



ORDINANCE 2014-006

AMENDING THE DIMENSIONAL TABLE IN SECTION 16.12.030.C OF THE SZCDC AS IT RELATES TO FRONT YARD SETBACKS WITHIN THE MEDIUM DENSITY RESIDENTIAL LOW, MEDIUM DENSITY RESIDENTIAL HIGH, AND HIGH DENSITY RESIDENTIAL ZONING DISTRICTS

WHEREAS, the City received an application for a text amendment to the Sherwood Zoning and Development Code amending the provisions of Chapter § 16.12.030; and

WHEREAS, the applicant proposed to reduce the front yard setbacks in the Medium Density Residential Low, Medium Density Residential High and High Density Residential zones; and

WHEREAS, after testimony from the public, staff and the applicant, the Sherwood Planning Commission recommended to the City Council that the setbacks be amended and added a restriction that any applicant seeking a fourteen-foot front yard setback cannot also apply the five-foot setback reduction for architectural features as found in Chapter § 16.50.050; and

WHEREAS, the proposed amendment was 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 before the Planning Commission on February 11, 2014; and

WHEREAS, the Planning Commission voted to forward a recommendation to the City Council for the proposed Development Code modifications to Chapter 16.12.030; and

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

WHEREAS, the City Council held a public hearing on March 4, 2014, 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 City 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 attached Exhibit 2.

Section 2. Approval

The proposed amendment for Plan Text Amendment (PA) 13-05 identified in Exhibit 2 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 of the Mayor.

Duly passed by the City Council this 4th day of March 2014.



Bill Middleton, Mayor

Attest:



Sylvia Murphy, MMC, 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"/>
Grant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Middleton	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PLANNING COMMISSION RECOMMENDATION TO THE CITY COUNCIL

File No: PA 13-05 Front Yard Setbacks Amendment

On February 11, 2014, the Planning Commission considered an amendment to the City of Sherwood Zoning and Community Development Code to change the required front yard setbacks in the Medium Density Residential Low, Medium Density Residential High, and High Density Residential. After considering the applicant’s materials, public testimony, and the findings in the staff report, the Planning Commission voted to recommend approval of the request to the Sherwood City Council with the following amendments:

1. Reduce the front yard setbacks in those three zones to 14 feet for the main structure, and 20-feet to the face of the garage.
2. Add an annotation to the table in 16.12.030.C for the MDRL, MDRH, and HDR zone that prohibit the encroachments allowed for in 16.50.050 which states, “Architectural Features such as cornices, eaves, canopies, sunshades, gutters, signs, chimneys, and flues may project up to five (5) feet into a front or rear required yard setback...”

The Planning Commission recommendation is based on the findings in this report.



Signed:

Brad Kilby, AICP Planning Manager

Applicant’s Proposal: A proposal to amend the front yard setback requirements within the Medium Density Residential Low, Medium Density Residential High, and High Density Residential zones. Currently, all residential zones within the City of Sherwood require a minimum front yard setback of 20-feet. As proposed, the setback to the garage entrance would remain 20-feet, but the setback, to the front of the primary structure would be 14 feet, and the setback to the porch would be 10-feet.

I. BACKGROUND

- A. Applicant: DR Horton, Inc.
Attn: Andy Tiemann or Kati Gault
4380 SW Macadam Avenue, Suite 100
Portland, OR 97209
- B. Location: The proposed amendment is to the text of Chapter 16.12 Residential Zoning Districts of the Sherwood Zoning and Community Development Code (SZCDC) and would apply to all properties zoned Medium Density Residential Low, Medium Density Residential High, and High Density Residential.
- 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 is scheduled to consider the matter on February 11, 2014. At the close of their hearing, they will forward a recommendation to the City Council who will consider the proposal, and make the final decision whether to approve, modify, or deny the proposed language. Any appeal of the City Council’s decision relating to this matter will be considered by the Oregon Land Use Board of Appeals.

- D. Public Notice and Hearing: Notice of the February 11, 2014 Planning Commission hearing on the proposed amendment was published in *The Times* on January 8th, January 16th, and published in the January and February editions of the Gazette. Notice was also posted in five public locations around town on January 21, 2014 and has been on the City's website since December 10, 2013. In addition, an article discussing the proposal was provided in the January edition of the *Sherwood Archer*.

DLCD notice was mailed on December 10, 2013.

- 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 SZCDC provides the dimensional requirements for the individual zoning districts. Among setbacks, the dimensional requirements speak to minimum lot sizes, lot dimensions, frontage requirements and building heights. All of the residential zones within the City of Sherwood require a minimum front yard setback of 20-feet. There are provisions within the development code that allow encroachments such as eaves, uncovered porches and decks, and other architectural features of a building to encroach into the front yard setback. If the Council is inclined to follow the Planning Commission recommendation and reduce the setbacks as requested then it should also consider adding a foot note within table 16.12.030 that states, "Reductions in front yard setbacks for architectural features as described in 16.50.050 is not allowed."

In November of 2013, DR Horton, a developer who had recently obtained preliminary approval of the Daybreak Subdivision, a 34-lot single-family development in northwest Sherwood, approached the City about reducing the front yard setbacks within the development. Instead of seeking numerous adjustments or variances to which there were no underlying circumstances to justify such an action, staff advised the applicant to seek a code amendment.

Within the communities of Tualatin, Tigard, Beaverton, and Newberg, the front yard setbacks vary anywhere from 10 all the way up to 35 feet. Front yard setbacks are generally determined based on aesthetic desires of a community. In many cases, the garages are required to be setback a minimum of 20-feet from the front property line to provide enough room in front of the garage to allow a car to be parked in the driveway. Front yards for all other portions of the structure vary as discussed above.

Within the City of Sherwood, every new lot is required to provide an eight-foot public utility easement within the front yard, so it would not be prudent to reduce the front yard setback below the requested ten foot setback proposed for the porch. Also, within Sherwood, there are already homes that have setbacks that vary between 10 and 20 feet. Varied setbacks provide for a variety of benefits to the homeowner. If the setbacks are varied within the development itself, the front yard variations provide visual interest, and bring the main focus of the streetscape to the main entrance of the home. Examples of existing homes in Sherwood along with the approved setbacks are provided as Exhibit 1-D to this report.

By reducing the front yard setbacks the community will inevitably see one of two results. First, with no maximum lot coverage standard, the homes could be made larger. If a larger home is not desired, then the reduced setbacks on the front would result in larger rear yards. Setbacks are traditionally required to provide space between buildings to allow air and light into a development. Setbacks also create buffers between homes and the

adjoining streets. This is not a question of whether or not a setback is needed, but rather, what the appropriate setback is.

II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

Agencies:

The City sent a request for comments to potentially affected agencies on December 20, 2013. DLCD notice was also sent on December 20, 2013. The City has not received any agency comments to date on the proposed amendments.

Public:

There has been extensive outreach to the community on behalf of this proposal, including an article in the City newsletter, announcements at public meetings, as well as being promoted several times on the City's website to a headline, but despite our efforts, announcements, or notices, there simply does not seem to be any interest in this proposal from the public.

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

The applicable Plan Text Amendment review criteria are 16.80.030.A and C

16.80.030.A - 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's Development Code is an integral part of the Comprehensive Plan, and while this specific proposal does not include changes to the goals and policies of the Comprehensive Plan, it is a proposal that would amend language of the Development Code. There are no specific standards other than ensuring that the language is consistent with the existing Comprehensive Plan and any applicable State or City Statutes and regulations. The proposed changes would amend the language within the development code for three residential zones. (The MDRL, the MDRH, and the HDR zone.)

Upon review of the Comprehensive Plan, the only policy that specifically relates to this proposal would be Policy 3 in Community Design. That policy states, "The natural beauty and unique visual character of Sherwood will be conserved." There is not an associated goal that would correspond to this request. Setbacks are intended to provide plenty of light, air, and fire separation. Within the residential land use policies, there is a discussion of quality, variety, and flexibility which arguably, a flexible dimensional standard can provide. There do not appear to be any comprehensive plan requirements that would conflict with the proposed code language. It is important to note that the existing rear, side, and corner side yard setbacks would not be amended as part of this proposal, and was not requested by the applicant.

Applicable Regional (Metro) Standards

There are no known Metro standards that would conflict with the proposed language. Metro discusses densities and efficiency, but does not speak to setbacks.

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 is not aware of any other state or local regulations that the proposed amendment would conflict

with. The minimum separation requirements are typically associated with the Building and Fire Codes. In both instances, the minimum separation is less than what would be required.

As discussed previously, the public has been provided with a variety of avenues to provide input, and staff has always been available to discuss the proposed changes. As a whole, the proposed amendments are consistent with Goal 1 (Citizen Participation) and Goal 2 (land use planning).

Formal notice was also published in the Tigard Times, the Sherwood Gazette, the City's website, and the Archer newsletter. Notice of the proposal has been posted around town in several conspicuous places, and is provided on the City's website.

FINDING: This issue is primarily a question of aesthetics since there is usually not a structure immediately adjacent to a front yard. As discussed above, there is not necessarily a need for the proposed amendments, but they would provide some additional benefit to the individual landowner. To the extent that they are applicable, the proposed 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 and do not affect the functional classification of any street. 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. EXHIBITS

- 1-A Applicant's Materials
- 1-B Proposed development code changes – Clean format
- 1-C Proposed development code changes – Track changes format
- 1-D Examples of existing homes in Sherwood with reduced setbacks

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)	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>	<u>25</u>
Minimum Lot width at building line ^(b): (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 Height ^(c) (in feet)	<u>30</u> or 2 stories	<u>30</u> or 2 stories	<u>30</u> or 2 stories	<u>30</u> or 2 stories	<u>35</u> 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 ^(d)	50	50	50	50	55	60
Setbacks (in feet)						
• Front yard⁹	<u>20</u>	<u>20</u>	<u>20</u>	<u>14</u>	<u>14</u>	<u>14</u>
• Face of garage	20	20	20	20	20	20
• Interior side yard						
• Single-Family Detached	5	5	5	5	5	5
• Single-Family Attached	<u>20</u>	<u>20</u>	<u>20</u>	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	<u>§ 16.68</u> Infill	<u>§ 16.68</u> Infill
• Corner lot street side						
• Single Family or Two Family	<u>20</u>	<u>20</u>	<u>20</u>	15	15	15
• Multi-Family	X	X	X	X	<u>20</u>	<u>30</u>
• Rear yard	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>

(Ord. No. 2012-006, § 2, 3-6-2012; Ord. No. 2011-003, § 2, 4-5-2011)

16.12.040 - Community Design

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

(Ord. No. 2011-003, § 2, 4-5-2011)

16.12.050 - Flood Plain

Except as otherwise provided, [Section 16.134.020](#) shall apply.

(Ord. No. 2011-003, § 2, 4-5-2011)

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.

(Ord. No. 2012-006, § 2, 3-6-2012)

FOOTNOTE(S):

--- (1) ---

Editor's note— Ord. No. 2011-03, § 2, adopted April 5, 2011, amended the Code by repealing former Ch. 16.12, §§ 16.12.010—16.12.070, in its entirety, and added a new Ch. 16.12. Former Ch. 16.12 pertained to the Very Low Density Residential zoning district, and derived from Ords. 86-851, 87-857, 88-919, 90-921, 1997-1019, 2000-1092, 2000-1108, 2003-1153, and 2006-021; and Ord. No. 2010-015, adopted October 5, 2010. [\(Back\)](#)

--- (2) ---

Provided such facilities are substantially identical, in the city's determination, in physical form to other types of housing allowed in the zoning district. [\(Back\)](#)

--- (3) ---

Includes truck farming and horticulture, but excludes commercial building or structures or the raising of animals except as otherwise permitted by this code. [\(Back\)](#)

--- (4) ---

Includes other agricultural uses and associated commercial buildings and structures [\(Back\)](#)

--- (5) ---

Includes, but is not limited to parks, playfields, sports and racquet courts, but excludes golf courses [\(Back\)](#)

--- (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. [\(Back\)](#)

--- (7) ---

Maximum height is the lesser of feet or stories [\(Back\)](#)

--- (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). [\(Back\)](#)

--- (9) ---

Reductions in front yard setbacks for architectural features as described in 16.50.050 is not permitted in the MDRL, MDRH, or HDR zoning districts. [\(Back\)](#)

Chapter 16.14 - RESERVED ⁽¹⁰⁾