



ORDINANCE 2011-003

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


Keith S. Mays, Mayor
Dave Grant, Council President

Attest:


Sylvia Murphy, CMC, City Recorder

	AYE	NAY
Luman	<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	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<i>Absent</i>	

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

March 25, 2011

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

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

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

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

I. BACKGROUND

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

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

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

E. Review Criteria:

The required findings for the Plan Amendment are identified in Section 16.80.030 of the Sherwood Zoning and Community Development Code (SZCDC).

F. Background:

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

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

Agencies:

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

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

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

Public:

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

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

III. REQUIRED FINDINGS FOR A PLAN TEXT AMENDMENT

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

16.80.030.1 - Text Amendment Review

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

As discussed briefly above, the proposed Code amendments under Phase II were identified to clarify and create greater flexibility for the sections that residential property owners use most frequently. The Planning Commission held a series of work sessions to discuss the proposed changes and considered public input before the modifications were recommended. The following discussion separates the chapters that have been amended within the Development Code.

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

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

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

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

Chapter 16.42-Home Occupations

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

Chapter 16.50-Accessory Structures, Architectural Features and Decks

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

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

Chapter 16.58 Clear Vision Areas

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

Chapter 16.84 Variances

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

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

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

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

Chapter 4, Section E, Residential Planning Designations:

General Objectives:

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

Policy 1:

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

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

Applicable Regional (Metro) standards

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

Consistency with Statewide Planning Goals

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

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

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

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

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

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

16.80.030.3 – Transportation Planning Rule Consistency

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

DATE: March 25, 2011

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

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Chapter 16.12

RESIDENTIAL LAND USE DISTRICTS

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

SECTION:

16.12.010. Purpose and Density Requirements

16.12.020. Allowed Residential Land Uses

16.12.030 Residential Land Use Development Standards

16.12.040 Community Design

16.12.050 Flood Plain

16.12.010. Purpose and Density Requirements

A. Very Low Density Residential (VLDR)

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

1. If developed through the Planned Unit Development (PUD) process, as per Chapter 16.40, and if all floodplain, wetlands, and other natural resource areas are dedicated or remain in common open space, the permitted density of 1.4 to two (2) dwelling units per acre may be allowed. Minor land partitions shall be exempt from the minimum density requirement.
2. Special Density Allowances
Housing densities up to two (2) units per acre, and minimum lot sizes of 10,000 square feet, may be allowed in the VLDR zone when:
 - a. The housing development is approved as a PUD, as per Chapter 16.40; and
 - b. The following areas are dedicated to the public or preserved as common open space: floodplains, as per Section 16.134.020 (Special Resource Zones); natural resources areas, per the Natural Resources and Recreation Plan Map, attached as Appendix C, or as specified in Chapter 5 of the Community Development Plan, and wetlands defined and regulated as per current Federal regulation and Division VIII of this Code; and
 - c. The Review Authority determines that the higher density development would better preserve natural resources as compared to one (1) unit per acre design.

B. Low Density Residential (LDR)

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

16.12.020. Allowed Residential Land Uses

A. Residential Land Uses

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

USES	VLDR	LDR	MDRL	MDRH	HDR
RESIDENTIAL					
• Single-Family Attached or Detached Dwellings	P	P	P	P	P
• Two Family Dwelling Units	N	N	P	P	P
• Multi-family Dwellings	N	N	N	P	P
• Townhomes-subject to Chapter 16.44	N	N	N	P	P
• Planned Unit Developments (PUDs)-subject to Chapter 16.40	P	P	P	P	P
• Manufactured Homes on Individual Lots	P	P	P	P	P
• Manufactured Home Park-subject to Chapter 16.46	N	N	P	P	N
• Accessory Dwelling Unit-subject to Chapter 16.52	P	P	P	P	P
• Group Homes¹	P	P	P	P	P
• Government-Assisted housing²	P	P	P	P	P
ACCESSORY USES					
• Home Occupations-subject to Chapter 16.42	P	P	P	P	P
• Temporary Uses-subject to Chapter 16.86	P	P	P	P	P
• Family Daycare Providers	P	P	P	P	P
COMMERCIAL					
• Agricultural Uses³	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 Nurseries⁴	C	C	C	C	C
• Public and Private Schools	C	C	C	C	C
• Daycare Facilities	C	C	C	C	C
• Any business, service, processing, storage, or display not conducted entirely within an enclosed building that is essential or incidental to any permitted or conditional use	C	C	C	C	C
• Raising of Animals other than Household Pets	C	C	C	C	C
Whereas P=Permitted, C=Conditional, N=Not Allowed					

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

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

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

⁴ Includes other agricultural uses and associated commercial buildings and structures

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

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

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

16.12.030 Residential Land Use Development Standards

A. Generally

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

B. Development Standards

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

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

C. Development Standards per Residential Zone

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

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

⁷ Maximum height is the lesser of feet or stories

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

16.12.040 Community Design

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

16.12.050 Flood Plain

Except as otherwise provided, Section 16.134.020 shall apply.

Chapter 16.42 HOME OCCUPATIONS

Sections:

16.42.010 Purpose

16.42.020 Authority

16.42.030 Exemptions

16.42.040 Class A and Class B Home Occupations

16.42.050 General Definition and Criteria for Home Occupations

16.42.060 Class B Home Occupation Criteria Defined

16.42.070 Class A Home Occupation Permit Criteria Defined

16.42.080 Prohibited Uses

16.42.090 Permit Procedures for Class A Home Occupations

16.42.100 Expiration and Revocation of Home Occupation Permits

16.42.110 Appeals

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

16.42.010 Purpose

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

16.42.020 Authority

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

16.42.030 Exemptions

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

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

16.42.040 Class A and Class B Home Occupations

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

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

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

16.42.050 General Definition and Criteria for Home Occupations

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

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

16.42.060 Class B Home Occupation Criteria Defined

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

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

16.42.070 Class A Home Occupation Permit Criteria Defined

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

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

16.42.080 Prohibited Uses

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

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

16.42.090 Permit Procedures for Class A Home Occupations

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

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

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

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

16.42.100 Expiration and Revocation of Home Occupation Permits

A. Class A Home Occupation Permit Expiration

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

B. Grounds for Revocation

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

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

16.42.110 Appeals

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

Chapter 16.50

ACCESSORY STRUCTURES, ARCHITECTURAL FEATURES AND DECKS

Sections:

16.50.010 Standards and Definition

16.50.020 Conditional Uses

16.50.030 Conflicts of Interpretation

16.50.040 Accessory Structure Exemptions

16.50.050 Architectural Features

16.50.060 Decks

16.50.010 Standards and Definition

A. Definition

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

B. Generally

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

C. Dimension and Setback Requirements

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

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

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

16.50.020 Conditional Uses

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

16.50.030 Conflicts of Interpretation

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

16.50.040 Accessory Structure Exemptions

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

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

16.50.050 Architectural Features

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

16.50.060 Decks

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

16.52-16.56 No Changes to the Code

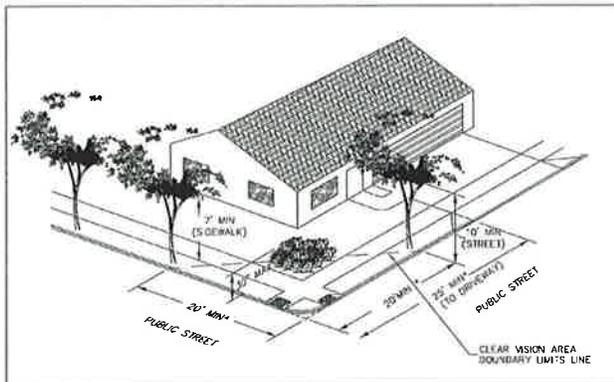
16.58 CLEAR VISION AND FENCE STANDARDS

16.58.010 Clear Vision Areas

16.58.020 Fences, Walls and Hedges

16.58.010 Clear Vision Areas

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



The following requirements shall govern clear vision areas:

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

Chapter 16.60 YARD REQUIREMENTS*

Sections:

16.60.010 Through Lots

16.60.020 Corner Lots

16.60.030 Yards

16.60.040 Lot sizes and Dimensions

16.60.010 Through Lots

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

16.60.020 Corner Lots

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

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

16.60.030 Yards

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

16.60.040 Lot Sizes and Dimensions

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

B. Exceptions

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

Chapter 16.72
PROCEDURES FOR PROCESSING DEVELOPMENT PERMITS

16.72.010 Generally

A. Classifications

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

1. Type I

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

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

2. Type II

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

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

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

f. Class B Variance

3. Type III

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

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

4. Type IV

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

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

g. Class A Variance

Chapter 16.84 VARIANCES

SECTIONS

- 16.84.010 Purpose
- 16.84.020 Applicability
- 16.84.030 Types of Variances

16.84.010 Purpose

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

16.84.020 Applicability

A. Exceptions and Modifications versus Variances

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

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

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

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

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

16.84.030 Types of Variances

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

A. Adjustments

1. **Applicability:** The following variances are reviewed using a Type I procedure, as governed by Chapter 16.72, using the approval criteria in Subsection 2, below:
 - a. **Front yard setbacks** Up to a 10 percent change to the front yard setback standard in the land use district.
 - b. **Interior setbacks** Up to a 10 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district so long as the three foot setback is maintained based on Building Code requirements where applicable.
 - c. **Landscape area** Up to a 10% reduction in landscape area (overall area or interior parking lot landscape area).
 - d. **A 5% reduction in other Code standards or dimensions not otherwise specifically identified in this section and not applicable at the time of the subdivision or partition approval.**
2. **Approval Criteria:** Adjustments shall be granted if the applicant demonstrates compliance with all of the following criteria:
 - a. The adjustment requested is required due to the lot configuration, or other conditions of the site;
 - b. The adjustment does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
 - c. The adjustment will not result in violation(s) of any other adopted ordinance or code standard; each code standard to be modified shall require a separate adjustment request.
 - d. An application for an adjustment is limited to one lot or parcel per application.
 - e. No more than three adjustments may be approved for one lot or parcel in 12 months.

B. Class B Variances

1. **Generally**
 - a. The Class B variance standards apply to individual platted and recorded lots only.
 - b. A variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use zoning district.

- c. Front yard setbacks: Up to a 20 percent change to the front yard setback standard in the land use district.
 - d. Interior setbacks: Up to a 20 percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district so long as the three foot setback is maintained if required by the Building Code requirements.
 - e. A 20% or less reduction in other Code standards or dimensions not otherwise specifically identified in this section.
2. Approval Process: Class B variances shall be reviewed using a Type II procedure. In addition to the application requirements contained in Chapter 16.72.010, the applicant shall provide a written narrative describing the reason for the variance, why it is required, alternatives considered, and compliance with the criteria in subsection 3.
 3. Approval Criteria: The City shall approve, approve with conditions, or deny an application for a Class B Variance based on the following criteria:
 - a. The variance requested is required due to the lot configuration, or other conditions of the site;
 - b. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
 - c. The variance will not result in violation(s) of any other adopted ordinance or code standard; each code standard to be modified shall require a separate variance request.
 - d. An application for a Class B variance is limited to three or fewer lots per application.
 - e. The variance will have minimal impact to the adjacent properties.
 - f. The variance is the minimum needed to achieve the desired result and the applicant has considered alternatives.

C. Class A Variances

1. Generally
 - a. The Class A variance procedure may be used to modify a standard for three (3) or fewer lots, including lots yet to be created through a partition process.
 - b. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class A variance procedure. Approval of a Planned Unit Development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.
 - c. A Class A Variance shall not be approved that would vary the "permitted, conditional or prohibited uses" of a land use district.
2. Approval Process:
 - a. Class A Variances shall be processed using a Type IV procedure, as governed by Chapter 16.84, using the approval criteria in subsection 3, below.
 - b. In addition to the application requirements contained in Chapter 16.72.010, the applicant shall provide a written narrative describing the reason for the variance,

why it is required, alternatives considered, and compliance with the criteria in subsection 3.

3. Approval Criteria: The City shall approve, approve with conditions, or deny an application for a Class A Variance based on the following criteria:
 - a. The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;
 - b. A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);
 - c. The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;
 - d. Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;
 - e. The hardship is not self-imposed; and
 - f. The variance requested is the minimum variance that would alleviate the hardship.

Division VI. Public Improvements

16.108 STREETS*

16.108.010 GENERALLY

16.108.030 REQUIRED IMPROVEMENTS

16.108.040 LOCATION AND DESIGN

Only change to this section:16.108.040 Location and Design

D. Additional Setbacks

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

TABLE INSET:

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