at some point he may decide that this be an issue that is deferred as well. Mr. Patterson stated he wants to ensure he is not in a position that he is asking other people to do something that he is not willing to do. Mr. Patterson stated this will be a decision he will make as the Chief Executive Officer of the City and will report back to the Council as a part of the budget process.

Councilor Folsom thanked the City Manager for taking a step in that direction.

With no other comments received, Mayor Mays adjourned the meeting.

4. ADJOURN: Mayor Mays adjourned at 10:45pm.

Attest to Executive Session Minutes:

Paul Elsner, City Attorney

Submitted by:

Kirsten Allen, Administrative Asst.

Keith S. Mays, Mayor



RESOLUTION 2011-028

A RESOLUTION APPOINTING JOHN CLIFFORD TO THE PLANNING COMMISSION

WHEREAS, a Planning Commission vacancy exists due to a term expiring March 2011; and

WHEREAS, advertisements for the vacancy were placed on the City website and in the Archer Newsletter; and

WHEREAS, John Clifford completed an application expressing interest in serving on the Planning Commission; and

WHEREAS, after conducting interviews with potential candidates Council Liaison to the Planning Commission David Luman, Planning Commission Chair Pat Allen and Planning Manager Julia Hajduk recommend appointment of John Clifford.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. John Clifford is hereby appointed to the Planning Commission, with term expiring March 2015.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 5th day of April 2011.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder



RESOLUTION 2011-029

A RESOLUTION APPOINTING JAMES COPFER TO THE PLANNING COMMISSION

WHEREAS, a Planning Commission vacancy exists due to a resignation from a term expiring March 2012; and

WHEREAS, this vacancy needs to be filled to complete the term; and

WHEREAS, an advertisement for a Planning Commission vacancy was placed on the City website and in the Archer Newsletter; and

WHEREAS, James Copfer completed an application expressing interest in serving on the Planning Commission; and

WHEREAS, after conducting interviews with potential candidates Council Liaison to the Planning Commission David Luman, Planning Commission Chair Pat Allen and Planning Manager Julia Hajduk recommend appointment of James Copfer.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. James Copfer is hereby appointed to the Planning Commission to fill the remainder of a term expiring March 2012.

Section 2. This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 5th day of April 2011.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder



RESOLUTION 2011-030

A RESOLUTION REAPPOINTING ASHLEY MARSHALL-O'DELL TO THE CULTURAL ARTS COMMISSION

WHEREAS, Ashley Marshall-O'Dell was appointed to the Cultural Arts Commission by Resolution 2009-0014 and served a two year term; and

WHEREAS, the Cultural Arts Commission currently has vacancies and Ashley Marshall-O'Dell has requested reappointment; and

WHEREAS, Council Liaison Robyn Folsom and the Chair of the Cultural Arts Commission Doug Pedersen, with assistance of staff, are recommending Ashley Marshall-O'Dell for reappointment; and

WHEREAS, according to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to reappoint Ashley Marshall-O'Dell to a two year term, expiring March 2013.

Section 2. This Resolution shall be in effect upon its approval and adoption.

Duly passed by the City Council this 5th day of April 2011.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder



RESOLUTION 2011-031

A RESOLUTION REAPPOINTING DOUGLAS PEDERSEN TO THE CULTURAL ARTS COMMISSION

WHEREAS, Doug Pedersen was appointed to the Cultural Arts Commission by Resolution 2007-010 and reappointed by Resolution 2009-029 and served two, 2 year terms; and

WHEREAS, the Cultural Arts Commission currently has vacancies and Douglas Pedersen has requested reappointment; and

WHEREAS, Council Liaison Robyn Folsom with assistance from staff, are recommending Douglas Pedersen for reappointment; and

WHEREAS, according to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to reappoint Douglas Pedersen to a two year term, expiring March 2013.

Section 2. This Resolution shall be in effect upon its approval and adoption.

Duly passed by the City Council this 5th day of April 2011.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder



RESOLUTION 2011-032

A RESOLUTION REAPPOINTING JUDY SILVERFORB TO THE CULTURAL ARTS COMMISSION

WHEREAS, Judy Silverforb was appointed to the Cultural Arts Commission by Resolution 2009-0014 and served a two year term; and

WHEREAS, the Cultural Arts Commission currently has vacancies and Judy Silverforb has requested reappointment; and

WHEREAS, Council Liaison Robyn Folsom and the Chair of the Cultural Arts Commission Doug Pedersen, with assistance of staff, are recommending Judy Silverforb for reappointment; and

WHEREAS, according to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to reappoint Judy Silverforb to a two year term, expiring March 2013.

Section 2. This Resolution shall be in effect upon its approval and adoption.

Duly passed by the City Council this 5th day of April 2011.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder



RESOLUTION 2011-033

A RESOLUTION APPOINTING KALIE NIELSEN TO THE CULTURAL ARTS COMMISSION

WHEREAS, the Cultural Arts Commission has vacancies; and

WHEREAS, Council Liaison Robyn Folsom and the Chair of the Cultural Arts Commission Doug Pedersen, with assistance from staff, are recommending Kaelie Nielsen for appointment; and

WHEREAS, according to Chapter 2.08.010 of the Sherwood Municipal Code, members of the Cultural Arts Commission shall be appointed by the Mayor with consent of the City Council for a two year term.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. The Mayor is authorized to appoint Kaelie Nielsen to a two year term, expiring March 2013.

Section 2. This Resolution shall be in effect upon its approval and adoption.

Duly passed by the City Council this 5th day of April 2011.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

Council Meeting Date: April 5, 2011

Agenda Item: New Business

TO: Sherwood City Council

FROM: Kristen Switzer, Community Services Director

SUBJECT: Resolution 2011-034 authorizing staff to apply for a local government grant from the Oregon Parks and Recreation Department for the construction of a Skate Park

ISSUE: Should the City Council authorize staff to apply for a grant from the Oregon Parks and Recreation Department?

BACKGROUND:

The Oregon Parks and Recreation Department (OPRD) is currently accepting grant applications for public outdoor park and recreation areas and facilities. The City can apply for up to \$750,000 and is required to provide a 40% match.

In order to submit an application for a Local Government Grant from Oregon Parks and Recreation Department, City Council must authorize staff to apply and certify that the matching funds are readily available.

To complete phase 1 of the Skate Park it is estimated to cost \$210,000. Staff is recommending that the City apply for \$126,000. If the City is awarded the grant the City would be required to provide a match of \$84,000.

RECOMMENDATION: APPROVE RESOLUTION 2011-034, A RESOLUTION AUTHORIZING STAFF TO APPLY FOR A LOCAL GOVERNMENT GRANT FROM THE OREGON PARKS AND RECREATION DEPARTMENT FOR THE CONSTRUCTION OF A SKATE PARK.



RESOLUTION 2011-034

A RESOLUTION AUTHORIZING STAFF TO APPLY FOR A LOCAL GOVERNMENT GRANT FROM THE OREGON PARKS AND RECREATION DEPARTMENT FOR THE CONSTRUCTION OF A SKATE PARK

WHEREAS, the Oregon Parks and Recreation Department is accepting applications for the Local Government Grant Program; and

WHEREAS, the City of Sherwood desires to participate in this grant program to the greatest extent possible as a means of providing needed park and recreation improvements; and

WHEREAS, the Parks and Recreation Board has identified the construction of a Skate Park as a high priority need in Sherwood; and

WHEREAS, the Skate Park will be built on City owned property located at the YMCA; and

WHEREAS, it is estimated that the cost to complete phase 1 of the Skate Park is \$210,000; and

WHEREAS, the City can apply for a grant up to 60% (\$126,000) of the total project cost through the Local Government Grant Program; and

WHEREAS, the City of Sherwood hereby certifies that the required matching funds of 40% (\$84,000) of the project cost is readily available at this time.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. Staff is authorized to apply for a local government grant from Oregon Parks and Recreation Department for the construction of a Skate Park.

Section 2: This Resolution shall be effective upon its approval and adoption.

Duly passed by the City Council this 5th day of April 2011.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

TO: Sherwood City Council
FROM: Michelle Miller, Associate Planner and Julia Hajduk, Planning Manager
Through: Tom Pessemier, Community Development Director
Subject: Code Clean-Up Phase II

EXECUTIVE SUMMARY

Summary: As part of a multi-phase code clean-up project with the goal of providing a more clear and usable code for both citizens and developers alike, the proposed amendments include updates to: 1) residential use categories, tables and charts 2) accessory structures sizes and setbacks, and 3) variances and adjustments. The Planning Commission held a public hearing on February 22, 2011 and forwarded a recommendation of approval to the Council. The Planning Commission recommendation as amended is attached as Exhibit 1-A.

Previous Council Action: None

Background/Problem Discussion: The City began the multi-phase code update in April 2010, adopting Phase 1 updates in October 2010, Phase 1.5 in February 2011. Phase II includes Development Code updates to Division II, III, and VI. The proposed Code amendments under Phase II were identified to clarify and create greater flexibility for the sections that residential property owners use most frequently. At the March 15, 2011 work session the Council directed staff to separate two of the more contentious issues concerning amateur radios and permitting a limited number of chickens in a residential zone from the original Planning Commission recommendations. These issues would require further deliberation and the Council did not want to delay the other Planning Commission's recommendations further. Therefore, proposed amendments in Exhibit 1-A include the recommended Code language with the issues of amateur radio and permitting chicken language removed from the proposed changes. Exhibit 1-A reflects the Commission's recommendation on the following:

- The types of home occupations have been renamed "Class A and B" for clarification purposes.
- Home Occupations allow a total of two employees to work onsite as opposed to the current limitation of one employee or volunteer if the applicant can show that adequate off-street parking is available.
- Accessory structure code language changes include reducing the total size and dimensions of structures and reducing the setbacks of smaller accessory structures.
- The proposed Development Code provisions reflect the change to the Oregon Building Code regulations no longer requiring any separation between primary or accessory structures when a building permit is not required.
- The proposed Code language offers a wider range of flexibility for variances. Adjustments allow for consistent objective criteria for minor alterations to the standards, Class B requires a notice process and staff level decision with objective criteria while a Class A Variance provides for more stringent criteria when the deviation from the standard is greater and a subjective decision is required.

Alternatives: Approve, approve with modifications or deny the Planning Commission recommendation.

Financial Implications: It is likely that there will be a minimal cost associated with making the Code updates available online and also updates to forms and providing informational materials to the public.

Recommendation: Staff recommends that the City Council hold a public hearing and determine whether to adopt the attached Ordinance or direct staff to make additional modifications to the proposed text changes based on additional information submitted.

Attachments:

- Ordinance
- Exhibit 1: Staff Report following PC Recommendation
- Exhibit 1-A: Proposed Development Code Amendments "Clean Copy"
- Exhibit 1-B: Proposed Development Code Amendments with "Track Changes"



ORDINANCE 2011-003

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE ZONING AND COMMUNITY DEVELOPMENT CODE INCLUDING DIVISIONS, II, III, and VI

WHEREAS, The Sherwood Zoning and Community Development Code has not been comprehensively updated in many years, and

WHEREAS, the City has undertaken a multi-phase, multi-year program to comprehensively update the development code to ensure that it is clear, consistent, and current; and

WHEREAS, the Planning Commission helped guide the development of proposed amendments after extensive public outreach and opportunity for public input; and

WHEREAS, Phase II includes amendments to Divisions II, III, VI, specifically related to the residential uses, accessory structures standards and variances; and

WHEREAS, the proposed amendments were reviewed for compliance and consistency with the Comprehensive Plan, regional and state regulations and found to be fully compliant; 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 February 22, 2011

WHEREAS, the Planning Commission voted to forward a recommendation of approval to the City Council for the proposed Development Code modifications; and

WHEREAS, the analysis and findings to support the Planning Commission recommendation are identified in the attached Exhibit 1; and

WHEREAS, the City Council held a work session on March 15, 2011 to review the Planning Commission recommendations and determined that the more complex and substantive residential use changes required further work session and Council consideration, but the procedural and less complex code amendments could proceed to hearing; and

WHEREAS, attached Exhibit 1-A reflects the separation of the procedural and less complex code amendments; and

WHEREAS, the City Council held a public hearing on April 5, 2011 and determined that the proposed changes to the Development Code met the applicable Comprehensive Plan criteria and continued to be consistent with regional and state standards.

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

Section 1. Findings. After full and due consideration of the application, the Planning Commission recommendation, the record, findings, and evidence presented at the public hearing, the Council adopts the findings of fact contained in the Planning Commission recommendation attached as Exhibit 1 finding that the text of the SZCDC shall be amended as documented in Exhibit 1-A.

Section 2. Approval. The proposed amendments for Plan Text Amendment (PA) 11-01 identified in Exhibits 1-A is hereby **APPROVED**.

Section 3. Manager Authorized. The Planning Department is hereby directed to take such action as may be necessary to document this amendment, including notice of adoption to DLCD and necessary updates to Chapter 16 of the municipal code in accordance with City ordinances and regulations.

Section 4. Applicability. The amendments to the City of Sherwood Zoning and Community Development Code by Sections 1 to 3 of this Ordinance apply to all land use applications submitted after the effective date of this Ordinance.

Section 5. Effective Date. This ordinance shall become effective the 30th day after its enactment by the City Council and approval by the Mayor.

Duly passed by the City Council this 5th day of April 2011.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

	AYE	NAY
Luman	_____	_____
Langer	_____	_____
Butterfield	_____	_____
Folsom	_____	_____
Henderson	_____	_____
Grant	_____	_____
Mays	_____	_____

City of Sherwood
Staff Report Following Planning Commission
Recommendation to the City Council
File No: PA 11-01 Code Clean-Up Phase II

March 25, 2011

Proposal: Amendments to the Development Code on this phase of the “Code Clean-Up” project modify the variance and adjustment sections to allow a simpler process for very minor adjustments; clarify the residential use terms with easier to understand tables and charts; change the terminology of home occupations; allow a limited number of chickens to be permitted in residents’ backyards; and alter the size, setbacks and dimensions of accessory structures.

The Planning Commission held a hearing on February 22, 2011. After discussion of the various topics within the sections, the Commission recommended several minor alterations to the proposed language. After consideration of the public testimony and staff recommended changes, the Commission voted to forward the proposed amendments to the Council for approval.

A City Council work session was held on March 15, 2011 where staff provided Council with an overview of the proposed code updates that the Planning Commission recommended for adoption. The Council felt comfortable with the information provided for most of the updates to and able to proceed to the hearing scheduled for April 5, 2011. However, the Council agreed that more information and deliberation was required on the residential use issues concerning amateur radio towers and permitting a limited number of chickens in the residential zone categories. As a result, Council directed staff to separate those issues out of the proposed code language for the April 5, 2011 hearing and Council would conduct work sessions separately on those particular issues at a later date. This would allow the other issues to proceed without unnecessary delay by the more controversial issues.

Exhibit 1-A reflects the Planning Commission recommendation with the amateur radio tower section and chicken section removed. Exhibit 1-B is a track changes version to help identify the new and modified text.

I. BACKGROUND

- A. **Applicant:** This is a City initiated text amendment; therefore the applicant is the City of Sherwood.
- B. **Location:** The proposed amendment is to the text of the Development Code and therefore applies citywide.
- C. **Review Type:** The proposed text amendment requires a Type V review that involves public hearings before the Planning Commission and also the City Council. The Planning Commission will make a recommendation to the City Council who will make the final decision. Any appeal of the City Council decision relating to Chapter 16 updates would go directly to the Land Use Board of Appeals.
- D. **Public Notice and Hearing:** Notice of the February 22, 2011 Planning Commission hearing on the proposed amendment was published in *The Times* on February 10 and 17, 2011. In addition, as a courtesy notice was placed in the February edition of the Gazette. Notice was

posted in five public locations around town and on the web site on February 1, 2011. Regular updates were provided in the City newsletter.

While this does apply citywide, it does not affect the permissible uses of any property; therefore “Measure 56” notice was not required or provided. DLCD notice was sent January 5, 2011.

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. Background:

The City underwent periodic review in 1989-1991 and the Zoning and Community Development Code was comprehensively reviewed and updated as part of that process. Since that time, there have been a number of updates to comply with regional and state laws, address local issues and in response to applications. Overtime, the disjointed modifications resulted in the need to conduct a comprehensive audit and update of the Code to ensure cross references are correct, standards are clear, and typographical errors are fixed. In addition, over time the trends and values have changed to the extent that it became important to evaluate the standards to ensure they address the needs of the community. To that end, the Council, Planning Commission and staff identified the importance of a comprehensive update of the Development Code. The Code Update project has been broken into phases to allow manageable portions to be reviewed and adopted prior to moving on to another phase. Phase 1 was adopted in October of 2010; Phase 1.5 is currently under review with a decision anticipated by the City Council at the February 15, 2011 Council meeting.

II. **AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS**

Agencies:

The City sent an e-mail request for comments to agencies on January 28, 2011. DLCD received notice on January 5, 2011 and had no specific comments on the proposed regulations. The City received the following response.

Sherry Oeser, at Metro, inquired whether the change in residential uses would result in any reduction in housing capacity in the city of Sherwood. (Metro Code 3.07 Urban Growth Management Functional Plan Title 1 Housing Capacity).

Staff response: The density will remain the same for each residential designation and there is no impact to the housing capacity.

Public:

The City and Commission has received input from the public during informal listening sessions and via public surveys which helped guide the proposed amendments under review.

Neil Shannon testified at the February 22, 2011 hearing. He described his support of the proposed Code amendments regarding chickens and amateur radio towers. He proposed removing “ham” from the reference to amateur radio towers and the Commission concurred.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

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 under Phase II were identified to clarify and create greater flexibility for the sections that residential property owners use most frequently. 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.

Division II. Chapter 16.12-16.20 Very Low Density to High Density Residential

The primary updates occur in *Division II*. Chapters 16.12-16.20-Residential Land Uses. This includes replacing the existing language that had previously been divided into separate land use designations by chapter into a table with the permitted and conditional uses. Another table describes the dimensional standards with the specific zones.

Based on citizens' comments and inquiries and revised Oregon statutory regulations, the recommended changes include new permitted uses for allowing a limited number of chickens and permitting amateur radio towers within residential land use zones. State statutory requirements have also changed with respect to the number of children allowed in family daycare. The proposed Development Code language keeps the numbers the same as state statutory language and therefore in compliance with state mandates. (ORS § 657A.440.)

Some of the land uses within specific districts have been clarified in order to meet the changing needs of the community. This would include changing the description and names of public uses, utilities, special care facilities and gathering places. This will provide both clarity and flexibility where the Code had previously been silent, ambiguous or without a clear distinction between a particular land use.

Chapter 16.42-Home Occupations

Historically, there have been two different classifications for Home Occupations: Type I and Type II. This has caused confusion, because there are also different 'types' of land use applications found in Chapter 16.72. For example, a 'Type II Home Occupation' followed a 'Type I' land use process. The types have been renamed "Class A and B" instead, for clarification purposes. Also, if the applicant can show that adequate off-street parking is available, a total of two employees are allowed to work onsite as opposed to the current limitation of one employee or volunteer. This allows more flexibility for home businesses to have part-time employees or employees working different hours when the impact is minimal to the surrounding property owners.

Chapter 16.50-Accessory Structures, Architectural Features and Decks

Accessory Structure Code language changes include reducing the total size and dimensions of structures and reducing the setbacks of smaller accessory structures. The new Oregon Building Code regulations no longer require any separation between primary or accessory structures when a building permit is not required and the proposed Development Code provisions reflect that change. Definitional provisions along with exceptions to the standards provide staff with more direction to enforce and reflect this community design standard. Reorganizing this Chapter will also make it easier to find the specific information that property owners are often looking for within the Development Code.

As property develops within the community, residential lots have been shrinking and house sizes and building footprints have grown. This has left smaller rear yards and homes that are in closer proximity to each other. The proposed accessory structure changes allow neighbors to continue to enjoy their property without disrupting their neighbors' privacy. The building mass and height reduction also ensures that a large structure will not block a neighbor's view on their own property. As a structure's height increases, the structure's setback from the rear property line will be reduced to take into account. This allows for flexibility while still being mindful of a neighbor's own privacy needs.

Chapter 16.58 Clear Vision Areas

The changes provide for a uniform site distance regardless of zoning parameters in conformance with engineering standards of twenty feet. Additional language was added to adjust the foliage minimum clearance on a street side to ten feet. This section also includes adding a diagram for ease of use to visualize the requirements of the clear vision areas.

Chapter 16.84 Variances

The proposed provisions allow for greater flexibility in the range of allowed variances while still maintaining the purposes and intent of the Code. Depending upon the extent of the criteria that the applicant requests to alter, the variance will fall into one of three categories with separate process for each: Adjustments, Class A Variance, and Class B Variance.

The current Code standards for processing variances fall into two types: general and administrative. The land use process for a 'General Variance' is a Type III (a Hearing Officer decision), but specified to be heard by the Planning Commission and an 'Administrative Variance' is a Type II process with a decision by staff. The current criteria for granting a variance have been hard to administer over time and found to be very subjective. Property owners have decried the stringent and confusing process for even a modest change to the Code standards. The applicant must also demonstrate that there are 'exceptional and extraordinary circumstances that do not apply to other properties.'

As a result, the proposed Code language offers a wider range of flexibility for variances. Adjustments allow for consistent objective criteria for minor alterations to the standards, while a Class A Variance provides for more stringent criterion when the deviation from the standard is greater and a subjective decision is required. This greater flexibility will encourage 'common sense' to prevail when a property owner is faced with a standard that does not fit the situation based on the constraints of the site to ensure the best developability of the property.

Upon review of the Comprehensive Plan, the following policies or strategies relate to all or some of the proposed amendments:

Chapter 4, Section E, Residential Planning Designations:

General Objectives:

- *See to provide housing which meets local needs with regard to style, price, density, quality and energy efficiency.*
- *Specify the purpose and density requirements for residential land use classifications used in the Comprehensive Plan.*

Policy 1:

- *Residential areas will be developed in a manner which will insure that the integrity of the community is preserved and strengthened.*
- *Buffering Techniques shall be used to prevent adverse effects of one use upon another. These techniques may include varying densities and types of residential use, design features and special construction standards.*

Accessory Structure language has undergone the most updating within the residential land use section. Policy 1 of the Comprehensive Plan identifies buffering techniques to prevent adverse effects of uses. The proposed changes include reducing the overall size and height of accessory structures which are compatible with preventing adverse effects of uses upon another. Allowing smaller structures to abut the property line also minimizes the adverse impacts of properties that are close together. Overall, the proposed code updates reflect the community design standards for the residential planning designations by recognizing the changing needs of the community and balancing the privacy needs of individual property owners within neighborhoods. The proposed code amendments satisfy the Comprehensive Plan policies and objectives listed above.

Applicable Regional (Metro) standards

There are no known Metro standards that this proposed amendment would conflict with.

Consistency with Statewide Planning Goals

Because the comprehensive plan policies and strategies are not changing and the comprehensive plan has been acknowledged by the State, there are no conflicts with this text change. Further, there are no known state goals or standards that the proposed amendment would conflict with.

As a whole, the amendments are consistent with and support Goal 2 (land use planning) by providing clearer standards. The Code language is in conformance with state and federal plans. The proposed language will continue to be used city wide.

The process used to develop and review the proposed amendment is consistent with the Goal 2 requirements (and the Development Code):

- The Commission held multiple work sessions on residential uses and variances;
- The web site was updated regularly to provide opportunity for people to get information and provide feedback on the project as a whole as well as input on specific topics;
- Non-scientific surveys were solicited and forty-seven surveys from individuals helped inform the process;
- Staff attended community events and home owner association meetings in order to get feedback about the proposed changes;
- Flyers announcing the project were developed and made available throughout the City; and
- The Planning Commission held a "Listening Session" to hear comments from interested citizens on issues of residential livability.

In addition to the public outreach provided before the proposed changes were developed and the public hearing set, formal notice was also published in the newspaper for two weeks prior to the hearing, published in the February issue of the Gazette, posted around town, placed in the library and on the web site. Courtesy notices were also provided on the web site, in the City Newsletter (the Archer), to the interested parties list and the most current list of HOA contacts.

FINDING: As discussed above in the analysis, there is a need for the proposed amendments and the amendments are consistent with the Comprehensive Plan and applicable City, regional and State regulations and policies.

16.80.030.3 – Transportation Planning Rule Consistency

A. Review of plan and text amendment applications for effect on transportation facilities. Proposals shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with OAR 660-12-0060 (the TPR). Review is required when a development application includes a proposed amendment to the Comprehensive Plan or changes to land use regulations.

FINDING: The amendment will not result in a change of uses otherwise permitted and will have no impact on the amount of traffic on the transportation system; therefore this policy is not applicable to the proposed amendment.

IV. RECOMMENDATION

Based on the above findings of fact, and the conclusion of law based on the applicable criteria, staff recommends Planning Commission forward a recommendation of approval of PA 11-01 to the City Council.

V. EXHIBITS

- A. Proposed Development Code changes Clean Copy Version as amended
- B. Proposed Development Code changes Track Changes Version as amended

DATE: March 25, 2011

****Editor's note: Sections 16.12-16.20 are combined into one new section.**

CLEAN COPY

Chapter 16.12

RESIDENTIAL LAND USE DISTRICTS

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

SECTION:

16.12.010. Purpose and Density Requirements

16.12.020. Allowed Residential Land Uses

16.12.030 Residential Land Use Development Standards

16.12.040 Community Design

16.12.050 Flood Plain

16.12.010. Purpose and Density Requirements

A. Very Low Density Residential (VLDR)

The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas warranting preservation, but otherwise deemed suitable for limited development, with a density of 0.7 to 1 dwelling unit per acre.

1. If developed through the Planned Unit Development (PUD) process, as per Chapter 16.40, and if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, the permitted density of 1.4 to two (2) dwelling units per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirement.

2. Special Density Allowances

Housing densities up to two (2) units per acre, and minimum lot sizes of 10,000 square feet, may be allowed in the VLDR zone when:

- a. The housing development is approved as a PUD, as per Chapter 16.40; and
- b. The following areas are dedicated to the public or preserved as common open space: floodplains, as per Section 16.134.020 (Special Resource Zones); natural resources areas, per the Natural Resources and Recreation Plan Map, attached as Appendix C, or as specified in Chapter 5 of the Community Development Plan, and wetlands defined and regulated as per current Federal regulation and Division VIII of this Code; and
- c. The Review Authority determines that the higher density development would better preserve natural resources as compared to one (1) unit per acre design.

B. Low Density Residential (LDR)

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

C. Medium Density Residential (MDRL)

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

D. Medium Density Residential High (MDRH)

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

E. High Density Residential (HDR)

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



16.12.020. Allowed Residential Land Uses

A. Residential Land Uses

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

USES	VLDR	LDR	MDRL	MDRH	HDR
RESIDENTIAL					
• Single-Family Attached or Detached Dwellings	P	P	P	P	P
• Two Family Dwelling Units	N	N	P	P	P
• Multi-family Dwellings	N	N	N	P	P
• Townhomes-subject to Chapter 16.44	N	N	N	P	P
• Planned Unit Developments (PUDs)-subject to Chapter 16.40	P	P	P	P	P
• Manufactured Homes on Individual Lots	P	P	P	P	P
• Manufactured Home Park-subject to Chapter 16.46	N	N	P	P	N
• Accessory Dwelling Unit-subject to Chapter 16.52	P	P	P	P	P
• Group Homes ¹	P	P	P	P	P
• Government-Assisted housing ²	P	P	P	P	P
ACCESSORY USES					
• Home Occupations-subject to Chapter 16.42	P	P	P	P	P
• Temporary Uses-subject to Chapter 16.86	P	P	P	P	P
• Family Daycare Providers	P	P	P	P	P
COMMERCIAL					
• Agricultural Uses ³	P	P	P	P	P
• Residential Care Facilities	P	P	P	P	P
• Special Care Facilities (such as hospitals, sanitariums, and specialized living facilities)	C	C	C	C	P
• Plant Nurseries ⁴	C	C	C	C	C
• Public and Private Schools	C	C	C	C	C
• Daycare Facilities	C	C	C	C	C
• Any business, service, processing, storage, or display not conducted entirely within an enclosed building that is essential or incidental to any permitted or conditional use	C	C	C	C	C
• Raising of Animals other than Household Pets	C	C	C	C	C
Whereas P=Permitted, C=Conditional, N=Not Allowed					

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

² Provided such facilities are substantially identical, in the city's determination, in physical form to other types of housing allowed in the zoning district.

³ Includes truck farming and horticulture, but excludes commercial building or structures or the raising of animals except as otherwise permitted by this code.

⁴ Includes other agricultural uses and associated commercial buildings and structures

USES	VLDR	LDR	MDRL	MDRH	HDR
CIVIC					
• Public Recreational Facilities⁵	P	P	P	P	P
• Religious Institutions, Private Fraternal Organizations and Lodges, Country clubs or other similar clubs	C	C	C	C	C
• Cemeteries and crematory mausoleums	C	C	C	N	N
• Civic Buildings-(such as police and fire stations, post office)	C	C	C	C	C
• Public Use Buildings-(such as libraries, and community centers)	C	C	C	C	C
• Golf Courses	C	C	C	C	C
• Basic Utilities (such as electric substations, public works yard)	C	C	C	C	C
• Radio and communications stations, on lots with a minimum width and depth equal to the height of any tower in conformance	C	C	C	C	C
Whereas P=Permitted, C=Conditional, N=Not Allowed					

B. Any use not otherwise listed that can be shown to be consistent or associated with the permitted uses or conditionally permitted uses identified in the residential zones or contribute to the achievement of the objectives of the residential zones will be allowed or conditionally permitted using the procedure under Chapter 16.88 (Interpretation of Similar Uses).

C. Any use that is not permitted or conditionally permitted under this zone that cannot be found to be consistent with the allowed or conditional uses identified as in B. is prohibited in the residential zone using the procedure under Chapter 16.88 (Interpretation of Similar Uses).

16.12.030 Residential Land Use Development Standards

A. Generally

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

B. Development Standards

Except as modified under Chapter 16.68 (Infill Development), Section 16.144.030 (Wetland, Habitat and Natural Areas) Chapter 16.44 (Townhomes), or as otherwise provided, required minimum lot areas, dimensions and setbacks shall be provided in the following table.

⁵ Includes, but is not limited to parks, playfields, sports and racquet courts, but excludes golf courses

C. Development Standards per Residential Zone

Development Standard by Residential Zone-	VLDR	VLDR-PUD	LDR	MDRL	MDRH	HDR
Minimum Lot areas:(in square ft.)						
• Single-Family Detached	40,000	10,000	7,000	5,000	5,000	5,000
• Single Family Attached	40,000	10,000	7,000	5,000	4,000	4,000
• Two or Multi-Family: • for the first 2 units	X	X	X	10,000	8,000	8,000
• Multi-Family: each additional unit after first 2	X	X	X	X	3,200	1,500
Minimum Lot width at front property line: (in feet)	25	25	25	25	25	25
Minimum Lot width at building line⁶: (in feet)						
• Single-Family	None	None	60	50	50	50
• Two-Family	X	X	X	60	60	60
• Multi-family	X	X	X	X	60	60
Lot Depth	None	None	80	80	80	80
Maximum Height⁷ (in feet)	30 or 2 stories	35 or 2.5 stories	40 or 3 stories			
•						
• Chimneys, Solar or Wind Devices, Radio and TV aerials ⁸	50	50	50	50	55	60
Setbacks (in feet)						
• Front yard	20	20	20	20	20	20
• Interior side yard						
• Single-Family Detached	5	5	5	5	5	5
• Single-Family Attached	20	20	20	10	5	5
• Two Family	X	X	X	5	5	5
• Multi-Family						
• 18 ft. or less in height	X	X	X	X	5	5
• Between 18-24 ft. in height	X	X	X	X	7	7
• If over 24 ft. in height	X	X	X	X	§16.68 Infill	§ 16.68 Infill
• Corner lot street side						
• Single Family or Two Family	20	20	20	15	15	15
• Multi-Family	X	X	X	X	20	30
• Rear yard	20	20	20	20	20	20

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

⁷ Maximum height is the lesser of feet or stories

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

16.12.040 Community Design

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

16.12.050 Flood Plain

Except as otherwise provided, Section 16.134.020 shall apply.

Chapter 16.42 HOME OCCUPATIONS

Sections:

16.42.010 Purpose

16.42.020 Authority

16.42.030 Exemptions

16.42.040 Class A and Class B Home Occupations

16.42.050 General Definition and Criteria for Home Occupations

16.42.060 Class B Home Occupation Criteria Defined

16.42.070 Class A Home Occupation Permit Criteria Defined

16.42.080 Prohibited Uses

16.42.090 Permit Procedures for Class A Home Occupations

16.42.100 Expiration and Revocation of Home Occupation Permits

16.42.110 Appeals

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

16.42.010 Purpose

It is the purpose of this chapter to permit residents an opportunity to use their homes to engage in small-scale business ventures. Home occupations are regulated to ensure that they do not alter the residential character of the neighborhood, nor infringe upon the rights of nearby residents to the peaceful enjoyment of their neighborhood and homes.

16.42.020 Authority

The provisions of this Code are intended to apply to those entities required to obtain a Sherwood business license under the provisions of the Sherwood Municipal Code Chapter 5.04. No person shall carry on a home occupation, or permit such use to occur on property, which that person owns or is in lawful control, contrary to the provisions of this ordinance. A person must first determine if a permit, for such use in the manner provided by this section, is required.

16.42.030 Exemptions

A. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises.

B. Short-term sales from a residence shall not be deemed to fall under the regulations for home occupations. Such sales shall not exceed one (1) week in duration and a two (2) week period in any given calendar year. Examples of such uses are, but not limited to, garage sales, estate sales, rummage and craft sales.

16.42.040 Class A and Class B Home Occupations

A. Home occupations or professions shall be carried on wholly within the principal building and clearly secondary, in the City's determination, to the use of the building as a dwelling. All home occupations shall be administered as either Class A or B, distinguished by the potential impacts

they represent to the neighborhood. Both Class A and Class B Home Occupations are required to apply for and maintain a City of Sherwood business license.

B. Class B home occupations are exempt from the permitting process and defined by the listed criteria.

16.42.050 General Definition and Criteria for Home Occupations

A. Home occupations or professions are businesses carried on wholly within a residential building requiring a City business license. Home occupations are clearly incidental and accessory to the use of the property as a dwelling, and they are not detrimental or disruptive in terms of appearance or operations to neighboring properties and residents. The occupation or profession does not require additional off-street parking nor upset existing traffic patterns in the neighborhood. All home occupations shall be in accordance with the following general criteria:

1. All business operations shall comply with the current City of Sherwood noise ordinance and shall not produce any offensive vibration, smoke, dust, odors, heat, glare or electrical interference detectable to normal sensory perception at the property line.
2. No exterior remodeling which alters the residential character of the structure shall be permitted.
3. The occupation or profession shall not occupy more than twenty-five percent (25%) of the total floor area of all habitable buildings on the property, including customary accessory buildings. Home Occupations in the Old Town Overlay may occupy up to fifty percent (50%) of the entire floor area of all buildings on a lot per section 16.162.060.D.
4. There shall be no storage and/or distribution of toxic or flammable materials and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals who are engaged in home occupations shall make available to the Fire Marshal for review the Material Safety Data Sheets which pertain to all potentially toxic and/or flammable materials associated with the use.
5. There shall be no exterior storage of vehicles of any kind used for the business with the exception of one commercially licensed vehicle of not more than one ton gross vehicle weight (GVW) that may be parked outside of a structure or screened area.

16.42.060 Class B Home Occupation Criteria Defined

A. Class B home occupations shall be conducted in accordance with the following defined criteria:

1. Only the principal occupant(s) of a residential property may undertake home occupations.
2. Storage of materials is confined to the interior of the residence with no exterior indication of a home occupation.
3. No exterior signs that identify the property as a business location.
4. No clients or customers to visit the premises for any reason.
5. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television and any other advertising media.
6. Deliveries to the residence by suppliers may not exceed three per week and shall be prohibited on weekends.

16.42.070 Class A Home Occupation Permit Criteria Defined

A. Class A home occupations require a permit and shall be conducted in conformance with the following criteria:

1. One non-illuminated exterior sign, not to exceed one (1) square foot. In addition to signs permitted for home occupations, one (1) non-illuminated, attached, exterior sign, up to a maximum of nine (9) square feet in surface area, may be permitted for each approved home occupation in the Old Town Overlay per section 16.162.070.E.
2. The number of customers and clients shall not exceed 5 visits per day. Customers and clients may not visit the business between the hours of 10:00 PM and 7:00 AM, Monday through Friday and between 7:00 PM and 8:00 AM, Saturday and Sunday.
3. Storage of materials on the premises shall be screened entirely from view of neighboring properties by a solid fence. Exterior/outside storage of materials shall not exceed five percent (5%) of the total lot area and shall not encroach upon required setback areas of the zone.
4. Commercial pick-up and deliveries shall be limited to one (1) per day on weekdays and shall be prohibited on weekends.
5. Number of Employees or Volunteers:
 - a. One volunteer or one FTE (full time equivalent) employee who does not live at the residence; or
 - b. If it can be shown that adequate off-street parking is available to accommodate both the homeowners and the employees a total of two (2) FTE employees or volunteers will be permitted.

16.42.080 Prohibited Uses

A. Because of the potential adverse impacts they pose to residential neighborhoods, the following uses are not allowed as home occupations and must be conducted as allowed in a commercial or industrial zone:

1. Auto body repair, restoration and painting.
2. Commercial auto repair (auto repair for other than the property owners/tenants personal vehicles).
3. Junk and salvage operations.
4. Storage and/or sale of fireworks.

16.42.090 Permit Procedures for Class A Home Occupations

A. An application for a Class A Home Occupation Permit shall be filed according to the application procedures of Chapter 16.72, in conjunction with a City business license, accompanied by the appropriate fee as per Section 16.74.010.

B. The application shall identify the type of use and address the conditions contained in this chapter and other applicable sections of this Code.

C. The City Manager or designee may impose additional conditions upon the approval of Class A home occupation permits to ensure compliance with the requirements of this Chapter.

D. The action of the City Manager or designee may be appealed as per Chapter 16.76 (Appeals).

16.42.100 Expiration and Revocation of Home Occupation Permits

A. Class A Home Occupation Permit Expiration

A Class A home occupation permit shall be valid for a period of one (1) year. Renewal of the permit shall be accomplished in the same manner as an application for a new permit under this section.

B. Grounds for Revocation

The City Manager or designee may revoke a home occupation permit at any time for the following reasons:

1. A violation of any provision of this Chapter.
2. A violation of any term or condition of the permit.
3. Failure to pay the City of Sherwood Business License fee in a timely manner.
When a Class A home occupation permit has been revoked, a new Class A home occupation permit will not be issued to the applicant or other persons residing with the applicant for a period of up to twenty-four (24) months.

16.42.110 Appeals

The action of the City Manager or designee may be appealed per the provisions of Chapter 16.76.

Chapter 16.50

ACCESSORY STRUCTURES, ARCHITECTURAL FEATURES AND DECKS

Sections:

16.50.010 Standards and Definition

16.50.020 Conditional Uses

16.50.030 Conflicts of Interpretation

16.50.040 Accessory Structure Exemptions

16.50.050 Architectural Features

16.50.060 Decks

16.50.010 Standards and Definition

A. Definition

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

B. Generally

For uses located within a residential zoning district, accessory uses, buildings, and structures shall comply with all requirements for principal uses, buildings, and structures except where specifically modified below; and shall also comply with the City of Sherwood Building Code as amended. Where this Code and the Building Code conflict, the most stringent shall apply.

C. Dimension and Setback Requirements

1. Any accessory building shall have not more than six hundred (600) square feet of ground floor area and shall be no taller than 15 feet in height.
2. No accessory building or structure over three (3) feet in height shall be allowed in any required front yard. Accessory buildings may be allowed in required side and rear building setbacks as described below.

3. When a Building Permit is not required and the structure is less than 100 square of ground floor area feet and less than six feet tall, no rear or side yard setbacks are required and the structure may abut the rear or side property line.
4. When a Building Permit is not required and the structure is over 100 square feet of ground floor area, but under 200 square feet and under ten (10) feet in height:
 - a. Detached accessory structures shall maintain a minimum 3-foot distance from any side or rear property line.
 - b. Attached accessory structures shall be setback a minimum of three (3) feet from any side property line and ten (10) feet from a rear property line.
5. When a Building Permit is required:
 - a. No accessory building or structure over three (3) feet in shall be located closer than five (5) feet to any side property line and ten (10) feet from any rear property line.
 - b. Any accessory building or structure attached by a common wall or permanent roof or foundation to the principal building or structure must comply with all setbacks for the principal building or structure.

D. No accessory building or structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way, including but not limited to streets, alleys, and public and/or private easements.

16.50.020 Conditional Uses

Any accessory use and/or structure associated with a conditional use shall be allowed only after approval in accordance with Chapter 16.82.

16.50.030 Conflicts of Interpretation

A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions of Chapter 16.88.

16.50.040 Accessory Structure Exemptions

The following are not considered accessory structures, for the purposes of this section:

- A. Pergolas, arbors and trellises and other similar structures, if under ten (10) feet.
- B. Play structure and swing sets if under ten (10) feet.
- C. Flag poles limited to 20 feet
- D. Temporary and seasonal above ground pools
- E. Structures that are considered Accessory Dwelling Units and fall under the provisions of 16.52 Accessory Dwelling Units.

16.50.050 Architectural Features

Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to five (5) feet into a front or rear required yard setback and two and one half (2 ½) into the required side yard setback.

16.50.060 Decks

- A. Uncovered decks which are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks shall not be allowed in the required front or side yard setbacks.
- B. Uncovered decks 30 inches above grade that require a building permit placed on properties adjacent to wetland or open space tracts that are publicly dedicated or in public ownership, may project into the required rear yard, but shall not be closer than ten (10) feet from the rear property line. All other decks will comply with the required setbacks for the underlying zoning district.

16.52-16.56 No Changes to the Code

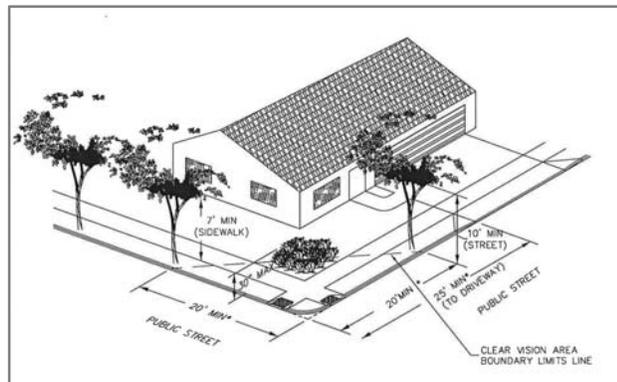
16.58 CLEAR VISION AND FENCE STANDARDS

16.58.010 Clear Vision Areas

16.58.020 Fences, Walls and Hedges

16.58.010 Clear Vision Areas

- A. A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.
- B. A clear vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides.
- C. A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2- 1/2) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven (7) feet above the ground on the sidewalk side and ten (10) feet on the street side.



The following requirements shall govern clear vision areas:

1. In all zones, the minimum distance shall be twenty (20) feet.
2. In all zones, the minimum distance from corner curb to any driveway shall be twenty-five (25) feet.
3. Where no setbacks are required, buildings may be constructed within the clear vision area.

Chapter 16.60 YARD REQUIREMENTS*

Sections:

16.60.010 Through Lots

16.60.020 Corner Lots

16.60.030 Yards

16.60.040 Lot sizes and Dimensions

16.60.010 Through Lots

On a through lot the front yard requirements of the zone in which such a lot is located shall apply to the street frontage where the lot receives vehicle access; except where access is from an alley, the front yard requirements shall apply to the street opposite the alley.

16.60.020 Corner Lots

On a corner lot, or a reversed corner lot of a block oblong in shape, the short street side may be used as the front of the lot provided:

- A. The front yard setback shall not be less than twenty-five (25) feet; except where otherwise allowed by the applicable zoning district and subject to vision clearance requirements.
- B. The side yard requirements on the long street side shall conform to the front yard requirement of the zone in which the building is located.

16.60.030 Yards

- A. Except for landscaping, every part of a required yard (also referred to as minimum setback) shall be open and unobstructed from its lowest point to the sky, except that architectural features such as awnings, fire escapes, open stairways, chimneys, or accessory structures permitted in accordance with Chapter 16.50 (Accessory Structures) may be permitted when so placed as not to obstruct light and ventilation.
- B. Where a side or rear yard is not required, and a primary structure is not erected directly on the property line, it shall be set back at least three (3) feet.

16.60.040 Lot Sizes and Dimensions

- A. If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot or aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet, except as provided in Chapter 16.68 (Infill Development).

B. Exceptions

Yard requirements of the underlying zone may be modified for infill developments as provided in Chapter 16.68 (Infill).

Chapter 16.72

PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

16.72.010 Generally

A. Classifications

Except for Final Development Plans for Planned Unit Developments, which are reviewed per Section 16.40.030, all quasi-judicial development permit applications and legislative land use actions shall be classified as one of the following:

1. Type I

The following quasi-judicial actions shall be subject to a Type I review process:

- a. Signs
- b. Property Line Adjustments
- c. Interpretation of Similar Uses
- d. Temporary Uses
- e. Final Subdivision Plats
- f. Final Site Plan Review
- g. Time extensions of approval, per Sections 16.90.020; 16.124.010
- h. ClassAHome Occupation Permits
- i. Interpretive Decisions by the City Manager or his/her designee
- j. Tree Removal Permit – a street trees over five (5) inches DBH, per Section 16.142.050.B.2 and 3.
- k. Adjustments

2. Type II

The following quasi-judicial actions shall be subject to a Type II review process:

- a. Land Partitions
- b. Expedited Land Divisions - The Planning Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of the Zoning and Community Development Code. Conditions may be imposed by the Planning Director if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code.
- c. "Fast-track" Site Plan review, defined as those site plan applications which propose less than 15,000 square feet of floor area, parking or seating capacity of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to conditional use permit, except as follows: auditoriums, theaters, stadiums, and those applications subject to Section 16.72.010.4, below.
- d. "Design Upgraded" Site Plan review, defined as those site plan applications which propose between 15,001 and 40,000 square feet of floor area, parking or seating capacity and which propose a minimum of eighty percent (80%) of the total possible points of design criteria in the "Commercial Design Review Matrix" found in Section 16.90.020.4.G.4.

- e. Industrial "Design Upgraded" projects, defined as those site plan applications which propose between 15,001 and 60,000 square feet of floor area, parking or seating capacity and which meet all of the criteria in 16.90.020.4.H.1.

f. Class B Variance

3. Type III

The following quasi-judicial actions shall be subject to a Type III review process:

- a. Conditional Uses
- b. Site Plan Review -- between 15,001 and 40,000 square feet of floor area, parking or seating capacity except those within the Old Town Overlay District, per Section 16.72.010.4, below.
- c. Subdivisions -- Less than 50 lots.

4. Type IV

The following quasi-judicial actions shall be subject to a Type IV review process:

- a. Site Plan review and/or "Fast Track" Site Plan review of new or existing structures in the Old Town Overlay District.
- b. All quasi-judicial actions not otherwise assigned to a Hearing Authority under this section.
- c. Site Plans -- Greater than 40,000 square feet of floor area, parking or seating capacity.
- d. Site Plans subject to Section 16.90.020.4.G.6.
- e. Industrial Site Plans subject to Section 16.90.020.4.H.2.
- f. Subdivisions -- More than 50 lots.

g. Class A Variance

Chapter 16.84 VARIANCES

SECTIONS

- 16.84.010 Purpose
- 16.84.020 Applicability
- 16.84.030 Types of Variances

16.84.010 Purpose

This Chapter provides standards and procedures for variances, which are modifications to land use or development standards that are not otherwise permitted elsewhere in this Code as exceptions to Code standards. This Chapter provides flexibility, while maintaining the purposes and intent of the Code. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use is located. In granting a variance, conditions may be imposed when necessary to protect the best interests of surrounding properties and neighborhoods, and otherwise achieve the purposes of the adopted Comprehensive Plan, the Transportation System Plan, and other Code provisions.

16.84.020 Applicability

A. Exceptions and Modifications versus Variances

A code standard or approval criterion may be modified without approval of a variance if the applicable code section expressly allows exceptions or modifications. If the code provision does not expressly provide for exceptions or modifications then a variance is required to modify that code section and the provisions of Chapter 16.84 apply.

B. Combining Variances with Other Approvals; Permit Approvals by Other Agencies.

Variance requests may be combined with and reviewed concurrently by the City approval body with other land use and development applications (e.g., development review, site plan review,

subdivision, conditional use, etc.); however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of State Highway access.

C. Adjustments and variances cannot be applied to change any existing Planned Unit Development (PUD).

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. **Applicability:** The following variances 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 10 percent change to the front yard setback standard in the land use district.
 - b. Interior setbacks Up to a 10 percent reduction of the dimensional standards for the side and 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. Landscape area Up to a 10% reduction in landscape area (overall area or interior parking lot landscape area).
 - d. A 5% reduction 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.
2. **Approval Criteria:** Adjustments 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.

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 20 percent change to the front yard setback standard in the land use district.
 - d. Interior setbacks: Up to a 20 percent reduction of the dimensional standards for the side and 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. A 20% or less reduction in other Code standards or dimensions not otherwise specifically identified in this section.
2. Approval Process: Class B variances 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: 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

1. Generally
 - a. The Class A variance procedure may be used to modify a standard for three (3) or fewer lots, including lots yet to be created through a partition process.
 - b. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class A variance procedure. Approval of a Planned Unit Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.
 - c. A Class A Variance shall not be approved that would vary the “permitted, conditional or prohibited uses” of a land use district.
2. Approval Process:
 - a. Class A Variances shall be processed using a Type IV procedure, as governed by Chapter 16.84, using the approval criteria in subsection 3, below.
 - b. 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: The City shall approve, approve with conditions, or deny an application for a Class A Variance based on the following criteria:
 - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
 - b. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
 - c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
 - d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
 - e. The hardship is not self-imposed; and
 - f. The variance requested is the minimum variance that would alleviate the hardship.

Division VI. Public Improvements

16.108 STREETS*

16.108.010 GENERALLY

16.108.030 REQUIRED IMPROVEMENTS

16.108.040 LOCATION AND DESIGN

***Only change to this section:*16.108.040 Location and Design**

D. Additional Setbacks

Generally Additional setbacks apply when the width of a street right-of-way abutting a development is less than the standard width under the functional classifications in Section VI of the Community Development Plan. Additional setbacks are intended to provide unobstructed area for future street right-of-way dedication and improvements, in conformance with Section VI. Additional setbacks shall be measured at right angles from the centerline of the street.

TABLE INSET:

	Classification	Additional Setback
1.	Major Arterial	61 feet
2.	Minor Arterial	37 feet
3.	Collector	29 feet
4.	Local	26 feet

DATE: March 25, 2011

****Editor's note: Sections 16.12-16.20 are combined into one new section. Re-formatting is not shown in track changes, however all other changes are shown with new text in blue underline, deleted text in ~~red strike-through~~ and moved text in green with double underline or ~~strikethrough~~ (underline when moved to a section, strikethrough when moved from a section.)**

Chapter

16.12

RESIDENTIAL LAND USE DISTRICTS

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

SECTION:

16.12.010. Purpose and Density Requirements

16.12.020. Allowed Residential Land Uses

16.12.030 Residential Land Use Development Standards

16.12.040 Community Design

16.12.050 Flood Plain

16.12.010. Purpose and Density Requirements

A. Very Low Density Residential (VLDR)

The VLDR zoning district provides for low density, larger lot single-family housing and other related uses in natural resource and environmentally sensitive areas warranting preservation, but otherwise deemed suitable for limited development, with a density of 0.7 to 1 dwelling unit per acre.

1. If developed through the Planned Unit Development (PUD) process, as per Chapter 16.40, and if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, the permitted density ~~exceed two (2) dwelling units per acre and a density not less than 1.4 dwelling units per acre may be allowed~~ of 1.4 to two (2) dwelling units per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirement.

2. Special Density Allowances (formerly 16.12.070)

Housing densities up to two (2) units per acre, and minimum lot sizes of 10,000 square feet, may be allowed in the VLDR zone when:

a. The housing development is approved as a PUD, as per Chapter 16.40; and

b. The following areas are dedicated to the public or preserved as common open space: floodplains, as per Section 16.134.020 (Special Resource Zones); natural resources areas, per the Natural Resources and Recreation Plan Map, attached as Appendix C, or as specified in Chapter 5 of the Community Development Plan, and wetlands defined and regulated as per current Federal regulation and Division VIII of this Code; and

c. The Review Authority determines that the higher density development would better preserve natural resources as compared to one (1) unit per acre design.

B.Low Density Residential (LDR)

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

C. Medium Density Residential (MDRL)

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

D. Medium Density Residential High (MDRH)

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

E. High Density Residential (HDR)

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

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16.12.020. ~~Residential Districts~~-Allowed Residential Land Uses

A. Residential Land Uses

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

USES	VLDR	LDR	MDRL	MDRH	HDR
RESIDENTIAL					
• Single-Family Attached or Detached Dwellings	P	P	P	P	P
• Two Family Dwelling Units	N	N	P	P	P
• Multi-family Dwellings including boarding and rooming houses.	N	N	N	P	P
• Townhomes-subject to Chapter 16.44	N	N	N	P	P
• Planned Unit Developments (PUDs)-subject to Chapter 16.40	P	P	P	P	P
• Manufactured Homes on Individual Lots	P	P	P	P	P
• Accessory Dwelling Unit-subject to Chapter 16.52	P	P	P	P	P
• Manufactured Home Park-subject to Chapter 16.46	N	N	P	P	N
• Group Homes, ¹	P	P	P	P	P
• Government-Assisted Housing ²	P	P	P	P	P
ACCESSORY USES					
• Home Occupations-subject to Chapter 16.42	P	P	P	P	P
• Temporary Uses- including but not limited to portable construction and real estate sales offices, subject to Chapter 16.86	P	P	P	P	P
• Family Daycare Providers	P	P	P	P	P
COMMERCIAL					
• Agricultural Uses ³	P	P	P	P	P
• Residential Care Facilities	P	P	P	P	P
• Special Care Facilities, including but not limited (such as hospitals, sanitariums and convalescent homes specialized living facilities)	C	C	C	C	P
• Plant Nurseries ⁴	C	C	C	C	C
• Public and Private Schools providing education at the preschool level or higher, but excluding commercial trade schools which are prohibited.	C	C	C	C	C
Whereas P=Permitted, C=Conditional, N=Not Allowed					

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

² Provided such facilities are substantially identical, in the city's determination, in physical form to other types of housing allowed in the zoning district.

³ Includes truck farming and horticulture, but excludes commercial building or structures or the raising of animals ~~other than household pets~~ except as otherwise permitted by this code.

⁴ Includes other agricultural uses and associated commercial buildings and structures

USES	VLDR	LDR	MDRL	MDRH	HDR
Any business, service, processing, storage, or display not conducted entirely within an enclosed building that is essential or incidental to any permitted or conditional use	C	C	C	C	C
• Raising of Animals other than Household Pets	C	C	C	C	C
• CIVIC					
• Public Recreational Facilities ⁵	P	P	P	P	P
Churches and parsonages Religious Institutions, Private Fraternal Organizations and Lodges, Country Clubs or other similar C Clubs	C	C	C	C	C
• Cemeteries and crematory mausoleums	C	C	C	N	N
• Civic Buildings-Government Offices-included but not limited to postal stations, administrative offices (such as police and fire stations, post office)	C	C	C	C	C
• Public Use Buildings including but not limited to (such as libraries museums, and community centers and senior centers)	C	C	C	C	C
• Public Golf Courses	C	C	C	C	C
• Basic Public and Private Utilities including but not limited to telephone exchanges, (such as electric substations, gas regulator stations, sewage treatment plans, water wells, and public works yard)	C	C	C	C	C
• Radio and communications stations, on lots with a minimum width and depth equal to the height of any tower and in conformance with Chapter 16.62	C	C	C	C	C

Whereas P=Permitted, C=Conditional, N=Not Allowed

B. Any use not otherwise listed that can be shown to be consistent or associated with the permitted uses or conditionally permitted uses identified in the residential zones or contribute to the achievement of the objectives of the residential zones will be permitted or conditionally permitted using the procedure under Chapter 16.88 (Interpretation of Similar Uses).

C. Any use that is not permitted or conditionally permitted in this zone that cannot be found to be consistent with the permitted or conditional uses identified as in B. is prohibited in the residential zone using the procedure under Chapter 16.88 (Interpretation of Similar Uses).

16.12.030 Residential Land Use Development ~~Dimensional~~ Standards

A. Generally

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

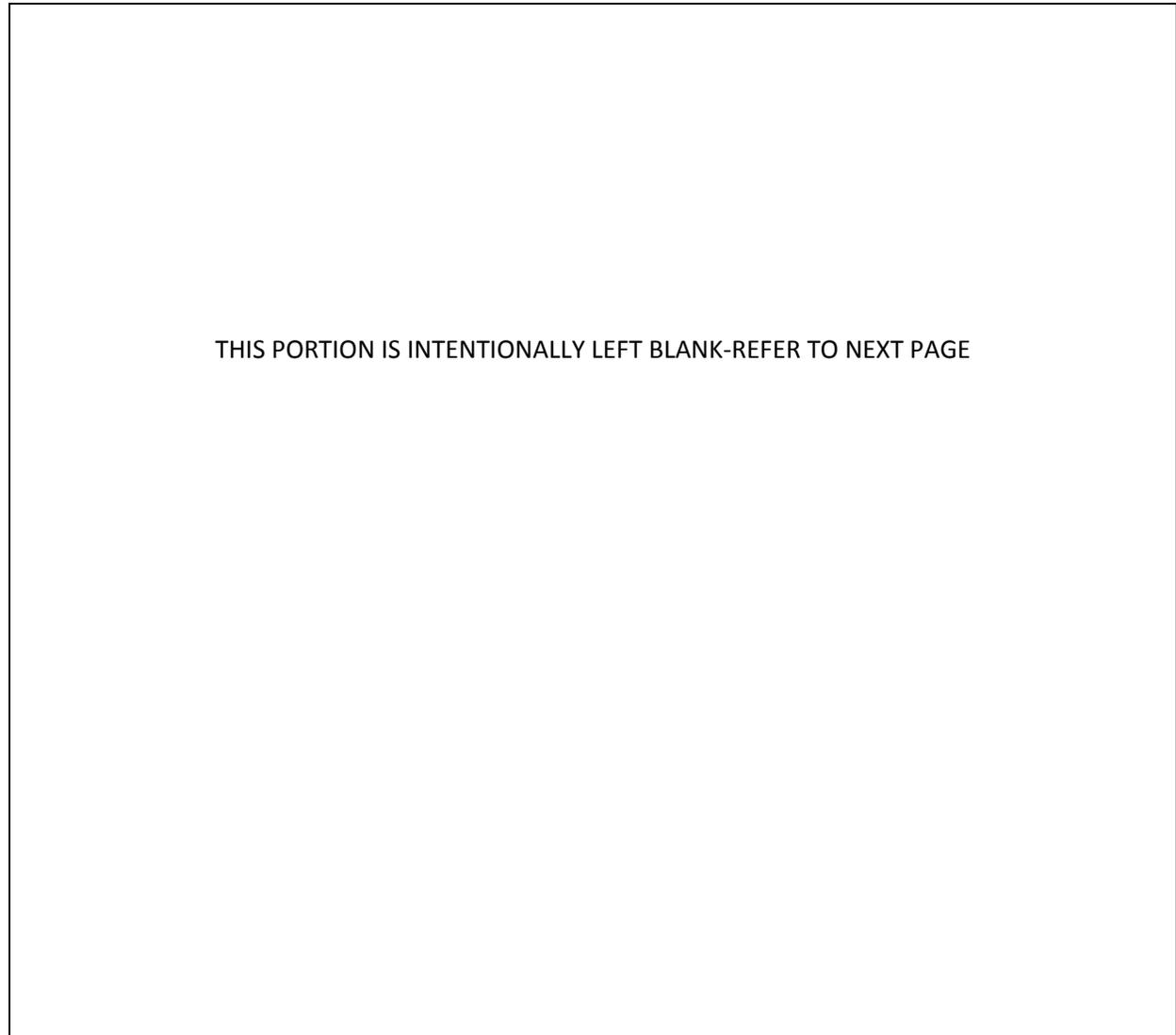
B. ~~Development Standards~~ Lot Dimensions

⁵ Includes, but is not limited to parks, playfields, sports and racquet courts, but excludes golf courses ~~which are permitted conditionally.~~

Except as modified under Chapter 16.68 (Infill Development), Section 16.144.030 (Wetland, Habitat and Natural Areas) Chapter 16.44 (Townhomes), or as otherwise provided, required minimum lot areas, dimensions and setbacks shall be provided in the following table.

C. Height

~~Except as otherwise provided for accessory structures, and for infill development under Chapter 16.68, the maximum height of structures shall be two (2) stories or thirty feet, whichever is less. Chimneys, solar and wind energy devices, radio and TV aerials, and similar structures attached to residential dwellings or to accessory buildings, may exceed this height limitation by up to twenty (20) feet. Some accessory structures, such as chimneys, stacks, water towers, radio or television antennas, etc. may exceed these height limits with a conditional use permit, per Chapter 16.62.~~



C. Table XX: Development Standards per Residential Zone

Development Standard by Residential Zone-	VLDR	VLDR-PUD	LDR	MDRL	MDRH	HDR
Minimum Lot areas:(in square ft.)						
• Single-Family Detached	40,000	10,000	7,000	5,000	5,000	5,000
• Single Family Attached	40,000	10,000	7,000	5,000	4,000	4,000
• Two or Multi-Family: • for the first 2 units	X	X	X	10,000	8,000	8,000
• Multi-Family: each additional unit after first 2	X	X	X	X	3,200	1,500
Minimum Lot width at front property line: (in feet)	25	25	25	25	25	25
Minimum Lot width at building line⁶: (in feet)						
• Single-Family	None	None	60	50	50	50
• Two-Family	X	X	X	60	60	60
• Multi-family	X	X	X	X	60	60
Lot Depth	None	None	80	80	80	80
Maximum Height⁷ (in feet)	30 or 2 stories	35 or 2.5 stories	40 or 3 stories			
•						
• Chimneys, Solar or Wind Devices, Radio and TV aerials⁸	50	50	50	50	55	60
•						
Setbacks (in feet)						
• Front yard	20	20	20	20	20	20
• Interior side yard						
• Single-Family Detached	5	5	5	5	5	5
• Single-Family Attached	20	20	20	10	5	5
• Two Family	X	X	X	5	5	5
• Multi-Family						
• 18 ft. or less in height	X	X	X	X	5	5
• Between 18-24 ft. in height	X	X	X	X	7	7
• If over 24 ft. in height	X	X	X	X	\$16.68 Infill	\$ 16.68 Infill
• Corner lot street side						
• Single Family or Two Family	20	20	20	15	15	15
• Multi-Family	X	X	X	X	20	30
• Rear yard	20	20	20	20	20	20

⁶ [Minimum lot width at the building line on cul-de-sac lots may be less than that required in this Code if a lesser width is necessary to provide for a minimum rear yard. \(Moved from 16.60.040\)](#)

⁷ Maximum height is the lesser of feet or stories

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

16.12.040~~16.12.050~~ Community Design

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

16.12.050~~16.12.060~~ Flood Plain

Except as otherwise provided, Section 16.134.020 shall apply.

Chapters 16.14-16.20 have been deleted and incorporated into Chapter 16.12 in its entirety

Chapter 16.42

HOME OCCUPATIONS*~~---~~all ~~Type I~~ and ~~Type II~~ have been replaced with Class Type I and Class Type II

SECTIONS:

16.42.010 Purpose

16.42.020 Authority

16.42.030 Exemptions

16.42.040 Class A Type II and Class B Type I Home Occupations

16.42.050 General Definition and Criteria for Home Occupations

16.42.060 Class B Type I Home Occupation Criteria Defined

16.42.070 Class A Type II Home Occupation Permit Criteria Defined

16.42.080 Prohibited Uses

16.42.090 Permit Procedures for Class A Type II Home Occupations

16.42.100 Expiration and Revocation of Home Occupation Permits

16.42.110 Appeals~~-~~

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

16.42.010 Purpose

It is the purpose of this chapter to permit residents an opportunity to use their homes to engage in small-scale business ventures. Home occupations are regulated to ensure that they do not alter the residential character of the neighborhood, nor infringe upon the rights of nearby residents to the peaceful enjoyment of their neighborhood and homes.

(Ord. 2002-1130 § 3; 86-851)

16.42.020 Authority

The provisions of this Code are intended to apply to those entities required to obtain a Sherwood business license under the provisions of the Sherwood Municipal Code Chapter 5.04. No person shall carry on a home occupation, or permit such use to occur on property, which that person owns or is in lawful control, contrary to the provisions of this ordinance. A person must first determine if a permit, for such use in the manner provided by this section, is required. (Ord. 2002-1130 § 3; 86-851)

16.42.030 Exemptions

A. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises.

B. Short-term sales from a residence shall not be deemed to fall under the regulations for home occupations. Such sales shall not exceed one (1) week in duration and a two (2) week period in any given calendar year. Examples of such uses are, but not limited to, garage sales, estate sales, rummage and craft sales.
(Ord. 2002-1130 § 3; 86-851)

16.42.040 ~~Class A Type I~~ and ~~Class B Type II~~ Home Occupations

A. Home occupations or professions shall be carried on wholly within the principal building and clearly secondary, in the City's determination, to the use of the building as a dwelling. All home occupations shall be administered as either ~~Class A or B Type I or II~~, distinguished by the potential impacts they represent to the neighborhood. Both ~~Class A Type I~~ and ~~Class B Type II~~ Home Occupations are required to apply for and maintain a City of Sherwood business license.

B. ~~Class B Type I~~ home occupations are exempt from the permitting process and defined by the listed criteria.
(Ord. 2002-1130 § 3; 86-851)

16.42.050 General Definition and Criteria for Home Occupations

A. Home occupations or professions are businesses carried on wholly within a residential building requiring a City business license. Home occupations are clearly incidental and accessory to the use of the property as a dwelling, and they are not detrimental or disruptive in terms of appearance or operations to neighboring properties and residents. The occupation or profession does not require additional off-street parking nor upset existing traffic patterns in the neighborhood. All home occupations shall be in accordance with the following general criteria:

1. All business operations shall comply with the current City of Sherwood noise ordinance and shall not produce any offensive vibration, smoke, dust, odors, heat, glare or electrical interference detectable to normal sensory perception at the property line.
2. No exterior remodeling which alters the residential character of the structure shall be permitted.
3. The occupation or profession shall not occupy more than twenty-five percent (25%) of the total floor area of all habitable buildings on the property, including customary accessory buildings. [Home Occupations in the Old Town Overlay may occupy up to fifty percent \(50%\) of the entire floor area of all buildings on a lot per section 16.162.060.D.](#)
4. There shall be no storage and/or distribution of toxic or flammable materials and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals who are engaged in home occupations shall make available to the Fire Marshal for review the Material Safety Data Sheets which pertain to all potentially toxic and/or flammable materials associated with the use.
5. There shall be no exterior storage of vehicles of any kind used for the business with the exception of one commercially licensed vehicle of not more than one ton gross vehicle weight (GVW) that may be parked outside of a structure or screened area.

16.42.060 ~~Class B Type I~~ Home Occupation Criteria Defined

A. ~~Class B Type I~~ home occupations shall be conducted in accordance with the following defined criteria:

1. Only the principal occupant(s) of a residential property may undertake home occupations.
2. Storage of materials is confined to the interior of the residence with no exterior indication of a home occupation.
3. No exterior signs that identify the property as a business location.
4. No clients or customers to visit the premises for any reason.
5. The address of the home shall not be given in any advertisement, including but not limited to commercial telephone directories, newspapers, magazines, off-premises signs, flyers, radio, television and any other advertising media.
6. Deliveries to the residence by suppliers may not exceed three per week and shall be prohibited on weekends.

(Ord. 2002-1130 § 3)

16.42.070 ~~Class A Type II~~ Home Occupation Permit Criteria Defined

A. ~~Class A Type II~~ home occupations require a permit and shall be conducted in conformance with the following criteria:

1. One non-illuminated exterior sign, not to exceed one (1) square foot. In addition to signs permitted for home occupations, one (1) non-illuminated, attached, exterior sign, up to a maximum of nine (9) square feet in surface area, may be permitted for each approved home occupation in the Old Town Overlay per section 16.162.070.E.
2. The number of customers and clients shall not exceed 5 visits per day. Customers and clients may not visit the business between the hours of 10:00 PM and 7:00 AM, Monday through Friday and between 7:00 PM and 8:00 AM, Saturday and Sunday.
3. Storage of materials on the premises shall be screened entirely from view of neighboring properties by a solid fence. Exterior/outside storage of materials shall not exceed five percent (5%) of the total lot area and shall not encroach upon required setback areas of the zone.
4. Commercial pick-up and deliveries shall be limited to one (1) per day on weekdays and shall be prohibited on weekends.
5. Number of Employees or Volunteers:
 - a. ~~A maximum of one volunteer or one on-site employee, who is not a principal resident of the premises.~~ One volunteer or one FTE (full time equivalent) employee who does not live at the residence; or
 - b. If it can be shown that adequate off-street parking is available to accommodate both the homeowners and the employees, a total of two (2) FTE employees or volunteers will be permitted.

16.42.080 Prohibited Uses

A. Because of the potential adverse impacts they pose to residential neighborhoods, the following uses are not allowed as home occupations and must be conducted as allowed in a commercial or industrial zone:

1. Auto body repair, restoration and painting.
2. Commercial auto repair (auto repair for other than the property owners/tenants personal vehicles).
3. Junk and salvage operations.
4. Storage and/or sale of fireworks.
(Ord. 2002-1130 § 3; 86-851)

16.42.090 Permit Procedures for ~~Class A Type II~~ Home Occupations

A. An application for a ~~Class A Type II~~ Home Occupation Permit shall be filed according to the application procedures of Chapter 16.72, in conjunction with a City business license, accompanied by the appropriate fee as per Section 16.74.010.

B. The application shall identify the type of use and address the conditions contained in [this chapter](#) ~~Chapter 16.42~~ and other applicable sections of this Code.

C. ~~The City Manager~~ ~~Planning Director~~ or his designee may impose additional conditions upon the approval of ~~Class A Type II~~ home occupation permits to ensure compliance with the requirements of this Chapter.

D. The action of the ~~City Manager~~ ~~Planning Director~~ or designee may be appealed as per Chapter 16.76 ([Appeals](#)).
(Ord. 2002-1130 § 3)

16.42.100 Expiration and Revocation of Home Occupation Permits

A. ~~Class A Type II~~ Home Occupation Permit Expiration.

A ~~Class A Type II~~ home occupation permit shall be valid for a period of one (1) year. Renewal of the permit shall be accomplished in the same manner as an application for a new permit under this section.

B. Grounds for Revocation.

The ~~City Manager~~ or designee ~~Planning Director~~ may revoke a home occupation permit at any time for the following reasons:

1. A violation of any provision of this Chapter.
2. A violation of any term or condition of the permit.
3. Failure to pay the City of Sherwood Business License fee in a timely manner.

When a ~~Class A Type II~~ home occupation permit has been revoked, a new ~~Class A Type II~~ home occupation permit will not be issued to the applicant or other persons residing with the applicant for a period of up to twenty-four (24) months.
(Ord. 2002-1130 § 3)

16.42.110 Appeals.

The action of the ~~City Manager~~ ~~Planning Director~~ or designee may be appealed per the provisions of Chapter 16.76 ([Appeals](#)).
(Ord. 2002-1130 § 3)

Chapter 16.50

ACCESSORY USES STRUCTURES, ARCHITECTURAL FEATURES AND DECKS

SECTIONS:

- 16.50.010 Standards and Definition
- 16.50.020 Conditional Uses
- 16.50.030 Conflicts of Interpretation
- 16.50.040 Accessory Structure Exemptions
- 16.50.050 Architectural Features
- 16.50.060 Decks

16.50.010 Standards and Definition

A. Definition

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

B. Generally Standards

For uses located within a residential zoning district, accessory uses, buildings, and structures, ~~excluding decks which are subject to Section 16.60.050~~ shall comply with all requirements for principal uses, buildings, and structures except where specifically modified below; and shall also comply with the City of Sherwood Building Code as amended. Where this Code and the Building Code conflict, the most stringent shall apply.

C. Dimension and Setback Requirements

1. Any accessory building shall have not more than ~~six~~ six hundred (600) ~~and twenty~~ square feet of ground floor area and shall be no taller than ~~15~~ 25 feet in height.
2. No accessory building or structure over three (3) feet in height shall be allowed in any required front yard ~~or side yard~~. Accessory buildings may be allowed in required side and rear building setbacks as described below.
3. When a Building Permit is not required and the structure is less than 100 square of ground floor area feet and less than six feet tall, no rear or side yard setbacks are required and the structure may abut the rear or side property line.
4. When a Building Permit is not required and the structure is over 100 square feet, but under 200 square feet of ground floor area and under 10 feet in height:
 - a. ~~C~~-Detached accessory structures ~~that do not require a building permit per the Building Code~~ shall maintain a minimum 3-foot distance from any side or rear property line. ~~and must be a minimum of 6 (six) feet from an accessory or primary structure.~~
 - b. Attached accessory structures ~~that do not require a building permit per the Building Code~~ shall be setback a minimum of three (3) feet from any side property line and ~~ten (10) fifteen (15)~~ ten (10) six (6) feet from a rear property line.
5. When a Building Permit is required:
 - ~~D~~-a. No accessory building or structure over three (3) feet in ~~height that requires a building permit per the Building Code~~ shall be located closer than five (5) feet to any side ~~or rear~~ property line and ~~ten (10) six (6)~~ ten (10) six (6) feet from any ~~accessory or primary structure.~~ rear property line.

b. Any accessory building or ~~structure that requires a building permit per the Building Code~~ attached by a common wall or permanent roof or foundation to the principal building or structure must comply with all setbacks for the principal building or structure.

F.D. No accessory building or structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way, including but not limited to streets, alleys, and public and/or private easements.

16.50.020 Conditional Uses

Any accessory use and/or structure associated with a conditional use shall be allowed only after approval in accordance with Chapter 16.82.

16.50.030 Conflicts of Interpretation

A conflict of interpretation concerning whether a use or structure is an accessory use or structure shall be resolved in accordance with the provisions of Chapter 16.88.

16.50.040 Accessory Structure Exemptions

The following are not considered accessory structures for the purposes of this section:

A. Pergolas, arbors and trellises and other similar structures that do not require a building permit and are under ten (10) feet in height

B. Play structure and swing sets if under ten (10) feet

C. Flag poles limited to 20 feet

D. Temporary and seasonal above ground pools

E. Structures that are considered Accessory Dwelling Units and fall under the provisions of 16.52 Accessory Dwelling Units.

16.50.50 Architectural Features-Moved from 16.60.040

Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to five (5) feet into a front or rear required yard setback and two and one half (2 ½) into a required side yard setback.

16.50.060 Decks – Moved from 16.50.050

Uncovered decks which are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks shall not be allowed in the required front or side yard setbacks.

Uncovered decks 30 inches above grade that require a building permit placed on properties adjacent to wetland or open space tracts that are publicly dedicated or in public ownership, may project into the required rear yard, but shall not be closer than ten (10) feet from the rear property line. All other decks will comply with the required setbacks for the underlying zoning district.

16.52-16.56 No Changes to the Code

16.58

CLEAR VISION AND FENCES SUPPLEMENTARY STANDARDS

Exhibit 1-B-Proposed Development Code Amendments (Track changes)

PA 11-01 Development Code Clean Up Phase II

April 5, 2011 Council meeting

Page 12 of 23

SECTIONS:

16.58.010 CLEAR VISION AREAS

~~16.58.020 ADDITIONAL SETBACKS~~: Moved To Public Improvements

16.58.030 FENCES, WALLS AND HEDGES

~~16.58.040 LOT SIZES AND DIMENSIONS~~: Moved to Yard Requirements

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

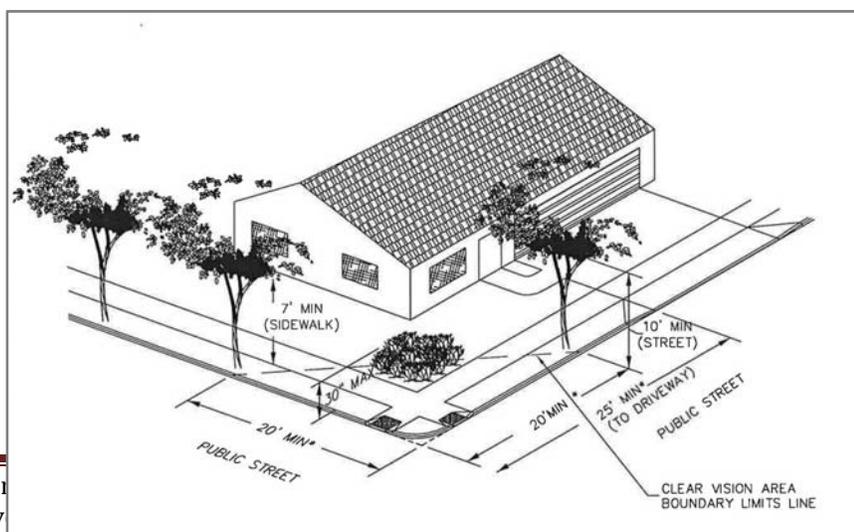
16.58.010 Clear Vision Areas

A. A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets, intersection of a street with a railroad, or intersection of a street with an alley or private driveway.

B. A clear vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation; or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection, and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other two (2) sides.

C. A clear vision area shall contain no planting, sight obscuring fence, wall, structure, or temporary or permanent obstruction exceeding two and one-half (2- 1/2) feet in height, measured from the top of the curb, or where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area, provided all branches and foliage are removed to the height of seven (7) feet above the ground on the sidewalk side and ten (10) feet on the street side. The following requirements shall govern clear vision areas:

1. In all ~~residential~~ zones, the minimum distance shall be twenty (20) ~~thirty (30)~~ feet.
2. In all zones, the minimum distance from corner curb to any driveway shall be twenty five (25) feet.
3. ~~In commercial and industrial zones, the minimum distance shall be fifteen (15) feet, or at intersections including an alley, ten (10) feet, except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the distance shall be twenty five (25) feet.~~ Where nosetback yards are required, buildings may be constructed within the clear vision area.



~~16.58.020 ADDITIONAL SETBACKS~~ Moved to 16.108.040

~~Generally~~

~~Additional setbacks apply when the width of a street right of way abutting a development is less than the standard width under the functional classifications in Section VI of the Community Development Plan. Additional setbacks are intended to provide unobstructed area for future street right of way dedication and improvements, in conformance with Section VI. Additional setbacks shall be measured at right angles from the centerline of the street.~~

~~TABLE INSET:~~

—	Classification	Additional Setback
1.	Major Arterial	61 feet
2.	Minor Arterial	37 feet
3.	Collector	29 feet
4.	Local	26 feet

~~16.58.030 Fences Walls and Hedges~~ addressed separately under Phase 1.5

~~16.58.040 LOT SIZES AND DIMENSIONS~~ Moved to 16.60.040 and 16.12.030.C

~~A. Generally~~

~~If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot of aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet, except as provided in Chapter 16.68, Infill Development.~~

~~B. Cul-de-sacs~~

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

~~C. Infill Development~~

~~Lot sizes and dimensions shall conform to the underlying zone district except as modified under Chapter 16.68, Infill Development.~~

~~(Ord. 2006-021)~~

Chapter 16.60

YARD DIMENSIONAL REQUIREMENTS*

SECTIONS:

16.60.010 Through Lots

16.60.020 Corner Lots

16.60.030 Yards

16.60.040 Lot sizes and Dimensions

~~16.60.040 Exceptions~~ Moved to 16.50

~~16.60.050 Decks~~ Moved to 16.50

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

16.60.010 Through Lots

On a through lot the front yard requirements of the zone in which such a lot is located shall apply to the street frontage where the lot receives vehicle access; except where access is from an alley, the front yard requirements shall apply to the street opposite the alley.

(Ord. 2006-021; 86-851 § 3)

16.60.020 Corner Lots

On a corner lot, or a reversed corner lot of a block oblong in shape, the short street side may be used as the front of the lot provided:

- A. The front yard setback shall not be less than twenty-five (25) feet; except where otherwise allowed by the applicable zoning district and subject to vision clearance requirements.
- B. The side yard requirements on the long street side shall conform to the front yard requirement of the zone in which the building is located.

16.60.030 Yards

A. Except for landscaping, every part of a required yard (also referred to as minimum setback) shall be open and unobstructed from its lowest point to the sky, except that [architectural features](#) such as awnings, fire escapes, open stairways, chimneys, or ~~and~~ accessory structures permitted in accordance with Chapter 16.50 ([Accessory Structures](#)) may be permitted when so placed as not to obstruct light and ventilation.

B. Where a side or rear yard is not required, and a primary structure is not erected directly on the property line, it shall be set back at least three (3) feet.

16.60.040 ~~16.58.040 Lot Sizes And Dimensions~~ Moved from 16.58.040

- A. If a lot or the aggregate of contiguous lots or parcels recorded, or platted, prior to the effective date of this Code, has an area or dimension which does not meet the requirements of this Code, the lot of aggregate lots may be put to a use permitted outright, subject to the other requirements of the zone in which the property is located, except that a residential use shall be limited to a single-family dwelling, or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than thirty-two hundred (3,200) square feet, except as provided in Chapter 16.68, Infill Development.

B. Exceptions

~~A. Architectural features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to two and one half (2 ½) feet into a required yard.~~

Yard requirements of the underlying zone may be modified for infill developments, as provided in Chapter 16.68 ([Infill](#)).

~~16.60.050 Decks~~ Moved to 16.50.060

~~Uncovered decks which are no more than 30 inches above grade may project into the required rear yard, but shall not be closer than five feet from the property line. If the ground slopes away from the edge of the deck, the deck height shall be measured at a point five feet away from the edge of the deck. Decks shall not be allowed in the required front or side yard setbacks. Uncovered decks 30 inches above grade that require a building permit placed on properties adjacent to wetland or open space tracts that are publicly dedicated or in public ownership, may project into the required rear yard, but shall not be closer than ten (10) feet from the rear~~

~~property line. All other decks will comply with the required setbacks for the underlying zoning district.~~

Chapter 16.72

PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

16.72.010 Generally

A. Classifications

Except for ~~Administrative Variances, which are reviewed per Section 16.84.020, and~~ Final Development Plans for Planned Unit Developments, which are reviewed per Section 16.40.030, all quasi-judicial development permit applications and legislative land use actions shall be classified as one of the following:

1. Type I

The following quasi-judicial actions shall be subject to a Type I review process:

- a. Signs
- b. Property Line Adjustments
- c. Interpretation of Similar Uses
- d. Temporary Uses
- e. Final Subdivision Plats
- f. Final Site Plan Review
- g. Time extensions of approval, per Sections 16.90.020; 16.124.010
- h. ~~Class A Type III~~ Home Occupation Permits
- i. Interpretive Decisions by the City Manager or his/her designee
- j. Tree Removal Permit – a street trees over five (5) inches DBH, per Section 16.142.050.B.2 and 3
- k. [Adjustments](#)

2. Type II

The following quasi-judicial actions shall be subject to a Type II review process:

- a. Land Partitions
- b. Expedited Land Divisions - The Planning Director shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all of the relevant requirements of the Zoning and Community Development Code. Conditions may be imposed by the Planning Director if necessary to fulfill the requirements of the adopted Comprehensive Plan, Transportation System Plan or the Zoning and Community Development Code.
- c. "Fast-track" Site Plan review, defined as those site plan applications which propose less than 15,000 square feet of floor area, parking or seating capacity of public, institutional, commercial or industrial use permitted by the underlying zone, or up to a total of 20% increase in floor area, parking or seating capacity for a land use or structure subject to conditional use permit, except as follows: auditoriums, theaters, stadiums, and those applications subject to Section 16.72.010.4, below.
- d. "Design Upgraded" Site Plan review, defined as those site plan applications which propose between 15,001 and 40,000 square feet of floor area, parking or seating capacity and which propose a minimum of eighty percent (80%) of the total possible points of design criteria in the "Commercial Design Review Matrix" found in Section 16.90.020.4.G.4.
- e. Industrial "Design Upgraded" projects, defined as those site plan applications which propose between 15,001 and 60,000 square feet of floor area, parking or seating capacity and which meet all of the criteria in 16.90.020.4.H.1.
- f. [Class B Variance](#)

3. Type III

The following quasi-judicial actions shall be subject to a Type III review process:

- a. Conditional Uses
- ~~b. Variances, including Administrative Variances if a hearing is requested per Seciton 16.84.020.~~
- ~~be.~~ Site Plan Review -- between 15,001 and 40,000 square feet of floor area, parking or seating capacity except those within the Old Town Overlay District, per Section 16.72.010.4, below.
- ~~cd.~~ Subdivisions -- Less than 50 lots.

4. Type IV

The following quasi-judicial actions shall be subject to a Type IV review process:

- a. Site Plan review and/or "Fast Track" Site Plan review of new or existing structures in the Old Town Overlay District.
- b. All quasi-judicial actions not otherwise assigned to a Hearing Authority under this section.
- c. Site Plans -- Greater than 40,000 square feet of floor area, parking or seating capacity.
- d. Site Plans subject to Section 16.90.020.4.G.6.
- e. Industrial Site Plans subject to Section 16.90.020.4.H.2.
- f. Subdivisions -- More than 50 lots.
- g. Class A Variance

Editor's note: This section replaces existing 16.84 in its entirety.

Chapter 16.84 VARIANCES

SECTIONS

- [16.84.010 Variances - Purpose](#)
- [16.84.020 Variances - Applicability](#)
- [16.84.030 Types of Variances](#)

16.84.010 Purpose

This Chapter provides standards and procedures for variances, which are modifications to land use or development standards that are not otherwise permitted elsewhere in this Code as exceptions to Code standards. This Chapter provides flexibility, while maintaining the purposes and intent of the Code. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use is located. In granting a variance, conditions may be imposed when necessary to protect the best interests of surrounding properties and neighborhoods, and otherwise achieve the purposes of the adopted Comprehensive Plan, the Transportation System Plan, and other Code provisions.

16.84.020 Variances- Applicability

A. Exceptions and Modifications versus Variances

A code standard or approval criterion may be modified without approval of a variance if the applicable code section expressly allows exceptions or modifications. If the code provision does not expressly provide for exceptions or modifications then a variance is required to modify that code section and the provisions of Chapter 16.84 apply.

B. Combining Variances with Other Approvals; Permit Approvals by Other Agencies.

Variance requests may be combined with and reviewed concurrently by the City approval body with other land use and development applications (e.g., development review, site plan review,

subdivision, conditional use, etc.); however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of State Highway access.

C. Adjustments and variances cannot be applied to change any existing Planned Unit Development (PUD).

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. Applicability: The following variances 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 10 percent change to the front yard setback standard in the land use district.

b. Interior setbacks: Up to a 10 percent reduction of the dimensional standards for the side and 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. Landscape area Up to a 10% reduction in landscape area (overall area or interior parking lot landscape area.

d. A 5% reduction 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.

2. Approval Criteria: Adjustments 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.

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 20 percent change to the front yard setback standard in the land use district.
 - d. Interior setbacks: Up to a 20 percent reduction of the dimensional standards for the side and 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. A 20% or less reduction in other Code standards or dimensions not otherwise specifically identified in this section.
2. **Approval Process:** Class B variances 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:** 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

1. Generally

a. The Class A variance procedure may be used to modify a standard for three (3) or fewer lots, including lots yet to be created through a partition process.

b. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class A variance procedure. Approval of a Planned Unit Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.

c. A Class A Variance shall not be approved that would vary the “permitted, conditional or prohibited uses” of a land use district.

2. Approval Process:

a. Class A Variances shall be processed using a Type IV procedure, as governed by Chapter 16.84, using the approval criteria in subsection 3, below.

b. 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: The City shall approve, approve with conditions, or deny an application for a Class A Variance based on the following criteria:

a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;

b. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);

c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;

d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;

e. The hardship is not self-imposed; and

f. The variance requested is the minimum variance that would alleviate the hardship.

~~Chapter 16.84 VARIANCES*~~

Sections:

~~16.84.010—Generally~~

~~16.84.020—Administrative Variance~~

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

~~16.84.010—Generally~~

~~A.—Authorization~~

~~The Commission may authorize variances from the standard requirements of this Code where it can be shown that, owing to special and unusual circumstances related to a specific property, strict application of this Code would cause undue or unnecessary hardship. No variances shall be granted to allow the use of property for a purpose not authorized within the zone in which the proposed use is located. In granting a variance, the Commission may attach conditions which it finds necessary to protect the best interests of surrounding properties and neighborhoods, and otherwise achieve the purposes of the adopted Comprehensive Plan, the Transportation System Plan, and this Code.~~

~~B.—Approval Criteria~~

~~No variance request shall be granted unless each of the following is found:~~

- ~~1.—Exceptional and extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, legally existing prior to the effective date of this Code, topography, or other circumstances over which the applicant has no control.~~
- ~~2.—The variance is necessary for the preservation of a property right of the applicant substantially the same as owners of other property in the same zone or vicinity.~~
- ~~3.—The authorization of the variance will not be materially detrimental to the purposes of this Code, or to other property in the zone or vicinity in which the property is located, or otherwise conflict with the goals, objectives and policies of the Comprehensive Plan.~~
- ~~4.—The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.~~
- ~~5.—The hardship does not arise from a violation of this Code.~~

~~C.—Application Content~~

~~An application for a variance shall be filed with the City and accompanied by a fee, as determined by Section 16.74.010. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The applicant is responsible for submitting a complete application which addresses the review criteria of this Chapter and other applicable sections of this Code. Except for Administrative variance requests, the variance request shall be subject to public notice and hearing as per Chapter 16.72.~~

~~D.—Time Limits~~

~~Authorization of a variance shall be void after two (2) years or such lesser time as the approval may specify unless substantial construction in the City's determination has taken place. The Hearing Authority may extend authorization for an additional period not to exceed one (1) year upon a written request from the applicant showing adequate cause for such extension, and payment of an extension application fee as per Section 16.74.010.~~

~~E.—Revocation~~

~~Any departure from approved plans not authorized by the Hearing Authority shall be cause for revocation of applicable building and occupancy permits. Furthermore if, in the City's determination, a condition or conditions of variance approval are not or cannot be satisfied, the variance or building and occupancy permits, shall be revoked.~~

~~(Ord. No. 2010-015, § 2, 10-5-2010; Ord. 2003-1148, § 3; Ord. 92-943 § 3; 91-922; Ord. 86-851, § 1)~~

~~16.84.020 Administrative Variance~~

~~Authorization to Grant or Deny Variances to on-site requirements~~

~~The City Manager or his or her designee may authorize a variance from the standards of this Code relating to dimensional and on-site requirements, except lot area. Provided, however, that no variance under this section shall be greater than 25% of the requirement from which the variance is sought.~~

~~A.—Criteria~~

~~1.—In the case of a yard or other dimensional variance, except lot area, the applicant shall address the criteria in Section 16.84.010 as well as show the approval will result in:~~

- ~~a.—More efficient use of the site.~~
- ~~b.—Preservation of natural features, where appropriate.~~
- ~~c.—Adequate provisions of light, air and privacy to adjoining properties.~~
- ~~d.—Adequate access.~~

~~2.—In the case of a variance to the dimensional standards for off-street parking spaces or the minimum required number of off-street parking spaces, the applicant shall show that approval will provide adequate off-street parking in relation to user demand. The following factors may be considered in granting such an exception:~~

- ~~a.—Special characteristics of users which indicate low demand for off-street parking (e.g. low income, elderly).~~
- ~~b.—Opportunities for joint use of nearby off-street parking facilities.~~
- ~~c.—Availability of public transit.~~
- ~~d.—Natural features of the site (topography, vegetation and drainage) which would be adversely affected by application of required parking standards.~~

~~B.—Procedures~~

~~1.—An administrative variance shall be decided by the City Manager or his or her designee unless an individual entitled to notice under subsection (2) requests a hearing. If a hearing is requested, the proposal shall be decided by the Planning Commission. If a hearing is requested, the variance must be processed as a regular variance and requires the full fee. The administrative variance fee shall be credited against the regular variance fee in such circumstances. If the applicant then decides to withdraw the request, the original fee is non-refundable.~~

~~2.—The City shall notify the applicant and all property owners within one hundred (100) feet of the proposal by mailed notice. Any property owner or person present may present written comments to the City which address the relevant criteria and standards. Such comments must be received by the City within ten (10) calendar days from the date on the notice.~~

~~3.—If a property owner or a person residing or doing business within the one hundred (100) feet of the proposal presents written comments as described in subsection (2), that individual may also request that a public hearing be held by the Planning Commission on the proposal. A request for a hearing must be submitted in writing and received within ten (10) calendar days from the date on the notice.~~

~~4.—If no public hearing is requested as described in subsection (3), the Manager shall make a decision based on the information presented, and shall issue a development permit if the applicant has complied with all the relevant variance requirements. The applicant may appeal this decision to the Planning Commission.~~

~~5.—If a public hearing is requested as provided in subsection (3) or the Manager's decision is appealed as provided in subsection (4), the hearing shall be conducted pursuant to Chapter 16.72 of the Code.~~

~~6.—The decision of the Planning Commission may be appealed to the City Council by a party to the hearing in accordance with Chapter 16.76 and shall be a review of the record supplemented by oral arguments relevant to the record presented by the parties.~~

Division VI. Public Improvements

16.108 STREETS

SECTIONS:

16.108.010 GENERALLY

16.108.030 REQUIRED IMPROVEMENTS

16.108.040 LOCATION AND DESIGN

Only change to this section:

16.108.040 Location and Design

D. Additional Setbacks Moved from 16.58.020

Generally Additional setbacks apply when the width of a street right-of-way abutting a development is less than the standard width under the functional classifications in Section VI of the Community Development Plan. Additional setbacks are intended to provide unobstructed area for future street right-of-way dedication and improvements, in conformance with Section VI. Additional setbacks shall be measured at right angles from the centerline of the street.

TABLE INSET:

<u>___</u>	<u>Classification</u>	<u>Additional Setback</u>
<u>1.</u>	<u>Major Arterial</u>	<u>61 feet</u>
<u>2.</u>	<u>Minor Arterial</u>	<u>37 feet</u>
<u>3.</u>	<u>Collector</u>	<u>29 feet</u>
<u>4.</u>	<u>Local</u>	<u>26 feet</u>