



Home of the Tualatin River National Wildlife Refuge

CITY COUNCIL MEETING PACKET

FOR

Tuesday, March 20, 2012

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

6:15pm Work Session

7:00pm Regular City Council Meeting



6:15 PM WORK SESSION

REGULAR CITY COUNCIL MEETING

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. CONSENT:**
 - A. Approval of March 6, 2012 City Council Meeting Minutes**
 - B. Approval of March 12, 2012 City Council Meeting Minutes**
 - C. Resolution 2012-013 of the City of Sherwood approving employment related decisions of the Pro Tem City Manager consistent with Section 33 of the Sherwood Charter**
 - D. Resolution 2012-014 authorizing the City Manager Pro Tem to enter into an Intergovernmental Agreement (IGA) with Washington County for the 2012 Slurry Seal Program**
- 5. CITIZEN COMMENTS**
- 6. NEW BUSINESS**
 - A. Resolution 2012-015 of the City of Sherwood providing for the setting of a Sidewalk Repair Fee for property owners choosing to use the City's Concrete Sidewalk Repair Assistance Program (Craig Gibons, Finance Director)**
- 7. PUBLIC HEARINGS**
 - A. Ordinance 2012-003 Amending multiple sections of the Zoning and Community Development Code including Divisions I, V and VIII relating to trees on private property (Zoe Monahan, Assistant Planner)**
- 8. CITY MANAGER AND STAFF DEPARTMENT REPORTS**
- 9. COUNCIL ANNOUNCEMENTS**

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

City Council meeting materials and agenda are posted to the City web page at www.sherwoodoregon.gov, by the Friday prior to a Council meeting. Council agendas are also posted at the Sherwood Library/City Hall, the YMCA, the Senior Center, and the City's bulletin board at Albertson's. Council meeting materials are available to the public at the Library.

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: murphys@sherwoodoregon.gov

AGENDA

SHERWOOD CITY COUNCIL
March 20, 2012

6:15 pm Work Session

7:00pm Regular City Council Meeting

Sherwood City Hall
22560 Pine Street
Sherwood, OR 97140



SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
March 6, 2012

CITY COUNCIL WORK SESSION

1. **CALL TO ORDER:** Council President Dave Grant called the meeting to order at 6:07 pm.
2. **COUNCIL PRESENT:** Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, Robyn Folsom, Krisanna Clark and Linda Henderson. Mayor Keith Mays was absent.
3. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Police Chief Jeff Groth, Police Captain Mark Daniel, Planning Manager Julia Hajduk, City Engineer Bob Galati, IT Director Brad Crawford, Community Services Director Kristen Switzer and City Recorder Sylvia Murphy.
4. **OTHERS PRESENT:** Ray Pitz with the Sherwood Gazette.
5. **TOPICS DISCUSSED:**
 - A. **Town Center Plan:** Planning Manager Julia Hajduk presented a power point presentation, (see record, Exhibit A), and explained, discussion followed. City Manager Pro Tem Tom Pessemier further explained the next steps in the process and discussion followed.
 - B. **Transportation System Plan Amendments:** Julia Hajduk presented a power point presentation, (see record, Exhibit B) and explained, discussion followed. Council asked about funding and Tom Pessemier stated funding would come from TIF funds. Discussion followed.

Note: Councilor Folsom left the meeting at approximately 6:45 pm and said she may be returning for the regular session.

6. **ADJOURN:** Council President Dave Grant adjourned the work session at 6:58 pm.

REGULAR CITY COUNCIL MEETING

1. **CALL TO ORDER:** Council President Dave Grant called the meeting to order at 7:08 pm.
2. **PLEDGE OF ALLEGIANCE:**
3. **ROLL CALL:**

4. **COUNCIL PRESENT:** Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, Linda Henderson and Krisanna Clark. Mayor Keith Mays was absent and Councilor Folsom arrived at 7:32 pm.
5. **STAFF PRESENT:** City Manager Pro Tem Tom Pessemier, Police Chief Jeff Groth, Community Services Director Kristen Switzer, Public Works Director Craig Sheldon, Planning Manager Julia Hajduk, Associate Planner Michelle Miller, Administrative Assistant Kirsten Allen and City Recorder Sylvia Murphy.

Council President Dave Grant addressed the Consent Agenda and asked for a motion.

6. **CONSENT AGENDA**

A. **Approval February 21, 2012 City Council Minutes**

MOTION: FROM COUNCILOR LINDA HENDERSON TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR BILL BUTTERFIELD, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (MAYOR MAYS AND COUNCILOR FOLSOM WERE ABSENT).

Prior to addressing the next agenda item, Council President Grant acknowledged a proclamation of **April 8-14, 2012 as National Community Development Week**. Mr. Grant stated the proclamation involved the Community Development Block Grant Program and said the City has received over \$2 million dollars in grants since 1979.

7. **CITIZEN COMMENTS**

There were no citizen comments.

Council President Grant addressed the next agenda item and stated Ordinance 2012-004 was carried forward by Council at their previous meeting and a public hearing was held on February 21, 2012, he stated Council provided feedback to staff and staff has brought the ordinance back for Council's consideration. Council President Grant stated the public hearing will be opened, but not to receive public testimony.

8. **PUBLIC HEARINGS**

A. **Ordinance 2012-004 Approving A Planned Unit Development (PUD) to be known as Denali Planned Unit Development including application of a Planned Unit Development Overlay on The Comprehensive Plan and Zone Map and approving the Six-Lot Subdivision**

Planning Associate Michelle Miller came forward and gave a recap of the discussion from the February 21 Council meeting. Michelle stated there was a hearing held and testimony taken regarding the Planning Commission recommendation for the Denali PUD. Michelle explained that the primary issue surrounded the appropriate calculation of density and after direction from legal counsel the City Council was advised that a net density calculation was the appropriate calculation for this particular project. Michelle said that Council directed staff to prepare findings for a six lot subdivision which is now before the Council.

Council President Grant declared ex parte contact and stated that in the work session prior to this council meeting there was brief conversation about the contaminated soil issue that was ended until further discussion at the council meeting.

Councilor Henderson and Councilor Langer stated they had nothing to declare.

Councilor Matt Langer asked Michelle regarding the contaminant concern and the requirements DEQ will place on the developer and how they will handle those contaminants during the process of construction.

Michelle stated that prior to construction the applicant will have to work with the Department of Environmental Quality (DEQ) and prepare a plan for more soil testing that will be managed by DEQ and not city staff. Michelle explained that no building permits will be issued until the applicant has received an approval letter from DEQ requiring no further action. Michelle stated that the language was open with respect to complying with the DEQ and not really indicating how they are actually going to clean up the soil.

Councilor Bill Butterfield stated that he had a DEQ question and that he understood it would be too costly to go into the site and haul off the contaminated soil. Michelle confirmed that this was the testimony by Michael Pugh from DEQ. Councilor Butterfield asked if the plan was to gather the contaminated soil on the site and cap it off or seal it somehow. Michelle confirmed and stated that no specific plan has been generated for this particular development but that is the general idea of how it will proceed.

Council President Grant asked if the plan is to satisfy DEQ by some plan short of hauling off every bit of dirt.

Michelle stated the DEQ has had experience with this site with respect to the Ironwood Acres subdivision which is to the north and most likely the same requirements will be for this particular PUD as were developed for Ironwood Acres. Michelle reminded Council that this contaminant is not harmful to human health and is more of an environmental contaminant for animals and the ground water.

Council President Grant asked if the end result is a product that is better for the City than the undealt with situation that we have today.

Michelle answered that there is contaminated soil on the site and cleaning it up is one of the benefits that this project will afford along with the neighborhood connectivity that will be enhanced by the roadway improvements on Ironwood Lane, which is a substandard street. Michelle added that the PUD will provide for open space and add to the limited supply of residential lots within the City.

Tom Pessemier, City Manager Pro Tem, stated that as far as we know the basic tests have shown that the site does not have any human health consequences, but more testing needs to be done. Mr. Pessemier stated that if they find Hexavalent Chromium, which is something that can be a human health issue, more studies will need to be done. Tom stated the DEQ will have those issues dealt with before they issue a no further action letter.

Councilor Krisanna Clark stated that she was the current Planning Commission Liaison and she has heard all of the testimony by the applicant and DEQ at the Planning Commission meetings. Ms. Clark stated that she has had ex parte discussions with Planning Commissioner Walker, who recused herself because she owns property in Ironwood. Ms. Clark stated the Planning Commission is definitely in favor of development and there are a lot of citizens and adjacent property owners that are concerned that the contaminants do exist and no one is testing them at this point. Ms. Clark stated if a developer comes in, DEQ and the developer will work to clean it up in a manner that is appropriate and to DEQ standards. Ms. Clark stated that she is in favor of the Denali PUD in the way that it stands and as it adapts to City code with the six units.

Council President Grant stated that a property owner could develop the land under the existing code and only have to satisfy DEQ and not come before Council. Mr. Grant stated that how DEQ is going to be satisfied regarding the contamination is in the PUD and would another method of development require that DEQ standards be satisfied.

Michelle answered that with a regular subdivision the applicant would have 40,000 square feet lots, rather than 10,000 square feet lots. Michelle stated that with a subdivision Notice of Decision City staff would likely recommend, before a hearing, that they comply with the Department of Environmental Quality. Michelle stated that it would also be a standard condition that would be implemented, as with Ironwood Acres, and any perspective development that were to come forward either with a subdivision or a Planned Unit Development.

Mr. Grant asked if it came before Council because it was a Planned Unit Development.

Michelle stated that the Planned Unit Development is for the developer to have the opportunity to have more lots and therefore make the development pencil out with the environmental requirements that are in place.

With no other Council questions or comments, Council President Grant stated the following motion.

MOTION: FROM COUNCIL PRESIDENT DAVE GRANT TO READ CAPTION AND ADOPT ORDINANCE 2012-004, SECONDED BY COUNCILOR MATT LANGER, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (MAYOR MAYS AND COUNCILOR FOLSOM WERE ABSENT).

Council President Grant addressed the next agenda item and asked the City Recorder to read the public hearing statement.

B. Ordinance 2012-006 Amending multiple sections of the Zoning and Community Development Code relating to Amateur Radio Towers in Residential Zones

Planning Associate Michelle Miller came forward and presented a power point presentation, (see record, Exhibit C) and stated that last year the City Council approved new code language that reorganized the residential use section of the development code. Michelle stated that accessory structures, fences, and home occupation language was updated and the code was made easier for citizens to use. Michelle stated that one issue remained from the Planning Commission recommendation concerning residential uses; amateur radio tower and facilities, and explained that Amateur radio, also known as ham radio, is a hobby enjoyed by several hundred thousand people in the U.S. and wireless amateur communication is done on numerous frequency bands with several licenses required in order to become an operator. Michelle stated that amateur radio

operators can provide communication during states of emergency and these amateur radios work when other communication services fail.

Michelle indicated that current code provisions require a conditional use permit for amateur radio towers and facilities with a decision by the hearings officer which is a costly prospect for a residential citizen. Michelle stated that in 2009 the Oregon legislature passed ORS 221.295 that requires jurisdictions to permit amateur radio towers up to seventy feet and explained that the language before Council is to bring the City into compliance with state and federal law regarding permitting amateur radio towers and conforming to the height limits of those state regulations.

Michelle stated that the new radio provisions allow for adding radio towers and facilities as a permitted use in the residential zone with a new height restriction for those facilities of 70 feet high maximum, and provide a specific definition for amateur radio towers and language that ensures that City Building Code and other state and federal regulations apply to these towers. Michelle explained that before Council was the proposed ordinance, the Planning Commission recommendation, and the proposed code language and showed examples in the presentation of some amateur radio tower facilities. Michelle stated that staff found a Scrivener's error on the language on page 78 of the packet under 16.12.060 A.2 and asked Council to strike the words "are considered permitted, and" so that it reads "Amateur radio facilities not meeting the requirements of this section must comply with chapter 16.12.30.C." Michelle explained that any facilities not falling under this code will fall under a conditional use permit and the height restrictions would apply for those perspective zones.

Council President Grant opened the public hearing to receive testimony.

Neil Shannon 23997 SW Red Fern Drive Sherwood and James Bryant 20762 SW Trails End Drive Sherwood came forward and Mr. Shannon stated he was a member of the Washington County chapter of Amateur Radio Emergency Service (ARES) but was not representing them. Mr. Bryant stated that he was the Emergency Coordinator for Multnomah County ARES and a member of Washington County ARES and he was not representing either group but testifying as a subject matter expert on amateur radio.

Mr. Shannon thanked staff for putting the ordinance together stating that he wanted to provide his support of the ordinance and said he likes the idea that we are finding ourselves in compliance with the state. Mr. Shannon stated that he was an amateur radio operator and amateur radio operators are not allowed to deal with a lot of power so antennas become very important to the operation of amateur radio.

Mr. Bryant added that antenna height is also important and stated that Sherwood is bounded by mountain ranges on all sides which make it very hard to get signals out as well as get signals in. Mr. Bryant stated that having the ability to raise your antennas up to a height of at least 70 feet makes it a lot better to get signals out and in being able to provide emergency communications in times of need. Mr. Bryant stated it is not just having emergency communications available for the City of Sherwood, but also for the world as well, a service which is provided free of charge.

Mr. Grant thanked Mr. Shannon and Mr. Bryant for their testimony and commented regarding Mr. Shannon's involvement with emergency management. Mr. Shannon stated that he volunteer's with the City of Sherwood as the EOC (Emergency Operations Center) amateur station operator.

With no other testimony received, Council President Grant closed the public hearing and Michelle Miller asked for questions from the Council.

Councilor Henderson asked if the 70 foot height was in compliance with state standards. Michelle confirmed. Ms. Henderson asked if someone was to install an antenna on their property and the City received a phone call asking if the antenna was in compliance if staff would be able to explain the importance of complying with the state standard and commented that it might be an aesthetic issue.

Michelle answered that they will come in for a building permit and staff will know where the antennas are located within the City and will be able to keep a record along with any comments that are received from the public with any concerns they may have.

Councilor Langer commented regarding the code language and said it is supposed to be easier for the amateur radio owner to get the permits and asked for an explanation of the differences between the old system to the new system.

Michelle stated that currently this would be categorized under a conditional use permit which is roughly \$4100 and would be a Type 3 Land Use Action. Michelle stated it would require a staff recommendation to a hearing officer who would issue a notice of decision and property owners within a thousand feet would have to be noticed. Michelle stated that it was not certain that the applicant would receive approval of the tower. Michelle explained that the new code is quite a bit easier as it requires going through the building permit process which identifies the safety concerns with respect to the towers and makes sure they are in compliance with all of those regulations.

Mr. Langer asked if there were any existing towers in the City that paid that \$4100 fee. Michelle stated that she was not aware of any.

City Recorder Note: Councilor Folsom returned at 7:32 pm.

Councilor Butterfield commented that he had the opportunity to talk with staff about this issue and as he was in the wireless business he had some concerns. Mr. Butterfield stated that we don't want anyone adding to the structure of their house without the Building Department looking at it and he was glad to see that the recommendation was added to the amendment. Mr. Butterfield commented regarding the height coming down from 200 feet to 70 feet and stated he was in favor of the ordinance.

Council President Grant asked regarding whether local CC & R's could supersede City code. Michelle replied that she would refer to legal counsel, but in theory the CC & R's can be more restrictive than City regulations.

Tom Pessemier replied that this was a question for those who would want to put the CC & R's in place to see how they can deal with the other laws and that is not really a concern for the City.

Council President Grant confirmed with the City Recorder the correction on page 78 of the Council materials, section 16.12.060, A.2, as indicated by staff to be a scrivener's error needed to be amended via a motion. The following motion to amend was received.

MOTION TO AMEND: FROM COUNCIL PRESIDENT DAVE GRANT TO AMEND SECTION 16.12.060, A2 STRIKING THE WORDS "ARE CONSIDERED PERMITTED, AND" FROM THE

LAST SENTENCE, SECONDED BY COUNCILOR KRISANNA CLARK, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (MAYOR MAYS WAS ABSENT).

With no further discussion the following motion was received.

MOTION: FROM COUNCILOR KRISANNA CLARK TO READ CAPTION AND ADOPT ORDINANCE 2012-006 AS AMENDED, SECONDED BY COUNCILOR BILL BUTTERFIELD, ALL PRESENT COUNCIL MEMBERS VOTED IN FAVOR, (MAYOR MAYS WAS ABSENT).

Council President Grant addressed the next agenda item.

9. CITY MANAGER REPORT

City Manager Pro Tem Tom Pessemier informed the Council that the construction fence around the Cannery Plaza has come down and that area is now open to the public. Mr. Pessemier stated there will be a celebration this spring when the weather improves.

Council President Grant addressed the next agenda item.

10. COUNCIL ANNOUNCEMENTS

Councilor Folsom stated she wanted to thank everybody who helped with the YMCA fundraiser last weekend at the Sherwood Bella Via.

Councilor Langer stated he would like to remind everybody that BOOTS now goes by the new nomenclature of Sherwood Main Street. Mr. Langer also commented on a letter received by the City Council from Kaylee Welters, a fifth grader at Hopkins, and her dad Chris Welters regarding the school speed zone in front of Hopkins and pointing out some Trimet bus concerns.

11. ADJOURN

Council President Grant adjourned the Council meeting at 7:40 pm.

Submitted by:

Sylvia Murphy, CMC, City Recorder

Keith S. Mays, Mayor



SHERWOOD CITY COUNCIL MINUTES
22560 SW Pine St., Sherwood, Or
March 12, 2012

CITY COUNCIL-SPECIAL MEETING

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:07 pm.
2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, Robyn Folsom and Krisanna Clark. Councilor Linda Henderson arrived at 6:13 pm.
3. **STAFF PRESENT:** Police Chief Jeff Groth and City Recorder Sylvia Murphy.
4. **TOPICS DISCUSSED:**

A. Student Recognition: Mayor Mays stated a special Council meeting has been called to recognize the 2011 5A Sherwood Varsity Girls Soccer Team for the State Championship. Mayor Mays called forward Coach Bill Brown, Assistant Coaches Denise Keesee and Geraldine Rumpf and presented them with Certificates of Appreciation, Assistant Coach Rumpf was not in attendance.

Coach Brown recapped the season of the varsity team which resulted in the championship victory being won with a penalty kick. Coach Brown commended the senior leadership on the team; he stated the team consisted of four All-State players, two Player of the Year in 5A, eight All-League players, eight players with a 4.0 GPA and 13 kids on the Honor Roll. Coach Brown stated the members of this team were not only great athletes but also excellent community role models. Coach Brown called each team member forward and presented them with a Certificate of Achievement. Recognized were: Kyeli Hendryx, Rojia Stocker, Teegan Koster, Annie Govig, Meghan Schoen, Emily Harris, Ashley Fenske, Carley Mills, Alex Teesdale, Sarah Garoutte, Jessica Imbrie, Lauren Vasquez, Amanda Shelton, Mikayla Howes, Taylor Gersch, Tear'Sa Krieger, Natalie Thomas, Michaela Pilkenton, and Mikaela Doherty.

Mayor Mays thanked Coach Brown and the parents and families for their support.

5. **ADJOURN:** Mayor Mays adjourned the work session at 6:20 pm and convened to an Executive Session.

CITY COUNCIL EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Mays called the meeting to order at 6:36 pm.

2. **COUNCIL PRESENT:** Mayor Keith Mays, Council President Dave Grant, Councilors Bill Butterfield, Matt Langer, Robyn Folsom, Linda Henderson and Krisanna Clark.
3. **STAFF PRESENT:** City Recorder Sylvia Murphy.
4. **OTHERS PRESENT:** Waldron representatives, Lara Cunningham, Heather Gantz and Jeremy Parks, and Ray Pitz with the Sherwood Gazette.
5. **TOPIC DISCUSSED:** City Manager recruitment process, pursuant to ORS 192.660(2)(a) Employment of Public Officers and ORS 192.660(2)(f) Exempt Public Records.
6. **ADJOURN:**

Mayor Mays adjourned the Executive Session Council at 8:30 pm.

Submitted by:

Sylvia Murphy, CMC, City Recorder

Keith S. Mays, Mayor



RESOLUTION 2012-013

A RESOLUTION OF THE CITY OF SHERWOOD APPROVING EMPLOYMENT RELATED DECISIONS OF THE PRO TEM CITY MANAGER CONSISTENT WITH SECTION 33 OF THE SHERWOOD CHARTER

WHEREAS, Section 33 of the Charter requires City Council appoint a manager pro tem when the City Manager position becomes vacant;

WHEREAS, the City has appointed Tom Pessemier as City Manager Pro Tem;

WHEREAS, Tom Pessemier, as City Manager Pro Tem has the authority and responsibilities of the City Manager except relative to the appointment and removal of City employees which can only be done with City Council approval;

WHEREAS, the City Council has been informed that the City has need to appoint and remove individuals to certain positions to ensure the City's continuing municipal operations, and;

WHEREAS, the Human Resource Manager, by and through the City Manager Pro Tem, has informed the City Council that all appointments and removals for which City Council approval is sought are done consistent with the City's long-established human resource policies, procedures and protocols.

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

Section 1. The City Council hereby approves the termination of the person listed on the attached Exhibit A consistent with the terms thereof.

Section 2: This Resolution shall be effective as of the date of its adoption by the City Council.

Duly passed by the City Council this 20th day of March 2012.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

Exhibit A

Termination of employee:

Jeffrey Fitzpatrick, Police Sergeant

TO: Sherwood City Council

FROM: Craig Sheldon, Public Works Director

SUBJECT: RESOLUTION 2012-014, A RESOLUTION AUTHORIZING THE CITY MANAGER PRO TEM TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH WASHINGTON COUNTY FOR THE 2012 SLURRY SEAL PROGRAM.

ISSUE: The City has a need to perform a slurry seal program on our street assets.

BACKGROUND: The City is working with Washington County to complete this service using their contract which is for a much larger amount of material than we would use individually and lowers the overall cost of the material by purchasing in bulk. This allows the City to complete more streets due to the overall savings of combining resources with the County.

In this agreement the County plans to contract for approximately 165,000 square yards and the City will seal approximately 28,119 square yards. With oil prices changing on a daily basis the cost of the IGA could change. Our IGA with the County in the amount of \$53,637.32 will provide the contract, bidding, inspection and administrative cost associated with performing the work. If 12% contingency isn't needed to cover the cost of oil price increases or other issues that come up, we will add more streets to the list to be completed per the IGA. Both parties agree it is in the best interest to complete this work in a joint manner.

FINDINGS: Failure to adopt the IGA will require Sherwood to bid, contract, and perform inspections and costs could increase per square yard since we won't have the volume of combined material by using the County's contract.

RECOMMENDATION: STAFF RECOMMENDS THAT COUNCIL AUTHORIZE THE CITY MANAGER PRO TEM TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH WASHINGTON COUNTY FOR THE 2012 SLURRY SEAL PROGRAM.



RESOLUTION 2012-014

A RESOLUTION AUTHORIZING THE CITY MANAGER PRO TEM TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT (IGA) WITH WASHINGTON COUNTY FOR THE 2012 SLURRY SEAL PROGRAM

WHEREAS, The City has a responsibility to maintain the city's infrastructure; and

WHEREAS, ORS 190.003-190.110 encourages intergovernmental cooperation and authorizes local government agencies to delegate to each other authority to perform their respective functions as necessary; and

WHEREAS, Sherwood has an opportunity to partner with Washington County to provide the 2012 Slurry Seal program at a significant savings to the City.

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

Section 1. The City Manager Pro Tem is authorized to enter into an Intergovernmental Agreement, attached as Exhibit A, with Washington County for the 2012 Slurry Seal Program.

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

Duly passed by the City Council this 20th day of March 2012.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

INTERGOVERNMENTAL AGREEMENT

This Agreement is entered into, by and between Washington County, a political subdivision of the State of Oregon, and the City of Sherwood, a municipal corporation of the State of Oregon.

WHEREAS ORS 190.010 authorizes the parties to enter into this Agreement for the performance of any or all functions and activities that a party to the Agreement has authority to perform.

Now, therefore, the parties agree as follows:

- 1) The effective date is: March 1, 2012, or upon final signature, whichever is later.
The expiration date is: December 31, 2012; unless otherwise amended.
- 2) The parties agree to the terms and conditions set forth in Attachment A, which is incorporated herein, and describes the responsibilities of the parties, including compensation, if any.
- 3) Each party shall comply with all applicable federal, state and local laws; and rules and regulations on non-discrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition or handicap.
- 4) To the extent applicable, the provisions of ORS 279B.220 through ORS 279B.235 and ORS 279C.500 through 279C.870 are incorporated by this reference as though fully set forth.
- 5) Each party is an independent contractor with regard to each other party(s) and agrees that the performing party has no control over the work and the manner in which it is performed. No party is an agent or employee of any other.
- 6) No party or its employees is entitled to participate in a pension plan, insurance, bonus, or similar benefits provided by any other party.
- 7) This Agreement may be terminated, with or without cause and at any time, by any party to this Agreement by providing 30 (30 if not otherwise marked) days written notice of intent to the other party(s).
- 8) Modifications to this Agreement are valid only if made in writing and signed by all parties.
- 9) Subject to the limitations of liability for public bodies set forth in the Oregon Tort Claims Act, ORS 30.260 to 30.300, and the Oregon Constitution, each party agrees to hold harmless, defend, and indemnify each other, including its officers, agents, and employees, against all claims, demands, actions and suits (including all attorney fees and costs) arising from the indemnitor's performance of this Agreement where the loss or claim is attributable to the negligent acts or omissions of that party.
- 10) Each party shall give the other immediate written notice of any action or suit filed or any claim made against that party that may result in litigation in any way related to this Agreement.
- 11) Each party agrees to maintain insurance levels or self-insurance in accordance with ORS 30.282, for the duration of this Agreement at levels necessary to protect against public body liability as specified in ORS 30.269 through 30.274.

- 12) Each party agrees to comply with all local, state and federal ordinances, statutes, laws and regulations that are applicable to the services provided under this Agreement.
- 13) This Agreement is expressly subject to the debt limitation of Oregon Counties set forth in Article XI, Section 10 of the Oregon Constitution, and is contingent upon funds being appropriated therefore.
- 14) Any waiver of one or more provisions contained herein does not constitute a waiver of the entire Agreement or any other provisions contained within.
- 14) This writing is intended both as the final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement.

WHEREAS, all the aforementioned is hereby agreed upon by the parties and executed by the duly authorized signatures below.

Jurisdiction

Signature

Date

Printed Name

Title

Address: _____

WASHINGTON COUNTY:

Signature

Date

Printed Name

Title

Address:
1400 SW Walnut Street
Mail Stop # 51
Hillsboro, OR 97123

Attachment A
Washington County – City of Sherwood
Intergovernmental Agreement
2012 Slurry Seal

1. Washington County (“County”) plans to contract for approximately 165,000 square yards of slurry seal on a variety of county roads as part of County’s 2012 Slurry Seal program.
2. The City of Sherwood (“City”) would like to slurry seal approximately 28,119 square yards on the City road segments listed in Attachment A – 1.
3. The parties agree it is in their best interest to complete this work in a joint manner. Both County and City agree to pay for their portions of the work.
4. City agrees to:
 - a. Grant County, its contractors and subcontractors, permission to enter and use city rights of way for purposes of this agreement.
 - b. Assist the County in field locating the slurry seal limits for all road segments listed in Attachment A – 1.
 - c. Assist the County with field locating the stop bar pre-marks for Willow Dr., Eucalyptus Ter., Redfern Dr., and Greengate Dr.
 - d. Provide the County with information and assistance under paragraphs 4.a and 4.b above in a timely manner to coordinate with the schedule of the County’s contracted work.
 - e. Provide tree and vegetation trimming on City’s road segments to ensure sufficient accessibility for the contractor’s equipment to perform the work. Tree and vegetation trimming shall occur at least 7 calendar days prior to the start of work.
 - f. Prepare door hangers or other notifications and provide them to the contractor for distribution to the property owners on City’s road segments.
 - g. Pay the actual contracted costs to County to slurry seal the segments of road identified in Attachment A – 1 above as determined under paragraph 6 below (“Share”). City’s Share is estimated to be **\$48,761.20**. The actual contracted costs, which will be based on the contractor’s bid to County, may differ from the estimate. City shall also be responsible for any additional or unforeseen costs, including but not limited to towing expenses, associated with the City’s Share. City shall also pay an additional 10 percent of its Share for costs associated with County’s administrative and inspection activities (“Administrative Costs”). The Administrative Costs shall be a flat rate and will not be itemized.
 - h. Review and approve, within five (5) calendar days of receipt, the reimbursement request or provide written response with payment adjustment to County.
 - i. Reimburse County within forty five (45) days of receipt of each reimbursement request. The actual construction cost may differ from the construction estimate.
5. County agrees to:
 - a. Perform all aspects of the 2012 Slurry Seal Program, including the areas described in paragraph 2, to include contract and construction management, except as specifically allocated to City. The County shall retain the right not to undertake a 2012 Slurry Seal program; if it makes that decision, it shall notify City immediately.
 - b. Specify that the contractor provide “No Parking” signs for the City’s road segments.

c. Specify that the contractor place city-provided door hangers on each residence or building a minimum of 48 hours prior to commencement of work.

d. Specify that work will not commence prior to July 1, 2012.

e. Specify the following work hour restrictions:

- i. All City road segments: No lane restrictions before 8:00 a.m. and after 5:00 p.m. Monday through Friday
- iii. Slurry seal application must be performed a minimum of two hours prior to opening to traffic.

f. Forward reimbursement requests within 30 days of completed work for City's Share directly to City. Multiple reimbursement requests may be necessary based on the timing and schedule of the work performed.

6. Cost Estimate and Actual Cost Calculation:

<u>Item</u>	<u>Description</u>	<u>Quan</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
1	Extra Work (Sherwood)	1	Lump Sum	\$7,000.00	\$7,000.00
2	Mobilization (Sherwood)	1	Lump Sum	\$2,500.00	\$2,500.00
3	Temp. Work Zone Traffic Control - complete (Sherwood)	1	Lump Sum	\$5,000.00	\$5,000.00
4	Slurry Seal, Type II	28,119	Sq. Yard	\$1.20	\$33,742.80
5	Pavement Bar, Type B (12" Stop Bar)	64	Sq. Feet	\$8.10	\$518.40
Share Total Estimate					\$48,761.20

Administrative Costs

<u>Item</u>	<u>Description</u>	<u>Quan</u>	<u>Unit</u>	<u>Unit Price</u>	<u>Total</u>
6	Administrative Costs	1	Lump Sum	10% of Contracted Work	\$4,876.12
Subtotal					\$4,876.12
IGA Total Estimate					\$53,637.32

Attachment A - 1

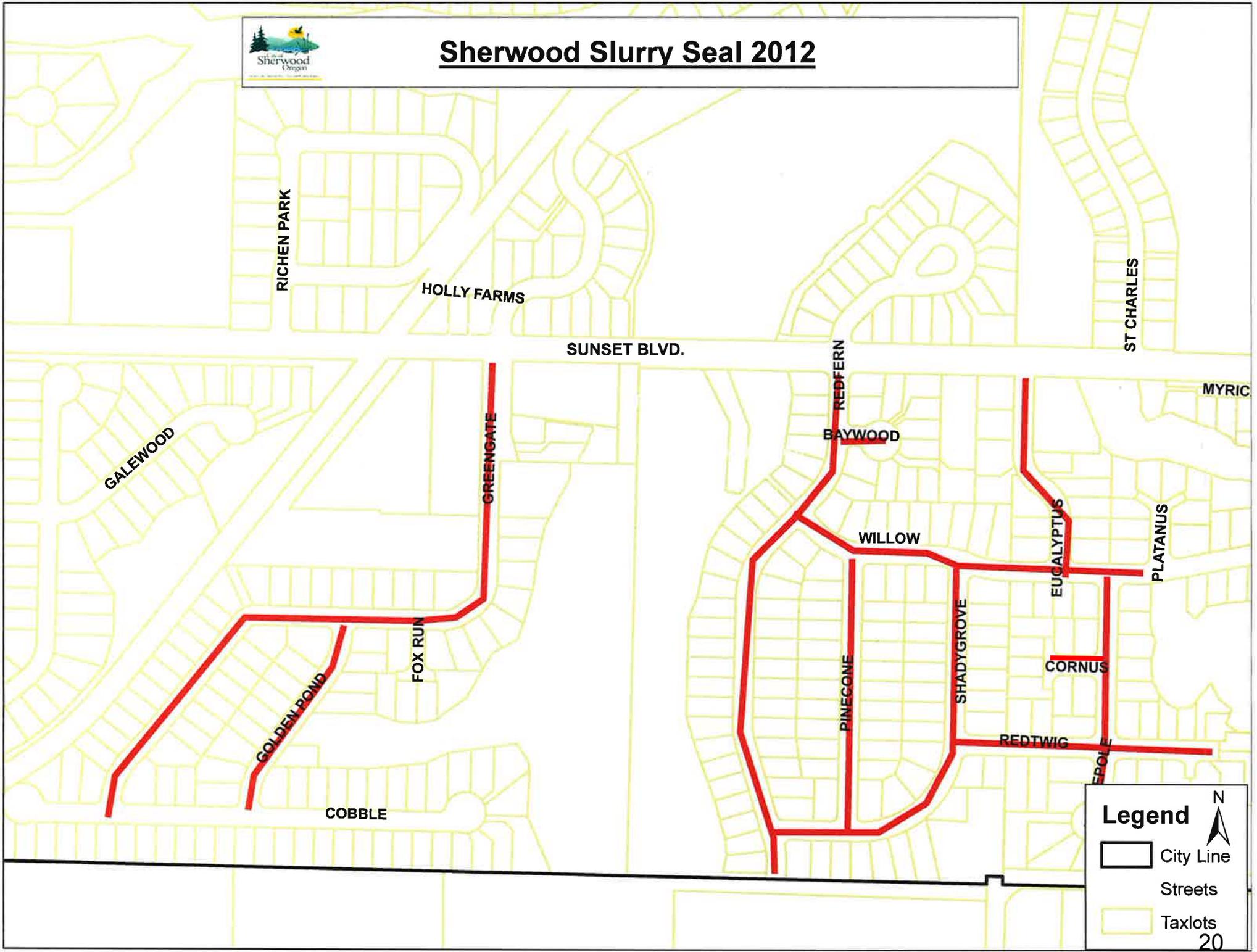
Washington County – City of Sherwood
Intergovernmental Agreement
2012 Slurry Seal

City Road List

<u>Road Name</u>	<u>From:</u>	<u>To:</u>
Willow Dr.	PlatanusPl.	Redfern Dr.
Lodgepole Terr.	Cul-de-sac	Willow Dr.
Redtwig DR.	Shadygrove Dr.	End of Road
Cornus Ct.	Lodgepole Terr.	Hammer Head
Shadygrove Dr.	Redfern Dr.	Willow Dr.
Pinecone Ave.	Shadygrove Dr.	Willow Dr.
Redfern Dr.	End of Road	Sunset Blvd
Eucalyptus Terr.	Willow Dr.	Sunset Blvd
Baywood Ct.	Redfern Dr.	Cul-de-sac
GreengateDr.	Sunset Blvd.	Cobble Ct.
Golden Pond	Greengate Dr.	Cobble Ct.



Sherwood Slurry Seal 2012



RICHEN PARK

HOLLY FARMS

SUNSET BLVD.

ST CHARLES

MYRIC

GALEWOOD

GREENGATE

REDFERN

BAYWOOD

WILLOW

EUCALYPTUS

PLATANUS

FOX RUN

GOLDEN POND

COBBLE

PINECONE

SHADYGROVE

CORNUS

REDTWIG

EPOLI

Legend

- City Line
- Streets
- Taxlots

20



TO: Sherwood City Council

FROM: Craig L. Gibons, Finance Director

SUBJECT: Setting Sidewalk Repair Assistance Program Fee

ISSUE:

Shall the Council adopt a fee of 50% of the cost of the project for property owners who choose to participate in the Concrete Sidewalk Repair Assistance Program?

BACKGROUND:

In December 2011, the Council adopted the Concrete Sidewalk Repair Assistance Program that included a fee to be paid by participating property owners. Council did not set the fee, but referred it to the Budget Committee for their consideration and recommendation. The Committee recommended that the fee be set at 50% of the cost of the repair.

FINDINGS:

This agenda item transmits the Budget Committee's recommendation to the Council for adoption.

RECOMMENDATION:

Staff recommends approval of Resolution 2012-015, a resolution of the City of Sherwood providing for the setting of a sidewalk repair fee for property owners choosing to use the City's concrete sidewalk repair assistance program.



RESOLUTION 2012-015

A RESOLUTION OF THE CITY OF SHERWOOD PROVIDING FOR THE SETTING OF A SIDEWALK REPAIR FEE FOR PROPERTY OWNERS CHOOSING TO USE THE CITY'S CONCRETE SIDEWALK REPAIR ASSISTANCE PROGRAM

WHEREAS, on December 6, 2011, the Sherwood City Council passed Resolution 2011-097 which created a Concrete Sidewalk Repair Assistance Program; and

WHEREAS, that resolution created, but did not set, a fee to be paid by property owners who choose to participate in the Program; and

WHEREAS, at the City Council's request, the Sherwood Budget Committee considered that fee at its January 23, 2012 meeting and recommended that the fee be set at fifty percent (50%) of the cost of the project for both the "shaves" and "full replacement" options.

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

Section 1. That the property owner fee for participating in the Concrete Sidewalk Repair Assistance Program shall be 50% of the cost of the repair.

Section 2. This Resolution is effective as of the date of its adoption by the Council.

Duly passed by the City Council this 20th day of March 2012.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

TO: Sherwood City Council
FROM: Zoe Monahan, Assistant Planner
Through: Julia Hajduk, Planning Manager
Subject: Code Clean-Up Trees on Private Property

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 citizens and developers, the proposed amendments include updates to: 1) trees on private property and 2) housekeeping changes related to the tree code and past parks and open space standards of Section 16.142.

The Planning Commission held a public hearing on January 21, 2012 and forwarded a recommendation of approval to the Council. The Planning Commission recommendation is attached as Exhibit 1 and the proposed Chapter 16 amendments are attached as Exhibit 1-A (clean copy) and 1-B (track changes).

Previous Council Action: This public hearing was continued without opening the hearing from the February 21, 2012 City Council public hearing.

Background/Problem Discussion: The trees on private property standards were updated in order to address the following issues:

- Make the code fair, clear and flexible.
- Preserve the urban canopy and preserve mature trees.
- Set a standard which removes the inch for inch tree mitigation standard.
- Differentiate between residential and non-residential standards.

The Planning Commission held a public hearing on January 21, 2012 to discuss the proposed Code Clean-up amendments regarding trees on private property. Public comments were received. Generally, the public felt that the code changes are a good start. There was concern about the term "net developable area". A citizen also felt that neighbors should have the ability to comment when trees are going to be removed. The comments section of the public hearing was closed.

The Planning Commission expressed the following concerns and asked staff to modify the language for the recommendation to the Council to address these concerns.

- Add a definition for the term "net developable area".
- Language would need to be added to ensure that trees which require removal are replanted within a specific time period as opposed to leaving the time frame for planting open ended.
- A request that the "per calendar year" language be amended to "per twelve month period" when discussing tree removal on private property to ensure that people wouldn't cut down 5 trees on December 31st, and another 5 trees on January 1st.
- Provide clear thresholds for the incentives to ensure that the incentives granted were justified and proportional to the value of tree protection afforded by a project would be fair.

The Planning Commission's requested changes to the draft language have been made as discussed above. The changes are highlighted within the attached draft code language.

The City Council held a work session on January 3, 2012 to discuss the concepts of the draft language. Based on the concerns raised and feedback provided at the work session staff has prepared additional amendments which will be presented at the **January 3, 2012 Public Hearing for the City Council to consider.**

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

Financial Implications: There are no foreseen financial impacts.

Recommendation: Staff recommends that the City Council adopt the attached Ordinance which reflects the Planning Commission's recommendation.

Attachments:

Ordinance

Exhibit 1– PC Recommendation

- 1-A - Proposed development code changes (clean copy)
- 1-B - Proposed development code changes (track changes)
- 1-C – Tree Code handout
- 1-D – Planning Commission Goals for the Tree Code



ORDINANCE 2012-003

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE ZONING AND COMMUNITY DEVELOPMENT CODE INCLUDING DIVISION, I, V AND VIII RELATING TO TREES ON PRIVATE PROPERTY

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, Code Clean-Up Update: Trees on Private Property includes amendments to divisions I, V and VIII specifically related to the Tree standards (16.10.020, 16.90.020 and 16.142.070) as well as minor housekeeping changes related to Parks and Open Spaces (16.142.040 and 16. 142.060) section of the code; 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 January 24, 2012; and

WHEREAS, the Planning Commission voted unanimously to forward a recommendation of approval to the City Council for the proposed development code modifications attached as Exhibit 1-A and 1-B; and

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

WHEREAS, the adoption of the proposed development code modifications attached as Exhibit 1-A and 1-B, and

WHEREAS, the City Council held a public hearing on March 20, 2012 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 of the 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) 11-06 identified in Exhibit 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 20th day of March 2012.

Keith S. Mays, Mayor

Attest:

Sylvia Murphy, CMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Clark	_____	_____
Langer	_____	_____
Butterfield	_____	_____
Folsom	_____	_____
Henderson	_____	_____
Grant	_____	_____
Mays	_____	_____

City of Sherwood
Planning Commission Recommendation to the City Council
File No: PA 11-06 Trees on Private Property

February 10, 2012

Proposal: Amendments to the Development Code in this phase of the Code Clean-Up project will clarify the Trees on Private Property standards as well as incentivize tree preservation. There are also a few housekeeping revisions included in the proposal. The proposed changes will modify the following code sections: Definitions (16.10), Site Plan Review (16.90), and Parks and Open Space (16.142). The proposed amendments are attached to this report as Exhibit A.

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, which involves public hearings before the Planning Commission and City Council. The Planning Commission has made 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 Oregon Land Use Board of Appeals.

- D. Public Notice and Hearing: Notice of the January 24, 2012 Planning Commission hearing on the proposed amendment was published in *The Times* on 1/12/12, and published in the January edition of the Gazette. Notice was also posted in five public locations around town on 1/3/12 and on the web site on 1/5/12.

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 November 21, 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, and to address local issues. Over time, the piece-meal updates 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, development trends and community values have changed such that it has become necessary to evaluate the standards to ensure they remain consistent with the goals and policies of the City's Comprehensive Plan, Metro policies and related state and local laws. To that end, the Council, Planning Commission and staff identified the need to conduct a comprehensive update of the Development Code. There have been multiple updates since October 2010.

This update focuses on the Trees on Private Property portion of section 16.142.070. In the past the City has heard concerns from developers and homeowners about a few issues with the existing code including;

- The costs and complexities associated with an inch for inch mitigation requirement,
- The standards for residential and non-residential are the same even though the purpose and probable intensity of development within each of the zones is different, and
- The need for site plan review if a property owner, not subject to land use removes more than five trees per acre or more than 100 inches at dbh in any calendar year.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent an e-mail request for comments to agencies December 13, 2011. DLCD notice was sent on November 21, 2011. Sherwood Broadband, Washington County and ODOT outdoor signs replied that they do not have comments regarding trees on private property.

PGE's Forester, Brandon Fleming, submitted e-mail comments dated December 27, 2011. He wanted to ensure that the defined caliper inch measurement for street trees was consistent with the industry standard as specified in the *American Standard For Nursery Stock* publication ANSI Z60.1-2004. He also commented that "It is important to include wording in Development codes that will include the necessities of utility and right-of-way construction, and allow Portland General Electric to perform safe, regular maintenance including our line work and Vegetation Management practices...Ultimately, planting the appropriate trees around power lines will create a sustainable urban canopy."

Staff response: Staff has updated the draft language to ensure that it reflects the industry standard as specified in Mr. Fleming's comments. Staff agrees that PGE should be able to perform safe, regular maintenance including line work and Vegetation Management, but additional street tree language to exempt them from the permit process has not been proposed at this time. A review is required but PGE is encouraged to seek City Council approval to waive future street tree permit fees.

Public Comments:

The following comments were received at the January 24, 2012 Public Hearing.

Kurt Kristensen- 22560 SW Fair Oaks Drive, Sherwood, OR 97140. He indicated that he understands development interests and he has watched major trees come down in the past. He thinks that this code is a good first step although some of the language is too broad. In section 16.142.070 on page 8 of the draft language there should be a maximum number of trees that can be removed from a site because a property owner or developer could remove 5 trees a year, every year. He also suggested that the neighbors should have an opportunity to comment on the trees that neighbors want to remove as trees have a benefit on neighboring properties as well.

Matt Grady, Gramor Development- 19767 SW 72nd Avenue, Suite 100, Tualatin, OR 97062. He raised a question about the definition of net developable site. This is referenced but not defined in the existing or proposed code. Does this include or not include certain things? He also asked if street trees can count for the 30 percent canopy requirement.

Patrick Huske- 23352 SW Murdock Road, Sherwood, OR 97140. He mentioned that he loves trees and sees codes as guidelines. The net developable site is an imposition to property owners. He indicated that the City had done a good job looking at everyone's point of view but balance is needed. He indicated that for retention, the City should look at gross buildable

footprint or the entire site. He also mentioned that there needs to be flexibility in the provisions. There needs to be an error factor. He likes trees but as a business owner he also needs to make money.

Staff Response: The comments raised at the planning commission public hearing were all important aspects to consider as the City moves forward with this portion of the code cleanup project. Many of the concerns were clarified at the hearing. We have heard that people want to be able to remove a reasonable number of trees without a review process and it is likely that property owners that are looking to develop will not remove existing trees on site as these will be counted toward the minimum canopy requirements. In order to address the concern about the definition of net developable site, a definition has been added to section 16.10.

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.

The City has identified that the code is not always clear and embarked on this code clean-up project to address issues that have arisen as a result to make it clearer, more user-friendly, and to reflect current settlement trends and community values. The proposed changes represent an effort to clean up the Tree code and ensure that existing policy is clear and objective.

The Planning Commission has held a series of work sessions (December 14, 2010, January 11, 2011, March 8, 2011, May 10, 2011, June 14, 2011 and August 23, 2011) to discuss the proposed changes and considered public input before the changes were developed to obtain feedback on needed changes.

The City took great care to ensure that the community's values are met as a result of the proposed code update. The process for this portion of the code update was different from other code clean up topics due to the complexity. The Planning Commission developed goals to help guide the process. To ensure many opportunities for outreach and engagement, a tree panel was held to hear from the experts and multiple open house type events were held and an online questionnaire was used to gather the public's input on this portion of the code clean up.

It was only after developing goals, gaining the community's input and hearing from experts that code language was developed. The proposed draft tree code is anticipated to meet the Planning Commission's goals and the community's values. The purpose of this code update was to simplify the code language, encourage tree preservation while also allowing for tree removal standards that ensure the benefits of trees are maintained over time. The language also reviews residential and non-residential developments differently.

It became evident after talking to both the arborists and developers on the tree panel and the public through the multiple outreach events that the existing process for regulating tree removal and the mitigation requirement does not work well and a change is needed. Specifically, the requirement to mitigate inch for inch results in overplanting and does not reflect the health, size or value of the tree. The current mitigation requirement can be an economic burden for a property owner with a heavily treed site. In order to ensure that the trees are seen as an asset to be protected and retained rather than a burden, a mature canopy requirement has been proposed.

The mature canopy, as proposed, is 40% for residential (single family and two family developments) and 30% for non-residential and multi-family developments. The mitigation requirement in the current code language has been removed. In addition, there are proposed incentives for developers to retain existing trees during development. The intent of these changes is to encourage preservation and keep future developers and homeowners from cutting trees before development as they will have to plant trees to meet the mature canopy requirement if on site trees are not retained.

The removal requirements for trees on residential and non-residential property not subject to land use review have been updated to ensure that required trees are retained or replaced if they must be removed. The residential requirements are similar to the existing standards, however, the removal of more than five trees or more than 10% of the trees on site no longer require a site plan. Instead it is a staff level review. Code language has also been drafted to clarify trees within natural resources and/or open spaces are subject to review on both private residential and non-residential property. This ensures the City's continued compliance with Statewide Goal 5.

The following housekeeping updates are also proposed:

1. When the open space code updates were made there were code references within 16.142 that were not updated. They are now updated to be consistent.
2. The definition of diameter at breast height was moved to the definition section of the code and the language was specified to make it easier for readers to use.
3. The way that street trees are measured when they are planted was also updated to be consistent with industry practices. The code requires street trees to be a minimum of two inches DBH when they are planted. Plant nurseries measure trees based on caliper inch which is near the root ball rather than 4 ½ feet up the tree. The requirement for newly planted street trees has been modified to reflect this industry standard.
4. The proposed language eliminates the need for site plan review for removing trees therefore the reference in the site plan section is proposed to be removed.

Upon review of the Comprehensive Plan, there are not specific policies which directly relate to the proposed language. There are no comprehensive plan requirements that would conflict with the proposed code language.

Applicable Regional (Metro) Standards

There are no known Metro standards that would conflict with the proposed language. This code update does apply to Metro Title 13 – Nature in Neighborhoods. This code update encourages tree preservation on private property through the land use process by creating a minimum canopy requirement as well as providing incentives for tree preservation.

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 known conflicts with this text change. Staff does not believe that there are any other state or local regulations that the proposed amendments would conflict with. The language has been drafted in a manner that strives to remove conflicts in the code, and to provide clarity.

As a whole, the amendments are consistent with and support Goal 2 (land use planning) by providing more clear and objective standards. 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 (December 14, 2010, January 11, 2011, March 8, 2011, May 10, 2011, June 14, 2011 and August 23, 2011) on the project;
- The website was updated regularly to provide opportunity for people to get information and provide input on the project as a whole as well as input on specific topics;

Formal notice was also published in the newspaper two weeks prior to the hearing, published in the January issue of the Gazette, posted around town and on the website.

- Courtesy notices were also provided on the website and in the City Newsletter (the Archer).
- By providing these notices in an effort to reach the public and encourage their involvement state planning Goal 1 is also met.

The code amendments are also consistent with Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces) by clarifying the standards for Trees on Private Property. The tree code is moving to a canopy requirement in order to encourage tree preservation. Additionally, the code update will increase compliance with Goal 5 since standards protecting natural resources and open spaces will be specifically added to “Trees on Private Property Not Subject to Land Use Approval”. The existing “Trees on Private Property Subject to Land Use Approval” code language protects natural resources and open spaces. This language will remain in the code after the code update.

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 proposed amendments are not tied to any one development application. Rather, the proposed amendments are provided to clarify existing language within the existing development code. The code language has also been updated to incentivize tree preservation and require an overall tree canopy while eliminating the tree mitigation standard. The proposed amendments will not result in a change of uses otherwise permitted and will have no measurable impacts on the amount of traffic on the existing 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 11-06 to the City Council.

- V. EXHIBITS**
- 1- A. Proposed development code changes (Clean Copy)
 - 1- B. Proposed development code changes (Track Changes)
 - 1- C. Matrix comparing existing standards to proposed changes
 - 1- D. Planning Commission Goals and Objectives for tree code update

Chapter 16.10 DEFINITION

Chapter 16.10.020 SPECIFICALLY*

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

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

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

*Note: The entire code section is not included, this is only a reference point indicating where the inserted language should go, the rest of the definition section will not be changed.

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

Net Developable area: Remaining area of a parent parcel after excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses.

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

*Note: The entire code section is not included, this is only a reference point indicating where the inserted language should go, the rest of the definition section will not be changed.

16.90.020 – Site Plan Review

A. Site Plan Review Required

Site Plan review shall be required prior to any substantial change to a site or use, issuance of building permits for a new building or structure, or for the substantial alteration of an existing structure or use, and prior to the issuance of a sign permit for the erection or construction of a sign

For the purposes of Section 16.90.020, the term "substantial change" and "substantial alteration" shall mean any development activity as defined by this Code that generally requires a building permit and may exhibit one or more of the following characteristics:

1. The activity alters the exterior appearance of a structure, building or property and is not considered a modification.
2. The activity involves changes in the use of a structure, building, or property from residential to commercial or industrial and is not considered a modification.
3. The activity involves non-conforming uses as defined in Chapter 16.48
4. The activity constitutes a change in a City approved plan, per Section 16.90.020 and is not considered a modification.
5. The activity is subject to site plan review by other requirements of this Code.
6. The activity increases the size of the building by more than 100% (i.e. the building more than doubles in size), regardless of whether it would be considered a major or minor modification.

B. Exemption to Site Plan Requirement

1. Single and two family uses
2. Manufactured homes located on individual residential lots per Section 16.46.010, but including manufactured home parks,
3. Major modifications
4. Minor modifications

Division VIII. - ENVIRONMENTAL RESOURCES

Chapter 16.132 - GENERAL PROVISIONS*

Chapter 16.134 - FLOODPLAIN (FP) OVERLAY*

Chapter 16.136 - PROCEDURES*

Chapter 16.138 - MINERAL RESOURCES*

Chapter 16.140 - SOLID WASTE*

Chapter 16.142 – PARKS, TREES AND OPEN SPACES

Chapter 16.144 - WETLAND, HABITAT AND NATURAL AREAS*

Chapter 16.146 - NOISE*

Chapter 16.148 - VIBRATIONS*

Chapter 16.150 - AIR QUALITY*

Chapter 16.152 - ODORS*

Chapter 16.154 - HEAT AND GLARE*

Chapter 16.156 - ENERGY CONSERVATION*

Chapter 16.142 – PARKS, TREES AND OPEN SPACES

16.142.040 – Visual Corridors

A. Corridors Required

New developments located outside of the Old Town Overlay with frontage on Highway 99W, or arterial or collector streets designated on Figure 8-1 of the Transportation System

Plan shall be required to establish a landscaped visual corridor according to the following standards:

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

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

B. Landscape Materials

The required visual corridor areas shall be planted as specified by the review authority to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section 16.142.060, shall be planted in the corridor by the developer. The improvements shall be included in the compliance agreement. In no case shall trees be removed from the required visual corridor.

C. Establishment and Maintenance

Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Chapter 16.92. To assure continuous maintenance of the visual corridors, the review authority may require that the development rights to the corridor areas be dedicated to the City or that restrictive covenants be recorded prior to the issuance of a building permit.

D. Required Yard

Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited within the required visual corridor, with the exception of front porches on townhomes, as permitted in Section 16.44.010(E)(4)(c).

E. Pacific Highway 99W Visual Corridor

1. Provide a landscape plan for the highway median paralleling the subject frontage. In order to assure continuity, appropriate plant materials and spacing, the plan shall be coordinated with the City Planning Department and ODOT.
2. Provide a visual corridor landscape plan with a variety of trees and shrubs. Fifty percent (50%) of the visual corridor plant materials shall consist of groupings of at least five (5) native evergreen trees a minimum of ten (10) feet in height each, spaced no less than fifty (50) feet apart, if feasible. Deciduous trees shall be a minimum of four (4) inches DBH and twelve (12) feet high, spaced no less than twenty-five (25) feet apart, if feasible.

16.142.050 – Park Reservation

Areas designated on the Natural Resources and Recreation Plan Map, in Chapter 5 of the Community Development Plan, which have not been dedicated pursuant to Section 16.142.030 or 16.134.020, may be required to be reserved upon the recommendation of the City Parks Board, for purchase by the City within a period of time not to exceed three (3) years.

16.142.060 – Street Trees

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

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

1. Location: Trees shall be planted within the planter strip along a newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or as required by the City.
2. Size: Trees shall have a minimum trunk diameter of two (2) caliper inches, which is measured six inches above the soil line, and a minimum height of six (6) feet when planted.
3. Types: Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.
4. Required Street Trees and Spacing:
 - a. The minimum spacing is based on the maximum canopy spread identified in the recommended street tree list in section 16.142.080 with the intent of providing a continuous canopy without openings between the trees. For example, if a tree has a canopy of forty (40) feet, the spacing between trees is forty (40) feet. If the tree is not on the list, the mature canopy width must be provided to the planning department by a certified arborist.
 - b. All new developments shall provide adequate tree planting along all public streets. The number and spacing of trees shall be determined based on the type of tree and the spacing standards described in a. above and considering driveways, street light locations and utility connections. Unless exempt per c. below, trees shall not be spaced more than forty (40) feet apart in any development.
 - c. A new development may exceed the forty-foot spacing requirement under section b. above, under the following circumstances:
 - (1) Installing the tree would interfere with existing utility lines and no substitute tree is appropriate for the site; or
 - (2) There is not adequate space in which to plant a street tree due to driveway or street light locations, vision clearance or utility connections, provided the driveways, street light or utilities could not be reasonably located elsewhere so as to accommodate adequate room for street trees; and

- (3) The street trees are spaced as close as possible given the site limitations in (1) and (2) above.
- (4) The location of street trees in an ODOT or Washington County right-of-way may require approval, respectively, by ODOT or Washington County and are subject to the relevant state or county standards.
- (5) For arterial and collector streets, the City may require planted medians in lieu of paved twelve-foot wide center turning lanes, planted with trees to the specifications of this subsection.

B. Removal and Replacement of Street Trees.

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

1. Criteria for All Street Tree Removal for trees over five (5) inches DBH. No street tree shall be removed unless it can be found that the tree is:
 - a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or
 - b. Obstructing public ways or sight distance so as to cause a safety hazard, or
 - c. Interfering with or damaging public or private utilities, or
 - d. Defined as a nuisance per City nuisance abatement ordinances.
2. Street trees between five (5) and ten (10) inches DBH may be removed if any of the criteria in 1. above are met and a tree removal permit is obtained.
 - a. The Tree Removal Permit Process is a Type I land use decision and shall be approved subject to the following criteria:
 - (1) The person requesting removal shall submit a Tree Removal Permit application that identifies the location of the tree, the type of tree to be removed, the proposed replacement and how it qualifies for removal per Section 1. above.
 - (2) The person shall post a sign, provided by the City, adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
 - (3) If an objection to the removal is submitted by the City or to the City during the ten (10) calendar day period, an additional evaluation of the tree will be conducted by an arborist to determine whether the tree meets the criteria for street tree removal in Section 1. above. The person requesting the Tree Removal Permit shall be responsible for providing the arborist report and associated costs.
 - (4) Upon completion of the additional evaluation substantiating that the tree warrants removal per Section 1. above or if no objections are received within the ten-day period, the tree removal permit shall be approved.
 - (5) If additional evaluation indicates the tree does not warrant removal, the Tree Removal Permit will be denied.

3. Street trees over ten (10) inches DBH may be removed through a Type I review process subject to the following criteria.
 - a. The applicant shall provide a letter from a certified arborist identifying:
 - (1) The tree's condition,
 - (2) How it warrants removal using the criteria listed in Section 1. above, and identifying any reasonable actions that could be taken to allow the retention of the tree.
 - b. The applicant shall provide a statement that describes whether and how the applicant sought assistance from the City, HOA or neighbors to address any issues or actions that would enable the tree to be retained.
 - c. The person shall post a sign, provided by the City, adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
 - d. Review of the materials and comments from the public confirm that the tree meets the criteria for removal in Section 1. above.

C. Homeowner's Association Authorization.

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

1. An HOA that seeks to adopt and administer a street tree program must submit an application to the City. The application must contain substantially the following information:
 - a. The HOA must be current and active. The HOA should meet at least quarterly and the application should include the minutes from official HOA Board meetings for a period not less than eighteen (18) months (six (6) quarters) prior to the date of the application.
 - b. The application must include proposed spacing standards for street trees that are substantially similar to the spacing standards set forth in 16.142.060.A above.
 - c. The application must include proposed street tree removal and replacement standards that are substantially similar to the standards set forth in 16.142.060.B above.
 - d. The application should include a copy of the HOA bylaws as amended to allow the HOA to exercise authority over street tree removal and replacement, or demonstrate that such an amendment is likely within ninety (90) days of a decision to approve the application.
 - e. The application should include the signatures of not less than seventy-five (75) percent of the homeowners in the HOA in support of the application.
2. An application for approval of a tree removal and replacement program under this section shall be reviewed by the City through the Type IV land use process. In order to approve the program, the City must determine:
 - a. The HOA is current and active.
 - b. The proposed street tree removal and replacement standards are substantially similar to the standards set forth in 16.142.060.B above.

- c. The proposed street tree spacing standards are substantially similar to the standards set forth in 16.142.060.A above.
 - d. The HOA has authority under its bylaws to adopt, administer and enforce the program.
 - e. The signatures of not less than seventy-five (75) percent of the homeowners in the HOA in support of the application.
3. A decision to approve an application under this section shall include at least the following conditions:
 - a. Beginning on the first January 1 following approval and on January 1 every two (2) years thereafter, the HOA shall make a report to the city planning department that provides a summary and description of action taken by the HOA under the approved program. Failure to timely submit the report that is not cured within sixty (60) days shall result in the immediate termination of the program.
 - b. The HOA shall comply with the requirements of Section 12.20 of the Sherwood Municipal Code.
 4. The City retains the right to cancel the approved program at any time for failure to substantially comply with the approved standards or otherwise comply with the conditions of approval.
 - a. If an HOA tree removal program is canceled, future tree removals shall be subject to the provisions of section 16.142.060.
 - b. A decision by the City to terminate an approved street tree program shall not affect the validity of any decisions made by the HOA under the approved program that become final prior to the date the program is terminated.
 - c. If the city amends the spacing standards or the removal and replacement standards in this section (SZCDC) the City may require that the HOA amend the corresponding standards in the approved street tree program.
 5. An approved HOA tree removal and replacement program shall be valid for five (5) years; however the authorization may be extended as approved by the City, through a Type II Land Use Review.

D. Exemption from Replacing Street Trees.

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

1. Exemption is granted at the time of street tree removal permit or authorized homeowner's association removal per Section 16.142.060.C. above.
2. The property owner provides a letter from a certified arborist stating that the tree must be removed due to a reason identified in the tree removal criteria listed in Section 16.142.060.B.1. above, and
3. The letter describes why the tree cannot be replaced without causing continued or additional damage to public or private utilities that could not be prevented through reasonable maintenance.

E. Notwithstanding any other provision in this section, the city manager or the manager's designee may authorize the removal of a street tree in an emergency situation without a tree removal

permit when the tree poses an immediate threat to life, property or utilities. A decision to remove a street tree under this section is subject to review only as provided in ORS 34.100.

F. Trees on Private Property Causing Damage.

Any tree, woodland or any other vegetation located on private property, regardless of species or size, that interferes with or damages public streets or utilities, or causes an unwarranted increase in the maintenance costs of same, may be ordered removed or cut by the City Manager or his or her designee. Any order for the removal or cutting of such trees, woodlands or other vegetation, shall be made and reviewed under the applicable City nuisance abatement ordinances.

G. Penalties. The abuse, destruction, defacing, cutting, removal, mutilation or other misuse of any tree planted on public property or along a public street as per this Section, shall be subject to the penalties defined by Section 16.02.040, and other penalties defined by applicable ordinances and statutes, provided that each tree so abused shall be deemed a separate offense.

16.142.070 Trees on Property Subject to Certain Land Use Applications

A. Generally

The purpose of this Section is to establish processes and standards which will minimize cutting or destruction of trees and woodlands within the City. This Section is intended to help protect the scenic beauty of the City; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

B. Applicability

All land use actions, shall be required to preserve trees or woodlands, as defined by this Section to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan.

C. Inventory

1. To assist the City in making its determinations on the retention of trees and woodlands, land use applications for development shall include a tree and woodland inventory and report. The report shall be prepared by a certified arborist and must contain the following information:
 - a. Tree size (in DBH and canopy area)
 - b. Tree species
 - c. The condition of the tree with notes as applicable explaining the assessment
 - d. The location of the tree on the site
 - e. The location of the tree relative to the planned improvements
 - f. Assessment of whether the tree must be removed to accommodate the development
 - g. Recommendations on measures that must be taken to preserve trees during the construction that are not proposed to be removed.
2. Trees removed on the property within one year prior to the submittal of the development application shall also be included in the inventory. In the event that adequate data is not available to address the specific inventory requirements below, an aerial photo may be utilized to determine the approximate number, canopy size and type of trees on the property.

3. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and report shall also include, but is not limited to, the specific information outlined in the appropriate land use application materials packet.
4. Definitions for the inventory purposes of this Section
 - a. A tree is a living woody plant having a trunk diameter as specified below at Diameter at Breast Height (DBH). Trees planted for commercial agricultural purposes, and/or those subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition and from regulation under this Section, as are any living woody plants under six (6) inches at DBH.
 - (1). All trees six (6) inches or greater shall be inventoried.
 - b. A woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a six (6) inches or greater at DBH. Woodlands planted for commercial agricultural purposes and/or subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this Section.
 - c. A large stature tree is over 20 feet tall and wide with a minimum trunk diameter of 30 inches at DBH.

D. Retention requirements

1. Trees may be considered for removal to accommodate the development including buildings, parking, walkways, grading etc., regardless of D.2 or D.3, below.
2. Required Tree Canopy - Residential Developments (Single Family Attached, Single Family Detached and Two – Family)

Each net development site shall provide a minimum total tree canopy of 40 percent. This can be achieved by retaining existing trees or planting new trees. Required street trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the needed canopy cover. A certified arborist shall provide the estimated tree canopy of the proposed trees to the planning department for review.
3. Required Tree Canopy – Non-Residential and Multi-family Developments

Each net development site shall provide a minimum total tree canopy of 30 percent. This can be achieved by retaining existing trees or planting new trees. Required landscaping trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the needed canopy cover. A certified arborist or other qualified professional shall provide an estimated tree canopy for all proposed trees to the planning department for review as a part of the land use review process.
4. The City may determine that, regardless of D.1 through D.3, that certain trees or stands of trees may be required to be retained. The basis for such a decision shall include; Specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible

and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:

- a. Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
- b. A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
- c. Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
- d. Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
- e. Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

5. Tree retention requirements for properties located within the Old Town Overlay or projects subject to the infill standards of Chapter 16.68 are only subject to retention requirements identified in D.4. above.

6. The Notice of Decision issued for the land use applications subject to this Section shall indicate which trees and woodlands will be retained as per subsection D of this Section, which may be removed or shall be retained as per subsection D of this Section and any limitations or conditions attached thereto.

7. All trees, woodlands, and vegetation located on any private property accepted for dedication to the City for public parks and open space, greenways, Significant Natural Areas, wetlands, floodplains, or for storm water management or for other purposes, as a condition of a land use approval, shall be retained outright, irrespective of size, species, condition or other factors. Removal of any such trees, woodlands, and vegetation prior to actual dedication of the property to the City shall be cause for reconsideration of the land use plan approval.

E. Preservation Incentives

1. General Provisions. To assist in the preservation of trees, the City may apply one or more of the following flexible standards as part of the land use review approval. To the extent that the standards in this section conflict with the standards in other sections of this Title, the standards in this section shall apply except in cases where the City determines there would be an unreasonable risk to public health, safety, or welfare. Flexibility shall be requested by the applicant with justification provided within the arborist's report as part of the land use review process and is only applicable to trees that are eligible for credit towards the effective tree canopy cover of the site. A separate adjustment application as outlined in Section 16.84.030.A is not required.

2. Flexible Standards. The following flexible standards are available to applicants in order to preserve trees on a development site. These standards cannot be combined with any other reductions authorized by this code.

a. Lot size averaging. To preserve existing trees in the development plan for any Land Division under Division VII, lot size may be averaged to allow lots less than the minimum lot size required in the underlying zone as long as the average lot area is not less than that allowed by the underlying zone. No lot area shall be less than 80 percent of the minimum lot size allowed in the zone;

b. Setbacks. The following setback reductions will be allowed for lots preserving existing trees using the criteria in subsection (1) below. The following reductions shall be limited to the minimum reduction necessary to protect the tree.

(1) Reductions allowed:

(a.) Front yard – up to a 25 percent reduction of the dimensional standard for a front yard setback required in the base zone. Setback of garages may not be reduced by this provision.

(b.) Interior setbacks - up to a 40 percent reduction of the dimensional standards for an interior side and/or rear yard setback required in the base zone.

(c.) Perimeter side and rear yard setbacks shall not be reduced through this provision.

c. Approval criteria:

(1.) A demonstration that the reduction requested is the least required to preserve trees; and

(2.) The reduction will result in the preservation of tree canopy on the lot with the modified setbacks; and

(3.) The reduction will not impede adequate emergency access to the site and structure.

3. Sidewalks. Location of a public sidewalk may be flexible in order to preserve existing trees or to plant new large stature street trees. This flexibility may be accomplished through a curb-tight sidewalk or a meandering public sidewalk easement recorded over private property and shall be reviewed on a case by case basis in accordance with the provisions of the Engineering Design Manual, Street and Utility Improvement Standards. For preservation, this flexibility shall be the minimum required to achieve the desired effect. For planting, preference shall be given to retaining the planter strip and separation between the curb and sidewalk wherever practicable. If

a preserved tree is to be utilized as a street tree, it must meet the criteria found in the Street Tree section, 16.142.060.

4. Residential Density Transfer. Up to 100% density transfer is permitted from the preserved portion of a significant tree stand within the development site to the buildable area of the development site.
 - a. Density may be transferred provided that:
 - (1.) At least 50% of the significant tree stand's canopy within the development site (and not within the sensitive lands or areas that areas dedicated to the City) is preserved;
 - (2.) The project arborist certifies the preservation is such that the connectivity and viability of the remaining significant tree stand is maximized.
 - (3.) Maximum density for the net site area including the Significant tree stand is not exceeded;
 - (4.) The lots must maintain an 80 percent minimum lot size;
 - (5.) The Significant tree stand is protected through an instrument or action subject to approval by the City Manager or the City manager's designee that demonstrates it will be permanently preserved and managed as such;
 - (1.) A conservation easement;
 - (2.) An open space tract;
 - (3.) A deed restriction; or
 - (4.) Through dedication and acceptance by the City.
 - b. The proposed development may include the following;
 - (1.) Zero lot line single family detached housing for the portion of the development site that receives the density transfer.
 - (2.) The following variations from the base zone development standards are permitted:
 - (1.) Up to 25% reduction of average minimum lot width;
 - (2.) Up to 10 foot minimum front yard setback
 - (3.) Up to 33% reduction in side or rear yard, however the side yard cannot be less than three feet;
 - (4.) Up to four foot reduction in the garage setback;
 - (5.) Up to 20% increase in maximum height as long as the height requirement adjustment complies with the State Building Code.
 - (3.) When the portion of the development receives the density transfer abuts a developed residential district with the same or lower density zoning, the average area of abutting perimeter lots shall not be more than 150% of the adjacent zoning.
5. Adjustments to Commercial and Industrial development Standards. Adjustments to Commercial or Industrial Development standards of up to 20 feet additional building height are permitted provided;
 - a. At least 50% of a Significant Tree stand's canopy within a development site (and not also within the sensitive lands or areas that areas dedicated to the City) is preserved;

- b. The project arborist certifies the preservation is such that the connectivity and viability of the remaining significant tree stand is maximized;
- c. Applicable buffering and screening requirements are met;
- d. Any height adjustments comply with state building codes;
- e. Significant tree stand is protected through an instrument or action subject to approval by the City Manager or the City manager's designee that demonstrates it will be permanently preserved and managed as such;
 - (1.) A conservation easement;
 - (2.) An open space tract;
 - (3.) A deed restriction; or
 - (4.) Through dedication and acceptance by the City.

F. Tree Protection During Development

The applicant shall prepare and submit a final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or mitigated as per the Notice of Decision. Such plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless specifically reviewed and recommended by a certified arborist. Any work within the dripline of the tree shall be supervised by the arborist being onsite during construction.

G. Penalties

Violations of this Section shall be subject to the penalties defined by Section 16.02.040, provided that each designated tree or woodland unlawfully removed or cut shall be deemed a separate offense. (Ord. 2006-021; Ord. 91-922, § 3)

16.142.080 Trees on Private Property -- not subject to a land use action

A. Generally

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

B. Residential (Single Family and Two-Family) Standards

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

1. Removal of up to five (5) trees, or up to 10 percent of the number of trees on site, whichever is greater, within a twelve month period. No review or approval required provided that trees are not located within a natural resource area, that the planning department is notified in writing 48 hours prior to removing the tree, including the property address, property owner name and contact information, and provided with the type and size of the tree. Failure to notify the Planning Department shall not result in a violation of this code unless it is

- determined that the tree removal is located within a natural resource area, or in excess of that permitted outright.
2. Removal of six (6) or more trees, or more than 10 percent of the number of trees on site, whichever is greater, within a twelve month period except as allowed in subsection 1, above.
 - a. The applicant shall submit the following;
 - (1.) A narrative describing the need to remove the tree(s),
 - (2.) A statement describing when and how the Homeowner’s Association (HOA) was informed of the proposed tree cutting and their response. If there is not an active HOA, the applicant shall submit as statement indicating that there is not a HOA to contact.
 - (3.) A plan showing the location of the tree and
 - (4.) The applicant shall submit a replacement tree plan. Half of the number of trees removed shall be replaced on site with native trees within six months from the date of removal.
 3. The City may determine that, regardless of B.1 through B.2, that certain trees or stands of trees may be required to be retained.
 - a. If removal is proposed within a natural resource area, the applicant shall submit documentation from a licensed qualified professional in natural resources management such as a wetland scientist, a botanist, or biologist, discussing the proposed tree removal and how it would or would not compromise the integrity of the resource. It shall also discuss the feasibility and practicability of tree removal relative to policies and standards of the City Comprehensive Plan, listed in section 3.b. below.
 - b. The basis for such a City decision shall include; specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical relative to other policies and standards of the City Comprehensive Plan, and are:
 - (1.) Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
 - (2.) A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
 - (3.) Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
 - (4.) Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
 - (5.) Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

C. Non-Residential and Multi-family Standards

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

1. Trees required by a land use decision after the effective date of this code can be removed. Any trees removed shall be replaced within six months of removing the tree with an appropriate tree for the area.
2. Trees that were not required by land use or planted prior to the effective date of this code can be removed after receiving approval from the City of Sherwood.
 - a. Removal of up to 25 percent of the trees on site can be removed and replaced through a type I review process. The applicant shall submit the following;
 - (1.) A narrative describing the need to remove the trees,
 - (2.) A plan showing the location of the trees and
 - (3.) A replacement tree plan. Half of the number of trees removed shall be replaced on site with similar trees **within six months from the date of removal.**
 - b. Removal of more than 25 percent of the trees on site can be removed and replaced through a type II review process. The applicant shall submit the following;
 - (1.) An arborists report describing the need to remove the trees. The cause for removal must be necessitated by the trees,
 - (2.) A plan showing the location of the tree and
 - (3.) A replacement tree plan. Two – thirds of the number of trees removed shall be replaced on site with similar trees **within six months from the date of removal.**
3. The City may determine that, regardless of C.1 through C.2, that certain trees or stands of trees may be required to be retained.
 - a. The applicant shall submit documentation from a licensed qualified professional in natural resources management such as wetland scientist, botanist or biologist, discussing the proposed tree removal within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, listed in section 3.b. below.
 - b. The basis for such a City decision shall include; specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:
 - (1.) Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
 - (2.) A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
 - (3.) Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
 - (4.) Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or

(5.) Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

Chapter 16.10 DEFINITION
Chapter 16.10.020 SPECIFICALLY*

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

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

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

*Note: The entire code section is not included, this is only a reference point indicating where the inserted language should go, the rest of the definition section will not be changed.

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

Net Developable area: Remaining area of a parent parcel after excluding present and future rights-of-way, environmentally constrained areas, public parks and other public uses.

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

*Note: The entire code section is not included, this is only a reference point indicating where the inserted language should go, the rest of the definition section will not be changed.

16.90.020 – Site Plan Review

A. Site Plan Review Required

Site Plan review shall be required prior to any substantial change to a site or use, issuance of building permits for a new building or structure, or for the substantial alteration of an existing structure or use, and prior to the issuance of a sign permit for the erection or construction of a sign

For the purposes of Section 16.90.020, the term "substantial change" and "substantial alteration" shall mean any development activity as defined by this Code that generally requires a building permit and may exhibit one or more of the following characteristics:

1. The activity alters the exterior appearance of a structure, building or property and is not considered a modification.
2. The activity involves changes in the use of a structure, building, or property from residential to commercial or industrial and is not considered a modification.
3. The activity involves non-conforming uses as defined in Chapter 16.48
4. The activity constitutes a change in a City approved plan, per Section 16.90.020 and is not considered a modification.
- ~~5. The activity involves the cutting of more than five (5) existing mature trees per acre, per calendar year.~~
65. The activity is subject to site plan review by other requirements of this Code.
76. The activity increases the size of the building by more than 100% (i.e. the building more than doubles in size), regardless of whether it would be considered a major or minor modification.

B. Exemption to Site Plan Requirement

1. Single and two family uses
2. Manufactured homes located on individual residential lots per Section 16.46.010, but including manufactured home parks,
3. Major modifications
4. Minor modifications

Division VIII. - ENVIRONMENTAL RESOURCES

Chapter 16.132 - GENERAL PROVISIONS*

Chapter 16.134 - FLOODPLAIN (FP) OVERLAY*

Chapter 16.136 - PROCEDURES*

Chapter 16.138 - MINERAL RESOURCES*

Chapter 16.140 - SOLID WASTE*

Chapter 16.142 – ~~PARKS, TREES~~ AND OPEN SPACES

Chapter 16.144 - WETLAND, HABITAT AND NATURAL AREAS*

Chapter 16.146 - NOISE*

Chapter 16.148 - VIBRATIONS*

Chapter 16.150 - AIR QUALITY*

Chapter 16.152 - ODORS*

Chapter 16.154 - HEAT AND GLARE*

Chapter 16.156 - ENERGY CONSERVATION*

Chapter 16.142 – PARKS, TREES AND OPEN SPACES

16.142.040 – Visual Corridors

A. Corridors Required

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

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

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

- B. Landscape Materials

The required visual corridor areas shall be planted as specified by the review authority to provide a continuous visual and/or acoustical buffer between major streets and developed uses. Except as provided for above, fences and walls shall not be substituted for landscaping within the visual corridor. Uniformly planted, drought resistant street trees and ground cover, as specified in Section ~~16.142.050~~ [16.142.060](#), shall be planted in the corridor by the developer. The improvements shall be included in the compliance agreement. In no case shall trees be removed from the required visual corridor.
- C. Establishment and Maintenance

Designated visual corridors shall be established as a portion of landscaping requirements pursuant to Chapter 16.92. To assure continuous maintenance of the visual corridors, the review authority may require that the development rights to the corridor areas be dedicated to the City or that restrictive covenants be recorded prior to the issuance of a building permit.
- D. Required Yard

Visual corridors may be established in required yards, except that where the required visual corridor width exceeds the required yard width, the visual corridor requirement shall take precedence. In no case shall buildings be sited within the required visual corridor, with the exception of front porches on townhomes, as permitted in Section 16.44.010(E)(4)(c).
- E. Pacific Highway 99W Visual Corridor
 1. Provide a landscape plan for the highway median paralleling the subject frontage. In order to assure continuity, appropriate plant materials and spacing, the plan shall be coordinated with the City Planning Department and ODOT.
 2. Provide a visual corridor landscape plan with a variety of trees and shrubs. Fifty percent (50%) of the visual corridor plant materials shall consist of groupings of at least five (5) native evergreen trees a minimum of ten (10) feet in height each, spaced no less than fifty (50) feet apart, if feasible. Deciduous trees shall be a minimum of four (4) inches DBH and twelve (12) feet high, spaced no less than twenty-five (25) feet apart, if feasible.

16.142.050 – Park Reservation

Areas designated on the Natural Resources and Recreation Plan Map, in Chapter 5 of the Community Development Plan, which have not been dedicated pursuant to Section 16.142.030 or 16.134.020, may be required to be reserved upon the recommendation of the City Parks Board, for purchase by the City within a period of time not to exceed three (3) years.

16.142.060 – Street Trees

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

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

1. Location: Trees shall be planted within the planter strip along a newly created or improved streets. In the event that a planter strip is not required or available, the trees shall be planted on private property within the front yard setback area or within public street right-of-way between front property lines and street curb lines or as required by the City.

2. Size: Trees shall have a minimum trunk diameter of two (2) caliper inches, which is measured six inches above the soil line, DBH and a minimum height of six (6) feet when planted. ~~Diameter at breast height (DBH) shall be measured as defined by the International Society of Arboriculture.~~

3. Types: Developments shall include a variety of street trees. The trees planted shall be chosen from those listed in 16.142.080 of this Code.

4. Required Street Trees and Spacing:

a. The minimum spacing is based on the maximum canopy spread identified in the recommended street tree list in section 16.142.080 with the intent of providing a continuous canopy without openings between the trees. For example, if a tree has a canopy of forty (40) feet, the spacing between trees is forty (40) feet. If the tree is not on the list, the mature canopy width must be provided to the planning department by a certified arborist.

b. All new developments shall provide adequate tree planting along all public streets. The number and spacing of trees shall be determined based on the type of tree and the spacing standards described in a. above and considering driveways, street light locations and utility connections. Unless exempt per c. below, trees shall not be spaced more than forty (40) feet apart in any development.

c. A new development may exceed the forty-foot spacing requirement under section b. above, under the following circumstances:

(1) Installing the tree would interfere with existing utility lines and no substitute tree is appropriate for the site; or

(2) There is not adequate space in which to plant a street tree due to driveway or street light locations, vision clearance or utility connections, provided the driveways, street light or utilities could not

be reasonably located elsewhere so as to accommodate adequate room for street trees; and

- (3) The street trees are spaced as close as possible given the site limitations in (1) and (2) above.
- (4) The location of street trees in an ODOT or Washington County right-of-way may require approval, respectively, by ODOT or Washington County and are subject to the relevant state or county standards.
- (5) For arterial and collector streets, the City may require planted medians in lieu of paved twelve-foot wide center turning lanes, planted with trees to the specifications of this subsection.

B. Removal and Replacement of Street Trees.

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

1. Criteria for All Street Tree Removal for trees over five (5) inches DBH. No street tree shall be removed unless it can be found that the tree is:
 - a. Dying, becoming severely diseased, or infested or diseased so as to threaten the health of other trees, or
 - b. Obstructing public ways or sight distance so as to cause a safety hazard, -or
 - c. Interfering with or damaging public or private utilities, or
 - d. Defined as a nuisance per City nuisance abatement ordinances.
2. Street trees between five (5) and ten (10) inches DBH may be removed if any of the criteria in 1. above are met and a tree removal permit is obtained.
 - a. The Tree Removal Permit Process is a Type I land use decision and shall be approved subject to the following criteria:
 - (1) The person requesting removal shall submit a Tree Removal Permit application that identifies the location of the tree, the type of tree to be removed, the proposed replacement and how it qualifies for removal per Section 1. above.
 - (2) The person shall post a sign, provided by the City, adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
 - (3) If an objection to the removal is submitted by the City or to the City during the ten (10) calendar day period, an additional evaluation of the tree will be conducted by an arborist to determine whether the tree meets the criteria for street tree removal in Section 1. above. The person requesting the Tree Removal Permit shall be responsible for providing the arborist report and associated costs.
 - (4) Upon completion of the additional evaluation substantiating that the tree warrants removal per Section 1. above or if no objections are received within the ten-day period, the tree removal permit shall be approved.

- (5) If additional evaluation indicates the tree does not warrant removal, the Tree Removal Permit will be denied.
- 3. Street trees over ten (10) inches DBH may be removed through a Type I review process subject to the following criteria.
 - a. The applicant shall provide a letter from a certified arborist identifying:
 - (1) The tree's condition,
 - (2) How it warrants removal using the criteria listed in Section 1. above, and identifying any reasonable actions that could be taken to allow the retention of the tree.
 - b. The applicant shall provide a statement that describes whether and how the applicant sought assistance from the City, HOA or neighbors to address any issues or actions that would enable the tree to be retained.
 - c. The person shall post a sign, provided by the City, adjacent to the tree for ten (10) calendar days prior to removal that provides notice of the removal application and the process to comment on the application.
 - d. Review of the materials and comments from the public confirm that the tree meets the criteria for removal in Section 1. above.

C. Homeowner's Association Authorization.

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

- 1. An HOA that seeks to adopt and administer a street tree program must submit an application to the City. The application must contain substantially the following information:
 - a. The HOA must be current and active. The HOA should meet at least quarterly and the application should include the minutes from official HOA Board meetings for a period not less than eighteen (18) months (six (6) quarters) prior to the date of the application.
 - b. The application must include proposed spacing standards for street trees that are substantially similar to the spacing standards set forth in ~~16.142.050~~ [16.142.060](#).A above.
 - c. The application must include proposed street tree removal and replacement standards that are substantially similar to the standards set forth in ~~16.142.050~~ [16.142.060](#).B above.
 - d. The application should include a copy of the HOA bylaws as amended to allow the HOA to exercise authority over street tree removal and replacement, or demonstrate that such an amendment is likely within ninety (90) days of a decision to approve the application.
 - e. The application should include the signatures of not less than seventy-five (75) percent of the homeowners in the HOA in support of the application.
- 2. An application for approval of a tree removal and replacement program under this section shall be reviewed by the City through the Type IV land use process. In order to approve the program, the City must determine:
 - a. The HOA is current and active.

- b. The proposed street tree removal and replacement standards are substantially similar to the standards set forth in ~~16.142.050~~ 16.142.060.B above.
 - c. The proposed street tree spacing standards are substantially similar to the standards set forth in ~~16.142.050~~ 16.142.060.A above.
 - d. The HOA has authority under its bylaws to adopt, administer and enforce the program.
 - e. The signatures of not less than seventy-five (75) percent of the homeowners in the HOA in support of the application.
3. A decision to approve an application under this section shall include at least the following conditions:
- a. Beginning on the first January 1 following approval and on January 1 every two (2) years thereafter, the HOA shall make a report to the city planning department that provides a summary and description of action taken by the HOA under the approved program. Failure to timely submit the report that is not cured within sixty (60) days shall result in the immediate termination of the program.
 - b. The HOA shall comply with the requirements of Section 12.20 of the Sherwood Municipal Code.
4. The City retains the right to cancel the approved program at any time for failure to substantially comply with the approved standards or otherwise comply with the conditions of approval.
- a. If an HOA tree removal program is canceled, future tree removals shall be subject to the provisions of section ~~16.142.050~~ 16.142.060.
 - b. A decision by the City to terminate an approved street tree program shall not affect the validity of any decisions made by the HOA under the approved program that become final prior to the date the program is terminated.
 - c. If the city amends the spacing standards or the removal and replacement standards in this section (SZCDC ~~16.142.050~~) the City may require that the HOA amend the corresponding standards in the approved street tree program.
5. An approved HOA tree removal and replacement program shall be valid for five (5) years; however the authorization may be extended as approved by the City, through a Type II Land Use Review.

D. Exemption from Replacing Street Trees.

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

- 1. Exemption is granted at the time of street tree removal permit or authorized homeowner's association removal per Section ~~16.142.050~~ 16.142.060.C. above.
- 2. The property owner provides a letter from a certified arborist stating that the tree must be removed due to a reason identified in the tree removal criteria listed in Section ~~16.142.050~~ 16.142.060.B.1. above, and
- 3. The letter describes why the tree cannot be replaced without causing continued or additional damage to public or private utilities that could not be prevented through reasonable maintenance.

E. Notwithstanding any other provision in this section, the city manager or the manager's designee may authorize the removal of a street tree in an emergency situation without a tree removal permit when the tree poses an immediate threat to life, property or utilities. A decision to remove a street tree under this section is subject to review only as provided in ORS 34.100.

F. Trees on Private Property Causing Damage.

Any tree, woodland or any other vegetation located on private property, regardless of species or size, that interferes with or damages public streets or utilities, or causes an unwarranted increase in the maintenance costs of same, may be ordered removed or cut by the City Manager or his or her designee. Any order for the removal or cutting of such trees, woodlands or other vegetation, shall be made and reviewed under the applicable City nuisance abatement ordinances.

G. Penalties. The abuse, destruction, defacing, cutting, removal, mutilation or other misuse of any tree planted on public property or along a public street as per this Section, shall be subject to the penalties defined by Section 16.02.040, and other penalties defined by applicable ordinances and statutes, provided that each tree so abused shall be deemed a separate offense.

16.142.070 Trees on Property Subject to Certain Land Use Applications

A. Generally

The purpose of this Section is to establish processes and standards which will minimize cutting or destruction of trees and woodlands within the City. This Section is intended to help protect the scenic beauty of the City; to retain a livable environment through the beneficial effect of trees on air pollution, heat and glare, sound, water quality, and surface water and erosion control; to encourage the retention and planting of tree species native to the Willamette Valley and Western Oregon; to provide an attractive visual contrast to the urban environment, and to sustain a wide variety and distribution of viable trees and woodlands in the community over time.

B. Applicability

~~1.—All Planned Unit Developments, land use actions subject to Chapter 16.40, site developments subject to Section 16.92.020, and subdivisions subject to Chapter 16.122, shall be required to preserve trees or woodlands, as defined by this Section to the maximum extent feasible within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, as determined by the City. This Section shall not apply to any PUD, site development or subdivision, or any subdivision phase of any PUD, having received an approval by the Commission prior to the effective date of Ordinance No. 94-991, except for Subsection C5 of this Section, which shall apply to all building permits issued after the effective date to that Ordinance.~~

2BC. Inventory

1. To assist the City in making its determinations on the retention of trees and woodlands, land use applications for development shall include a tree and woodland inventory and report. The report shall be prepared by a certified arborist and must contain the following information:

- a. Tree size (in DBH and canopy area)
- b. Tree species
- c. The condition of the tree with notes as applicable explaining the assessment
- d. The location of the tree on the site
- e. The location of the tree relative to the planned improvements

- f. Assessment of whether the tree must be removed to accommodate the development
- g. Recommendations on measures that must be taken to preserve trees during the construction that are not proposed to be removed.

- 2. Trees removed on the property within one year prior to the submittal of the development application shall also be included in the inventory. In the event that adequate data is not available to address the specific inventory requirements below, an aerial photo may be utilized to determine the approximate number, canopy size and type of trees on the property.
- 3. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and report shall also include, but is not limited to, the specific information outlined in the appropriate land use application materials packet.

34. Definitions ~~For~~ for the inventory purposes of this Section

~~1a.~~ a ~~A~~ tree is a living woody plant having a trunk diameter as specified below at ~~four and one-half (4-1/2) feet above mean ground level at the base of the trunk, also known as~~ Diameter at Breast Height (DBH). Trees planted for commercial agricultural purposes, and/or those subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition and from regulation under this Section, as are any living woody plants under ~~five-six (56)~~ inches at DBH.

~~a(1). Douglas fir, ponderosa pine, western red cedar, white oak, big leaf maple, American chestnut, ten (10)~~ All trees six (6) inches or greater shall be inventoried.

~~b. All other tree species, five (5) inches or greater.~~

~~In addition, any trees of any species of five (5) inches or greater DBH that are proposed for removal as per the minimally necessary development activities defined in subsection C3 of this Section shall be inventoried.~~

~~2b.~~ For the inventory purposes of this Section, a ~~A~~ woodland is a biological community dominated by trees covering a land area of 20,000 square feet or greater at a density of at least fifty (50) trees per every 20,000 square feet with at least fifty percent (50%) of those trees of any species having a ~~five-six (56)~~ inches or greater at DBH. Woodlands planted for commercial agricultural purposes and/or subject to farm forest deferral, such as nut and fruit orchards and Christmas tree farms, are excluded from this definition, and from regulation under this Section.

c. A large stature tree is over 20 feet tall and wide with a minimum trunk diameter of 30 inches at DBH.

D. Retention requirements

1. Trees may be considered for removal to accommodate the development including buildings, parking, walkways, grading etc., regardless of D.2 or D.3, below.

~~C12.~~ —Required Tree Canopy - Residential Developments (Single Family Attached, Single Family Detached and Two – Family)

Each net development site shall provide a minimum total tree canopy of 40 percent. This can be achieved by retaining existing trees or planting new trees. Required street trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread

of the new trees will be counted toward the needed canopy cover. A certified arborist shall provide the estimated tree canopy of the proposed trees to the planning department for review.

D23. —Required Tree Canopy – Non-Residential and Multi-family Developments

Each net development site shall provide a minimum total tree canopy of 30 percent. This can be achieved by retaining existing trees or planting new trees. Required landscaping trees can be used toward the total on site canopy required to meet this standard. The expected mature canopy spread of the new trees will be counted toward the needed canopy cover. A certified arborist or other qualified professional shall provide an estimated tree canopy for all proposed trees to the planning department for review as a part of the land use review process.

4. The City may determine that, regardless of D.1 through D.3, that certain trees or stands of trees may be required to be retained. The basis for such a decision shall include; Specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:
 - a. Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
 - b. A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
 - c. Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Unified Sewerage Agency Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
 - d. Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
 - e. Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

5. Tree retention requirements for properties located within the Old Town Overlay or projects subject to the infill standards of Chapter 16.68 are only subject to retention requirements identified in D.4. above.

~~BE. —Tree and Woodland Inventory~~

~~1. To assist the City in making its determinations on the retention of trees and woodlands, the land use applications referenced in subsection A of this Section shall include a tree and woodland inventory and report, in both map and narrative form, addressing the standards in subsection C or D of this Section (above), and a written report by an arborist, forester, landscape architect, botanist, or other qualified professional, as determined by the City, that generally evaluates the nature and quality of the existing trees and woodlands on the site and also provides information as to the extent and methods by which trees and woodlands will be retained. The inventory shall~~

include a resume detailing the qualified professional's applicable background and experience. The City may also require the submission of additional information as per Section 16.136.030.

~~2. Trees removed on the property within one year prior to the submittal of the development application shall also be included in the inventory. In the event that adequate data is not available to address the specific inventory requirements below, an aerial photo may be utilized to determine the approximate number, size and type of trees on the property.~~

~~23. In addition to the general requirements of this Section, the tree and woodland inventory's mapping and reports shall include, but are not limited to, the following specific information outlined in the appropriate land use application materials packet. Mapping shall include a composite map, illustrating as much required information as possible while retaining map readability.~~

~~a. The location of the property subject to the land use application and tree and woodland inventory, including street addresses, assessors' map and tax lot numbers, and a vicinity map.~~

~~b. Mapping indicating the location of trees and woodlands, as defined by subsections A2 through 3. Mapping shall include typical tree root zones, given tree species, size, condition and location. For any woodland, inventory data and mapping is required only for the group, rather than on a tree by tree basis.~~

~~c. Mapping and other inventory data shall include, but is not limited to, the boundaries and/or types of soils, wetlands, and floodplains underlying the tree or woodland; site hydrology, drainage, and slope characteristics; the condition, density, form, root zone and aspect of the tree or woodland, including in the case of a woodland, associated understory.~~

~~d. Mapping and other inventory data shall be of sufficient detail and specificity to allow for field location of trees and woodlands by the City, and shall include but is not limited to, existing and proposed property lines, topography at the intervals otherwise specified for the type of land use application being considered, and any significant man-made or natural features that would tend to aid in such field location.~~

~~e. The number, size, species, condition, and location of trees and woodlands proposed for removal, the timing and method of such removal, and the reason(s) for removal.~~

~~f. The number, size, species, condition, and location of trees and woodlands proposed for retention, and the methods by which such trees and woodlands shall be maintained in a healthy condition both during and subsequent to development activity.~~

~~g. Proposed mitigation and replacement efforts as per subsection D of this Section, including a description of how proposed replacement trees will be successfully replanted and maintained on the site.~~

~~CE. Tree and Woodland Retention~~

~~1. The review authority shall make findings identifying all trees and woodlands, or additional trees not inventoried, that merit retention. Alternatively, the City may require planting of new trees in lieu of retention as per subsection D1 through D3 of this Section, or acquire said trees and woodlands as per subsection D4 of this Section. Prior to making any such determinations or recommendations, the review authority may seek the recommendations of the City Parks Advisory Board. Special consideration shall be given in making these determinations to the retention or replanting of trees native to the Willamette Valley and Western Oregon, except in areas where such trees are prohibited as per Section 16.142.050B.~~

~~2. To require retention of trees or woodlands as per subsection B D of this Section, the Commission or Council must make specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of~~

~~the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:~~

- ~~a. Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or~~
- ~~b. A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or~~
- ~~c. Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Unified Sewerage Agency stormwater management plans and standards or the City Comprehensive Plan, or~~
- ~~d. Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or~~
- ~~e. Otherwise merit retention because of unusual size, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.~~

~~3. In general, the City shall permit only the removal of trees, woodlands, and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the land use application under consideration. For the development of PUDs and subdivisions, minimally necessary activities will typically entail tree removal for the purposes of constructing City and private utilities, streets, and other infrastructure, and minimally required site grading necessary to construct the development as approved. For site developments, minimally necessary activities will typically entail tree removal for the purposes of constructing City and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and City required site improvements such as driveways and parking lots.~~

~~4156. The Notice of Decision issued for the land use applications subject to this Section shall indicate which trees and woodlands will be retained as per subsection C2-D of this Section, which may be removed or shall be retained as per subsection B-D of this Section, and which shall be mitigated as per subsection D of this Section, and any limitations or conditions attached thereto. The applicant shall prepare and submit a Final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or mitigated as per the Notice of Decision. Such Plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless specifically reviewed and recommended by a certified arborist.~~

~~5. At the time of building permit issuance for any development of a site containing trees or woodlands identified as per subsection C of this Section, the Building Official shall permit only the removal of trees, woodlands and associated vegetation, regardless of size and/or density, minimally necessary to undertake the development activities contemplated by the building permit application under consideration. The permit shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing,~~

~~selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. Minimally necessary activities will typically entail tree removal for the purposes of construction of City and private utilities, streets and other infrastructure, minimally required site grading necessary to construct the development as approved, construction of permitted buildings, and City required site improvements such as driveways and parking lots. A fee for this inspection shall be established as per Section 16.74.010, provided however that said inspection is not deemed to be a land use action.~~

~~6. When a tree or woodland within an approved site plan, subdivision or Planned Unit Development subsequently proves to be so located as to prohibit the otherwise lawful siting of a building or use, retention of said trees or woodlands may be deemed sufficient cause for the granting of a variance as per Chapter 16.84, subject to the satisfaction of all other applicable criteria in Chapter 16.84.~~

7. All trees, woodlands, and vegetation located on any private property accepted for dedication to the City for public parks and open space, greenways, Significant Natural Areas, wetlands, floodplains, or for storm water management or for other purposes, as a condition of a land use approval, shall be retained outright, irrespective of size, species, condition or other factors. Removal of any such trees, woodlands, and vegetation prior to actual dedication of the property to the City shall be cause for reconsideration of the land use plan approval.

FE. Preservation Incentives

1. General Provisions. To assist in the preservation of trees, the City may apply one or more of the following flexible standards as part of the land use review approval. To the extent that the standards in this section conflict with the standards in other sections of this Title, the standards in this section shall apply except in cases where the City determines there would be an unreasonable risk to public health, safety, or welfare. Flexibility shall be requested by the applicant with justification provided within the arborist's report as part of the land use review process and is only applicable to trees that are eligible for credit towards the effective tree canopy cover of the site. A separate adjustment application as outlined in Section 16.84.030.A is not required.

2. Flexible Standards. The following flexible standards are available to applicants in order to preserve trees on a development site. These standards cannot be combined with any other reductions authorized by this code.

a. Lot size averaging. To preserve existing trees in the development plan for any Land Division under Division VII, lot size may be averaged to allow lots less than the minimum lot size required in the underlying zone as long as the average lot area is not less than that allowed by the underlying zone. No lot area shall be less than 80 percent of the minimum lot size allowed in the zone;

b. Setbacks. The following setback reductions will be allowed for lots preserving existing trees using the criteria in subsection (1) below. The following reductions shall be limited to the minimum reduction necessary to protect the tree.

(1) Reductions allowed:

(a.) Front yard – up to a 25 percent reduction of the dimensional standard for a front yard setback required in the base zone. Setback of garages may not be reduced by this provision.

(b.) Interior setbacks - up to a 40 percent reduction of the dimensional standards for an interior side and/or rear yard setback required in the base zone.

(c.) Perimeter side and rear yard setbacks shall not be reduced through this provision.

c. Approval criteria:

(1.) A demonstration that the reduction requested is the least required to preserve trees; and

(2.) The reduction will result in the preservation of tree canopy on the lot with the modified setbacks; and

(3.) The reduction will not impede adequate emergency access to the site and structure.

3. Sidewalks. Location of a public sidewalk may be flexible in order to preserve existing trees or to plant new large stature street trees. This flexibility may be accomplished through a curb-tight sidewalk or a meandering public sidewalk easement recorded over private property and shall be reviewed on a case by case basis in accordance with the provisions of the Engineering Design Manual, Street and Utility Improvement Standards. For preservation, this flexibility shall be the minimum required to achieve the desired effect. For planting, preference shall be given to retaining the planter strip and separation between the curb and sidewalk wherever practicable. If

a preserved tree is to be utilized as a street tree, it must meet the criteria found in the Street Tree section, 16.142.060.

4. Residential Density Transfer. Up to 100% density transfer is permitted from the preserved portion of a significant tree stand within the development site to the buildable area of the development site.

a. Density may be transferred provided that:

- (1.) At least 50% of the significant tree stand's canopy within the development site (and not within the sensitive lands or areas that areas dedicated to the City) is preserved;
- (2.) The project arborist certifies the preservation is such that the connectivity and viability of the remaining significant tree stand is maximized.
- (3.) Maximum density for the net site area including the Significant tree stand is not exceeded;
- (4.) The lots must maintain an 80 percent minimum lot size;
- (5.) The Significant tree stand is protected through an instrument or action subject to approval by the City Manager or the City manager's designee that demonstrates it will be permanently preserved and managed as such:
 - (1.) A conservation easement;
 - (2.) An open space tract;
 - (3.) A deed restriction; or
 - (4.) Through dedication and acceptance by the City.

b. The proposed development may include the following:

- (1.) Zero lot line single family detached housing for the portion of the development site that receives the density transfer.
- (2.) The following variations from the base zone development standards are permitted:
 - (1.) Up to 25% reduction of average minimum lot width;
 - (2.) Up to 10 foot minimum front yard setback
 - (3.) Up to 33% reduction in side or rear yard, however the side yard cannot be less than three feet;
 - (4.) Up to four foot reduction in the garage setback;
 - (5.) Up to 20% increase in maximum height as long as the height requirement adjustment complies with the State Building Code.
- (3.) When the portion of the development receives the density transfer abuts a developed residential district with the same or lower density zoning, the average area of abutting perimeter lots shall not be more than 150% of the adjacent zoning.

5. Adjustments to Commercial and Industrial development Standards. Adjustments to Commercial or Industrial Development standards of up to 20 feet additional building height are permitted provided:

- a. At least 50% of a Significant Tree stand's canopy within a development site (and not also within the sensitive lands or areas that areas dedicated to the City) is preserved;

- b. The project arborist certifies the preservation is such that the connectivity and viability of the remaining significant tree stand is maximized;
- c. Applicable buffering and screening requirements are met;
- d. Any height adjustments comply with state building codes;
- e. Significant tree stand is protected through an instrument or action subject to approval by the City Manager or the City manager's designee that demonstrates it will be permanently preserved and managed as such:
 - (1.) A conservation easement;
 - (2.) An open space tract;
 - (3.) A deed restriction; or
 - (4.) Through dedication and acceptance by the City.

a.—

D.—Mitigation

- ~~1.—The City may require mitigation for the removal of any trees and woodlands identified as per subsection C of this Section if, in the City's determination, retention is not feasible or practical within the context of the proposed land use plan or relative to other policies and standards of the City Comprehensive Plan. Such mitigation shall not be required of the applicant when removal is necessitated by the installation of City utilities, streets and other infrastructure in accordance with adopted City standards and plans. Provided, however, that the City may grant exceptions to established City street utility and other infrastructure standards in order to retain trees or woodlands, if, in the City's determination, such exceptions will not significantly compromise the functioning of the street, utility or other infrastructure being considered. Mitigation shall be in the form of replacement by the planting of new trees.~~
- ~~2.—Replacement trees required as part of mitigation as per this Section shall, as determined by the City, be generally of a substantially similar species, size and quantity to those trees proposed for removal, taking into account soils, slopes, hydrology, site area, and other relevant characteristics of the site on which the mitigation is proposed. In consideration of the foregoing factors the City may require replacement trees to be replanted at greater than a 1:1 caliper inch ratio. Exotic or non-native trees shall generally be replaced with species native to the Willamette Valley or Western Oregon, except where such native trees are prohibited by Section 16.142.050B2. Said replacement trees shall be in addition to trees along public streets required by Section 16.142.050A. Standards for trees along public streets may be different than those for trees required for retention or replacement under this Section.~~
- ~~3.—If replacement trees of the species, size or quantity being removed are not available, or cannot be successfully replanted due to soils, slopes, hydrology, site area, or other relevant characteristics of the site, the City may require:

 - ~~a.—Different species of trees to be submitted, or~~
 - ~~b.—Replacement trees to be planted on another, more suitable site within the City, or~~
 - ~~c.—Cash payments equivalent to the fair market value of the otherwise required replacement trees, including estimated installation costs, said payments to be set aside by the City in a dedicated fund for eventual purchase and planting of trees when suitable sites become available.~~~~
- ~~4.—The Commission may also make recommendation to the Council, based on the recommendation of the Parks Advisory Board, that trees or woodlands identified as per this Section be purchased by the City, if such trees cannot otherwise be retained as part of the proposed land use plan, obtained as a parks and open space or other dedication to the City, or otherwise be mitigated as per subsection D of this Section.~~

F. Tree Protection During Development

The applicant shall prepare and submit a Final Tree and Woodland Plan prior to issuance of any construction permits, illustrating how identified trees and woodlands will be retained, removed or mitigated as per the Notice of Decision. Such Plan shall specify how trees and woodlands will be protected from damage or destruction by construction activities, including protective fencing, selective pruning and root treatments, excavation techniques, temporary drainage systems, and like methods. At a minimum, trees to be protected shall have the area within the drip line of the tree protected from grading, stockpiling, and all other construction related activity unless specifically reviewed and recommended by a certified arborist. Any work within the dripline of the tree shall be supervised by the arborist being onsite during construction.

EG. Penalties

Violations of this Section shall be subject to the penalties defined by Section 16.02.040, provided that each designated tree or woodland unlawfully removed or cut shall be deemed a separate offense. (Ord. 2006-021; Ord. 91-922, § 3)

16.142.080 Trees on Private Property -- not subject to a land use action

A. Generally

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

B. Residential (Single Family and Two-Family) Standards

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

1. Removal of up to five (5) trees, or up to 10 percent of the number of trees on site, whichever is greater, within a twelve month period. No review or approval required provided that trees are not located within a natural resource area, that -the planning department is notified in writing 48 hours prior to removing the tree, including the property address, property owner name and contact information, and provided with the type and size of the tree. Failure to notify the Planning Department shall not result in a violation of this code unless it is determined that the tree removal is located within a natural resource area, or in excess of that permitted outright.
2. Removal of six (6) or more trees, or more than 10 percent of the number of trees on site, whichever is greater, within a twelve month period except as allowed in subsection 1, above.
 - a. The applicant shall submit the following:
 - (1.) A narrative describing the need to remove the tree(s).
 - (2.) A statement describing when and how the Homeowner's Association (HOA) was informed of the proposed tree cutting and their response. If there is not an active HOA, the applicant shall submit as statement indicating that there is not a HOA to contact.
 - (3.) A plan showing the location of the tree and
 - (4.) The applicant shall submit a replacement tree plan. Half of the number of trees removed shall be replaced on site with native trees within six months from the date of removal.

3. The City may determine that, regardless of B.1 through B.2, that certain trees or stands of trees may be required to be retained.

a. If removal is proposed within a natural resource area, the applicant shall submit documentation from a licensed qualified professional in natural resources management such as a wetland scientist, a botanist, or biologist, discussing the proposed tree removal and how it would or would not compromise the integrity of the resource. It shall also discuss the feasibility and practicability of tree removal relative to policies and standards of the City Comprehensive Plan, listed in section 3.b. below.

b. The basis for such a City decision shall include; specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical relative to other policies and standards of the City Comprehensive Plan, and are:

- (1.) Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
- (2.) A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
- (3.) Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
- (4.) Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
- (5.) Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

~~up to 5 trees per acre per calendar year by right, not to exceed 100 inches total dbh. The property owner shall document the number of trees and the date removed for their records and shall notify the City Planning Department 48 hours prior to tree removal. Failure to notify the Planning Department shall not result in a violation of this code unless it is determined that the tree removal is in excess of that permitted outright.~~

~~If the property owner determines that it is necessary to remove more trees than is permitted by right, the act is considered to be an alteration of the exterior appearance of the property and site plan review is required. In that instance, the requirements of Section 16.142.060 shall apply. The review authority shall be determined by the square footage of the area to be disturbed.~~

~~(Ord. 2006-021)~~

C. Non-Residential and Multi-family Standards

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

1. Trees required by a land use decision after the effective date of this code can be removed. Any trees removed shall be replaced within six months of removing the tree with an appropriate tree for the area.

2. Trees that were not required by land use or planted prior to the effective date of this code can be removed after receiving approval from the City of Sherwood.
 - a. Removal of up to 25 percent of the trees on site can be removed and replaced through a type I review process. The applicant shall submit the following:
 - (1.) A narrative describing the need to remove the trees,
 - (2.) A plan showing the location of the trees and
 - (3.) A replacement tree plan. Half of the number of trees removed shall be replaced on site with similar trees within six months from the date of removal.
 - b. Removal of more than 25 percent of the trees on site can be removed and replaced through a type II review process. The applicant shall submit the following:
 - (1.) An arborists report describing the need to remove the trees. The cause for removal must be necessitated by the trees,
 - (2.) A plan showing the location of the tree and
 - (3.) A replacement tree plan. Two – thirds of the number of trees removed shall be replaced on site with similar trees within six months from the date of removal.
3. The City may determine that, regardless of C.1 through C.2, that certain trees or stands of trees may be required to be retained.
 - a. The applicant shall submit documentation from a licensed qualified professional in natural resources management such as wetland scientist, botanist or biologist, discussing the proposed tree removal within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, listed in section 3.b. below.
 - b. The basis for such a City decision shall include; specific findings that retention of said trees or woodlands furthers the purposes and goals of this Section, is feasible and practical both within the context of the proposed land use plan and relative to other policies and standards of the City Comprehensive Plan, and are:
 - (1.) Within a Significant Natural Area, 100-year floodplain, City greenway, jurisdictional wetland or other existing or future public park or natural area designated by the City Comprehensive Plan, or
 - (2.) A landscape or natural feature as per applicable policies of the City Comprehensive Plan, or are necessary to keep other identified trees or woodlands on or near the site from being damaged or destroyed due to windfall, erosion, disease or other natural processes, or
 - (3.) Necessary for soil stability and the control of erosion, for managing and preserving surface or groundwater quantities or quality, or for the maintenance of a natural drainageway, as per Clean Water Services stormwater management plans and standards of the City Comprehensive Plan, or
 - (4.) Necessary as buffers between otherwise incompatible land uses, or from natural areas, wetlands and greenways, or
 - (5.) Otherwise merit retention because of unusual size, size of the tree stand, historic association or species type, habitat or wildlife preservation considerations, or some combination thereof, as determined by the City.

Trees on Private Property Subject to Land Use Review

Current Code Language	Proposed Code Language
Code language applies to all zones and uses in the city	Code language has been differentiated between two categories; <ul style="list-style-type: none"> • Residential requirements (single-family & two-family) • Non-Residential requirements (multi-family, commercial, institutional public & industrial) Retention requirements do not apply to Old Town or Infill projects.
Inventory of existing trees required. Trees that are removed must be mitigated for on an inch for inch basis. (Example – the developer removes a 10inch DBH tree, replant or pay the fee-in lieu for 10 inches. This can be accomplished by paying \$75 per inch or planting five 2 inch DBH trees.)	Inventory of existing trees continues to be required. The code language has been updated to include; <ul style="list-style-type: none"> • The needed materials are specified. • Developer to meet a minimum mature canopy requirement (30% non-residential and 40% residential). Incentives for tree preservation added including: Residential <ul style="list-style-type: none"> • Lot size averaging • Setback reductions • Flexible sidewalk standards • Residential density transfer Non-Residential <ul style="list-style-type: none"> • Increased building height
Protect trees in natural areas. This standard justifies saving trees because of environmental and social reasons consistent with Goal 5; i.e. soil stability, buffers, unusual size, historic association, wildlife, etc.	Continue to protect trees in natural areas. The size of the tree stand was added to the list to merit the retention of trees.
Tree protection during development standards.	Tree protection during development standards will continue. Additional tree protection has been added by indicating that the “work within the dripline must supervised by an arborist was added”.

See other side.

Trees on Private Property NOT Subject to Land Use Review

Current Code Language	Proposed Code Language
Code language applies to all zones and uses in the city	Code language has been differentiated between two categories; <ul style="list-style-type: none"> • Residential requirements (single-family & two-family) • Non-Residential requirements (multi-family, commercial, institutional public & industrial)
<p>All zones and uses in the city can remove up to five trees per acre per year not to exceed 100 total inches DBH by right.</p> <ul style="list-style-type: none"> • Must notify the Planning Department 48 hours prior to cutting the tree. <p>Removal of more than five trees per acre per year requires site plan review.</p>	<p>Residential – removal of up to five trees or 10% of the trees whichever is greater per year by right.</p> <ul style="list-style-type: none"> • Must notify the Planning Department 48 hours prior to cutting the tree. <p>Six trees or more than 10% requires planning department review and half of the number of trees that are removed must be replaced.</p> <p>Non-Residential –</p> <ul style="list-style-type: none"> • If required by land use after the effective date of the code can be removed as long as they are replaced. • If required by land use prior to the effective date of the code, the review varies based on the percentage of trees removed and replaced. <ul style="list-style-type: none"> ▪ Up to 25% - Type I process & replace half of the trees removed ▪ Over 25% - Type II process & replace two-thirds of the trees removed
Code language protecting natural areas is within the tree code but not specifically within <i>trees not subject to land use approval</i> section.	Protecting trees in natural areas, necessary for soil stability, etc., buffers or because of unusual size, historic association, wildlife, etc. has been added to this section.

See other side.

Tree Code Update: Goals and Objectives **Part of the Code Clean-up Project**

Goal 1: Establish and maintain the maximum quality tree cover.

Objective: Encourage the preservation of natural habitat for wildlife.

Objective: Encourage the preservation of established tree stands during development.

Objective: Encourage area cooling while not degrading solar photovoltaic potential.

Goal 2: Maintain trees in a healthy condition through good practices.

Objective: Conserve woodland resources during development.

Objective: Provide clear tree maintenance guidelines for citizens and developers.

Objective: Establish clear guidelines for safely removing trees that are unhealthy or posing a threat to life or property.

Goal 3: Establish and maintain an ideal level of tree diversity in age and species.

Objective: Establish clear planting requirements.

Objective: Conserve woodland resources during development.

Goal 4: Foster community support for the local urban forestry program and encourage good tree management on privately-owned properties

Objective: Provide clear tree maintenance guidelines for citizens and developers.

Objective: Establish a committee to review the tree standards periodically

Goal 5: Establish clear, fair and easily implemented code changes that meet Sherwood's current values.

Objective: Establish regulations that provide clear and diverse options to citizens and developers.

Objective: Create code changes that are consistent with the community's values on trees.

Goal 6: Revise or maintain tree standards that meet the values of the community and provide clear and reasonable standards that seek to preserve trees that are valued by the community without causing unnecessary hardships for developers

Objective: Promote retaining natural tree groves without penalizing developers who develop heavily wooded lots.

Goal 7: Establish standards for commercial, industrial and residential zones to meet the intent of these zones to ensure that development of land is not inhibited while also preserving trees.

Objective: Create code changes that meet the intent of the concept plan that brought the area into the city as well as the needs of the underlying zone

Objective: Consider economic impacts. Provide removal and mitigation options for residential or commercial and industrial developments.

Objective: Create flexible criteria that allow developers to provide mitigation or maintenance of an area depending on the constraints of the site.

Sylvia Murphy

From: Kurt Kristensen <kurtk@poetspeak.com>
Sent: Saturday, February 04, 2012 9:46 AM
To: Sylvia Murphy
Subject: Public Hearing PA 11-06 - Trees on Private Property (Code Clean Up)

Mr. Mayor and Council Members:

I have testified in favor of the City of Sherwood having a tree code for several years, and I am in favor of adopting the proposed tree code in front of you in a public hearing on Tuesday, February 21, 2012, with a few concerns that I hope you will consider:

1. The proposed code allows resident or developer to remove five (5) trees in any calendar year from a specific property; this essentially removes the benefit of the proposed tree code to 99% of all residents. Additionally a developer, or owner planning to develop, can simply progressively remove almost all trees within a few years leading up to a building proposal.
 - a. I suggest that you adopt language that limits it to one (1) significant tree per calendar year, and that additional removals be addressed by the planning department in an informal neighborhood hearing.
2. The proposed code does not require any property owner to discuss his plans to remove one or more trees from his property with neighbors; aside from a complementary call to city planning staff, one or more trees can be removed at will.
 - a. I suggest that council adopt Tree Code language recognizing that tree canopy in a neighborhood impacts the entire neighborhood as well as the financial value of individual property, and that the code language calls for property owner to notify neighbors in writing of intent to remove one or more significantly sized trees, as well as having city planning post a street sign providing a contact number at planning department.

Public Hearing PA 11-06 – Trees on Private Property (Code Clean Up) – The Planning Commission will consider proposed revisions to the Sherwood Zoning and Community Development Code. The proposed changes will update the “Trees on Private Property” section (16.142.070). Specifically, the proposed language will update the standards to be consistent with community values, incentivize tree preservation and remove the mitigation standard. Instead of mitigating based on an inch for inch basis, developments will be required to satisfy minimum canopy coverage that would be measured based on a trees canopy size when mature. Additionally, housekeeping updates from the open space standards and this code update have been made. The Planning Commission will make a recommendation to the City Council who will make the ultimate decision. (Staff contact – Zoe Monahan).

Respectfully,

Kurt Kristensen

Kurt Kristensen - M. Ed.
22520 SW Fair Oaks Ct.
Sherwood, OR 97140-9720



February 21, 2012

Mayor Mays
City of Sherwood City Council
22560 SW Pine Street
Sherwood, OR 97140

Attention: Zoe Monihan

RE: Chapter 16.142 -Comments on the Proposed Tree Code Language

Dear Mayor Mays and Members of the Council:

My name is Matt Grady, representing the Langer Gramor LLC, assisting with implementation of the Langer Planned Unit Development (PUD) Phases 6, 7, and 8 of PUD 95-1. We have participated in previous code updates regarding the signage and site plan review. We have also participated in the Planning Commission hearing for proposed tree code language and met with staff to obtain more details about how it would be applied to new commercial projects in conjunction with the proposed changes to the landscaping code in Chapter 16.92.

This letter provides our comments and questions regarding the current language. With the assistance of a professional planner and landscape architect on our design team, we have studied the language. We are not certain that, as written, that you will achieve your purpose and you will certainly require an arborist on the city staff to review tree plan proposals that are submitted for review.

The "Tree Code Language" in Chapter 16.142.070, subsection D.3 (under Retention requirements) calls for required tree canopy and that each net development site shall provide a minimum tree canopy of 30 percent.

We recommend to alter the definition of "Net Developable Area" in Chapter 16.10 to also exclude the area of building foot prints, such that the 30 percent canopy would be applicable to the remaining land area after the right-of-ways, environmentally sensitive areas and building footprints are removed.

In subsection D. Retention Requirements, subsection 3. The language reads "*the expected mature canopy spread of the new trees will be counted toward the needed canopy cover. A certified arborist or other qualified professional shall provide an estimated tree canopy for all proposed trees to the planning department for review as a part of the land use review process.*" This introduces a main question such as what point system is used for the "tree canopy." Is it still the percentage and to get to that percentage each tree canopy is providing a certain amount of square feet, as it relates to the "net site definition? What is the formula to

achieve the 30 percent coverage? What is not part of the ordinance and should be is the suggested “tree and landscape manual” that lists large, medium and small trees along with corresponding heights, spread, growth rates and “tree factor number.” Oddly enough, the manual does not provide square footages at mature growth, but rather the “canopy factor”. So based upon the proposed language how does one convert the tree canopy to meet the percentage requirement? Or are they two different topics not to be correlated? We think this is not sufficiently articulated in the proposed language.

Part of the answer lies in the proposed language located in Chapter 16.92, which is in another code change under consideration, separated from this proposed language. We suggest cross referencing Chapter 16.92 within the tree code language so that an applicant understands what the requirements are.

Subsection C.2 Inventory calls for documentation of trees that have been removed from the property one-year prior to the submittal of the a development application. This provision may be much harder to document if the stumps are removed and one uses air photos to determine what was previously present. It would be more effective to have the tree code in place and follow the proposed language as spelled out in 16.142.080 under subsections B and C.

This concludes our comments at this time. Thank you for the opportunity to participate and we look forward to working with you and staff to address these concerns. I can be reached at 503-245-1976 if you have any questions.

Sincerely,

Gramor Development, Inc.


Matt Grady, AICP
Senior Project Manager

cc: Frank Schmidt

Field House					
Monthly Report February 2012					
February-12	Feb-12		YTD		Feb-11
Usage		People		People	People
	<u>Count</u>	<u>Served*</u>	<u>Count</u>	<u>Served*</u>	<u>Served*</u>
Leagues	8	882	22	4003	585
Rentals	75	1950	625	13804	2886
Other (Classes)			1	5	17
[1] Day Use	13	110	68	481	147
Total Usage		2942		18293	
					3635
Income	Feb-12	YTD			
Rentals	\$4,600	\$32,333			
League fees (indoor)	\$14,057	\$59,995			
Card fees (indoor)	\$719	\$3,220			
Day Use	\$218	\$939			
Merchandise					
Snacks	\$951	\$3,918			
Classes		\$175			
Total	\$20,545	\$100,580			
FY 10 11					
Rentals	Feb-11	YTD			
League fees (indoor)	\$6,908	\$38,828			
Card fees (indoor)	\$8,027	\$52,644			
Day Use	\$309	\$2,995			
Merchandise	\$288	\$1,219			
Snacks					
Classes	\$732	\$4,138			
Total Income	\$1,041	\$2,336			
	\$17,305	\$102,160			

*Estimated number of people served based on all rentals have a different # of people. Along with each team will carry a different # of people on their roster.

Active Rec happenings during the month of February 2012

Youth basketball played 117 recreational games in the gyms during the month.

Youth basketball also played 46 classic gamers during the month.

Youth basketball is finishing up the first weekend in March.

Youth basketball will be running some spring programs March through June.

Youth Track, Softball, Baseball, Lacrosse and some spring Soccer will all be under way by the time you all read this.

Respectfully

Lance Gilgan

March 1, 2012

Council Meeting Date: March 20, 2012
Monthly Report

TO: Sherwood City Council

FROM: Craig L. Gibons, Finance Director

SUBJECT: Monthly Budget Report as of February 29, 2012

The adopted budget establishes legal expenditure limits for the City. The attached chart shows expenditures to date through February and compares those expenditures to the budget.

1. With 66% of the year lapsed, all of the expenditure categories but two are trending as anticipated and will remain within budget.
2. One exception is the Asset Depreciation Fund, where the beginning fund balance was higher than anticipated, putting the transfer out of 100% of the fund balance over budget.
3. The other exception is the Street Capital Fund, where Capital Outlay expenditures have exceeded budget. This occurred because after budget adoption, circumstances changed and the budgeted project, construction of Adams Avenue North was replaced by the construction of the south portion of the street. The south portion is more expensive than the north portion of the road.

Staff will include an expenditure authorization increase for these funds in the upcoming supplemental budget/budget transfer resolution. Increased revenues will offset the increased expenditures.

General Government Funds (\$000)				
	<u>Feb YTD Results</u>	<u>Budget</u>	<u>% of Budget Used</u>	
General Fund				
Administration	\$ 1,710	\$ 2,860	60%	
Community Devel.	501	922	54%	
Police	2,235	3,531	63%	
Community Svcs.	778	1,225	64%	
PW Operations	<u>812</u>	<u>1,793</u>	<u>45%</u>	
Fund Total	\$ 6,036	\$ 10,331	58%	
Asset Depreciation Fund				
Transfers Out	\$ 221	\$ 218	101%	
General Construction Fund				
Debt Service	\$ 43	\$ 48	90%	
Debt Service Fund				
Debt Service	\$ 295	\$ 888	33%	
Street Operations Fund				
Personal Services	\$ 171	\$ 295	58%	
Materials and Services	243	700	35%	
Capital Outlay	275	588	47%	
Debt Service	<u>58</u>	<u>59</u>	<u>98%</u>	
Fund Total	\$ 747	\$ 1,642	45%	
Street Capital Fund				
Personal Services	\$ 134	\$ 180	74%	
Materials and Services	108	139	78%	
Capital Outlay	3,754	3,440	109%	
Transfers Out	<u>-</u>	<u>-</u>	<u>0%</u>	
Fund Total	\$ 3,996	\$ 3,759	106%	

Enterprise Funds (\$000)			
	<u>Feb YTD Results</u>	<u>Budget</u>	<u>% of Budget Used</u>
Water Fund			
Operations	\$ 2,665	\$ 3,973	67%
Capital Outlay	<u>857</u>	<u>7,279</u>	<u>12%</u>
Fund Total	\$ 3,522	\$ 11,252	31%
Sanitary Fund			
Operations	\$ 216	\$ 498	43%
Capital Outlay	<u>1,157</u>	<u>1,962</u>	<u>59%</u>
Fund Total	\$ 1,373	\$ 2,460	56%
Storm Fund			
Operations	\$ 538	\$ 1,162	46%
Capital Outlay	<u>476</u>	<u>693</u>	<u>69%</u>
Fund Total	\$ 1,014	\$ 1,855	55%
Telecom Fund			
Personal Services	\$ 5	\$ 26	19%
Materials and Services	57	117	49%
Capital Outlay	-	40	0%
Debt Service	255	-	0%
Transfer to General Fund	<u>-</u>	<u>200</u>	<u>0%</u>
Fund Total	\$ 317	\$ 383	83%
Urban Renewal Agency Funds (\$000)			
	<u>Feb YTD Results</u>	<u>Budget</u>	<u>% of Budget Used</u>
URA Operations Fund			
Personal Services	\$ 57	\$ 101	56%
Materials and Services	83	155	54%
Capital Outlay	-	42	0%
Debt Service	<u>2,499</u>	<u>2,957</u>	<u>85%</u>
Fund Total	\$ 2,639	\$ 3,255	81%
URA Capital Fund			
Personal Services	\$ 27	\$ 65	42%
Materials and Services	23	51	45%
Capital Outlay	<u>2,263</u>	<u>3,894</u>	<u>58%</u>
Fund Total	\$ 2,313	\$ 4,010	58%

clg3-9-12