



ORDINANCE 2012-006

AN ORDINANCE AMENDING MULTIPLE SECTIONS OF THE ZONING AND COMMUNITY DEVELOPMENT CODE RELATING TO AMATEUR RADIO TOWERS IN RESIDENTIAL ZONES

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, the proposed amendments to Division II related to the requirements for amateur radio towers in the residential zones and were reviewed for compliance and consistency with the Comprehensive Plan, regional and state regulations and found to be fully compliant; and

WHEREAS, the proposed amendments were subject to full and proper notice and review and a public hearing was held before the Planning Commission on February 22, 2011; and

WHEREAS, the Planning Commission voted to forward a recommendation of approval on residential uses including amateur radio towers to the City Council for the proposed Development Code modifications; and

WHEREAS, the City Council approved modifications to the Development Code regarding residential uses on April 5, 2011, but requested more information on amateur radio towers and delayed action on the proposed changes until the March 6, 2012 hearing; and

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

WHEREAS, attached Exhibit 1-A reflects the code amendments pertaining to amateur radio towers; and

WHEREAS, the City Council held a public hearing on March 6, 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 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) 11-01A identified in Exhibits 1-A is hereby **APPROVED**.

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

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

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

Duly passed by the City Council this 6th day of March 2012.


~~Keith S. Mays, Mayor~~
Dave Grant, Council President

Attest:


Sylvia Murphy, CMC, City Recorder

	<u>AYE</u>	<u>NAY</u>
Clark	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Langer	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Butterfield	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Folsom	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mays		<u>Absent</u>

City of Sherwood
Staff Report to City Council
File No: PA 11-01A Code Clean-Up-Amateur Radio Towers

February 24, 2012

Proposal: Amendments to the Development Code on this phase of the Code Clean-Up project include adding code language to allow amateur radio towers in the residential zone. Exhibit 1-A is a copy of the proposed text amendments with all of the changes incorporated in the “track changes” version for help in identifying what text is new or modified.

The Planning Commission held a hearing on February 22, 2011. After discussion of the various topics within the residential use sections, the Commission recommended several minor alterations to the proposed language. After consideration of the public testimony and staff recommended changes, the Commission voted to forward the proposed amendments to residential uses. During a work session briefing on the updates, Council directed staff to separate the amateur radio towers amendments to allow more time to consider those specific changes. Exhibit A contains the proposed amendments to the development code concerning Amateur Radio Towers. The following represents the analysis and findings the Planning Commission based their recommendation upon with modifications to reflect that only the amateur radio tower standards are being considered at this time.

I. BACKGROUND

- A. Applicant: This is a City initiated text amendment; therefore the applicant is the City of Sherwood.
- B. Location: The proposed amendment is to the text of the Development Code and therefore applies citywide.
- C. Review Type: The proposed text amendment requires a Type V review that involves public hearings before the Planning Commission and also the City Council. The Planning Commission will make a recommendation to the City Council who will make the final decision. Any appeal of the City Council decision relating to Chapter 16 updates would go directly to the Land Use Board of Appeals.
- D. Public Notice and Hearing: Notice of the March 6, 2012 City Council hearing on the proposed amendment was published in *The Times* on February 23 and March 1, 2012. In addition, as a courtesy notice was placed in the March edition of the Gazette. Notice was posted in five public locations around town and on the web site on February 24, 2012. Regular updates were provided in the City newsletter.

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

- E. Review Criteria:
The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).
- F. Background:

The City underwent periodic review in 1989-1991 and the Zoning and Community Development Code was comprehensively reviewed and updated as part of that process. Since that time, there have been a number of updates to comply with regional and state laws, address local issues and in response to applications. Overtime, the disjointed modifications resulted in the need to conduct a comprehensive audit and update of the Code to ensure cross references are correct, standards are clear, and typographical errors are fixed. In addition, over time the trends and values have changed to the extent that it became important to evaluate the standards to ensure they address the needs of the community. To that end, the Council, Planning Commission and staff identified the importance of a comprehensive update of the Development Code. The Code Update project has been broken into phases to allow manageable portions to be reviewed and adopted prior to moving on to another phase. The proposed amendments concerning amateur radio towers were initially forwarded by the Planning Commission in March of 2011 along with other issues surrounding residential uses.

Amateur radio towers are currently considered a conditional use in any zone under § 16.68, "Chimneys, Spires, Antennas, and Similar Structures" with a height limitation of 200 feet. Over the last few years, staff has been contacted by citizens requesting information on installing an amateur radio tower on their residential property. The conditional use permit fee was often stated as a deterrent for erecting a tower, especially for a hobbyist or amateur radio enthusiast.

During the Code Clean Up process, it was brought the attention of staff and the Planning Commission that Oregon statutes were in place to exempt amateur radio towers in the residential zone from local regulations to a height limitation of 70 feet or less. Exhibit 1-A reflects the proposed language that will be in compliance with the state regulatory language.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

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

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

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

Public:

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

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

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.1 and 3.

16.80.030.1 - Text Amendment Review

An amendment to the text of the Comprehensive Plan shall be based upon the need for such an amendment as identified by the Council or the Commission. Such an amendment

shall be consistent with the intent of the Comprehensive Plan, and with all other provisions of the Plan and Code, and with any applicable State or City statutes and regulations.

As discussed briefly above, the proposed Code amendments were identified to clarify and create greater flexibility for the sections that residential property owners use most frequently. The Planning Commission held a series of work sessions to discuss the proposed changes and considered public input before the modifications were recommended. The following is a summary of the amateur radio changes:

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

The update occurs in *Division II.*, Chapters 16.12.-Residential Land Uses and specifically the addition of § 16.12.070-Amateur Radio Tower. This includes replacing the existing language that had previously been divided into separate land use designations by chapter into a table with the permitted and conditional uses. Another table describes the dimensional standards with the specific zones.

Based on citizens' comments and inquiries and revised Oregon statutory regulations, the recommended changes include new permitted uses amateur radio towers within residential land use zones.

The proposed changes are consistent with applicable Comprehensive Plan policies. Specifically, **Chapter 4, Section E, Residential Planning Designations:**

General Objectives:

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

Policy 1:

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

Policy 1 of the Comprehensive Plan identifies buffering techniques to prevent adverse effects of uses. Overall, the proposed code updates reflect the community design standards for the residential planning designations by recognizing the changing needs of the community and balancing the privacy needs of individual property owners within neighborhoods. The proposed code amendments satisfy the Comprehensive Plan policies and objectives listed above. The proposed language also reflects regulatory compliance and provides height limitations for the amateur radio antennas and towers.

Applicable Regional (Metro) standards

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

Consistency with Statewide Planning Goals

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

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

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

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

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

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

16.80.030.3 – Transportation Planning Rule Consistency

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

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

IV. RECOMMENDATION

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

V. EXHIBITS

- A. Proposed Development Code changes Track Changes Version

16.12.020. Allowed Residential Land Uses-(Table shows where the amendment to the Code would be inserted.)

A. Residential Land Uses

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

USES	VLDR	LDR	MDRL	MDRH	HDR
ACCESSORY USES					
•Home Occupations-subject to Chapter 16.42	P	P	P	P	P
•Temporary Uses-subject to Chapter 16.86	P	P	P	P	P
• Amateur Radio Tower -subject to § 16.12.060	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
•Family Daycare Providers	P	P	P	P	P
COMMERCIAL					
•Agricultural Uses ³	P	P	P	P	P
•Residential Care Facilities	P	P	P	P	P
•Special Care Facilities (such as hospitals, sanitariums, and specialized living facilities)	C	C	C	C	P
•Plant Nurseries ⁴	C	C	C	C	C
•Public and Private Schools	C	C	C	C	C
•Daycare Facilities	C	C	C	C	C
•Any business, service, processing, storage, or display not conducted entirely within an enclosed building that is essential or incidental to any permitted or conditional use	C	C	C	C	C
•Raising of Animals other than Household Pets	C	C	C	C	C
CIVIC					
•Public Recreational Facilities ⁵	P	P	P	P	P
•Religious Institutions, Private Fraternal Organizations and Lodges, Country clubs or other similar clubs	C	C	C	C	C

•Cemeteries and crematory mausoleums	C	C	C	N	N
•Civic Buildings-(such as police and fire stations, post office)	C	C	C	C	C
•Public Use Buildings-(such as libraries, and community centers)	C	C	C	C	C
Whereas P=Permitted, C=Conditional, N=Not Allowed					

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

⁴ Includes other agricultural uses and associated commercial buildings and structures

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

USES	VLDR	LDR	MDRL	MDRH	HDR
•Golf Courses	C	C	C	C	C
•Basic Utilities (such as electric substations, public works yard)	C	C	C	C	C
•Radio and communications stations, on lots with a minimum width and depth equal to the height of any tower in conformance	C	C	C	C	C
Whereas P=Permitted, C=Conditional, N=Not Allowed					

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

C. Any use that is not permitted or conditionally permitted under this zone that cannot be found to be consistent with the allowed or conditional uses identified as in B. is prohibited in the residential zone using the procedure under Chapter 16.88 (Interpretation of Similar Uses).
 (Ord. No. 2011-003, § 2, 4-5-2011)

16.12.030 Residential Land Use Development Standards

A. Generally

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

B. Development Standards

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

C. Development Standards per Residential Zone

Development Standard by Residential Zone-	VLDR	VLDR- PUD	LDR	MDRL	MDRH	HDR
Minimum Lot areas:(in square ft.)						
•Single-Family Detached	40,000	10,000	7,000	5,000	5,000	5,000
•Single Family Attached	40,000	10,000	7,000	5,000	4,000	4,000
•Two or Multi-Family: for the first 2 units	X	X	X	10,000	8,000	8,000
•Multi-Family: each additional unit after first 2	X	X	X	X	3,200	1,500
Minimum Lot width at front property line: (in feet)	25	25	25	25	25	25
Minimum Lot width at building line ⁶ : (in feet)						
•Single-Family	None	None	60	50	50	50
•Two-Family	X	X	X	60	60	60
•Multi-family	X	X	X	X	60	60
Lot Depth	None	None	80	80	80	80
Maximum Height⁷ (in feet)	30 or 2 stories	30 or 2 stories	30 or 2 stories	30 or 2 stories	35 or 2.5 stories	40 or 3 stories
• Amateur Radio Tower	70	70	70	70	70	70
•Chimneys, Solar or Wind Devices, Radio and TV aerials ⁸	50	50	50	50	55	60
Setbacks (in feet)						
•Front yard	20	20	20	20	20	20
•Interior side yard						
•Single-Family Detached	5	5	5	5	5	5
•Single-Family Attached	20	20	20	10	5	5
•Two Family	X	X	X	5	5	5
•Multi-Family						
•18 ft. or less in height	X	X	X	X	5	5
•Between 18-24 ft. in height	X	X	X	X	7	7
•If over 24 ft. in height	X	X	X	X	§ 16.68 Infill	§ 16.68 Infill

•Corner lot street side							
	•Single Family or Two Family	20	20	20	15	15	15
	•Multi-Family	X	X	X	X	20	30
•Rear yard		20	20	20	20	20	20

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

⁷ Maximum height is the lesser of feet or stories

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

NO CHANGES TO 16.12.040 AND 16.12.050

16.12.060 Amateur Radio Towers/Facilities

- A.** All of the following are exempt from the regulations contained in this section of the Code:
1. Amateur radio facility antennas, or a combination of antennas and support structures seventy (70) feet or less in height as measured from the base of the support structure consistent with ORS § 221.295.
 2. This includes antennas attached to towers capable of telescoping or otherwise being extended by mechanical device to a height greater than 70 feet so long as the amateur radio facility is capable of being lowered to 70 feet or less. This exemption applies only to the Sherwood Development Code and does not apply to the City of Sherwood Building Code or other applicable city, state, and federal regulations. Amateur radio facilities not meeting the requirements of this section must comply with Chapter 16.12.030.C.
- B. Definitions**
1. Amateur Radio Services: Radio communication services, including amateur-satellite service, which are for the purpose of self-training, intercommunication, and technical investigations carried out by duly licensed amateur radio operators solely for personal aims and without pecuniary interest, as defined in Title 47, Code of Federal Regulations, Part 97 and regulated there under.
 2. Amateur Radio Facilities: The external, outdoor structures associated with an operator’s amateur radio service. This includes antennae, masts, towers, and other antenna support structures.