

**GLADSTONE PLANNING COMMISSION AGENDA
GLADSTONE CITY HALL, 525 PORTLAND AVENUE**

Tuesday, March 18, 2014

**7:00 P.M. CALL TO ORDER
ROLL CALL
FLAG SALUTE**

CONSENT AGENDA

All items listed below are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items unless a commission member or person in the audience requests specific items to be removed from the Consent Agenda for discussion prior to the time the commission votes on the motion to adopt the Consent Agenda.

1. Minutes of February 18, 2014 meeting

REGULAR AGENDA

2. Appoint a member of the Planning Commission to serve as a Planning Commission Representative on the Park & Recreation Board. (The Park & Recreation Board meets as needed the fourth Monday of the month at 7:00 pm).
3. Public Hearing:
 - *Continuation from February 18, 2014 hearing:* Z0017-14-CP/Z0018-14-Z; Comprehensive Plan Amendment from Single Family Residential to Open Space and Zone Change from Single Family Residential, R-7.2 to Open Space, OS. The subject property is at 16711 SE Valley View Road, owned and operated by Oak Lodge Water District. Reason for request is for future use of a portion of the property for off-leash dog park. This item was first discussed at the February 18, 2014 Planning Commission hearing and was continued to March 18, 2014 to allow for additional testimony and consideration.
4. Develop a Recommendation to City Council for Zoning Regulations of Medical Marijuana Dispensaries (information provided at meeting)
5. Work Session: Gladstone Code Review

BUSINESS FROM THE PLANNING COMMISSION

ADJOURN



CONSENT AGENDA

MINUTES OF PLANNING COMMISSION MEETING – February 18, 2014

Call to Order at 7:00 p.m.

Roll Call: The following Planning Commission members answered the roll call: Chair Tamara Stempel, Kevin Johnson, Kim Sieckmann, and Kirk Stempel. Craig Seghers arrived after the Comprehensive Plan and Zone Change hearing.

Absent: Michele Kremers, Pat McMahon, Craig Seghers (arrived for item #3)

Staff: Clay Glasgow, City Planner; Shane Abma, City Attorney; Jolene Morishita, Assistant City Administrator; and Scott Tabor, Director of Public Works.

Chair Tamara Stempel lead the flag salute.

Consent Agenda:

1. Minutes of January 21, 2014 Meeting

Commissioner Kim Sieckmann moved and Commissioner Kevin Johnson seconded a motion to approve the consent agenda consisting of the minutes of January 21, 2014 as presented.

Motion carried unanimously.

Regular Agenda:

2. Public Hearing – Z0017-14-CP/Z0018-14-Z, Comprehensive Plan Amendment from Single Family Residential to Open Space and Zone Change from Single Family Residential R-7.2, to Open Space, OS. The subject property is at 18711 SE Valley View Road, owned and operated by Oak Lodge Water District. Reason for request is for Future use of a portion of the property for an off-leash dog park. Chair Stempel opened the public hearing at 7:04 p.m. She explained the hearing format and asked if there were any ex-parte contacts, bias or conflicts of interest to declare.

Commissioners were asked if they visited the site; all of the commissioners have visited the site. Commissioner Kim Sieckmann noted this issue has been in the public for some time now. He has attended most of the City Council meetings where there has been significant testimony and discussion. He had conversations with staff, which is the applicant on this issue. He had many questions from local residents most looking for information. There have been ex-parte contacts but nothing that would interfere with his ability to hear this issue. He did review a previous plot map of the cell towers area.

Commissioner Kevin Johnson reported he also attended Council meetings when this issue was being discussed. He had contact with various citizens in the city, a meeting with Dan Bradley who is the General Manager of the Oak Lodge Water District and has a copy of the IGA between Oak Lodge Water District and the City of Gladstone. He does not feel any of these contacts will impair his ability to hear this issue.

Commissioner Kirk Stempel reported contact with the public. He too has been to Council meetings when this issue was discussed. He feels he can vote on this issue without bias. Chair Tamara Stempel reported she has attended City Council meetings when this issue was discussed. This has been a topic within the community but she has not had any lengthy conversations with anyone. People have asked questions, but she didn't know very much about it and didn't realize the Planning Commission would be hearing this issue until recently. In the past three or four days she has been searching on the internet to see what other communities have done with their dog parks.

Chair Tamara Stempel asked the audience if there were any objections to the Council's jurisdiction to consider this matter. There was no response. She asked if they wished to make a challenge of any council member's impartiality or ability to participate. There was no response.

Staff Report: City Planner Glasgow reported the Planning Commission will hear at least one public hearing on this issue. They are not the decision-making body in this case. Their charge is to take public testimony, discuss that testimony and the relevant criteria, and arrive at a recommendation to forward on to City Council. City Council will then hold at least one public hearing and they will render a decision. The Planning Commission recommendation will become a piece of the evidence they consider when coming to a decision.

The area shown on the notice sent out is much larger than it is proposed to be; it is much smaller than indicated. This is a proposal for a Comprehensive Plan map change and a Zone Map change. Currently the subject site it is planned residential and zoned R-7.2. The proposal is to change the plan designation and zoning to open space. The issue tonight is not specifically the dog park use; if approved by Council ultimately, any use that is allowed within an open space plan and zone designation could potentially go in there. Open space is generally to provide for public recreational uses.

The existing facility is a conforming use within the underlying residential zone. The City cannot create a non-conforming use. If any of the property being used by the Water District gets into this open space it would become non-conforming. Through this process it will be important to nail down the size of the piece of the property that is being considered.

The burden of proof is relatively high. Gladstone was planned and zoned back in the late 70's. Generally it is about the same as it was planned originally. The subject property is over 7 acres in size with cell towers and water district facilities. City Planner Glasgow reviewed the relevant criteria from the Comprehensive Plan and Zone Change:

1. Needs to be shown the granting ...fulfills a public need
2. Public need is best carried out by granting the petition of the proposed action and that need is best served by granting the petition at this time
3. Proposed action is consistent with Metro's Functional Plan (13 Chapters)
4. Proof of significant change in neighborhood or community or mistake in the planning or zoning for the property under consideration

5. Property in affected areas presently provided with or concurrent with the development can be provided with adequate public facilities including but not limited to transportation systems
6. State-wide planning goals

City Planner Glasgow stated he feels he has a conflict of interest in this issue. He has a definite opinion in this case and he is representing the applicant, writing the staff report and recommendation. It puts him in an odd position. He left this report with no recommendation so it would not appear there would be conflict.

City Planner Glasgow pointed out the issue tonight is not to discuss the dog park specifically; the discussion should generally be on the Comprehensive Plan and zone change which if approved could potentially provide for an off-leash dog park as well as other uses allowed in an open space zone (such as parks). The Planning Commission is not making a decision tonight. They will open the public hearing, close the public hearing and make a recommendation to be forwarded to City Council. Council is actually the decision-making body and the hearing for that is currently scheduled for March 11, 2014, unless changed tonight.

Questions from the Commission:

- Commissioner Sieckmann noted there was no application in the packet. Answer: City Planner Glasgow stated that because of the snow he was unable to get everything into the packet. He has it with him tonight if the Commissioners want to go over that tonight.
- Commissioner Sieckmann asked who filled out and signed the application. Answer: City Planner Glasgow said he did.
- Commissioner Sieckmann asked if he had questions of the applicant or staff, who will answer those questions. Answer: City Planner Glasgow said he would take those questions.
- Can the zoning be changed on a portion of a parcel of land? Is there an example elsewhere in Gladstone where this happened? Answer: City Planner Glasgow said yes; you can plan and zone differently a portion of a property. He gave an example of property that was partially zoned R-5 and partially zoned R-7. When the original zoning was set up, the attempt was to follow property boundaries; however, property boundaries tend to follow physical features and common sense.
- The property is owned by Oak Lodge Water District, not the City of Gladstone. Is it normal for Gladstone to put in improvements on privately-held property (property not owned by the City of Gladstone)? Answer: City Planner Glasgow said no, as far as who can apply for this, it can be the property owner or City (transfer of ownership). The reason for this consideration is the size of the use of the property has not yet been determined and the owner does not want to sell the property, they would rather lease or be in some type of use agreement with the City.

Assistant City Administrator Morishita explained she did not start the timer while the staff report was being given because she did not consider a limit to the staff report. Mr. Glasgow would have had up to 30 minutes which he didn't have and the questions would have been in addition to

that report. She will give the other side the same consideration; 30 minutes to testify and questions will be in addition to that time.

- On the map the cell tower is included which would make it a non-conforming use. Answer: City Planner Glasgow stated the actual location of the zone change is much smaller than what is indicated on the map included in the notice.
- The Planning Commission has the authority to change the size of what the applicant is asking for? City Planner Glasgow said yes; through this public hearing process the Commission will arrive at a recommendation of approval, denial, or approval in some modified form.
- Could there be a condition of approval for a size change? Answer: City Planner Glasgow stated that would be done as part of your recommendation.

Applicant Presentation: City Planner Glasgow stated this is the first time he has filled out an application for a plan change and zone change. He had to show why the City zoned this as they did or if there has been a significant enough change in the community to warrant a different zone. He reviewed each of the required criteria and addressed them in the staff report. He tailored the application to the dog park. The staff report and application are identical.

Questions from Commissioners:

- The Clackamas County property map shows the subject property with a section lined off. Is this what the City is requesting to be rezoned? Answer: This is a conceptual drawing that is big enough so the area can be seen. The area shown there is an idea; the specific area being proposed for is actually the piece just north of the Nick Shannon Memorial Park.
- Is the applicant requesting rezoning of the section with a line straight across the back side of Nick Shannon Park? Assistant City Administrator Morishita showed a map of the actual location of the rezone and City Planner Glasgow confirmed that it was the area to be rezoned (121.5' x 211').

There were no further questions from the Commissioners.

Testimony in Favor: Keith Klum, 17270 Crown View Dr. stated he sent a petition around with help from the neighbors. While gathering those names he came up with consistent comments by people. This area has been used for the past 20 years without a fence for dogs and their owners. The only thing that has changed has been the fence across the front with a gate. The consensus of the neighbors was if there is not going to be a dog park, take the fence out and let the people use it as a park again.

As far as feces go, he is there every morning with his dogs and he makes the rounds. Anything that is there he picks up and he knows other dog owners do the same. Actually it was policed better after the fence went in than it was before. He has found less trash; maybe a golf ball or a Frisbee than in the kid's playground area. A lot of people like the fence where you can separate the dogs from the kids. You can have the kids playing without interference with the dogs or

anything else. He has heard more concern with cats using the sand as a litter box than he has the dogs.

He found this dog park to be a great place for the neighbors to meet neighbors. He came from an area where everybody waived at everyone whether you knew them or not, Gladstone hasn't been that way. Now people stop and talk; it strengthens the neighborhood. A lot of people are upset that a few people can shut down the use of this area for everyone else who have enjoyed the use of it. He only saw one incident where there was an aggressive dog in with non-aggressive dogs. It was brought to the owner's attention that it wasn't acceptable and he has never been back with that dog. Not all people who signed the petition are dog owners or even use the park, but they like the value of it there. There was only one person in all the people that he talked to that said no they wouldn't sign. It wasn't for any personal reason; it was they just didn't want to get involved with the politics. He is very much in favor of taking the fence down and let the park be used in its entirety if there isn't going to be a dog park.

Donna Cancio, 6861 Oakridge Drive stated she did not have a packet and asked if the City is proposing, on behalf of the water district owner, to enlarge the public space area, taking some residential and making it open space? City Planner Glasgow said yes. Ms. Cancio stated she has always liked open spaces and increasing the open space for the neighborhood is a positive thing whether it is used for a dog park or more playground equipment. It will allow more flexibility. There is no house there, there has never been a house there and there are no plans of putting a house there; so why is it zoned residential. As an open space it can be preserved so there are not houses on top of one another sometime in the future. She would like to see the open space increased.

Commissioner Sieckmann reminded the audience that the Planning Commission has certain criteria that they have to follow on a zone change. Donna brought up interesting points, but there are certain rules that the Commission has to follow. It is not a matter of use and it would be great to make it open space but the Commission has to follow the criteria in the Code and laws. He asked that testimony be based on the criteria.

Carleen VanOrsdel, 17445 Via Del Verde asked if the Nick Shannon Park is zoned residential. Answer: City Planner Glasgow said no, it is zoned open space. Ms. VanOrsdel asked if this area is not changed and the dog park is taken away someone could come in and build a house there. Answer: City Planner Glasgow said given the underlying zone, yes and given the reality of ownership, probably not. Ms. VanOrsdel stated if it is zoned R-1 then someone can come in and build houses, townhouses, etc. City Planner Glasgow said it is zoned for residence. Ms. VanOrsdel stated it seems to her that not having more houses is a good reason to get the zone changed; it's crowded enough.

Ms. VanOrsdel lives in Gladstone and pays exorbitant property taxes. There should be a perk for that because she doesn't see a lot of perks for her at this point in time. To keep it zoned where more people can get enjoyment out of it is a better reason to change the zone. She thinks it should remain open and people should be able to take their dogs in there just as freely as anyone else that can walk on that property.

Testimony in Opposition: Jeff Kleinman, 1207 SW Sixth Avenue, Portland 97204 stated he is an attorney representing Ken Yielding and the Sudderberry Family Trust whose property is at 7000 Oak Ridge Drive in Gladstone across the fence from the dog park. He asked that the hearing be continued to allow further efforts to address the criteria. If not continued he would like the record to remain open for seven days for that purpose.

The issue is really not whether a dog park is a good or bad thing. A lot of communities have dog parks; the question is whether this particular site is appropriate for the dog park that was placed there. Even though the Commission is looking at open space zoning more generally, the issue is to condition this site as no dog park. He asked if the application is going to be available online. City Planner Glasgow stated he would do that first thing in the morning.

Staff has identified in the staff report some of the criteria that are highly problematic here and where the burden hasn't been met and cannot be met. He introduced Mr. Yielding who has photographs of the health hazards created on this site by the dog park. As staff indicates the burden of proof for a plan amendment and zone change are great, the proof has not been met on this occasion. The demonstration of public need is a very serious and intense test especially where the Code says that the public need is best carried out by this particular site. What that really calls for is a site selection process if the City wants a dog park. There are better sites in the city for it. There certainly is no demonstration of public need that its best met at this location. He doesn't think there is compatibility with the Comprehensive Plan and with Metro's Functional Plan. Nor can you take land out of the housing inventory easily without providing a great deal of analysis.

There are health and safety issues. Metro's Title 12 protects residential neighborhoods. You are not doing that when you create the hazard that exists on the property whose owners he represents. The burden of proof has not been met and they don't think it can be met at this location. Regardless of zoning this has been used as a park, not a dog park. That's fine if the dog park does not come back. The park use can continue, but you are not taking the residential land out of the inventory that needs to be maintained as is.

Ken Yielding, 7000 Oakridge Drive submitted a packet of photographs of the current flooding at the Oak Lodge Water District Park and pictures of other dog parks in the area. All of these dog parks are space far from residential homes. He will submit a written statement to the Council when the record is held open. He lives in the house that adjoins Oak Lodge Water District property (dog park). He has been to City Council about the dog park. He has complained to the City and the park was subsequently closed. The City was operating the dog park on a piece of land that was zoned only for residential use.

The presence of the dog park was a horrible experience for his family. His four year old son was repeatedly charged and barked at viciously through the chain link fence. He witnessed several dog fights at the park. His wife was a victim of a dog attack when she was a child. The attack resulted in 37 stitches on her face. She has PTSD from this dog attack. Over the last summer she was repeatedly charged and barked at viciously in their backyard while attempting to garden in

their back flowerbed. She stopped going out to their garden due to the smell of the urine saturating the soil and this dog behavior. The odor of feces in the summer was unbearable at times in his house, dining room, kitchen and master bedroom. These rooms all are facing the dog park and overlook it. It is not pleasant to open a window that is 20 feet from a dog park for fresh air and getting a smell of sun-baked dog poop. If it was cooking steaks on the back deck during the summer or sitting together with my wife having coffee there is always the constant presence of the dogs in the park. They have experienced the dogs barking at them, people yelling at their dogs, the smell of urine and feces and having dogs do their business in plain view. All these issues present while they are trying to enjoy eating on their back deck.

The zone change from R-7 to the open space will only address the legality of the park itself. The location is inappropriate for a dog park and the zoning change will not change the natural behaviors of dogs barking, fighting, marking their territory and defecating. There are substantial negative impacts from the dog park on the enjoyment of his home and property. With the dog park placed on the incorrect type of zoned lot, it has negatively affected the value of his life, his property, and his enjoyment on his home. With this going on he is compelled to file a claim of inverse condemnation. The action of the City changing the zoning to allow a dog park will affect the enjoyment of his home and his property.

The lot leased by the City of Gladstone for the Oak Lodge Water District in Gladstone Dog Park is not an ideal location. All the residents in the local area understand and know that the lot floods. One third of the park is currently swamped with water.

Shirley Gardner, 6907 Oakridge Drive stated she has lived in this house for 36 years. The serious concern she has is for the safety of the children. They do not have sidewalks and there is more traffic coming when they had the dog park. Cars are parking next to the play structures where the kids should be playing and where bikes and strollers should be parked. Kids have moved into the neighborhood and there are younger children again. When they first moved there the area was not used at all and it was opened up for the residential people to keep the little kids from playing in the street. Kids could go up and use the property to play catch and teach the kids how to ride their big wheels. After that people started bringing their dogs on leash and also using that same open space. The kids riding their bikes up and down the street to go to the play area are too young to go to Kraxberger to play on their own. Parents can take them up but with the dog park you are getting dogs in and out of cars that sometimes are not on the leash and scaring the kids that are playing in the park. There is no parking.

The dog park is a mud hole; it is not a healthy situation for any dog being taken into that dog park. They will pass disease onto each other. She submitted more information on the safety of the park. Instead of it being turned into an actual dog park, she would like to see the fence come down and back the way it was; where the kids can ride their bikes, wear the rubber boots when it is all muddy playing around. The kids and dogs on-leash can share the property as it was intended originally.

Jan Premo, 6966 Oakridge Drive lives next door, 15 feet from the current locked-out dog park. She did not come prepared to talk about non-dog park issues but will use what she has to try and

keep the dog park out. She works at the state penitentiary with the men who don't get along with men. She knows what kind of mentality goes on. Her greatest concern for opening the additional space is that it violates the safety of those houses that border that line. The farther away from the street you get, the more time you have for interested, bored, drug-seeking, selling people to go to the back 40, cut through the fence and get to property back doors all the way along that park. Too much space, too far from the road, too busy; these guys have nothing better to do. When they see an opportunity, they will take it.

Ms. Premo has nothing against the dog park; the thing that is really sad is that it was initiated by a neighbor that just wanted a little place for the dogs to take a quick run and then go back on their walk. There was never an intention to make it a county dog park or county anything. The reason the whole thing came up was because the police officer was harassing a person that had the dog off-leash (a well-trained dog) in that section of the park. It has now expanded into this really torrential horrible thing. She would not feel safe back there. It is too far from the road that would push too much darkness in the back.

The dog park site should not be expanded; it is violating the trust of the people who bought property there. They do not or should not feel safe because there will be an opportunity for a criminal to go back there and get in the back door of any one of the houses and take their time at doing it. She would rather have a house on this site because at least she will know who the people are and she knows there would be some security at least of knowing who the family is. Do not recommend opening that space; it violates her safety. She would feel safe and would not stay there. It would depress her; she has been here 16 years and loves this place. She has a dog but she cannot possibly stay there and feel safe if the space is opened up. It would not be acceptable.

Ms. Premo visited Clackamette Park and feels that anyone that has visited there knows there is criminal activity going on. There are dogs without licenses, without shots that are being put in there. The only recommendation she would make is if you are going to make this into a park that has a dog place for it make sure the neighbors are satisfied by their own safety, make sure the dogs that are entering the park are part of the neighborhood, that they have a license, and have their shots. If there has to be a card system that gets people in there, she is fine with that. If it gets too big there will be people from all over the county; strangers who are not invested in her neighborhood, and who will leave dirt, damage and trash. Her and other people have worked their hearts out to try and get that little tiny dog park to work because they wanted neighbors to do that.

Donna Todd, 16710 SE Valley View Road is opposing the dog park. She submitted pictures to the Commission. She noted just as Shirley and Ken are affected by the dog park, her issue is different. Their home is 30 feet from the dog park. They open up their door or look out their bedroom window and they see the park. Then there is a port-a-potty in there and they called to get that moved back. They are the ones that are affected by the noise and she has five reasons: Too much noise disturbance (cars, trucks, vans) from 7 a.m. to 10 p.m. at night 365 days a year. Traffic is totally over the top and as a residential area they don't want it rezoned for that reason.

Their property values will go down. They had their house analyzed by a real estate lady; it is in the packet submitted. She said that the property values will go down if the dog park remains. If it is rezoned property values may go down to the tune of maybe \$10,000. The residents are losing money, the taxes will not go down, but the property values will go down. The stress of this issue keeps her hyped up all the time. She will be calling the noise and nuisance officer.

When she moved into this neighborhood it was a quiet neighborhood. There were none of these kinds of things going on. They have had their issues as they have been broken into once, had a flag stolen, stuff like that. They don't believe a dog park belongs here because there is going to be even more similar stuff that going on. They can't leave their windows open at night because traffic gives off exhaust and noise into their bedroom.

They have nothing against the dogs, but they don't want the dog park 30 feet from their home. She doesn't believe it is uniting neighbors, it is dividing neighbors. If people want to bring their dogs they could at least think about people who are right by the dog park. It is not a good situation. How would anyone like to live there and have this happening? They didn't know they could do anything about this dog park until the news media showed up across the street after it was closed.

Harry Todd, 16710 Valley View Road does not approve; he is opposed to a zone change. His wife just testified and this has affected them very much. The dog park might be right for somebody else but not right for them.

Debra Watkins 205 W. Clackamas Blvd asked why there is a park already if these changes have been made. It seems like things are backwards. There is an established dog park there; it's closed but it's there. Why is it there if the zone change hasn't been done? City Administrator Glasgow stated the City is in this process now because the dog park was opened up at a time when it simply wasn't allowed; land use approvals hadn't been received. In order to get land use approval there needs to be this comprehensive plan and zone change approved.

Ms. Watkins stated 20 years ago she volunteered on the Planning Commission and worked for the chief advisory board in Oregon City and was part of comprehensive planning. There is protocol and things that have to be done with regards to land use. City Administrator Glasgow stated protocol must be followed; the park has been closed and proper protocol is now being followed.

Sherry Uehytil, 17123 SE Valley View Road stated like many of these neighbors the dog park came as a surprise. They have only been living in Gladstone for one year at this location. When they purchased the house they had no idea that there was going to be a dog park around the corner. It would have perhaps made a bit of a difference in their decision. What they have noticed since they have been here is there wasn't a lot of dog traffic; neighbors are out walking their dog on leash, you see the same folk's day in and day out until the park became open. When it was opened they saw more dogs off leash and people who were not familiar to them in the neighborhood. It is a bit of a draw of people from the outside.

She appreciates that every step has been reviewed as to what is appropriate for the land use and what things have to be taken into consideration in the application but she is concerned that City Planner Glasgow is both staff and applicant. There is too much of a possibility of conflict of interest in that both sides are being taken care of by one individual.

The suggestion of going through a formal look of all the different sites that might be used for a dog park in the area might be a more appropriate way to identify a dog park for Gladstone. She does not believe this is the right place for a dog park, they have dogs as well. Most often dog parks are far away from the interior, in larger parks, or don't have people living right next to them. She hasn't been here that long and doesn't know if there has been a significant change to warrant a dog park. The area is set up for residents, they were looking for a place where things are quiet and settled down and this is a game changer for them living in the neighborhood.

Ms. Uehytel asked who paid for the fence and the slats in the fence. She is paying high taxes here in Gladstone; she doesn't want to pay more taxes to take care this property. The flooding that is there doesn't have to be addressed right now but perhaps if it becomes a park that might be something to be looked at. Who is paying for the port-a-potty and who is going to pay for other issues that may come up with this property going forward? If the City of Gladstone is leasing this property there will be additional costs. Has that been considered into the budget. These types of things need to be looked at as well.

She knows there is a cost for having perks in the area, but for her living so close to it she does not consider the dog park a perk. They really like the way it was set up when they moved in. People were around with their dogs on their leashes and it was not that many people there at one time. She liked that. She does not like listening to all the dogs barking and fighting and you hear them constantly.

Rose Johnson, 5480 Abernathy Court looked at some of the criteria on Mr. Glasgow's report and she found a couple of problems. The public need for this dog park has not been established. There are things in the Gladstone Municipal Code that asks that the decision makers (City Council) has to weigh the public need against negative affects a dog park places on nearby property owners. At some point a decision has to be made if there is good criteria, is it a need or simply a desire. Then there is a problem with the dog park enclosure right now; it is only .59 tenths of an acre. There are another 7 acres that the water tower is in. Are there rules that the water tower is suppose to be in that enclosure for security and safety for the water supply.

There was a statement in the report about how the existence of the dog park, which was contrary to the zoning, established a land use for a dog park. The mere existence of a dog park does not establish a land use pattern when that use went on for six or seven months was illegal. It establishes the City's liability for a law suit from nearby homeowners. Ms. Todd and everyone in her subdivision have CC&R's (covenants and conditions) attached to their deeds. Any City code is superseded by the CC&R's. There should be a study for the substantial change. Title 2 of the Comprehensive Plan calls for the protection of residential neighborhoods to preserve the residential character; dog parks are not doing that. There needs to be a design review. The City needs to go back to the beginning and do a design review, site selection study, environmental

impact study, a traffic study, a drainage study, and a noise control study. All of these requirements are in the Code. She will be submitting a letter during the seven-day period.

Neutral Testimony: None.

Applicant Rebuttal: A question was asked during comments of who will be paying for the all the costs associated with the park. City Planner Glasgow stated if there are any costs associated with this the City will be paying for any expenses. Sherry Uehyti asked if this area was zoned for Nick Shannon park, the port-a-potty, and all the expenses. What process was used to change the space? City Planner Glasgow noted the Nick Shannon Memorial Park is already zoned open space. The dog park sort of arrived in an area that is not zoned properly. It was a designated a pocket park.

A member of the audience asked if it is residential where the dog park is now. City Planner Glasgow said yes. Chair Stempel explained if the water district sells the property there could be homes where the dog park is now.

Rose Johnson explained that Shannon Park is a separate tax lot (.6 acres). The enclosure of the dog park is not a tax lot, simply a fenced enclosure of .5 acres. The remaining acres where the water towers are located are in the 7.1 acre portion of the property.

Donna Todd asked why the City decided to put a port-a-potty in the dog park; they didn't put it in for the kids. Who pays for that? Answer: Chair Stempel stated she assumes the City pays for it; but she doesn't know who asked for the port-a-potty.

Staff Comments: City Planner Glasgow thanked the audience member who pointed out the potential conflict of him being staff and applicant. He will get the application up on the City's website first thing in the morning. There was a request to leave the hearing open for 7 days to receive written testimony.

This is a plan and zone change. Criteria must be addressed for a plan and zone change not an off-leash dog park.

Questions from the Commissioners: None.

Hearing no further questions or comments Chair Tamara Stempel asked for a motion to close the hearing.

Commissioner Kim Sieckmann moved and Commissioner Kirk Stempel seconded a motion to close the public testimony portion of the hearing at 8:20 p.m.

Motion carried unanimously.

Commission Decision:

Commissioner Sieckmann asked for legal guidance on leaving the record open since the final decision will be made by City Council. City Attorney Shane Abma stated there will be no recommendation today because there has been a request to keep the record open. This hearing could be continued until the next Planning Commission hearing, not keep the record open and not getting additional rebuttal.

City Planner Glasgow noted because there is a Comprehensive Plan change as part of the proposal, there is no time limit.

*Commissioner Kim Sieckmann moved and Commissioner Kirk Stempel seconded a motion to continue the hearing until the March 18th Planning Commission meeting.
Motion carried unanimously.*

Commissioner Craig Seghers arrived at the meeting at 8:25 p.m.

3. Discussion of Planning Commission Packet Availability Date. Chair Tamara Stempel opened discussion on packet availability. City Attorney Shane Abma explained the staff report must be made available seven days before the hearing. Citizen submittals are not a part of the record until the person shows up and submits it. It was the consensus of the Commission that they receive packets on the Tuesday 7 days before the Planning Commission meeting.
4. Medical Marijuana Dispensary Facility Discussion. Chair Tamara Stempel opened discussion on medical marijuana dispensaries. Commissioner Kim Sieckmann asked what had changed on this issue since the City Council meeting. City Attorney Shane Abma reported today the full Senate passed Bill 1531 which allows cities to regulate but not prohibit. The new law states that cities can reasonably regulate time, place, and manner restrictions (where it is located, when it's open, and how the product is dispensed). The Senate passed the bill but it still has to go through the house. The original bill was to regulate or prohibit; so it is now just to regulate, not a prohibition. The question remains can a city prohibit the dispensaries because of the Federal Control Substance Act.
5. Work Session: Gladstone Code Review. Chair Tamara Stempel started the discussion on the Winterbrook Study. She noted the County has put a lot of effort into the McLoughlin Corridor and how they want the entire length to look. She suggested that the Commission see what the County is doing and coordinate with them. Commissioner Sieckmann reported the McLoughlin Area Business Alliance (MABA) is working on the same type of issues for development, redevelopment of the McLoughlin area in unincorporated Clackamas County. He asked staff to contact this group and get information as to what they are doing and put that information in their packet. Chair Tamara Stempel suggested asking a representative from the McLoughlin groups to come in and talk to the Commission. City Planner Glasgow stated he would request representatives from some of these groups to come in and talk to the Commission.

Discussion followed on Chapter 2.28, Planning Commission. Commissioner Sieckmann voiced concern about the wording of 2.28.090, Meetings. City Planner Glasgow suggest changing the

1-12

text to read, "Shall meet once a month or as necessary." It was decided to leave the language as it is and let Council know they are fully prepared to meet every month.

Commission talked about what constitutes an excused absence under 2.28.040, Vacancies and Removals. Assistant City Administrator Morishita suggested, "...if you miss two consecutive meetings you are at risk for being removed." After a commissioner has two unexcused absences, their name will be given to City Council for their decision to remove.

Chair Tamara Stempel asked if there is a group in charge of historic preservation. Assistant City Administrator Morishita said no. Chapter 2.48, Historic Preservation Policy will be an issue soon because the City received the grant for the feasibility study for the trolley bridge. Commissioner Craig Seghers stated he is the treasurer of the Historical Society and there is no formal organization. Commissioner Sieckmann suggested that Council create a Historic Review Board. City Planner Glasgow stated the City needs an entire new Code Section Title 17 for historic and cultural resources. State law provides for property owners to opt out. Herb Beals left historical books and information and this information could be used to determine historical sites. Chair Tamara Stempel suggested that there be a memorandum of agreement as part of the bridge negotiations; actually have someone go into the City and do the historic inventory. It was decided to put in the recommendations to Council to create a Historic Review Board.

Clear vision will be discussed next month.

Other Business: None.

Upcoming Commission Considerations: None.

Business from the Commission: None.

Adjourn:

*Commissioner Craig Seghers moved to adjourn the February 18, 2014 Planning Commission meeting.
Commissioner Kim Sieckmann seconded the motion.
Motion carried unanimously.*

Chair Tamara Stempel closed the Planning Commission meeting of February 18, 2014 at 9:45 p.m.

Minutes approved by the Planning Commission this _____ day of _____, 2014.

_____, Tamara Stempel, Chair



REGULAR AGENDA

Kenneth Yielding
7000 Oakridge Drive
Gladstone, OR 97027
February 18, 2014

Dear Planning Commission for the City of Gladstone:

I live in the house that adjoins the Oak Lodge Water and Gladstone Dog Park.

As the planning commission knows, I have been to the city council about the dog park which was subsequently closed after my complaint. The city was operating the dog park on a lot zoned for residential use only.

The presence of the dog park was a horrible experience for my family.

Liam is my four year old son and was repeatedly charged and barked at by aggressive dogs through the chain link fence. He has also witnessed several dog fights in the park.

My wife was the victim of a dog attack when she was a child. The attack resulted in 37 stitches on her face. She has PTSD from the attack. Over last summer she was repeatedly charged and barked at viciously in our backyard when attempting to garden in the back flower bed. She stopped going out there due to the smell, urine saturated soil and aggressive dog behavior.

The odor of the feces in the summer was unbearable at times. In our house, the dining room, kitchen and master bedroom all face the dog park and overlook it from a distance of only 17 feet! It is not pleasant opening a window for fresh air and getting the sun baked dog poop smell instead.

If I was cooking steaks on the back deck during the summer or sitting together with my wife having coffee there was the constant presence of dogs in the park. We would experience the dogs barking at us, people yelling at their dogs, the smell of dog urine and feces, having dogs do their business in plain view while eating on our back patio.

The proposed zone change from R7.2 to Open Space would be unlawful, as well as inappropriate in the local neighborhood. Rezoning would not change the natural behaviors of dogs, or reduce the resulting impacts upon neighbors in the absence of buffers larger than those available at this site. (I would add that while we do not have a dog of our own at this time, any dog acquired by us or any successor owners would be driven nuts all day with such a stimulus across the fence. This alone would render our home unsuitable and unacceptable for anyone with a dog.)

The lot leased by the city of Gladstone is an extremely poor location for a dog park. All of the residents know that the dog park site floods during the winter months, creating pools of water that contain biological waste. The fetid water has always pooled over the

area starting at our fence and extending a full 75 feet into the dog park, and has then seeped into our property. I have included photos of the flooding and pooled water along the property line. This presents a biological hazard and poses a health risk of zoonotic diseases. I have been in communication to the American Veterinary Medical Association in Schaumburg, Illinois and they have warned me of the potential transmission of these diseases. They have suggested that I contact the local health department/state public health veterinarian, DEQ and the Centers for Disease Control and Prevention (CDC).

For all the above reasons, the proposed plan amendment and rezone to allow a dog park would have substantial negative impacts upon our health and safety and upon our use and enjoyment of our home and property. This in turn would result in the inverse condemnation of our property and, thus, litigation against the city for money damages.

The city should give due consideration to the requirements for a properly sited dog park. I would request that a site selection study be undertaken by the city to find the most appropriate place for the dog park. Other locations within the city limits would make better candidates for the location of the park, including Meldrum's Bar where it could be placed in an existing open space zone and not have any impact on any of the residents of the city of Gladstone.

The city should have known that the park was not allowed in this location and it should have never been approved. No plan for its design was created. No one at the city checked to see if this was an allowed use of the land, and the city did not do its due diligence to examine the impact on the neighbors, environment, traffic patterns and the safety issues at this location.

The location and design of the dog park should be for the benefit of all of the people of the city of Gladstone and not cause unintentional adverse negative impacts to the neighbors. This is an opportunity for the city to show that they care to maintain the sanctity of the neighborhoods and not drive a wedge of contention between neighbors.

In the research that I have done in my examination of the issues surrounding dog parks, there are several guidelines and standards of design and implementation. Most dog parks are encapsulated within larger public parks that themselves act as a buffer zone to the neighbors' property. I have included aerial photographs of other local parks showing their proximity to other residential properties. They all have things in common such as double gated entries and substantial distances to the closest neighbors due to their location within larger park complexes, or they are located in commercially zoned areas. In most cases, they comprise fenced enclosures without vegetation, so that sanitary issues can be better addressed.

Planning Commission of the City of Gladstone
February 18, 2014
Page 3

For these reasons, I respectfully request that you vote to recommend denial of this application, and that you recommend initiation of a proper site selection process instead.

Sincerely,

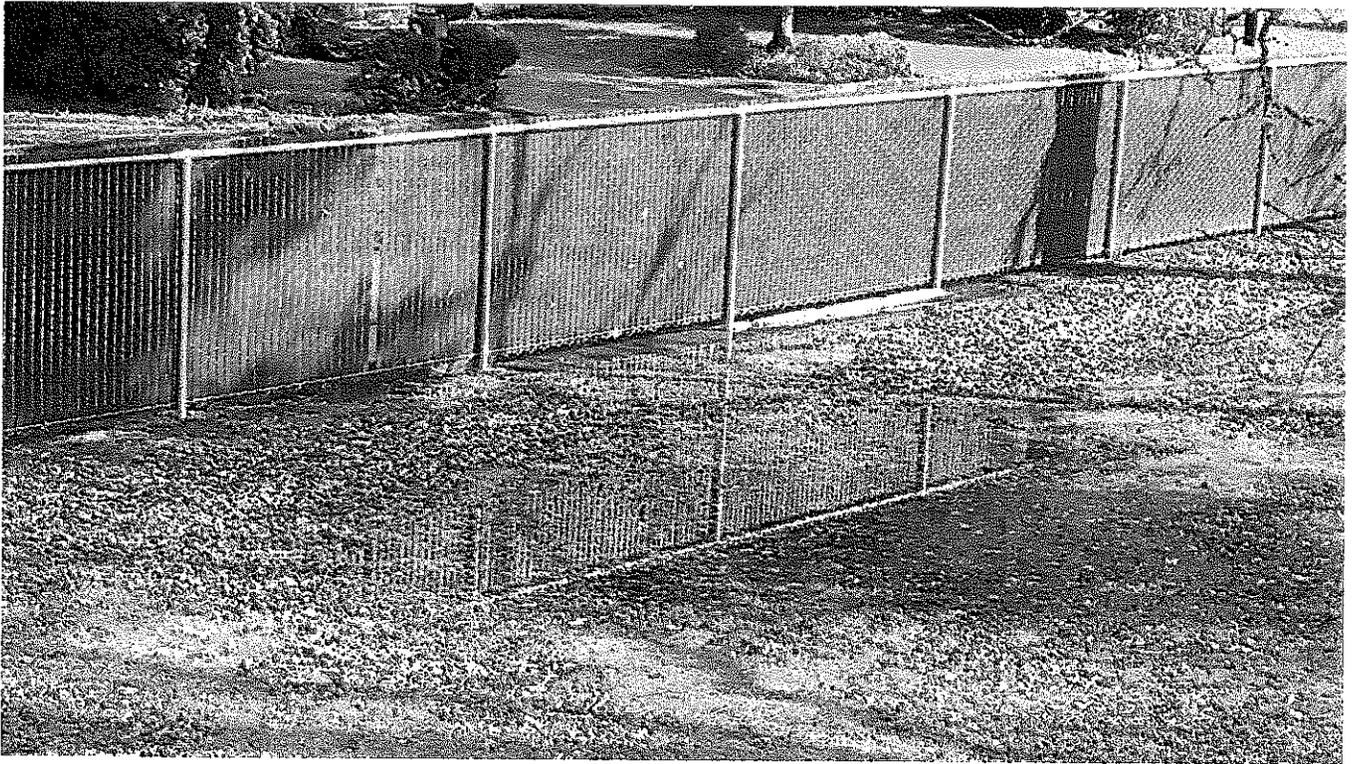
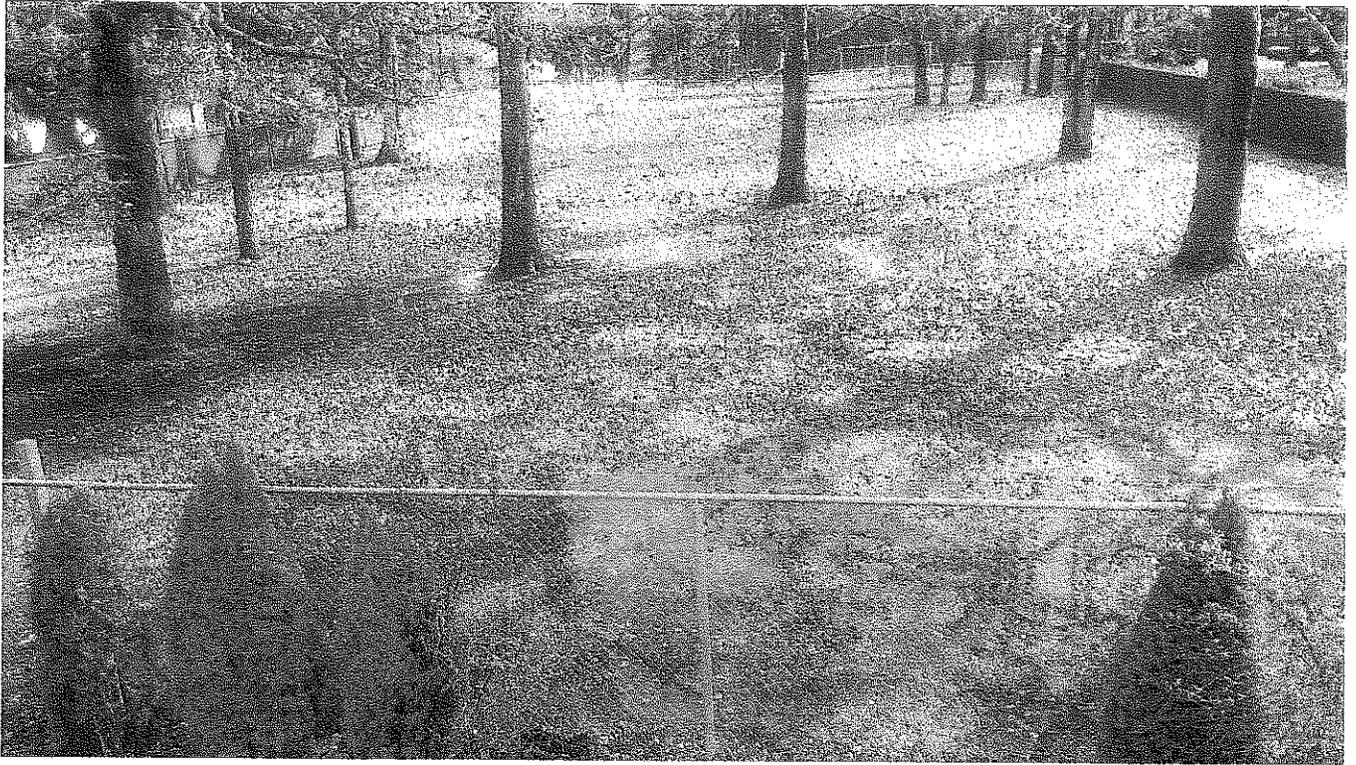
Kenneth Yielding

Oak Lodge Water District & City of Gladstone Dog Park

These are current photos of the dog park flooding.

Taken 2-16-2014 and 2-17-2014







3-6

From: Ken Yielding [mailto:ken@biomodelings.com]
Sent: Monday, February 24, 2014 1:52 PM
To: Peter Boyce
Subject: Planning Commission - Gladstone Dog Park Rezoning
Importance: High

Good Afternoon Mr. Boyce,

Please forward the attachment to Jolene Morishita so that she can include these documents into the official record for the last planning commission meeting February 18th, 2014. The record was held open for the inclusion of additional evidence for seven days.

The pdf that is attached contains.

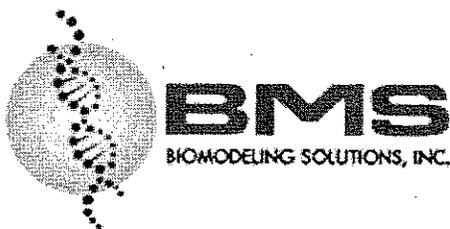
1. Aerial Photographs of other Dog Parks in the Portland Oregon Area to illustrate the distance from residential housing.
 - o Gabriel Park Dog Park in Portland.
 - o Potso Dog Park in Tigard.
 - o Ash Ave Dog Park in Tigard.
 - o Tualatin Dog Park in Tualatin.
 - o Hazelia Field Dog Park in Lake Oswego.

2. Plan for the Ash Ave Dog Park in Tigard.

Please return my email so that I know that you have received the document.

Thanks,

Ken Yielding



Kenneth J. Yielding
Assistant Vice President
Information Technology

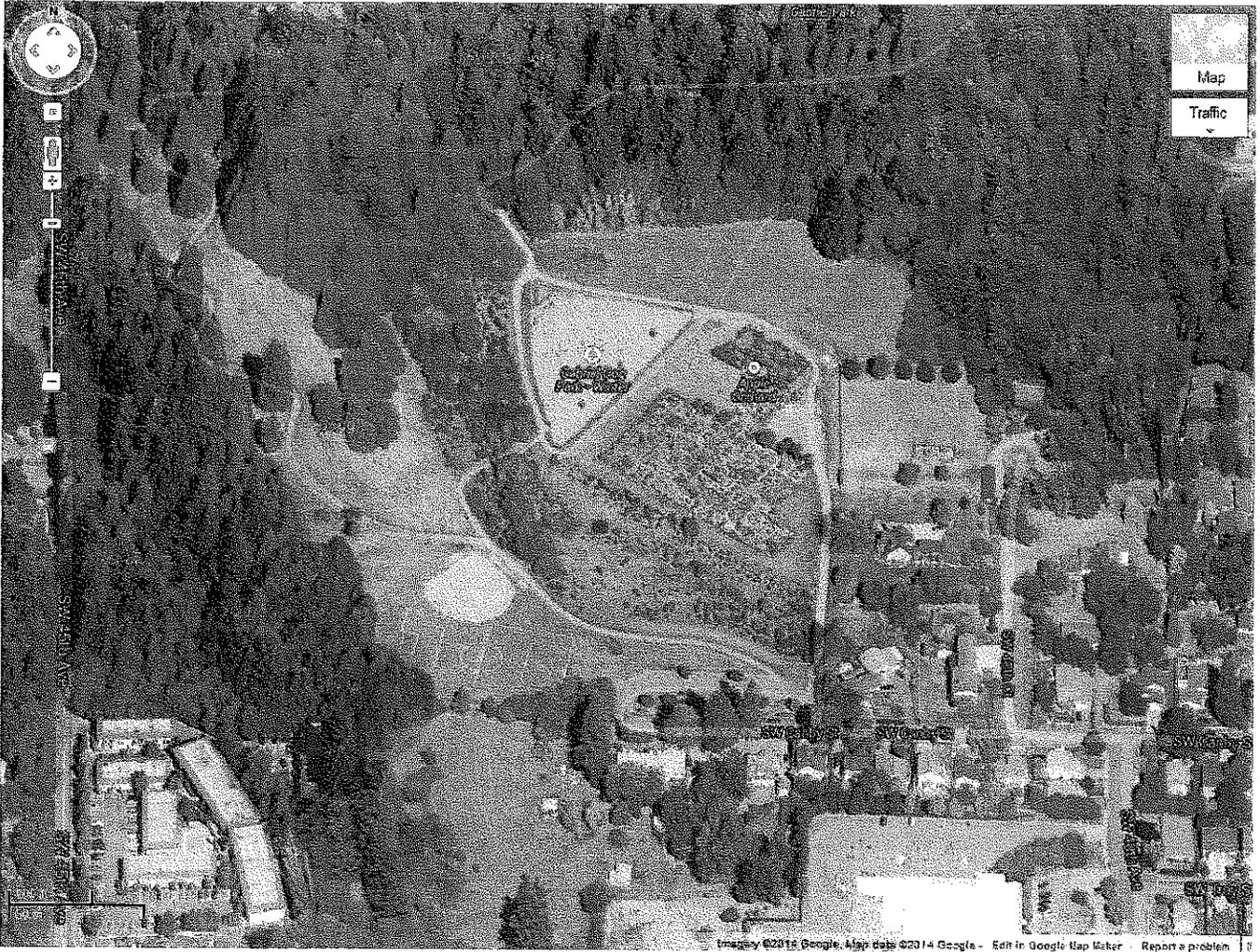
Cornell Oaks Corporate Center
15455 NW Greenbrier Parkway
Suite 250
Beaverton, OR 97006 USA

+1 (503) 430-7529 office
+1 (866) 201-3869 fax
ken.yielding@biomodelings.com
www.dnaappliance.com

IMPORTANT: This electronic message (including all attachments) is covered by the Electronic Communications Privacy Act 18, and is confidential and legally

Comparison of other Dog Parks in our local area.

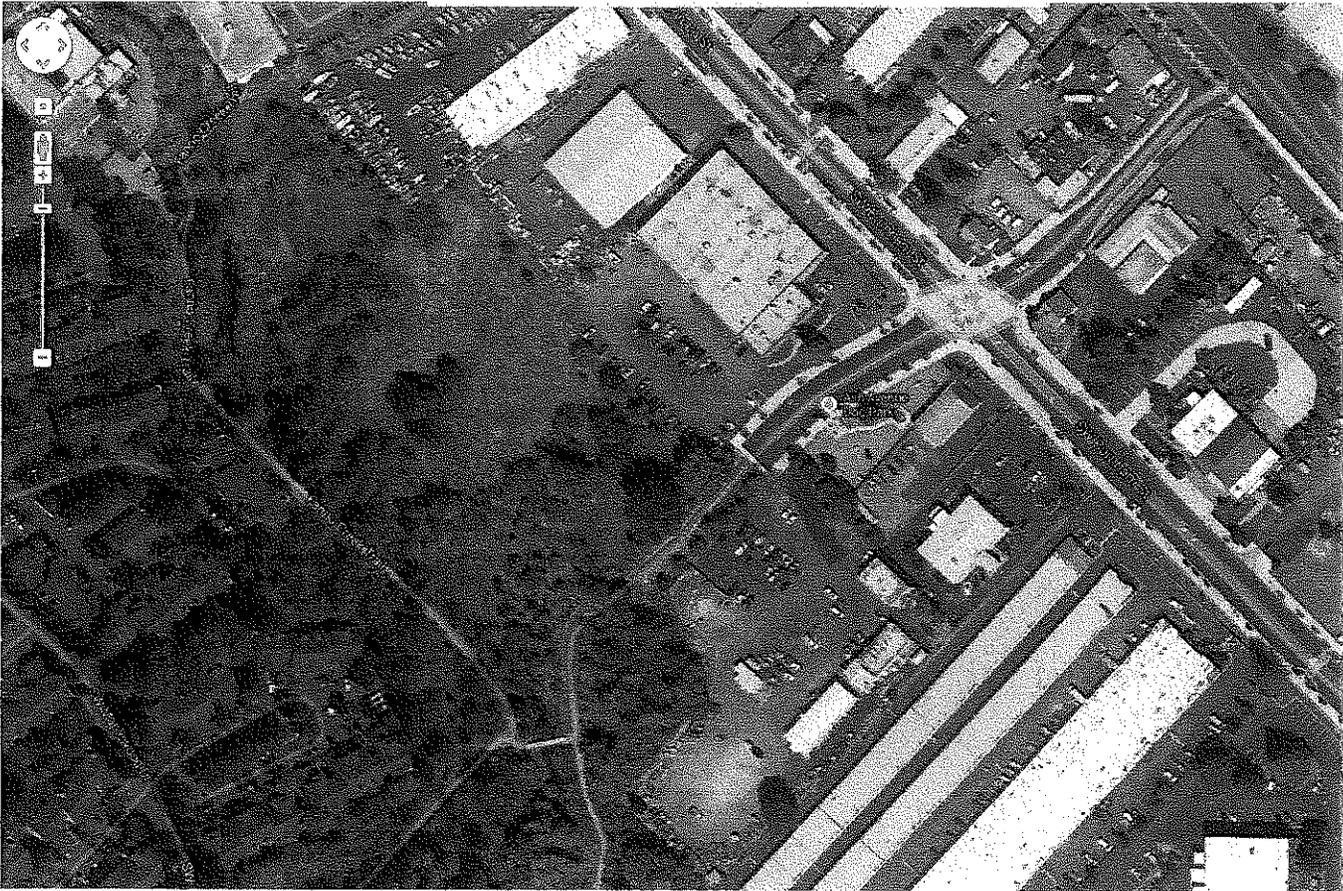
Gabriel Park Portland, OR



Potso Dog Park
Tigard, OR



Ash Ave Dog Park
Tigard, Oregon

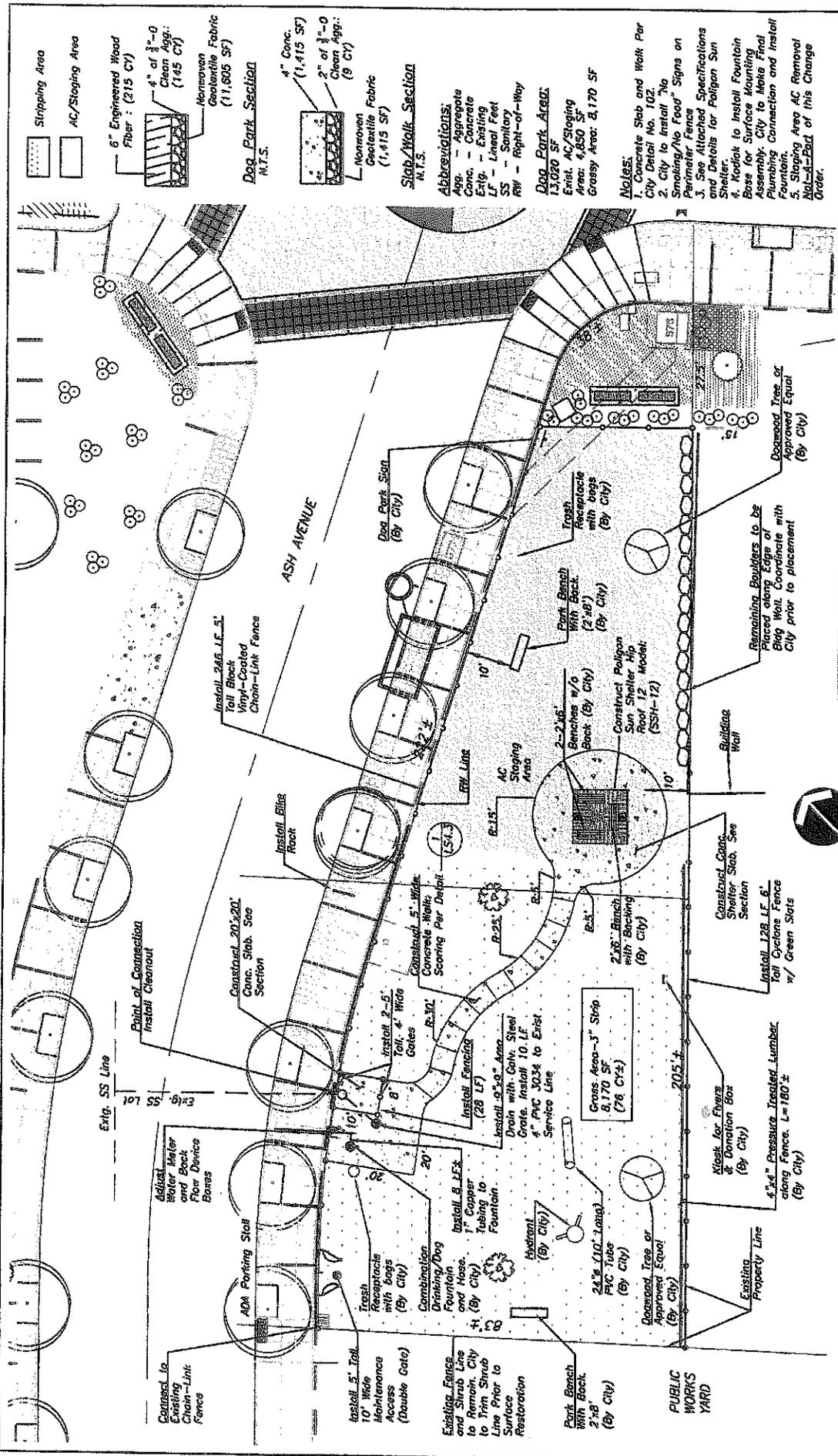


Tualatin Dog Park Tualatin, OR



Hazelia Field Dog Park
Lake Oswego, OR





APPLICATION FOR PLAN MAP AND ZONE MAP CHANGE

SUMMARY

File Numbers: Z0017-14-CP, Z0018-14-Z

Applicant: City of Gladstone

Owner: Oak Lodge Water District

Proposal: Comprehensive Plan Amendment from Single Family Residential to Open Space and Zone Change from Single Family Residential, R7.2 to Open Space, OS

Location: 16711 SE Valley View Road, T2S., R2E., Sect 17BD, TL 1600

Site Size: 7.72 acres

Existing Zoning: R-7.2, Single Family Residential

Existing Plan: Single Family Residential

PROPOSAL

This application proposes amendments to the City of Gladstone Comprehensive Plan Map from Single Family Residential to Open Space and Zoning Map from Single Family Residential R-7.2 to Open Space, OS to allow for expanded use of Nick Shannon Memorial Park – specifically to provide for off-leash dog area.

EXISTING SITE, AREA CHARACTERISTICS

The subject property is approximately 7.2 acres in size and owned by Oak Lodge Water District. Water towers and accessory uses/structures are in place. A cell tower is located on site. That portion proposed for new use is currently vacant open space. Nick Shannon Memorial Park is adjacent to the subject. Otherwise the area is generally in single-family residential use.

COMPLIANCE WITH CITY OF GLADSTONE CRITERIA

Chapter 17.68 AMENDMENTS AND ZONE CHANGES

17.68 Authorization to initiate amendments

(1) An amendment to the Zoning Map or to the Comprehensive Plan Map may be initiated by:

- (a) The City Council;
- (b) The Planning Commission;
- (c) The City Administrator or his designee;
- (d) by application of a property owner, contract purchaser or authorized agent of subject property

Response: City Council, City Administrator, and property owner are initiating this application.

(2) The request for a map amendment shall be accomplished by filing an application with the city using forms prescribed by the city and submitted the information required from the applicant under Section 17.68.050.

Response: applicant has filed application materials as required.

17.68.020 Review Process

Application under this Chapter shall be reviewed pursuant to GMC Division VII (administrative procedures.)

Response: Chapter 17.68 establishes the approval criteria for a zone change. Policy 5c of the Plan Evaluation and Update Chapter of the Comprehensive Plan states: "an amendment to this plan shall be treated like a zone change. The same procedure for a zone change shall be adopted." Thus, Chapter 17.68 of the GMC applies to the Comprehensive Plan amendment as well as the zone change. Chapter 17.68 requires the applicant "must show by a preponderance of the evidence the following:

17.68.050(1) *Granting the requires fulfills a public need, the greater the departure from present development policies or land use patterns, the greater the burden of the applicant.*

Response: During the time the dog-use area was allowed by Council, the property was used for the intended use. This indicates a need exists.

17.68.050(2) *The public need is best carried out by granting the petition for the proposed action, and that need is best served by granting the petition at this time.*

Response: There is a public need for this type of use. The subject location is adjacent to an existing park. This proposal involves expansion of the existing park use area, to fulfill the established need of on off-leash dog area. The public need is best carried out by granting the petition for this proposed action at this time.

17.68.050(3) *The proposed action is consistent with the Comprehensive Plan and Metro's Functional Plan.*

Response: The proposed zone change would be consistent with the Land Use chapter of the Plan if the Plan map is changed to Open Space. Regarding the Functional Plan -

Metro's Functional Plan provisions are addressed as follows

Title 1, Housing and Employment Accommodation: This application proposes to remove vacant land from residential designation. Applicant notes the property is owned by a public utility and as such is not likely to be developed with residential use now or in the future. Regardless the proposed change will not impact the city's ability to meet Metro's housing targets, as less than .01% of the land zoned for residential use will be impacted. Employment opportunities will not be impacted.

Title 2, Regional Parking: future development plans would be required to meet parking standards as listed in the Gladstone Municipal Code.

Title 3, Water Quality, Flood Management and Fish and Wildlife Conservation: The site in question is not identified as a Water Quality or Flood Management Area.

Title 4, Industrial and Employment Areas: Metro maps and designates certain areas as Industrial and Employment Areas. The property in question is not located in any designated industrial or employment area.

Title 5, Neighbor Cities and Rural Reserves: This Title establishes Metro policy regarding areas outside the Metro urban growth boundary and has no effect in Gladstone.

Title 6, Central City, Regional Centers, Town Centers and Station Communities: The zone change would not amend any centers, corridors, station communities or main streets.

Title 7, Affordable Housing: The general intent of this Title is to ensure housing is provided for households of all income levels. This proposal does not involve legislative action by Gladstone affecting affordable housing."

Title 8, Compliance Procedures: This Title establishes procedures for Metro to require compliance with the Functional Plan – not affected by this proposal.

Title 9, Performance Measures: not affected by this proposal.

Title 10, Definitions: not affected by this proposal.

Title 11, Planning for New Urban Areas: not applicable to this proposal.

Title 12, Protection of Residential Neighborhoods: This Title deals with protecting residential neighborhoods from air and water pollution, noise and crime and to provide public services. The planning commission and council will consider this, particularly with regards to

Title 13: Nature in Neighborhoods. None of the property in this proposal is identified as habitat, by Metro. While this proposal is not directly affected by this Title, the property is generally undeveloped open space. This proposal would expand park use in the area.

17.68.050(4) *Proof of significant change in a neighborhood or community or a mistake in the planning or zoning for the property under consideration, when relevant.*

Response: The property is zoned for residential use but is vacant land in part of a larger property owned and operated by Oak Lodge Water – e.g. there is no particular reason for the site to be zoned for residential use, and can be considered to be mistakenly zoned such. Open Space zoning, on the other hand would allow for expansion of existing park facilities. Also, during the period the dog park was in place the site was being used – indicating a need exists. The neighborhood, the community has changed in such a way that dog use park is desired.

17.68.050(5) *The property and affected area is presently provided with, or concurrent with development can be provided with, adequate public facilities, including but not limited to, transportation systems.*

Response: The transportation network is in place to serve the property and use, with the site having frontage along Valley View Road. The City may want to consider a separate off-street parking area on site.

COMPLIANCE WITH CITY OF GLADSTONE COMPREHENSIVE PLAN GOALS AND POLICIES

In order for the City to approve a Comprehensive Plan Map and Zoning Map amendment, the proposed amendment must be shown to be consistent with all applicable Comprehensive Plan policies. The following responses are provided to the applicable policies of the Comprehensive Plan for the proposal to re-designate the subject property from Single Family Residential to Open Space.

A. *Citizen Involvement Element*

This application is being processed in accordance with the adopted public hearings and public notice requirements for the City of Gladstone. The proposal will be part of public hearings, allowing further public participation for Gladstone citizens and affected agencies. Therefore this application is consistent with this Goal.

B. *Land Use Planning Element*

Goal: to maintain a high standard for Gladstone's quality of life:

Gladstone has a relatively high percentage of lands in residential use. Dog ownership is often accessory to residential use. In order to provide for this aspect of residential use, to maintain Gladstone's quality of life, off-leash dog park space is necessary.

COMPLIANCE WITH STATEWIDE PLANNING GOALS AND GUIDELINES

Goal 1 – Citizen Involvement: The purpose of this goal is to provide citizens the opportunity to be involved in the planning process. Notices were mailed to the owners of properties as required. Goal 1 is satisfied.

Goal 2 – Land Use Planning: Goal 2 requires local jurisdictions to adopt comprehensive plans and ordinances to implement those plans. This process for Comprehensive Plan amendment is consistent with the Gladstone Comprehensive Plan and Municipal Code, thereby satisfying Goal 2.

Goal 3 – Agricultural Lands: Gladstone has no designated agricultural lands. This goal is inapplicable.

Goal 4 – Forest Lands: Gladstone has no designated forest lands. This goal is inapplicable.

Goal 5 – Open Spaces, Scenic and Historic Areas, and Natural Resources. This application proposed to add to open space zoned land in the city, and is therefore in compliance with Goal 5.

Goal 6 – Air, Water and Land Resources Quality: This Goal requires the Comprehensive Plan and implementing ordinances to be consistent with state and federal pollution standards. This Goal is inapplicable to the proposed Plan amendment because the amendment does not seek to change the city's pollution standards.

Goal 7 – Areas Subject to Natural Disaster and Hazards: This Goal covers development in areas subject to natural disasters and hazards, such as floods or landslides. The proposed Plan amendment will have no impact on the city's regulations pertaining to natural disasters and hazards. The subject property has not been identified as being at risk for a natural disaster or hazard that would be a basis for preventing the uses allowed by the new Plan designation.

Goal 8 - Recreational Needs: This goal requires the city plan for recreation needs. By expanding park use area in the city this goal is met.

Goal 9 – Economy of the State: Goal 9 requires the city to plan and zone for an adequate supply of commercial and industrial land. The proposal does not impact commercial or industrial land.

Goal 10 – Housing: Goal 10 requires local jurisdictions to inventory residential lands and to accommodate an adequate supply of a variety of housing types. The proposed zone change may decrease the city's supply of residential land by less than .01% .

Goal 11 – Public Facility and Services: This Goal requires local jurisdictions to plan for such public facilities and services as water, sewer and fire protection. Public Facilities and Services are available to serve this property for the intended use.

Goal 12 – Transportation: Goal 12 requires the city to adopt a transportation system plan (TSP) that provides for a variety of types of transportation facilities. The proposed Plan amendment will have no impact on the city's adopted TSP.

Goal 13 – Energy Conservation: This Goal requires land use to maximize energy conservation. The proposed zone change will have no impact on the city's plan policies or implementing regulations regarding energy conservation.

Goal 14 – Urbanization: This Goal requires the establishment of urban growth boundaries and planning for sufficient land to meet urban needs. This Goal is inapplicable to Gladstone because the city is within the Metro urban growth boundary and all lands bordering the city are already urban lands. The proposal has not impact on this goal.

Goal 15 – Willamette River Greenway: This Goal establishes procedures for administering the greenway that protects the Willamette River. The subject property is not within the greenway; therefore, this Goal is inapplicable.

Goals 16-19 pertain to coastal jurisdictions only and are inapplicable to Gladstone.

COMPLIANCE WITH OREGON TRANSPORTATION PLANNING RULE

Oregon Administrative Rule 660 Division 12 applies to amendments to comprehensive plans, functional plans and land use regulation (OAR660-12-060). This application proposes a change to the Comprehensive Plan and is therefore applicable. That said, the provisions of OAR660-12-060 are more correctly applied to changes in Plan designations which can be shown to increase traffic, such as going from Residential designation to Commercial designation. This application proposes to go to a less traffic intensive Plan designation – OS, Open Space.

SUMMARY

File Numbers: Z0017-14-CP, Z0018-14-Z

Applicant: City of Gladstone

Owner: Oak Lodge Water District

Proposal: Comprehensive Plan Amendment from Single Family Residential to Open Space and Zone Change from Single Family Residential, R7.2 to Open Space, OS

Location: 16711 SE Valley View Road, T2S., R2E., Sect 17BD, TL 1600

Site Size: 7.72 acres

Existing Zoning: R-7.2, Single Family Residential

Existing Plan: Single Family Residential

PROPOSAL

This application proposes amendments to the City of Gladstone Comprehensive Plan Map from Single Family Residential to Open Space and Zoning Map from Single Family Residential R-7.2 to Open Space, OS to allow for expanded use of Nick Shannon Memorial Park – specifically to provide for off-leash dog area.

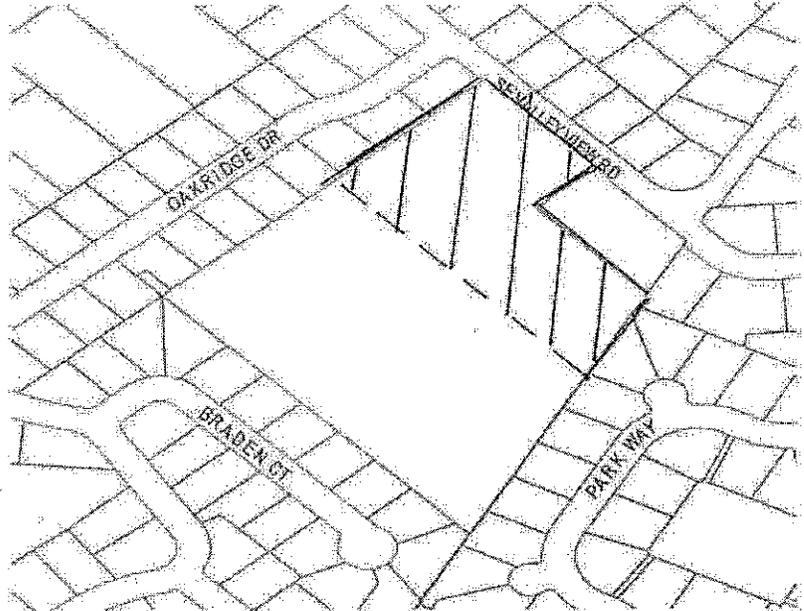


Geographic Information Systems
 168 Warner-Milne Rd
 Oregon City, OR 97045

Property Report

OAK LODGE WATER DIST
 14496 SE RIVER RD
 MILWAUKIE, OR 97267

Location Map:



Site Address: 16711 SE VALLEY VIEW

Taxlot Number: 22E17BD01600

Land Value: 164682

Building Value: 0

Total Value: 164682

Acreage:

Year Built:

Sale Date:

Sale Amount: 0

Sale Type:

Land Class:

401

Building Class:

Neighborhood:

Gladstone newer all other

Taxcode Districts: 115039

Site Characteristics:

UGB: METRO

Flood Zone: Not Available

Zoning Designation(s):

Zone	Overlays:	Acreage:
R7.2		7.72

R7.2

7.72

Fire	Gladstone
Park	N/A
School	SCH 115 GLADSTONE
Sewer	OAK LODGE SANITARY
Water	OAK LODGE
Cable	City
CPO	City
Garb/Recyc	Gladstone Disposal
City/County	Gladstone

This map and all other information have been compiled for preliminary and/or general purposes only. This information is not intended to be complete for purposes of determining land use restrictions, zoning, title, parcel size, or suitability of any property for a specific use. Users are cautioned to field verify all information before making decisions.

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City of GLADSTONE

STAFF REPORT/RECOMMENDATION TO PLANNING COMMISSION

Files: Z0017-14-CP & Z0018-14-Z

Date: February 7, 2014

Hearing(s): February 18, 2014 (PC) March 11, 2014 (Council)

I. GENERAL INFORMATION

- A. **PROPOSAL:** Comprehensive Plan designation change and Zone change from Residential, R7.2 to Open Space, OS.
- B. **Legal Description:** T2, R2E, Section 17BD, Tax Lots: 1600
- C. **Location:** 16711 SE Valley View Road, west side of Valley View Road, south of Oakridge Drive.
- D. **Current/proposed Plan designation:** Single Family Residential/Open Space
- E. **Current/proposed Zone designation:** R7.2, Single Family Residential/OS, Open Space
- F. **Site Description:** The property is approximately 7.2 acres in size and owned by Oak Lodge Water District. Waters towers and accessory uses/structures are in place. A cell tower is on site. The portion of the property proposed for this change is currently vacant open space, accessible from Valley View Road. Nick Shannon Memorial Park is adjacent to the subject.

II. INTRODUCTION

This request is subject to Chapter 17.68, Amendments and Zone Changes, of Title 17 of the Gladstone Municipal Code. The applicant

City Hall
525 Portland Avenue
Gladstone, OR 97027
(503) 656-5223
FAX: (503) 650-8938
E-Mail: (last name)@
ci.gladstone.or.us
Website:
www.ci.gladstone.or.us

Municipal Court
525 Portland Avenue
Gladstone, OR 97027
(503) 656-5224 ext. 1
E-Mail: municourt@
ci.gladstone.or.us

Police Department
535 Portland Avenue
Gladstone, OR 97027
(503) 655-8211
Website:
www.ci.gladstone.or.us

Fire Department
555 Portland Avenue
Gladstone, OR 97027
(503) 557-2776
Website:
www.ci.gladstone.or.us

Public Library
135 E. Dartmouth
Gladstone, OR 97027
(503) 656-2411
FAX: (503) 655-2438
E-Mail: qiref@lincc.lib.or.us

Senior Center
1050 Portland Avenue
Gladstone, OR 97027
(503) 655-7701
FAX: (503) 650-4840

City Shop
18595 Portland Avenue
Gladstone, OR 97027
(503) 656-7957
FAX: (503) 722-9078

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has submitted information to address the applicable criteria. Those materials are incorporated by reference herein. The applicant discusses specific reasons for the request – expand Nick Shannon Memorial Park to include off-leash dog area.

III. FINDINGS AND CONCLUSIONS

Planning staff has reviewed this request in reference to the applicable provisions GMC. Based upon this review, staff makes the following findings and conclusions:

A. Comprehensive Plan Amendment and Zone Change

1. Chapter 17.68 establishes the approval criteria for a zone change. Policy 5(c) of the Plan Evaluation and Update chapter of the Comprehensive Plan states, "An amendment to this plan shall be treated like a zone change. The same procedure for a zone change shall be adopted." Thus, Chapter 17.68 of the GMC applies to the Comprehensive Plan amendment as well as the zone change. Chapter 17.68 requires that the applicant "must show by a preponderance of the evidence" the following:

17.68.050(1) Granting the request fulfills a public need, the greater departure from present development policies or land use patterns, the greater the burden of the applicant.

This application proposes to change an area currently planned/zoned for residential use to open space zone and plan designation, to allow for an off-leash dog park – the contention being there is a public need for such use. The City Council opened the area for an off-leash dog park (without first receiving proper land use entitlements) and the use did, in fact occur. Staff believes it has been shown there is a public need for off-leash dog use areas. Further, the area already hosts Nick Shannon Memorial Park, e.g. the land use pattern is established. **This criterion is met.**

17.68.050(2) The public need is best carried out by granting the petition for the proposed action, and that need is best served by granting the petition at this time.

Applicant presents argument on the need for off-leash dog use area in the City, the contention being there is none currently. Further, the applicant points out this proposal would involve expansion of an existing park. Staff can agree on both points. That said, why establish an off-leash dog park at this particular

location? Why not in an area already zoned and planned for the use, such as Meldrum Bar? The use could be provided for – meeting the public need, and conflicts could be minimized by locating the use in an area which provides buffering for surrounding uses. **This criterion requires further consideration.**

17.68.050(3) *The proposed action is consistent with the Comprehensive Plan and Metro's Functional Plan (Metro Code 3.07).*

The proposed zone change would be consistent with the Land Use chapter of the Plan if the Plan map is changed to commercial.

The Functional Plan provisions relevant to this proposal are addressed as follows:

Title 1, Housing and Employment Accommodation: The applicant contends the zone change will not impact the city's ability to meet Metro's housing targets, as less than 1% of the land zoned for residential use will be impacted, and that employment opportunities will be provided if the request is approved. Staff concurs.

Title 2, Regional Parking: future development plans would be required to meet parking standards as listed in the Gladstone Municipal Code.

Title 3, Water Quality, Flood Management and Fish and Wildlife Conservation: The site in question is not identified as a Water Quality of Flood Management Area.

Title 4, Industrial and Employment Areas: Metro maps and designates certain areas as Industrial and Employment Areas. The property in question is not located in any designated industrial or employment area.

Title 5, Neighbor Cities and Rural Reserves: This Title establishes Metro policy regarding areas outside the Metro urban growth boundary and has no effect in Gladstone.

Title 6, Central City, Regional Centers, Town Centers and Station Communities: The zone change would not amend any centers, corridors, station communities or main streets.

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Title 7, Affordable Housing: The general intent of this Title is to ensure housing is provided for households of all income levels. This application involves a quasi-judicial Comprehensive Plan and Zone change and does not involve legislative action by Gladstone affecting affordable housing.

Title 8, Compliance Procedures: This Title establishes procedures for Metro to require compliance with the Functional Plan – not affected by this proposal.

Title 9, Performance Measures: not affected by this proposal.

Title 10, Definitions: not affected by this proposal.

Title 11, Planning for New Urban Areas: not applicable to this proposal.

Title 12, Protection of Residential Neighborhoods: This Title deals with protecting residential neighborhoods from air and water pollution, noise and crime and to provide adequate public services. The subject proposal would result in additional activity on the site. The Planning Commission should discuss how this proposal furthers "Protection of Residential Neighborhoods."

Title 13: Nature in Neighborhoods. None of the property in this proposal is identified as habitat, by Metro.

With satisfaction of Title 12, this criterion can be met.

17.68.050(4) *Proof of significant change in a neighborhood or community or a mistake in the planning or zoning for the property under consideration, when relevant.* The applicant states that there is no particular reason for the site to be zoned for residential use, e.g. is mistakenly zoned. Further, the applicant notes the community has changed in such a way that a dog use area is desired. Staff points out the OS zone designation does not allow utility facilities (except within Habitat Conservation Area Districts.) No part of the existing Oak Lodge facility could be located within any portion zoned OS without becoming nonconforming. Existing R7.2 zone DOES allow utility facilities, as a conditional use. In consideration of the use in place on site – the land is properly zoned. This leaves the other part of this criterion: proof of significant change in a neighborhood or community." The applicant contends the community has changed in such a way that dog use park is desired. Staff points up the possibility there has, in fact, been no change in neighborhood or community. Dogs have been around

as long as the residential use. **This criterion requires further consideration.**

17.68.050(5) *The property and affected area is presently provided with, or concurrent with development can be provided with, adequate public facilities, including, but not limited to, transportation systems. The subject property is an area served by public facilities, including adequate transportation systems. Parking should be discussed. **This criterion can be met.***

2. Findings are required concerning the Comprehensive Plan amendment's compliance with the Statewide Planning Goals and Guidelines.

- a. Goal 1 - "Citizen Involvement" - The purpose of this goal is to provide citizens the opportunity to be involved in the planning process. Notices were mailed to the owners of properties within 250 feet of the subject property, and a minimum to two (2) public hearings will be held. Goal 1 is satisfied.
- b. Goal 2 - "Land Use Planning" - Goal 2 requires local jurisdictions to adopt comprehensive plans and ordinances to implement those plans. This process for Comprehensive Plan amendment is consistent with the Gladstone Comprehensive Plan and Municipal Code, thereby satisfying Goal 2.
- c. Goal 3 - Agricultural Lands - Gladstone has no designated agricultural lands. This goal is inapplicable.
- d. Goal 4 - Forest Lands - Gladstone has no designated forest lands. This goal is inapplicable.
- e. Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources - Goal 5 requires local jurisdictions to inventory a dozen types of natural and cultural resources, such as wetlands and wildlife habitat; determine which sites are significant; and undertake an evaluation to determine which sites will be protected and to what extent. The subject property does not include any sites or areas.
- f. Goal 6 - Air, Water and Land Resources Quality - This Goal requires the Comprehensive Plan and implementing ordinances to be consistent with state and federal pollution standards. This Goal is inapplicable to the proposed Plan amendment because the amendment does not seek to change the city's pollution standards.

- g. Goal 7 – Areas Subject to Natural Disasters and Hazards – This Goal covers development in areas subject to natural disasters and hazards, such as floods or landslides. The proposed Plan amendment will have no impact on the city's regulations pertaining to natural disasters and hazards. The subject property has not been identified as being at risk for a natural disaster or hazard that would be a basis for preventing the commercial development allowed by the new Plan designation.
- h. Goal 8 – Recreational Needs – This Goal requires the city to plan for recreation needs. The Comprehensive Plan designates such areas and this proposal does not adversely affect that planning.
- i. Goal 9 – Economy of the State – Goal 9 requires the city to plan and zone for an adequate supply of commercial and industrial land. The proposal furthers Goal 9 in that additional commercial land would result.
- j. Goal 10 – Housing – Goal 10 requires local jurisdictions to inventory residential lands and to accommodate an adequate supply of a variety of housing types. The proposed zone change would decrease city's supply of residential land by less than 1%. Further discussion will be required to determine compliance with this Goal.
- k. Goal 11 – Public Facilities and Services – This Goal requires local jurisdictions to plan for such public facilities and services as water, sewer and fire protection. Public Facilities and Services are available to serve this property.
- l. Goal 12 – Transportation – Goal 12 requires the city to adopt a transportation system plan (TSP) that provides for a variety of types of transportation facilities. The City has an adopted TSP. It has not been shown the proposal would conflict with the TSP.
- m. Goal 13 – Energy Conservation – This Goal requires land use to maximize energy conservation. The proposed zone change will have no impact on the city's plan policies or implementing regulations regarding energy conservation.
- n. Goal 14 – Urbanization – This Goal requires the establishment of urban growth boundaries and planning for sufficient land to meet urban needs. This Goal is inapplicable to Gladstone because the city is within the Metro urban growth boundary and all lands bordering the city are already urban lands.

- o. Goal 15 – Willamette Greenway – This Goal establishes procedures for administering the greenway that protects the Willamette River. The subject property is not within the greenway; therefore, this Goal is inapplicable.
- p. Goals 16 through 19 pertain to coastal jurisdictions only.

IV. RECOMMENDATION

The Planning Commission is authorized to make a recommendation to the City Council on Comprehensive Plan amendments and Zone changes, pursuant to Subsections 17.94.060(1)(b) and (c) of the GMC. Planning staff recommends the Planning Commission carefully consider the proposal, then forward to the City Council their recommendation.

Submitted by: Harry: Donna Todd, 16710 SE Valley View Rd

Reasons we oppose Dog Park

There is an
Ordinance.

7 AM - 10 PM -

1- Noise and Disturbances -

2. Security - People from everywhere

3 Traffic - over The Top.

4- Residential area.

A- NOT Zoned -

B. NOT enough room.

5- property value will
go down -

A- We had a Broker do
analysis

6- There will be no days
off for us - so close JT
will be 7 AM - 10 PM
7 days a week 365 days
a year -

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Client Broker Price Opinion

Company				Date
Seller/Contact		Asset/Loan Number		
Property Address		Borrower		
City	State	Zip		
Legal Description				
Email	Phone	Work		Fax

Information with regard to evaluation

Although prices have risen this past year, the present market is slow, as the prices have risen enough significantly that the investor market is not as active. Thus this house which in the investor market would make a good rental and bring perhaps a higher price, in the present market which at best is slow and fewer buyers, there are also fewer sellers, and because of the negative aspects of having an off leash dog park across the street and very obvious, posted, signage and the signage very Commercial looking, plus the fact of the increased street traffic and noise, are making the properties around what was a peaceful, pleasant to look at park lose value instead of gain what the rest of the market has experienced.

All the comps used have better locations compared to subject due to the park situation. In determining the pricing of subject property in my opinion I have given the most weight to sold comparables. Most all the comparables have less sq.ft. except the 3rd listed comparable. All are within as close range as usual except for the 3rd listed comparable. The factors for the sold comps and the listed comps were done by \$ per sq.ft. averages. Then the downgrade for the extra traffic of \$10,000 was applied. The average per sq.ft. for the solds came to \$132/sq.ft., the average for the listings came to \$135/sq.ft. Using the average per sq.ft. for the solds the sales price should be \$263,736. But downgrade of \$10,000 brings it to \$253,736. Buyers then would downgrade again based on their idea of location so the house may would sell in the \$245,000 range were the seller willing to sell for that.

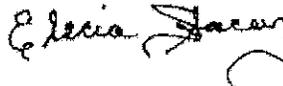
Subject property is very well maintained and clean inside and out. Should the park resume to be a park for neighborhood use it would then be a very desirable property and have a very good outlook in the marketplace. Each property in this area is going to have the same negative impact by the Commercial approach that is being used in this park.

I have studied the comps used in the MLS aspects as well as checked them in Google maps and am familiar with the areas in general. Have been in real estate in the area for 16 years and in real estate for 25 years. I have used the comps closest in proximate as well as those most closely representing subject property as were available. I am not an appraiser but do try to justify the differences overall, some of which are accomplished by using the sq.ft. averages. The rest of the justifications have come out of experience.

I hereby certify that I have personally inspected the subject property and have made limited inspections of all comparables included in this report as indicated herein or have delegated the inspections to a qualified agent. This Broker's Price Opinion is not intended for valuation in lieu of financing proposals, but for portfolio valuation, purchase, foreclosure, or marketing purposes only.

Elecia Stacey, Corporate Broker

Signature:



Date: 01/13/2014

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Client Broker Price Opinion

Interior Inspection Drive By Only

Company				Date	01/13/2014
Contact	Harry & Donna Todd		Asset/Loan Number		
Property Address	16710 SE Valley View Rd			Borrower	
City	Milwaukie	State	OR	Zip	97267
Lawyer					
Email	Harryanddonna0516@comcast.net		Phone	Work	Fax

General Market Conditions

Market	Values	Competition	Vandalism Risk	Marketing Time	Condo/Co-Op
Urban	Stable <input checked="" type="checkbox"/>	Shortage <input checked="" type="checkbox"/>	High Risk <input checked="" type="checkbox"/>	Under 90 days <input checked="" type="checkbox"/>	Earthquake Ins - N/A <input checked="" type="checkbox"/>
Suburban <input checked="" type="checkbox"/>	Depreciating	Stable	Low Risk	90-120 days	Conv. Fin Eligible <input checked="" type="checkbox"/>
Rural	Appreciating	Oversupply	Graffiti	Over 180 days	FHA/VA Approved <input checked="" type="checkbox"/>
Other					
Neighborhood Pride of Ownership	Above Average <input checked="" type="checkbox"/>	Average -	Below Average -		
Occupied by	Owner <input checked="" type="checkbox"/>	Tenant -	Vacant -	Residential -	Commercial -
Number of comparable sales closed in the market area in last six months				11	Number of competing listings in subjects price range
List of marketing concessions/incentives offered on competing properties that may adversely affect the subject's value:				Short Sales	
Recommended marketing concessions/incentives to be offered: None, market is slowed presently even though shortage of competition due to economy and interest rate increases. Prices have increased last year so investors not grabbing up the properties.					
Other comments concerning market and location: Very good location close to shopping and freeway access.					

Subject Property Profile

Property Type	Property Condition	Available Financing	Miscellaneous
Single Family <input checked="" type="checkbox"/>	Excellent -	Cash <input checked="" type="checkbox"/>	Delinquent Taxes \$ 0
Condominium -	Good <input checked="" type="checkbox"/>	Conventional <input checked="" type="checkbox"/>	Yearly Taxes \$ 3,898.51
Townhouse -	Average -	FHA/VA <input checked="" type="checkbox"/>	Assessed Value (RMV)
Co-op -	Fair -	State VA -	Assessed Value (Taxable) \$ 197,534
PUD -	Poor -	Owner Contract -	City Nuisance Liens \$
Manufactured -	Condemned -	Buyer Assistance -	Year Property Built 1975
Modular -		Grants -	
Mobile -		Gifting -	
Duplex -		General Rehab -	
Triplex -		Historical Rehab -	
4-plex -		Other -	
Other -			
Suggested inspections Termite - Structural - Mechanical - Roof - Electrical - Plumbing -			
Comments concerning inspections: None needed			
Environmental Concerns Other <input checked="" type="checkbox"/> Geological - Wet Land - Lead Base Paint - Heating Oil - Asbestos -			
Comments concerning existing environmental concerns: Dog park across the street, influx of multitudes of traffic even into the Night. Imposed by City of Gladstone as an off leash park, even though park is located in Milwaukie. Also the traffic and noise associated as this doesn't appear to be just neighborhood or neighborhood activities in what was (the park) influx from other area now causing homes in area to be subject to more noise and more likely for more crime.			

Homeowner Association Information

Dues	\$	Special Assessments	\$
Management Company	Contact		
Mailing Address			
City, State, Zip	Phone	Fax	

Subject Property Features

Positive features were: Close to park for neighborhood activities. Pleasant views. Nice quiet area off main roads. Subject house well maintained as are all the properties in the neighborhood. Low crime rate. Close to schools and transportation. Fenced, covered Patio. Plenty of living space, and all one level.
Negative features: Off leash dog park with more traffic, noise, and outsiders coming into the neighborhood. Possible increase in Crime. Negative effect on property values as more traffic, noise and nuisance complaints, along with increase crime damages Property values.

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Client Broker Price Opinion

Company		Date	
Seller/Contact		Asset/Loan Number	
Property Address		Borrower	
City	State	Zip	
Legal Description			
Email	Phone	Work	Fax

Competitive Sales												
ITEM	SUBJECT			COMPARABLE NO. 1			COMPARABLE NO. 2			COMPARABLE NO. 3		
Address	16710 SE Valley View			630 Stonehill Dr			15921 SE Alpenglade St			15930 SE Alpenglade Ct		
Proximity to Subject [Blocks or Miles]				.9 mi			1.1 mi			1.1 mi		
Sales Price	\$			\$224,000			\$234,950			\$265,000		
List Price	\$			\$229,000			\$234,950			\$259,900		
Gross Living Area Sq Ft	1998			1890			1857			1760		
Data Source	Tax			MLS			MLS			MLS		
Financing Offered	0			Cash/Conv			All			All		
Seller Concessions	0			0			\$2350			\$5100		
Sale Date/Days on Market				07/18/13 14			09/27/13 9			11/08/13 3		
Location Quality	Was good now average			Good			Good			Good		
Lot Size Approximate	.18 AC			.22 AC			.28 AC			.28 AC		
View	Off leash dog park			Residential			Trees			Residential		
Design and Appeal	Ranch/good			Ranch/good			Ranch/good			Ranch/good		
Quality of Construction	good			good			good			good		
Age/Year Built	39/1975			45/1969			46/1968			48/1966		
Condition	Good			good			good			good		
Finished Rooms	Rooms	Bed	Bath	Rooms	Bed	Bath	Rooms	Bed	Bath	Rooms	Bed	Bath
Above Grade	7	3	2	8	3	2	7	3	2	7	3	2
Basement & Finished Rooms Below Grade	0	0	0	0	0	0	0	0	0	0	0	0
Heating/Cooling	Forced Air gas/none			Forced air gas/none			Elect.ceiling heat/none			Forced air gas/AC		
Garage/Carport	2 car attached			2 car attached			2 car converted			2 car attached		
Porches, Patios, Decks, Fireplace(s), etc.	Porch, fireplace, covered patio, fenced			Fireplace, deck, fenced			Porch, covered patio, fireplace, fenced			Patio, fenced, porch, 2 fireplace, sprinklers		
Water Source/Sewer Septic	Public/Public			Public/Public			Public/public			Public/public		
Other (recent remodeling, functional obsolescence)							Hardwood floors			Wood floors & granite		
Subject Inspected? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Comments: Have also been inside home, and interior is in very good condition & extremely well maintained.												
Sale #1: Inspected? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Comments: Inferior to subj for sq.ft. & upgrades, superior no dog park & lot size												
Sale #2: Inspected? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Comments: Inf. for age, & sq.ft., sup. no dog park & lot sz.(garage conv).Inf. overall												
Sale #3: Inspected? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Comments: Superior for lot sz, upgrades, updated/remodel so age not a factor.												

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Client Broker Price Opinion

Company	Date		
Seller/Contact	Asset/Loan Number		
Property Address	Borrower		
City	State	Zip	
Legal Description			
Email	Phone	Work	Fax

Competitive Listings												
ITEM	SUBJECT			COMPARABLE NO. 1			COMPARABLE NO. 2			COMPARABLE NO. 3		
Address	Same as above			18345 Cornell Pl			15082 SE Brightwood Av			2631 SE Concord Rd		
Proximity to Subject (Blocks or Miles)				.8 mi			1.9 mi			2.9 mi		
List Price	\$ "			\$ 229,900			\$ 273,500			\$ 275,000		
Gross Living Area Sq Ft	"			1809			1820			2127		
Data Source	"			MLS			MLS			MLS		
Financing Offered	"			All			All			Cash/Conv		
Seller Concessions	"			None			None			None		
Days on Market	etc			115			136			87		
Location Quality	Was good now average			Good			Good			Good		
Lot Size Approximate	.18 AC			.2 AC			.25 AC			.21 AC		
View	Off leash dog park			Residential			Residential			Residential		
Design and Appeal	Ranch/good			Ranch/good			Ranch/good			Ranch/good		
Quality of Construction	Good			Good			Good			Good		
Age/Year Built	39/1975			23/1991			45/1969			36/1978		
Condition	etc			Good			Good			Good		
Finished Rooms Above Grade	Rooms	Bed	Bath	Rooms	Bed	Bath	Rooms	Bed	Bath	Rooms	Bed	Bath
	7	3	2	7	3	2	7	3	2	7	3	2
Basement & Finished Rooms Below Grade	Rooms	Bed	Bath	Rooms	Bed	Bath	Rooms	Bed	Bath	Rooms	Bed	Bath
	0	0	0	0	0	0	0	0	0	0	0	0
Heating/Cooling	Forced air gas			Forced air gas/AC			Forced air Gas/AC			Forced Air Gas		
Garage/Carport	2 car attached			2 car attached			2 car attached			2 car attached		
Porches, Patios, Decks, Fireplace(s), etc.	Porch, fireplace, covered patio, fenced			Porch, shop, covered deck, BBQpit			Fenced, 2 fireplaces, covered patio, covered RV parking			Deck, sprinklers, sunroom, fireplace		
Water Source/Sewer Septic	Public/public			Public/public			Public/public			Public/public		
Other (recent remodeling, functional obsolescence)	None			Laminate flrs, new siding			New vinyl windows, remodel/updated			Has been remodeled		
Subject Inspected?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Comments:							
Sale #1: Inspected?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Comments: Originally sold 4/13 for \$179,900 now back on mkt. & sale pending. Looks like manufactured however is not. Short sq.ft., no fireplace, not fenced. Inferior overall.							
Sale #2: Inspected?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Comments: Less sq.ft than subj, however with upgrades/updates a little superior overall. Is now sale pending.							
Sale #3: Inspected?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>	Comments: Recent remodel, does have sunroom, more sq.ft. & lot size, however no fence, & has HOA at \$150/year for common w/2 ponds. Overall close to equal.							

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Client Broker Price Opinion

Company		Date	
Seller/Contact		Asset/Loan Number	
Property Address		Borrower	
City	State	Zip	
Legal Description			
Email	Phone	Work	Fax

Recommended Repair/Rehabilitation Summary

Repairs/Rehabilitation required (to achieve "as repaired value" whether or not repaired marketing strategy is recommended):	Estimated Cost
1: None	
2:	
3:	
4:	
5:	
6:	
7:	
8:	
9:	
10:	
11:	
12:	
TOTAL	

Ongoing, General Repair, Maintenance And Reserves

General Repair and Maintenance is not necessarily reflected in value, i.e. cleaning, minor landscaping, lawn maintenance.	Estimated Cost
1:	\$
2:	\$
3:	\$
4:	\$
5:	\$
6:	\$
7:	\$
8:	\$
9:	\$
10:	\$
11:	\$
12:	\$
TOTAL	

Marketing Strategy

Probable Buyer:	Probable Financing:	Probable Market:
<input checked="" type="checkbox"/> 1 st -Time Owner Occupant	<input checked="" type="checkbox"/> Cash	<input checked="" type="checkbox"/> As Is
<input type="checkbox"/> Move-Up Owner Occupant	<input checked="" type="checkbox"/> Conventional	<input type="checkbox"/> Repaired
<input checked="" type="checkbox"/> Investor	<input checked="" type="checkbox"/> FHA/VA	<input type="checkbox"/> Donate To Charity
<input type="checkbox"/> Other	<input type="checkbox"/> Other FHA or Conv REHAB	<input type="checkbox"/> Other
Reason for marketing strategy recommendation. (As Is or Repaired): AS IS		

Anticipated Sales Price for the subject property must fall within the indicated value range of the sales used.

Listing Period	Suggested List Price	Anticipated Sale Price	Probable Marketing Time
90 Day AS IS	\$ 253,736.00	\$245,000	90 Days
90 Day Repaired	\$	\$	Days
120 Day AS IS	\$ 253,736.00	\$245,000	120 Days
120 Day Repaired	\$	\$	Days
180 Day AS IS	\$	\$	Days
180 Day Repaired	\$	\$	Days
<i>Should Be Listed</i>	"AS IS" X	REPAIRED	

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Subject Property Photos
(Print On 8 1/2 x 14 For Best Viewing)

Company		Date	01/07/2014
Contact	Harry and Donna Todd	Asset Number	
Property Address	16710 SE Valley View Rd	City	Milwaukie
Attorney		State	Oregon
Email	Harryanddonna0516@comcast.net	Zip	97267
		Phone	Work Fax

Front



Address



Street



Directly across the street



More of the dog park



Sign facing subject property// Although address is in Milwaukie!!!



Sold Comp #1 630 Stonehill Dr, Milwaukie

Sold Comp #2 15921 SE Alpenglade Ct, Milwaukie

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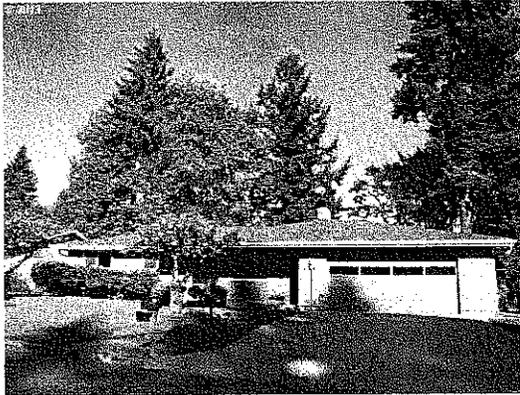
Subject Property Photos
(Print On 8 1/2 x 14 For Best Viewing)



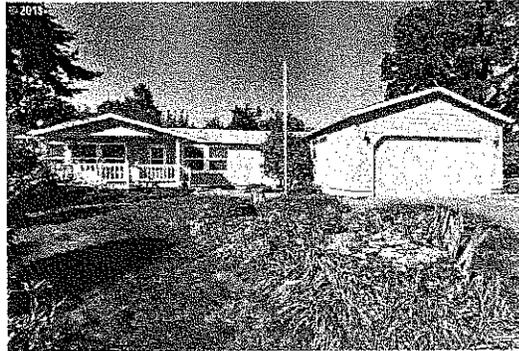
Sold comp #3 15930 SE Alpenglade Ct, Milwaukie



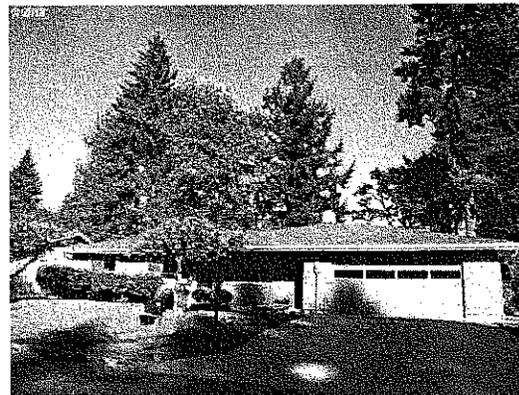
Listing comp #1 118345 Corneli Pl, Gladstone



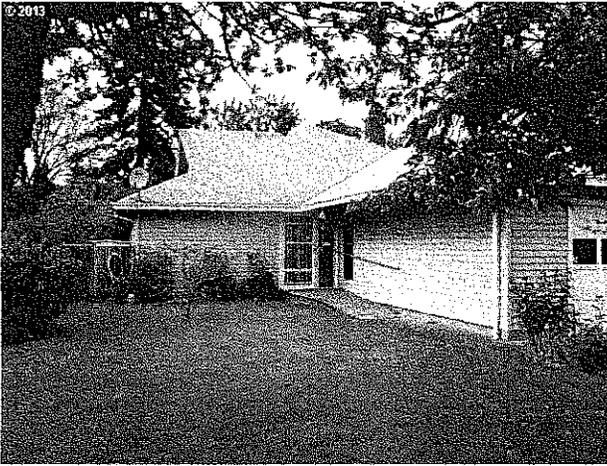
Listing comp #2 15082 SE Brightwood Ave, Milwaukie



Listing comp #3 2631 SE Concord Rd, Milwaukie



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Presented By: Elecia Stacey
 Promised Realty **Client Full**
Phone: 503-698-9337 **E-mail:** Elecia_Stacey@PromisedRealty.com
RESIDENTIAL **Status:** SLD **1/13/2014** **2:41:16 PM**
ML#: 13148598 **Area:** 145 **List Price:** \$229,000
Addr: 630 STONEHILL DR **Unit#:**
City: Gladstone **Zip:** 97027 **Condo Loc:**
Map Coord: 687/E/3 **Zoning:** resid
County: Clackamas **Tax ID:** 00504010
Elem: John Wetten **Middle:**
High: Gladstone **PropType:** DETACHD
Nhood/Bldg: Gladstone Newer **CC&Rs:** N
Legal: 1214 STONEYBROOK LT 7

GENERAL INFORMATION

Lot Size: 7K-9,999SF **View:** **# Acres:** 0.22 **Lot Dimensions:**
Waterfront: **Lot Desc:** LEVEL
Body Water: **Seller Disc:** DSCLOSUR

RESIDENCE INFORMATION

Upper SQFT: 0 **SFSrc:** seller **#Bdrms:** 3 **#Bth:** 2/0 **#Lvl:** 1 **Year Blt:** 1969 / APPROX **55+ w/Affidavit Y/N:** N
Main SQFT: 1890 **TotUp/Mn:** 1890 **Style:** RANCH **Green / Yr / Obtained:**
Lower SQFT: 0 **Parking:** DRIVWAY **#Garage:** 2/ATTACHD **Home Wnty:** **#Fireplaces:** / GAS
Ttl SQFT: 1890 **Addl. SQFT:** **Roof:** COMP **Exterior:** VINYL **Bsmt/Fnd:** CRAWLSP

REMARKS

XSt/Dir: Oatfield to Stonehill
Public: Great one level home in quiet neighborhood. Large living room/great room style w/firplace. Has separate den/office and laundry room. Fenced yard. shed stays.

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living: M / CEILFAN, FIREPL	Mstr Bd: M / CEILFAN	Bths - Full/Part
Kitchen: M / NOOK	2nd Bd: M / CEILFAN	Upper Lvl: 0/0
Dining: M /	3rd Bed: M / CEILFAN	Main Lvl: 2/0
Family: M /	DEN/OFF: M /	Lower Lvl: 0/0
UTILITY: M /		Total Bth: 2/0

FEATURES AND UTILITIES

Kitchen: DISHWAS, FS-RANG
Interior: WW-CARP
Exterior: FENCED, DECK, YARD
Accessibility: 1LEVEL, RAMP
Energy Eff:
Water: PUBLIC **Sewer:** PUBLIC **Hot Water:** ELECT **Cool:** **Heat:** FOR-AIR
Fuel: GAS

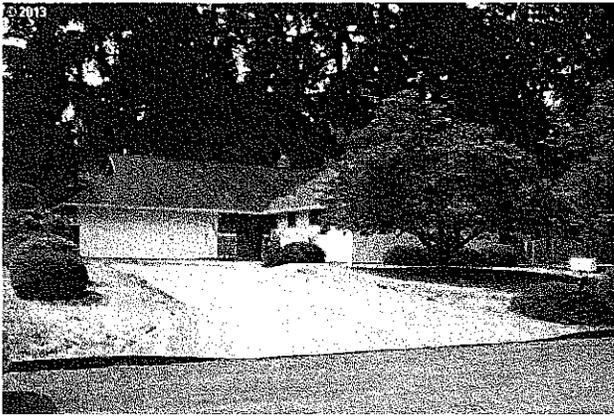
FINANCIAL

PTax/Yr: \$3,300.77 **Rent, if Rented:** **Short Sale:** N **Bank Owned/REO:** N
HOA Dues: **Other Dues:**

COMPARABLE INFORMATION

Pend: 5/13/2013 **DOM:** 14 **Sold:** 7/18/2013 **Terms:** FHA **O/Price:** \$229,000 **Sold:** \$224,000

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 SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
 SCHOOL AVAILABILITY SUBJECT TO CHANGE.



Presented By: Elecia Stacey
 Promised Realty
 Client Full
 Phone: 503-698-9337 E-mail: Elecia_Stacey@PromisedRealty.com
 RESIDENTIAL Status: SLD 1/13/2014 3:07:22 PM
 ML#: 13227066 Area: 145 List Price: \$234,950
 Addr: 15921 SE ALPENGLADE CT Unit#:
 City: Milwaukie Zip: 97267 Condo Loc:
 Map Coord: 657/E/7 Zoning:
 County: Clackamas Tax ID: 00466739
 Elerr: Bilquist Middle: Alder Creek
 High: Putnam PropType: DETACHD
 Nhood/Bldg: CC&Rs:
 Legal: 1096 FIRWOOD PK LT 4

GENERAL INFORMATION

Lot Size: 10K-14,999SF # Acres: 0.28 Lot Dimensions: 80x150
 Waterfront: View: TREES Lot Desc: LEVEL, WOODED, TREES, PRIVATE
 Body Water: Seller Disc: DSCLOSUR

RESIDENCE INFORMATION

Upper SQFT: 0 SFSrc: tax record #Bdms: 3 #Bth: 2/0 #Lvl: 1 Year Blt: 1968 / APPROX 55+ w/Affidavit Y/N: N
 Main SQFT: 1857 TotUp/Mn: 1857 Style: 1STORY Green / Yr / Obtained:
 Lower SQFT: 0 Parking: STREET, DRIVWAY #Garage: 2/ATTACHD Home Wrnty: #Fireplaces: 1/ WOOD
 Ttl SQFT: 1857 Addl. SQFT: Roof: COMP Exterior: T-111 Bsmt/Fnd: CRAWLSP

REMARKS

XSt/Dir: Webster to Mabel Ave to Alpenglade Court
 Public: NESTLED IN WHISPERING FIRS. Dynamite park-like setting on a no-through street. Well maintained 1-level home with original charm. Extensive hardwood floors. Loads of kitchen storage & counters with tiled back-splash. 3 bedrooms & 2 baths with tile. Floor to ceiling rock fireplace. Artistic ceiling finish. 23x13 covered patio. Newer roof, gutters and hot water heater. Fenced yard with garden space. 2 storage sheds. Owners home for 44 years

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living:	M/ 21 X 14 / FIREPL, HARDWOD	Mstr Bd:	M/ 13 X 12 / BATH, WW-CARP, DBL-CLO	Bths - Full/Part
Kitchen:	M/ 16 X 16 / PANTRY, KIT&DR	2nd Bd:	M/ 13 X 10 / HARDWOD	Upper Lvl:
Dining:	M/ 16 X 16 / KIT&DR, SLIDER	3rd Bed:	M/ 10 X 10 / HARDWOD	Main Lvl:
Family:	M/ 23 X 20 /			Lower Lvl:
				Total Bth:

FEATURES AND UTILITIES

Kitchen: DISHWAS, DISPOS, BI-RANG
 Interior: CEILFAN, LAUNDRY, VNYL-FL, WOODFLR, WW-CARP
 Exterior: TL-SHED, STMDOOR, STMWIND, YARD, GARDEN, FENCED, COVPATI
 Accessibility: 1LEVEL
 Energy Eff:
 Water: PUBLIC Sewer: PUBLIC Hot Water: ELECT Cool: Heat: CEILING
 Fuel: ELECT

FINANCIAL

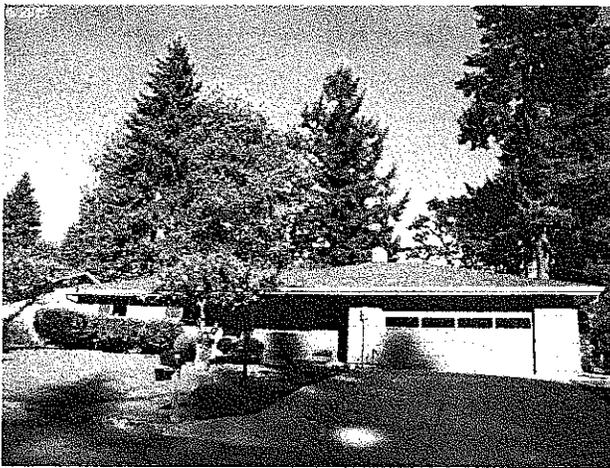
PTax/Yr: \$2,566.25 Rent, If Rented: Short Sale: N Bank Owned/REO: N
 HOA: N Dues: Other Dues:
 HOAIncl:

COMPARABLE INFORMATION

Pend: 8/23/2013 DOM: 9 Sold: 9/27/2013 Terms: CONV O/Price: \$234,950 Sold: \$234,950

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 SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

3-39



Presented By: Elecia Stacey
 Promised Realty
Client Full
Phone: 503-698-9337 **E-mail:** Elecia_Stacey@PromisedRealty.com
RESIDENTIAL **Status:** SLD **1/13/2014** **3:22:40 PM**
ML#: 13443035 **Area:** 145 **List Price:** \$259,900
Addr: 15930 SE ALPENGLADE CT **Unit#:**
City: Milwaukie **Zip:** 97267 **Condo Loc:**
Map Coord: 657/C/I **Zoning:** R10
County: Clackamas **Tax ID:** 00466819
Elem: Bilquist **Middle:** Alder Creek
High: Putnam **PropType:** DETACHD
Nhood/Bldg: FIRWOOD PARK **CC&Rs:** N
Legal: 1096 FIRWOOD PK LT 12

GENERAL INFORMATION

Lot Size: 10K-14,999SF **# Acres:** 0.28 **Lot Dimensions:**
Waterfront: **View:** **Lot Desc:** CULDSAC, LEVEL, PRVATE
Body Water: **Seller Disc:** DSCLOSUR

RESIDENCE INFORMATION

Upper SQFT: 0 **SFSrc:** tax record **#Bdms:** 3 **#Bth:** 2/0 **#Lvl:** 1 **Year Blt:** 1966 / RESALE **55+ w/Affidavit Y/N:** N
Main SQFT: 1760 **TotUp/Mn:** 1760 **Style:** RANCH, 1STORY **Green / Yr / Obtained:**
Lower SQFT: 0 **Parking:** STREET, DRIVWAY **#Garage:** 2/ATTACHD **Home Wnty:** N **#Fireplaces:** 2/ GAS
Ttl SQFT: 1760 **Addl. SQFT:** M/0 **Roof:** COMP **Exterior:** CEDAR **Bsmt/Fnd:** CRAWLSP

REMARKS

XSt/Dir: Webster to Mabel to Alpenglade
Public: You will love this charming one level home on cul-de-sac! Perfect for your family, walking distance to elem sch. Updated kitchen and baths. Two fireplaces, hardwoods in living, dining and bedrooms. Cozy carpet in family room. New paint outside, newer heat pump, furnace, air conditioning, and water heater. Fully fenced back yard. This home is move in ready! Realtor is related to seller.

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living: M / HARDWOD, FIREPL	Mstr Bd: M / BATH	Bths - Full/Part
Kitchen: M / TILE-FL, GRANITE, EATAREA	2nd Bd: M /	Upper Lvl: 0/0
Dining: M / HARDWOD	3rd Bed: M /	Main Lvl: 2/0
Family: M / FIREPL	EATAREA: M /	Lower Lvl: 0/0
UTILITY: M /		Total Bth: 2/0

FEATURES AND UTILITIES

Kitchen: DISHWAS, DISPOS, GRANITE, PLB-ICE
Interior: GAR-OPN, GRANITE, LAUNDRY, HARDWOD
Exterior: FENCED, PATIO, PORCH, SPRNKLR
Accessibility: 1LEVEL
Energy Eff: HT-PUMP
Water: PUBLIC **Sewer:** PUBLIC **Hot Water:** GAS **Cool:** CENTAIR **Heat:** FOR-AIR, HT-PUMP
Fuel: GAS

FINANCIAL

PTax/Yr: \$3,205.81 **Rent, If Rented:** **Short Sale:** N **Bank Owned/REO:** N
HOA: N **Dues:** **Other Dues:**

COMPARABLE INFORMATION

Pend: 9/27/2013 **DOM:** 3 **Sold:** 11/8/2013 **Terms:** VA **O/Price:** \$259,900 **Sold:** \$265,000

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 SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

3-40



Presented By: Elecia Stacey
 Promised Realty
Phone: 503-698-9337 **E-mail:** Elecia_Stacey@PromisedRealty.com
RESIDENTIAL **Status:** PEN **1/13/2014** **3:27:51 PM**
ML#: 13681009 **Area:** 145 **List Price:** \$229,900
Addr: 18345 CORNELL PL **Unit#:**
City: Gladstone **Zip:** 97027 **Condo Loc:**
Map Coord: 687/D/2 **Zoning:**
County: Clackamas **Tax ID:** 01501208
Elem: John Wetten ... **Middle:**
High: Gladstone **PropType:** DETACHD
Nhood/Bldg: **CC&Rs:**
Legal: 2964 CHRIS-CODY TERRACE LT 5
[Virtual Tour](#)

GENERAL INFORMATION

Lot Size: 7K-9,999SF **# Acres:** 0.2 **Lot Dimensions:**
Waterfront: **View:** **Lot Desc:** CULDSAC
Body Water: **Seller Disc:** DSCLOSUR

RESIDENCE INFORMATION

Upper SQFT: 0 **SFSrc:** tax **#Bdms:** 3 **#Bth:** 2/0 **#Lvl:** 1 **Year Blt:** 1991 / RESALE **55+ w/Affidavit Y/N:** N
Main SQFT: 1809 **TotUp/Mn:** 1809 **Style:** RANCH, OTHER **Green / Yr / Obtained:**
Lower SQFT: 0 **Parking:** OFF-STR **#Garage:** 2/ **Home Wmty:** **#Fireplaces:** /
Ttl SQFT: 1809 **Addl. SQFT:** **Roof:** COMP **Exterior:** WOODCOM, MANMADE **Bsm1/Fnd:** BLOCK

REMARKS

XSt/Dir: Oatfield Rd to Glen Echo. Right on Cornell Pl
Public: Gorgeous home on large lot, open floor plan. NOT A MFG. HOME! covered decks, large rooms, vaulted ceilings, 2 car garage, tons of parking galore and more. Gorgeous gladstone neighborhood. Over 1800 sq. ft. Do your own comparison on homes in this area and act fast!!! End of cul de sac setting up on knoll. A beautiful home ready to move into just in time for the holidays!!! Be sure to see virtual tour/slideshow.

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living: M/ 17 X 17 /	Mstr Bd: M/ 15 X 16 /	Bths - Full/Part
Kitchen: M/ 13 X 15 /	2nd Bd: M/ 13 X 13 /	Upper Lvl: 0/0
Dining: M/ 9 X 10 /	3rd Bed: M/ 9 X 11 /	Main Lvl: 2/0
Family: M/ 14 X 16 /	SHOP: M/ 9 X 11 /	Lower Lvl: 0/0
UTILITY: M/ 9 X 9 /		Total Bth: 2/0

FEATURES AND UTILITIES

Kitchen: BI-OVEN, PANTRY, BI-RANG, DISHWAS, DISPOSL
Interior: CEILFAN, LAM-FL, WW-CARP
Exterior: PORCH, SHOP, BBQ-PIT, DECK, YARD, COVDECK
Accessibility: 1LEVEL
Energy Eff:
Water: PUBLIC **Sewer:** PUBLIC **Hot Water:** ELECT **Cool:** HT-PUMP **Heat:** FOR-AIR
Fuel: ELECT

FINANCIAL

PTax/Yr: \$3,453.37 **Rent, If Rented:** **Short Sale:** N **Bank Owned/REO:** N
HOA: N **Dues:** **Other Dues:**

COMPARABLE INFORMATION

Pend: 11/21/2013 **DOM:** 62 **Sold:** **Terms:** **O/Price:** \$229,900 **Sold:**

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 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

3-41

Presented By: Elecia Stacey
Promised Realty

Client Full

Phone: 503-698-9337 E-mail: Elecia_Stacey@PromisedRealty.com
RESIDENTIAL Status: PEN 1/13/2014 3:28:59 PM
ML#: 13195259 Area: 145 List Price: \$273,500 Unit#:
Addr: 15082 SE BRIGHTWOOD AVE Condo Loc:
City: Milwaukie Zip: 97267
Map Coord: 657/D/6 Zoning: R10
County: Clackamas Tax ID: 00464508
Elem: View Acres Middle: Alder Creek
High: Putnam PropType: DETACHD
Nhood/Bldg: Aldercrest Court CC&Rs: N
Legal: 1177 ALDERCREST MEADOWS LT 5 BLK 2



GENERAL INFORMATION

Lot Size: 10K-14,999SF #Acres: 0.25 Lot Dimensions: 10,956 sq.ft.
Waterfront: View: Lot Desc: LEVEL, SECLUDED
Body Water: Seller Disc: DSCLOSUR

RESIDENCE INFORMATION

Upper SQFT: 0 SFSrc: Clack Co #Bdms: 3 #Bth: 2/0 #Lv: 1 Year Blt: 1969 / REMOD 55+ w/Affidavit Y/N: N
Main SQFT: 1820 TotUp/Mn: 1820 Style: RANCH, 1STORY Green / Yr / Obtained:
Lower SQFT: 0 Parking: RV-PARK, DRIVWAY #Garage: 2/ATTACHD Home Wnty: N #Fireplaces: 2/ WOOD, GAS
Totl SQFT: 1820 Addl. SQFT: Roof: COMP Exterior: WOOD Bsmt/Fnd: CRAWLSP

REMARKS

XSt/Dir: Webster Rd to Molt St to Brightwood Ave
Public: Beautiful 1 level ranch on large secluded lot in quite area! Well cared for, recently painted exterior, nice fenced backyard w/mature huckleberries, raspberries, 2 pear trees, covered RV pkgng, nice covered patio. Updated kitchen cabinets, new carpet in family room & master BR, remodeled BAs w/easy access into master BA. Newer vinyl windows, 2 fireplaces (gas & wood). Nice open floor plan!

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living: M / FIREPL, PATIO, GASAPPL Mstr Bd: M 14 X 16 / BATH, WW-CARP Bths - Full/Part
Kitchen: M / DISHWAS, BI-RANG 2nd Bd: M 14 X 10 / WW-CARP Upper Lvl: 0/0
Dining: M / 3rd Bed: M 10 X 10 / WW-CARP Main Lvl: 2/0
Family: M 19 X 16 / FIREPL, CEILFAN, WW-CARP Lower Lvl: 0/0
Total Bth: 2/0

FEATURES AND UTILITIES

Kitchen: BI-RANG, DISHWAS
Interior: CEILFAN, WW-CARP
Exterior: YARD, GARDEN, COVPATI, FENCED
Accessibility: 1LEVEL, PARKING
Energy Eff:
Water: PUBLIC Sewer: PUBLIC Hot Water: ELECT Cool: CENTAIR Heat: FOR-AIR
Fuel: GAS

FINANCIAL

PTax/Yr: \$3,185.82 Rent, If Rented: Short Sale: N Bank Owned/REO: N
HOA: N Dues: Other Dues:

COMPARABLE INFORMATION

Pend: 11/18/2013 DOM: 80 Sold: Terms: O/Price: \$285,000 Sold:

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SQUARE FOOTAGE IS APPROXIMATE & MAY INCLUDE BOTH FINISHED & UNFINISHED AREAS - CONSULT BROKER FOR INFO.
SCHOOL AVAILABILITY SUBJECT TO CHANGE.

342



Presented By: Elecia Stacey
 Promised Realty
Client Full
Phone: 503-698-9337 **E-mail:** Elecia_Stacey@PromisedRealty.com
RESIDENTIAL **Status:** PEN **1/13/2014** **3:29:48 PM**
ML#: 13044328 **Area:** 145 **List Price:** \$275,000
Addr: 2631 SE CONCORD RD **Unit#:**
City: Milwaukie **Zip:** 97267 **Condo Loc:**
Map Coord: 656/J7 **Zoning:**
County: Clackamas **Tax ID:** 00288012
Elem: Riverside **Middle:** Rowe
High: Putnam **PropType:** DETACHD
Nhood/Bldg: **CC&Rs:**
Legal: 2298 WHITMIRE ADD LT 12 BLK 1
[Virtual Tour](#)

GENERAL INFORMATION

Lot Size: 7K-9,999SF **# Acres:** 0.21 **Lot Dimensions:** 8946
Waterfront: **View:** **Lot Desc:** LEVEL
Body Water: **Seller Disc:** DSCLOSUR

RESIDENCE INFORMATION

Upper SQFT: 0 **SFSrc:** appraiser **#Bdms:** 3 **#Bth:** 2/0 **#Lvl:** 1 **Year Blt:** 1978 / APPROX **55+ w/Affidavit Y/N:** N
Main SQFT: 2127 **TotUp/Mn:** 2127 **Style:** RANCH **Green/Yr/Obtained:**
Lower SQFT: 0 **Parking:** DRIMWAY, RV-PARK **#Garage:** 2/ATTACHD **Home Wrnty:** **#Fireplaces:** 1/ WOOD
Ttl SQFT: 2127 **Addl. SQFT:** **Roof:** COMP **Exterior:** CEDAR **Bsmt/Fnd:** CRAWLSP

REMARKS

XSt/Dir: McLaughlin turn west on Concord
Public: Great one level home, Wood floors, vaulted ceilings, Huge family room that opens to a new sunroom, newer vinyl windows, furnace, trek like deck. New roof in 2012, Gorgeous remodeled Master bath with tile, double sinks and Jacuzzi tub, Huge master with a large vaulted W/I closet, RV Parking, Storage galore, Common area with 2 ponds. Don't miss out on this lovely home. 4 skylights throughout. Assumable VA loan too.

APPROXIMATE ROOM SIZES AND DESCRIPTIONS

Living: M 13 X 17 / FIREPL	Mstr Bd: M 17 X 13 / BATH, WI-CLOS	Bths - Full/Part
Kitchen: M 16 X 12 / BI-MICO, HARDWOD	2nd Bd: M 10 X 10 /	Upper Lvl: 0/0
Family: M 18 X 19 / VAULTED, HARDWOD	3rd Bed: M 12 X 9 /	Main Lvl: 2/0
	SUNROOM: M 18 X 12 /	Lower Lvl: 0/0
		Total Bth: 2/0

FEATURES AND UTILITIES

Kitchen: GASAPPL, BI-MICO, DISPOS, FS-RANG, FS-REFR
Interior: CEILFAN, WASHDRY, WW-CARP
Exterior: DECK, SPRNKLR, YARD
Accessibility:
Energy Eff:
Water: PUBLIC **Sewer:** PUBLIC **Hot Water:** GAS **Cool:** **Heat:** FOR-AIR
Fuel: GAS

FINANCIAL

PTax/Yr: \$2,292.88 **Rent, If Rented:** **Short Sale:** N **Bank Owned/REO:** N
HOA: Y **Dues:** \$150 /YR **Other Dues:**

COMPARABLE INFORMATION

Pend: 11/20/2013 **DOM:** 33 **Sold:** **Terms:** **O/Price:** \$285,000 **Sold:**

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 SCHOOL AVAILABILITY SUBJECT TO CHANGE.

3-43

PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT VALLEY VIEW DR.

We the undersigned are in favor of the continued use of the Gladstone Off leash Dog Park. We feel that there are many advantages of having a local area for dogs to socialize and exercise. We feel there are ways to make the use compatible for all, users and non users.

A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

- Michelle Husted 16231 SE Norma Rd Milw 97267
- Chelsea Husted 16231 SE Norma rd Milwaukee OR 97267
- Bill West 6740 Buckingham ct Gladstone 97027
- Tracy Huddleston 405 W. Fairfield Gladstone
- Bob Huddleston 405 W. Fairfield Gladstone 97027
- Mark Smith 315 E. Jersey Gladstone OR 97027
- Alexis Smith 365 E. Jersey St Gladstone OR 97027
- Amy Kinnes 7595 Ridgewood Dr. Gladstone OR 97027
- Jo Stroth 430 E. FAIRFIELD ST GLADSTONE OR 97027
- Marilyn Furumasa 6665 Devonshire Dr. Gladstone Or 97027
- Juliet Komp 17105 SE Shadow ct. Milwaukie OR 97267
- Richard Holliman 18915 Watts St Gladstone OR 97027
- Paul West 6740 Buckingham ct Gladstone OR 97027

14
PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING
TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT
VALLEY VIEW DR.

We the undersigned are in favor of the continued use of the Gladstone Off leash Dog Park. We feel that there are many advantages of having a local area for dogs to socialize and exercise. We feel there are ways to make the use compatible for all, users and non users.

A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

Adrian Lauman 13624 S. E. Briggs Melvankie Ore -
Cheryl Jiri 17445 CROWNVIEW DR. Gladstone, OR
Mike John 17126 SE Paark Melvankie Ore
Jim Russell 17411 Quail Ct. Gladstone, Or.
Valerie Thompson 17140 Monticello Dr. Gladstone
Stephanie Lovelace 5909 W. A' St, West Linn 97068
BR 7105 Valley View Dr
Kirsty Karsten 6943 Oakridge Dr 97027
Steve Schmitt 7110 Ridgegate Dr. 97027
Lydia Schmidt " "
Pat Tracy 17300 crownview dr. 97027
Robin Tracy 17300 crownview dr. 97027
T. H. H. 17295 Crownview Dr 97027
Robert M Reynolds 1195 Clayton Way 97027

**PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING
TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT
VALLEY VIEW DR.**

13

We the undersigned are in favor of the continued use of the Gladstone Off leash Dog Park. We feel that there are many advantages of having a local area for dogs to socialize and exercise. We feel there are ways to make the use compatible for all, users and non users.

A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

- Dan Millington 6980 Winfield Ct. Gladstone *Dr. Millington*
- Allyn Donough 16776 Gurnee Ave Gladstone *Allyn Donough*
- Michael A Giacchero 17390 CROWNVIEW DRIVE Gladstone
- Tracey Grant 17007 Valley View Dr. Milw. *Michelle Grant*
- Annis Roberts 7185 MONTE VERDE DR, Gladstone *Annis Roberts*
- David S. Collier 560 Stonehill Dr. Gladstone *David S. Collier*
- Peter Letes 17960 Monticello Dr. Gladstone *OR 97027*
- Dom Jacobelli 6840 August Way Gladstone *OR 97027*
- Rick Peterson 7120 Ridgegate Dr Gladstone *OR 97027*
- NEIL BIRCH 16575 SE CATLYN WOODS, MIL. OR 97267
- JULIANA BIRCH 16575 SE CATLYN WOODS, MIL OR 97267
- Gary Bokowski (Gary Bokowski) 16581 SE CATLYN WOODS DR.
- Debrah Bokowski 16581 SE Catlyn Woods

PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT VALLEY VIEW DR.

We the undersigned are in favor of the continued use of the Gladstone Off leash Dog Park. We feel that there are many advantages of having a local area for dogs to socialize and exercise. We feel there are ways to make the use compatible for all, users and non users.

A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

Gail Klum 17270 Crownview Dr. Gladstone

Joseph A. [unclear] " " " "

Robert Weeks 7175 Crownview Dr. Gladstone

Mark A. [unclear] 17280 Crownview Dr Gladstone

Deirdre [unclear] 17305 Crownview Dr. Gladstone

James Reese 16680 SE Valley View Rd Gladstone

Joseph Mulder "

Patricia Hall 16670 Judor Dr Gladstone

Evan Russell 17411 Quail Ct 97037

Nancy West 16740 Buckingham Ct 90027

Lynne Dandy 17522 Valley View Rd

[unclear] 17330 Crownview Drive

Jonis Kappel 16640 Lancaster Dr

Shannon Zieck 5131 E Octavia Way 97267

PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT VALLEY VIEW DR.

We the undersigned are in favor of the continued use of the Gladstone Off leash Dog Park. We feel that there are many advantages of having a local area for dogs to socialize and exercise. We feel there are ways to make the use compatible for all, users and non users.

A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

- Stephanie Gross Gladstone 503 314 6959
- Ann Gross Gladstone 503 701-1770
- Robert White Gladstone OR 503-655-1417
- John W (Bill) Hankin 17400 Crownview Dr Gladstone OR 503-655-4706
- Carol A. Harris Gladstone OR, 503-655-4706
- Jane X. Harriman 17260 Crownview Dr. Gladstone, OR 503-916-9372
- James Harriman 17260 Crownview Dr. Gladstone, OR 503-548-3680
- Tom [Signature] Same
- Tito Mendez Gladstone 503 473-7486
- Cathy Court Gladstone 503-380-6621
-
-
-
-

PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT VALLEY VIEW DR.

We the undersigned are in favor of the continued use of the Gladstone Off leash Dog Park. We feel that there are many advantages of having a local area for dogs to socialize and exercise. We feel there are ways to make the use compatible for all, users and non users.

A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

- Naomie Mudd 6777 Oakridge Dr Gladstone, Or 97027
- Amudds@aol 503-786-1661 would love to see the Park reopened
- TYLER CREEK 503 960 6160 OPEN IT!! 116645 TUDOR OR
- Kirsten Creek 503-750-2834 " "
- Shelby Tracy 503-891-7864 16640 Tudor Or
- Valene Tracy 503-679-4285 " "
- Donna Mansour 116633 Tudor Dr, Gladstone, OR 97027
- ROGER L. HAN 16670 Tudor Dr Gladstone, OR 97027
- Jennifer Harman 17225 SE Valley View Rd, Gladstone 97027
- Kimberly Iacolucci 16715 Buckingham Dr. Gladstone 97027
- Sylvine M. Beon 116700 Buckingham Dr. 97027
- Corey Kastama 6630 Buckingham Dr. 97027

PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT VALLEY VIEW DR.

We the undersigned are in favor of the continued use of the Gladstone Off leash Dog Park. We feel that there are many advantages of having a local area for dogs to socialize and exercise. We feel there are ways to make the use compatible for all,users and non users.

A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

- Liane Arnold 275 East Hereford St
- Jude Cherry 17194 Webster Rd
- Thomas Kruk 7490 Cason Circle
- Hikari Applebee 570 Barbary Place
- Emily A K May 950 Cornell Ave Gladstone
- Kaufman Lauer 165 E Hereford Gladstone
- Christine Duncan 420W Exeter Glad 97027
- Karen S "Kari" Martiny 7525 Cason Circle 97027
- Sharon 97267 4820 SE River DR. Milwaukie
- Marie Reitz - 160 W. Gloucester - 97027
- Sharon Simmer 533 SE 137th Portland 97233
- Helen Holden 15480 SE Hartnell Ave Milwaukie 97267
- Mary Zentgraf 690 Collier Court Gladstone 97027
- Denise Bullen 18702 Cassard Ct O.C 97045
- Sone Coates 155 W. Exeter Gladstone, OR 97027
- Galen Chapman 17305 CROWNVIEW DR

PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT VALLEY VIEW DR.

We the undersigned are in favor of the continued use of the Gladstone Off leash Dog Park. We feel that there are many advantages of having a local area for dogs to socialize and exercise. We feel there are ways to make the use compatible for all, users and non users.

A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

- Damien Mulanax 17210 Valley View Rd
- Patty Mulanax 17210 SE Valley View Rd.
- Becky Mulanax 17210 SE Valley View Rd.
- Ann Robinson 16725 Buckingham Dr. Gladstone
- John Robinson 16725 Buckingham Dr Gladstone
- Denise Browning 17235 SE Valley View Rd, ~~Gladstone, OR~~ ^{Milwaukie, OR}
- Trevor Browning " " "
- Allen Browning " " "
- Neim Glaeser 6640 Tudor Ct,
- Sandra Glaeser 6640 Tudor Ct
- Sherley Richardson 6620 Tudor Ct.
- Laymond Richard 6620 Tudor Ct.
- Judy Roger 6615 Tudor Ct.
- A. Phil Roger 6615 Tudor Ct.

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We hereby petition the correct zoning be changed to accommodate the use of the dog park.

- Janice R. Gardner 6510 Chessington Ln 97027
- Roger M. Gardner 6510 Chessington Ln 97027
- Tommy Cole 19710 Cambridge Dr 97027
- Mark O. [unclear] 7570 Springhill Dr 97027
- Mike Hargett 7155 Los Verdes Dr
- Alicia Vaughn 7115 Los Verdes
- Rhian Hughes ||
- Celeste Portwood 17465 SE Valley View 97267
- Kevin Melton 7125 Via Montemar 97027
- Elizabeth D. [unclear] 6767 Oakridge Dr 97027
- Mark S. [unclear] 6767 Oakridge Dr 97027
- Kathy Lewis 6785 Park Way Dr 97027
- [unclear] RICHARD HAUG 7135 VIA MONTEMAR CT 97027
- [unclear] Matt Storer 7530 Cason Ln 97027

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<u>William M. Kotala</u>	<u>GLADSTONE</u>
<u>Carl D Van Creck</u>	"
<u>Donna Whalen</u>	"
<u>Jim Harris</u>	"
<u>Shirley Senca</u>	"
<u>[Signature]</u>	"
<u>Jean Mann</u>	"
<u>[Signature]</u>	"
<u>Suzanne Rice</u>	<u>Park Way View</u>
<u>Larry Rice</u>	" " "

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A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

503-655-4883-

Tamra Vanostell 7243 Las Verdos DR Gladstone OR 97027.

Don Van Osdel 7243 los verdos Dr Gladstone 97027

Judy Sechrist Bend, OR

Maurice Sealant Bend OR

Hope Dransfeldt PO Box 272 Neatsa OR 97364

PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT VALLEY VIEW DR.

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We hereby petition the correct zoning be changed to accommodate the use of the dog park.

<u>Paul Ayler Jr</u>	<u>GLADSTONE</u>
<u>Jessie</u>	<u>"</u>
<u>Nicholas Simmons</u>	<u>"</u>
<u>Jackson Simmons</u>	<u>"</u>
<u>Rachel Simmons</u>	<u>"</u>
<u>Paul Penn</u>	<u>"</u>
<u>Lauree Pether</u>	<u>"</u>
<u>Tim Pether</u>	<u>"</u>
<u>Julie Hollin</u>	<u>"</u>
<u>Steve Hollin</u>	<u>"</u>
<u>Marty Penn</u>	<u>"</u>
<u>Coely Penn</u>	<u>"</u>
<u>Max Penn</u>	<u>"</u>
<u>Cynthia L Bee</u>	<u>"</u>

PETITION TO THE CITY OF GLADSTONE TO CHANGE THE CITY ZONING TO ALLOW THE USE OF THE OFF LEASH DOG PARK LOCATED AT VALLEY VIEW DR.

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A separate page will contain comments from local residents.

We hereby petition the correct zoning be changed to accommodate the use of the dog park.

- Brad Dondy 17522 SE Valley View Rd
- Daniel Dondy 17522 SE Valley View Rd,
- Tom Jacton 17528 SE VALLEY VIEW RD
- Jana Shah 7226 SE STRAWBERRY LN
- Meighan Maloney 16814 SE Knoll Ridge Terr
- Andrea Casey 116830 SE Knoll Ridge Terrace Terr
- James Womr 16800 SE KNOLL RIDGE TERRACE
- [Signature] 16772 SE Knoll R. Jc. Ter.
- [Signature] 16765 SE Knoll Ridge Terrace
- [Signature] 16765 SE Knoll Ridge Terr.
- Karen French 16843 SE Knoll Ridge
- Michael Foley 7214 SE Strawberry Ln.
- George Portwood 17465 SE VALLEY VIEW RD.
- [Signature] 17470 SE Valley View Rd.
- Jul Ralls 17510 SE Valley View Rd
- Melanne Ralls 17510 SE Valley View Rd.

356
X OVER X

D-8a Tim Ralls 17570 SE Valley View Rd

Lin Ralls Lin Ralls 17510 SE Valley View Rd

Gregg Dewdy ~~Gregg Dewdy~~ 17522 SE Valley View RD

Mary Accettura Mary Accettura 17528 SE Valley View Rd

Kimberly L. Metson KIMBERLY L. METSON 7214 SE Strawberry Ln.

While gathering the attached names, several comments were repeated over and over:

- 1) this area has been used as a park including pets allowed, for years.
- 2) only difference is gated fence and trash can.
- 3) area is usually policed daily for feces by users so no accumulation of feces.
- 4) less trash than in playground area.
- 5) very glad to have in area..(only 1 person no to signing, due to no politics)
- 6) neighbors meeting neighbors and strengthening neighborhoods.
- 7) upset that city allows a few to shut down park use.
- 8) if not allowing, remove fence and restore to original use.
- 9) really like separate playground from enclosed area.
- 10) not all that have signed are users of dog area but see the value.
- 11)several signers are close neighbors to the park.
- 12)suggestions include:
10 to 20 foot buffer area.

Lid on garbage can.

Drain to street.

Bench for seating.

Daylight to dark usage.

Keith Klum
17270 Crownview Dr.
Gladstone,Ore. 97027

Combined comments in favor of rezone use for Gladstone Off Leash Dog Park.

To Whom It May Concern

I have been a resident of Gladstone for nearly 12 years. I'm sure that I am not the only person who lives in Gladstone who feels that our property taxes are outrageously high comparatively speaking. I don't feel that I really get much in return for the exorbitant tax rate. I would gladly move to a city with a lower tax base if circumstances permitted it. Unfortunately they do not.

When the dog park was put in I thought, finally, a nice little perk. It's an area that was enjoyed by many of the Gladstone residents and their pets without a major inconvenience to anyone. Now it seems that Gladstone is willing to just close the park because of a couple of neighbors' complaints. I was present at the city council meeting when the park closure was discussed. It appeared that there was going to be some sort of attempt by the city to find a resolution that would work for all of us. That was a few months ago and so far I have heard nothing about any attempt at a resolution even though my number and email are on a list of people to be kept updated. Now there are petitions circulating to keep the park opened or to close it. What happened to finding a solution that would work for everyone involved?

Gladstone needs to make the park work for everyone. I'm sure that there is a reasonable solution even though some of the people who oppose the park are not reasonable people. I would expect nothing less simply because I pay dearly every November at property tax time for living in Gladstone.

Carleen Van Orsdel
17445 Via Del Verde
Gladstone, Or 97027

J. Sechrist - we come to Gladstone to visit, & have enjoyed using the dog park

H. Dransfeldt - we have used this area many times as we used to live here and still have friends we visit. When we visit we bring our dogs and have enjoyed this park to exercise the dogs.

3-59

COMMENTS:

The off leash dog park is a great place for dogs to socialize & exercise, also great for neighbors to meet & strengthen neighborhoods.

An excellent asset to the neighborhood. A place to socialize and meet the neighbors. We always took dogs there prior to the dog park and they need a place to exercise. It would be such a setback to give this up.

We enjoyed the park when we were able to bring our dog to the park and would love to do so again. I trust that there is a way to create a gap between the neighbor & the park, address smells and "contain" things so that all are satisfied.

THIS AREA HAS BEEN USED A PARK BOTH ON LEASH AS WELL AS OCCASIONARY USED OFF LEASH, FOR MANY YEARS. WE USED IT BASICALLY DAILY, FOR OVER 15 YEARS. WHAT WE SEE NOW IS A MAJOR IMPROVEMENT WHERE IT IS FENCED WITH A DOUBLE ENTRANCE. WE LIKE THE IDEA THAT CHILDREN CAN PLAY IN ONE AREA & THE DOGS IN ANOTHER.

I have walked my dog for over 5 years around the presently closed Off Leash Dog Park. During that time before and after it became an Off Leash area I have made several observations.

1. Odor; I have never noticed an offensive odor from dog urine or droppings.
2. Drainage; after a hard rain, yes, there is standing water and it drains by the next day if the rain stops, and it is dry enough to walk afterwards.
3. Dog droppings; There are a few good citizens that go up to the park to pick up any missed droppings from the day before, and the droppings are few.
4. Better community; During the "too short" time it was an "off Leash" area, many enjoyed the social time allowed for the dogs and themselves. It was a great area to get to know our neighbors.

I do agree that there should be a barrier (I think 10 feet should be adequate ~~between~~ and a planting of arborvitae to block the view and prevent anyone taunting the dogs and vice versa

Sincerely
Doris Chap
17325 Crownview Drive
Madison

✓ Petition to the City of Gladstone to keep city zoning as it is. Rd
Case in mind: Off leash dog park located on Valley View Drive

We the people within the Sherwood Too district do hereby oppose the use of our neighborhood park as an off leash dog park. Off leash dog parks do not belong in a residential neighborhood. It is against the codes of the city and our neighborhood association, nor is it zoned for such parks.

The neighbors were not notified or contacted in any way to give our opinions and concerns, which include security, increased traffic and noise.

We do hereby petition that the zoning stay the same with no changes, to include said dog park.

Please sign below.

Harry Todd 16716 SE Valley View Rd 97267

Donna m Todd " " " "

Joan K Barnes 22182 S Dew Ave Beavercreek 97004 ^{Redden}

Jennifer Towne 16720 SE Valley View Rd 97267

James E Fowler III " " "

John L Cook 17180 SE Valley View rd 97267

Shirley Gardner 6907 Oakridge Dr. 97027

Anthony J Gardner 6907 Oakridge DR 97027

Paul Seal 6900 Oakridge Dr 97027

Bob Seymour 6930 OAKRIDGE DR 97027

Martene Seymour 6930 Oakridge Dr. - Gladstone 97027

Kelly Whytil 17123 SE Valley View Rd Gladstone 97267

Cassie Mitchell 17190 SE Valley View Rd Gladstone

^{Sherry Whytil} Sherry Whytil 17123 SE Valley View Rd Gladstone OR 97267

Angie Cecilia 17190 SE Valley View Rd Gladstone 97267

Robert Mitchell 17190 SE Valley View Rd Gladstone

John Seal 6900 Oakridge Dr. Gladstone OR 97027

Kenneth John Gilling 7000 Oakridge Drive, Gladstone, OR 97027

Petition to the City of Gladstone to keep city zoning as it is.
Case in mind: Off leash dog park located on Valley View Drive Rd

Heather A Yielding 7000 Oakridge Dr Gladstone OR 97027
Mittie Adams 7000 Oakridge Dr Gladstone, OR 97027
Lewee M Zednik 885 Edgewater Rd. Gladstone, OR 97027
Kenneth Zednik 885 EDGEWATER RD, GLADSTONE OR 97027
Joan Tonger 7000 Valley View Dr. Gladstone, OR 97027
Liz Wright 1660 SE Valley View Gladstone OR 97027
Debbie Riggs 7000 SE Valley View Gladstone, OR 97027

RESERVATIONS AND RESTRICTIONS
IN SHERWOOD TOO NO. 3

126-890-25

TO THE PUBLIC

THE UNDERSIGNED DOES HEREBY CERTIFY AND DECLARE THAT THE FOLLOWING RESERVATIONS AND CONDITIONS, COVENANTS AND AGREEMENTS SHALL BECOME AND HEREBY ARE MADE A PART OF ALL CONVEYANCES OF PROPERTY WITHIN THE PLAT OF SHERWOOD TOO NO. 3 AS THE SAME APPEARS IN PLAT RECORDED IN RECORDS OF TOWN PLATS OF CLACKAMAS COUNTY, OREGON, OF WHICH CONVEYANCES AND AGREEMENTS SHALL BECOME PARTY BY REFERENCE HERETO AND TO WHICH SHALL THEREUPON APPLY AS FULLY AND WITH THE SAME EFFECT AS IF SET FORTH AT LARGE THEREIN, DURING THE PERIOD OF 35 YEARS FROM THE DATE OF RECORDING OF THIS INSTRUMENT. HOWEVER, VARIANCES TO ALL RESERVATIONS, RESTRICTIONS, COVENANTS AND AGREEMENTS MAY BE MADE BY DECLARANT, HIS HEIRS OR ASSIGNS.

SEAL DOCUMENT

RECORDED SEP 18 1974 11 07 A M GEORGE D POPPEN, County Clerk

BUYER'S COPIES

1. ALL PARCELS OF LAND HEREIN SHALL BE USED EXCLUSIVELY FOR RESIDENTIAL PURPOSES.
2. NO DWELLING SHALL BE ERRECTED OR PLACED ON ANY RESIDENTIAL LOT, WHICH PLOT HAS AREA LESS THAN 6500 SQUARE FEET, NOR SHALL ANY RESIDENTIAL BUILDING BE ERRECTED ON THE PREMISES WHICH HAS A SQUARE FOOTAGE AREA ON THE MAIN FLOOR OF LESS THAN 1200 SQUARE FEET, OR IN THE CASE OF A MULTI-LEVEL HOUSE, A TOTAL OF 1200 SQUARE FEET FINISHED, EXCLUSIVE OF GARAGE OR CARPORT AREAS. ALL GARAGES TO BE NOT LESS THAN DOUBLE CAR SIZE. ALL BUILDINGS TO BE CONSTRUCTED ON SITE ONLY.
3. NO OBVIOUS OR OFFENSIVE TRADE OR PURSUIT SHALL BE CARRIED ON UPON ANY LOT THEREIN NOR SHALL ANYTHING BE DONE THEREON WHICH MAY BE AN ANNOYANCE OR NUISANCE TO THE NEIGHBORHOOD. BOUNDARY FENCES, WALLS OR HEDGES MUST BE KEPT IN GOOD CONDITION AND REPAIR. LAWNS MUST BE CUT SUFFICIENTLY THAT THEY DO NOT BECOME EYESORES AND DETRIMENTAL TO THE VALUES OF OTHER PROPERTIES. YARDS MUST BE IMPROVED AND LANDSCAPED NOT LATER THAN SIX MONTHS FROM OCCUPANCY.

NO TRAILER, BASEMENT, TENT, SHACK, GARAGE OR OTHER BUILDINGS CAN AT ANY TIME BE USED FOR RESIDENTIAL PURPOSES, EITHER TEMPORARILY OR OTHERWISE.

NO BOATS OR TRAVEL TRAILERS OR CAMPERS OR TRAILERS OF ANY TYPE SHALL BE ALLOWED TO SIT OR BE STORED IN THE FRONT YARD OR DRIVEWAY PORTION OF ANY LOT, OR IN FRONT OF THE FRONT SET BACK LINE. NO TRUCKS, TRAILERS OR SIMILAR VEHICLES OF ANY NATURE WILL BE PERMITTED TO PARK OVERNIGHT ON ANY STREET WHICH IS WITHIN THE PLAT OF SHERWOOD TOO NO. 3.
6. NO BASKETBALL HOOPS TO BE ERRECTED OR MOUNTED IN ANY MANNER IN THE FRONT OF ANY HOME OR GARAGE OR WITHIN THE FRONT SET BACK LINE.
7. NO SIGNS OR OTHER ADVERTISING DEVICE SHALL BE ERRECTED OR MAINTAINED UPON ANY PART OF SAID PROPERTY EXCEPT THAT A SIGN NOT LARGER THAN 10 X 24 INCHES ADVERTISING THE PROPERTY FOR SALE OR FOR RENT MAY BE ERRECTED AND MAINTAINED AND, FURTHER, THAT THE DECLARANT MAY ERRECT AND MAINTAIN ON SUCH PROPERTY SUCH SIGNS, BUILDINGS AND OTHER ADVERTISING DEVICES AS MAY BE NECESSARY AND PROPER IN CONNECTION WITH THE CONDUCT OF ITS OPERATION FOR THE DEVELOPMENT, IMPROVEMENT, SUBDIVIDING AND SALE OF SAID PROPERTY.
8. ALL HOUSES TO BE CONSTRUCTED IN SHERWOOD TOO NO. 3 SHALL BE OF DOUBLE CONSTRUCTION. ROOFS ARE TO BE SPLIT WOOD SHAKE OR TILE.
9. NO ANIMAL, LIVESTOCK OR POULTRY OF ANY KIND SHALL BE RAISED, BRED OR KEPT ON ANY LOT EXCEPT THAT CATS OR DOGS OR OTHER USUAL HOUSEHOLD PETS MAY BE KEPT PROVIDED THEY ARE NOT BRED OR MAINTAINED FOR ANY COMMERCIAL PURPOSE. ALL CATS BELONGING TO RESIDENTS OF, AND RESIDING IN SHERWOOD TOO NO. 3 ARE TO WEAR BELLS TO PROTECT THE BIRDS.
10. SET BACKS ARE TO BE ACCORDING TO CITY OF GLADSTONE REQUIREMENTS.
11. EASEMENT FOR INSTALLATION AND MAINTENANCE OF UTILITIES AND DRAINAGE FACILITIES ARE RESERVED AS SHOWN ON THE RECORDED PLAT.
LYNNWOOD LUMBER COMPANY dba
LYNNWOOD ENTERPRISES

[Signature]
PRESIDENT

STATE OF OREGON
COUNTY OF CLACKAMAS

ON THIS 14th DAY OF August, 1974, BEFORE ME, THE UNDERSIGNED, A NOTARY PUBLIC IN AND FOR THE SAID COUNTY AND STATE, PERSONALLY APPEARED THE WITHIN NAMED ORVILLE ROBINETT, KNOWN TO ME TO BE THE IDENTICAL INDIVIDUAL DESCRIBED, AND WHO EXECUTED THE SAME FREELY AND VOLUNTARILY. IN TESTIMONY WHEREOF, I HAVE HEREUNTO SET MY HAND AND AFFIXED MY OFFICIAL SEAL.

MY COMMISSION EXPIRES 3-5-77

[Signature] 3-64

Tami Bannick

From: Peter Boyce
Sent: Friday, February 14, 2014 4:17 PM
To: City Council; Planning Commission
Cc: Jolene Morishita; Heather Martin; Tami Bannick
Subject: FW: 1 pm last draft: dog park

FYI

From: rose [mailto:mrosej47@comcast.net]
Sent: Friday, February 14, 2014 1:16 PM
To: Peter Boyce; harryanddonna0516@comcast.net; k yielding
Subject: Fw: 1 pm last draft: dog park

Pete, Please ignore the previous version

date: Feb 14, 2014 draft

to: Pete Boyce, Gladstone City Council & Planning Commission

from: Rose Johson
on behalf of Donna & Harry Todd
and the Valley View dog park 250 foot-neighbors

RE 1) COMPLAINT & REQUEST FOR POSTPONEMENT OF THE PLANNING COMMISSION DOG PARK
REZONING HEARING
SCHEDULED FOR 2/18

- 2) REQUEST FOR SCHEDULING AN AGENDA-DISCUSSION ITEM ON THE CITY COUNCIL AGENDA
RE THE 2011: DOG PARK PROPOSAL AND COUNCIL APPROVAL CIRCA 2011?
- 3) REQUEST FOR PUBLIC RECORDS

City Council & City Manager & Planning Commission:

Pusuant to our discussion 2/13/14 with Pete Boyce, City Manager, and Donna Todd, Harry Todd and Rose Johnson. I apologize for this hastily prepared draft letter, and reserve the right to make subsequent corrections and additions. This letter discusses and refers to 1, 2, & 3 above.

The city is putting the cart before the horse. Anytime a new proposal comes to Gladstone, it goes before the city council for discussion, and all citizens are entitled to be noticed of the meetings. The Todds report that they, and their closeby neighbors did not receive **Notice** of any public meeting, when the dog park was apparently approved by the Council in 2011? When something new comes to Gladstone all citizens are entitled to be noticed of the meetings. The Todds report they and their neighbors **did not receive Notice of any public meeting**, in 2011, when the dog park proposal was discussed and illegally approved by the Council.

As per our discussion yesterday, the Planning Commission packet was not mailed to the 250 foot-residents. The city's planning commission ZC hearing packet was posted on the city website missing information previously submitted by the dog park opposition.

The signatures sent in by dog park supporters at the last minute will likely unduly influence the planning commission's decision.

Now, there is insufficient time for the Todds (&or dog park opposition) to collect more signatures. Although Pete Boyce did post

Mrs. Todd's letter and a market value appraisal of her home- property, the planning commission received these materials late.

Even if unintentional, this is disadvantageous the opposition.

Compounding the city's gross error illegally approving a dog park when the R7.2 residential zoning does not allow it-- the city's

procedure raises serious questions about due process for the dog park opponents who are damaged by a PUBLIC NUISANCE

a noisy, high traffic, smelly, unsanitary, unsafe, unsightly, poorly designed, and illegal nonconforming dog pile-dog park for a neighbor.

This planning commission ZC hearing should not go forward. Again, we are requesting postponement of the dog park ZC

hearing scheduled for 2/18/14. We ask the city council to reconsider their denial of Ken Yeilding's request during the 2/11/14

Council meeting. That is, Mr Yeilding requested a postponement of the plan com hearing for 2/18. Futher, he requested the

proper procedure--establishment of a committee to do a site selection study, to discuss the suitability of Shannon Park for a

dog park, to find a suitable location, such as Meldrum Bar.. Mr. Yeilding stated this dog park is a PUBLIC NUISANCE. The city

has failed to investigate Mr. Yieldings public nuisance complaint since the beginning, including the Todds and other neighbors

complaints regarding this dog park. They stated their opposition in letters and submitted a petition they submitted to the city

council meeting on Nov 2013.

Since the Todds & other 250 foot-neighbors were not informed of those 160 pro-dog park signatues until 2/13/14, a mere four days

before the hearing. They are entitled to an opportunity to collect additional signatures too. They clearly stated their opposition

in their 25 signature petition. Many of the signatures from the supporter are from people who live outside Gladstone Zone 5,

and outside the city, and outside neighborhood district 5 (see Comp Plan map).

As you know, the County Planner, Glasgow sent notice containing only two pages to the 250' foot neighbors. Unfortunately,

the city packet did not include Mrs. Todd's letter(s) & Home Value Appraisal, sent previously to the city. We appreciate Pete posting

those Mrs Todd's materials quickly. However, Mr. Yeilding's correspondence(s) to the city are not in the packet. Time is of the

essence and there is insufficient time for the opposition to prepare a rebuttal to the county planners report. Under the circumstances,

we have legitimate cause for postponement. The city did not and is not following past precedent & past procedure for citizen involve

-ment in public hearings, the city is in violation of the GMC for approving the dog park in the first place, and the city is not following established new-development & zoning & zone change procedures established by past practices.

The Library Advisory Committee decided on 2/10/14 to conduct a site selection study for a library. **If that is the procedure for siting**

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~~a library~~, then it is also the procedure for siting a dog park. At the least, you cannot conduct a zone change hearing without doing a site selection study.

Mr. Boyce confirmed on 2/13/14 on the question--he does not recall a single person in opposition to the dog park at that Council meeting (in 2011?). So, only dog park supporters were given an opportunity for citizen involvement.

We have not yet been informed of the actual date(s) the Council approved the dog park. Our public records requests to the city can't possibly be answered by 2/18, nor forwarded by the scheduled Feb 18th for the plan com the hearing, nor will we have time to analyze the records, nor prepare a rebuttal to the planning commission 2/18..

All of these circumstances mentioned above put the opposition at SUBSTANTIAL DISADVANTAGE.

THE CITY IS PUTTING THE CART BEFORE THE HORSE BY scheduling a ZC hearing at this time. Past practice and established procedure is to first, put a dog park DISCUSSION on the plan com or council Meeting Agenda, ie "discussion of proposed dog park" so those in favor and those against the dog park would have an opportunity for citizen involvement from both sides. Otherwise, it looks like the city is violating its own re-zoning procedure and hearing rules. Not to mention their violations of State law & the fact the dog park approval in 2011 was illegal under the gladstone zoning code .

3) PUBLIC RECORDS REQUEST:

I'm requesting copies of these public records by the Monday before the meeting time:

- the Agenda & Packet for the City Council Meeting in 2011 when the council approved the dog park
- copy of the land lease with the water dept.
- any 2011 legal opinion written by the city attorney regarding or recommending the dog park approval, &or the lease
- minutes of the meeting(s) mentioned above
- copy of the video for the meeting(s)

Tami Bannick

From: Jolene Morishita
Sent: Tuesday, February 18, 2014 1:42 PM
To: Tami Bannick
Subject: FW: PLANNING COMMISSION FOR 2/18/14 MINUTES Feb 12, 2013 dog park update at city council meeting

From: rose [mailto:mrosej47@comcast.net]
Sent: Monday, February 17, 2014 10:52 PM
To: Peter Boyce; Jolene Morishita
Subject: TO: PLANNING COMMISSION FOR 2/18/14 MINUTES Feb 12, 2013 dog park update at city council meeting

----- Original Message -----

From: rose
To: k yielding ; harryanddonna0516@comcast.net
Sent: Monday, February 17, 2014 10:31 PM
Subject: Feb 12, 2013 dog park update at city council meeting

Feb 12, 2013 Council Meeting Minutes
Agenda #17 - **Dog park**

Item #17. Dog Park Update - Scott Tabor - no attachments
Public Works Director, Scott Tabor reported the off-leash dog park is available for public use on Valley View Road. It is becoming quite popular and there have been no complaints so far. They did it with minimal expense and are on track. Eventually they will have a drinking and doggy fountain on the premises. Mayor Byers explained this was initiated by people in the community that wanted a dog park. They came to a council meeting and made the request.

3-68

Date: February 18, 2014

HEARING: Z0017-14-CP & Z0018-14Z

RE: REBUTTAL TO STAFF REPORT – Zone Change (DOG PARK)

1) General Information (staff pg 2-4)

The Oak Lodge water district land area is 7.70 Acres. However, the dog park fenced enclosure is only .59 acres; the dog park fenced area is 210 feet x 121 feet. *See attached Map.*

Due to health & safety concerns and the residential character of the near-by neighborhood, the water towers are in a fenced secure area. It is unreasonable to suggest any further portion of the fenced Water Tower site could be opened to the public. There are zoning requirements for minimum water tower site size, setbacks, fencing and security, with no public access allowed. If the city is contemplating expansion of the dog park, it will have a negative impact on additional residents adjacent to the dog park, and further expose the city to lawsuits for damages to real estate values and residential living conditions (livability).

Water tower land use and unsanitary dog park **uses are incompatible.**

2) Public Need 17.68.050

A **public need** for a dog park at this location is not supportable. Only the **desire** for a dog park is apparent. The dog park is fatally flawed since the city did not do necessary due diligence, such as, a site selections study, environmental impact study, a traffic study, noise study, design review, drainage study, and substantial neighborhood change, to name a few. The near-by property owners did not receive "actual" notice when the of public meetings when the dog park proposal was discussed and approved.

The city must balance decisions concerning public need against the deleterious & negative effects a dog park places on nearby property owners. Especially since this is a **land use change** under consideration.

17.90.140 Conditions of Approval *"Approval....may be subject to conditions as are reasonably necessary to protect the public health, safety or general welfare from potentially deleterious effects of the proposed use, or to fulfill public service demands created by the proposed use.*

The Staff Planner is mistaken. A dog park was/is not an allowed use under the R7.2 zoning code, during the time it was open, therefore it cannot establish anything but the **city's liability for a lawsuit** from near-by homeowners. It is a stretch to suggest the mere existence of a dog park could establish a land use pattern or history for a dog park. The dog park was in violation of the zoning code throughout its operation. A zone change from R7.2 to OS may not solve the city's land use problems with dog parks. The numerous nuisance & code violations, and negative effects on market value and livability must be considered and cured by the city.

3-69

3) CC&R'S You have a copy of Mrs. Donna Todd's CC&R's dated March 5, 1977. CC&R's trump a city ordinance or zoning code. Therefore those CC&R's preclude the city from making the zone change or allowing the dog park, for that matter

4) 17.068.050(3) (staff pg 2-6)

Comp Plan - Land Use chapter: There is practically no proof of substantial neighborhood change, nor a reliable study, to justify a Comp Plan map change to commercial (to allow a dog park), particularly under the damaging impact & conditions to/for nearby property owners.

Title 12 Protection of Residential Neighborhoods: If the city approves this ZC, it will fail the rule to protect residential neighborhoods by considering a zone change to allow dog parks at Valley View Road. This proposal is a mistake; it has/will harm property values and neighborhood livability, peace & quiet substantially. This dog park is destroying the livability of the near-by neighborhood. The public need is best carried out by **not** granting this ZC.

5) Comprehensive Plan - Goal 1 Citizen Involvement, & Goal 2 Land Use Planning:

The city has failed to satisfy the requirements of Goal 1 and Goal 2. We strenuously object to the City putting the cart before the horse by scheduling a zone change hearing without ever having formed a citizen involvement committee tasked to study the public need for a dog park, conduct necessary studies such as, site selection study, environmental impact study, traffic, drainage, noise control study, design review, significant neighborhood change study, etc. How did the city plan & decide this dog park at this location and this size would be adequate? The city is in noncompliance with the Comp Plan, because they didn't do any reasonable adequate planning. The city is failing to do due diligence as well.

6) 17.80.011 Design Review, Objectives

This code requires *preservation of natural development, orderly development, and significant site development compatible with land use on adjacent properties, and to protect neighboring owners* *By assuring reasonable provisions have been made for water drainage, views, light, air, and solar Access* (paraphrased). Consequently, this zone change Application, and the history of its operations, proves the requirements cannot be satisfied.

Signed,

Rose Johnson
Gladstone, Or.

WORK SESSION

GLADSTONE CODE REVIEW
Items for Discussion / Consideration at the March 18, 2014 GPC Meeting

MARCH 11, 2014 SUBMITTAL to the GLADSTONE CITY COUNCIL

I Code Analysis Ordinance Review January 2012

- After review, this is mostly housekeeping and we should recommend our codes be updated per the suggestions listed in this document.

RECOMMENDATION: It is recommended by the Gladstone Planning Commission for the city to update the cities current Codes and Ordinances to reflect the changes listed on the Code Analysis Ordinance Review completed January of 2012 by Mr. Dan R. Olsen except for the area's we have pulled out for further discussion (noted by the hatched frame). See Attachment A.

II Review Completed Approximately a Year Ago

-The city hired a firm approximately a year ago to review our codes to see if there were any issues stopping development. We should look at their suggestions to see what barriers there are for encouraging development in our commercial zones.

RECOMMENDATION: Upon review by the Gladstone Planning Commission, we felt the report submitted by Winterbrook Planning does not give us direction on what can be done to inspire commercial growth, but instead states there is nothing prohibiting this growth. It is our intent to reach out to the local MABA (McLoughlin Area Business Alliance), MAP (McLoughlin Area Plan), Clackamas County and ODOT to learn of their plans for the McLoughlin Corridor and see how we can participate in their process. Clay Glasgow will make the contacts for us and will ask if someone can come and make a presentation at a special meeting convened for this purpose.

III Title 2 Administration & Personnel

Specifically Chapter 2.28 Planning Commission

RECOMMENDATION: Upon review we felt that most of this section was appropriate and would not need to be changed. However, there were two items we discussed in depth:

1. 2.28.040 Vacancies and Removal—Section (2)

RECOMMENDATION: We would like the wording changed from:

“(2) A member who is absent from two consecutive meetings without an excuse approved by the Planning Commission is rebuttably presumed to be in nonperformance of duty and the City Council shall declare the position vacant unless extenuating circumstances are determined at the hearing.”

To:

“(2) A member who is absent from two consecutive meetings will be considered to be in nonperformance and will be referred to the City Council for further action.”

2. 2.28.090 Meetings—Section (1)

RECOMMENDATION: We discussed in depth the second sentence “The commission *shall meet* at least once a month.” We felt the wording made it easy for meetings to be canceled. We have every intention of meeting monthly, and not just on dates where applications are to be considered. We feel there are always planning items to discuss, as it being done with this code review, and would like to take a proactive approach to our duties instead of simply reactive.

GLADSTONE CODE REVIEW

Suggested Changes Per February 18, 2014 Planning Commission Meeting

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GLADSTONE CODE REVIEW
Suggested Changes Per February 18, 2014 Planning Commission Meeting

Continued

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3. 2.48 Historic Preservation Policy - 2.48.020 Historic Review Board—Creation
RECOMMENDATION: The Gladstone Planning Commission recommends formally creating a Historic Review Board due to potential future historically significant improvements (i.e. Trolley Bridge, Portland Ave. Redevelopment). During this discussion we discovered the city is required to complete a historic property survey which has yet to be done. We recommend this process be started as soon as possible.

NEXT STEPS:

The next scheduled Code and Ordinance Review work session will cover the following items:

- IV Title 17 Zoning & Development**
Division 4 Section 17.54 Clear Vision Codes
-Since this was a specific area directed from the City Council for improvement, we should start with Division 4 Section 17.54.
- V Title 8 Health & Safety**
Section 8.04 Nuisances
-This topic took up most of the work session, so I feel we should start by looking at this section for clarification and application.

Section 8.12 Noise Control

SECTIONS TO COVER at the MARCH 18, 2014 PLANNING COMMISSION MEETING

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SEE ATTACHMENT B and C

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SEE ATTACHMENT D and E

ATTACHMENT A

- 1 High Priority
- 2 mid-level priority
- 3 Low Priority

**CODE ANALYSIS
ORDINANCE REVIEW
FOR THE
CITY
OF
GLADSTONE, OREGON**

January 2012

Introduction

This Code Analysis and Ordinance Review has been prepared by Dan R. Olsen, Attorney at Law, and published by Quality Code Publishing Company. The Gladstone Municipal Code is abbreviated as "GMC" throughout this report.

All titles, chapters, and sections in this report refer to provisions of the Gladstone Municipal Code. If a title is not listed, although thoroughly reviewed, the preparer found no issues of note warranting comment.

Chapter 1.08 General Penalty

Note that the ORS now uses the term "violation" rather than "infraction". This probably is not a problem as 1.08.020 (1) defines "city infraction" as a violation.

3 Note that ORS 153.110 through 120 and 153.150 through 310, cited as part of the authority for this Code chapter, were repealed by 1999 Oregon laws 1051. The provisions relating to violations were substantially rewritten. Although no clear inconsistencies are noted, it is recommended that the city review the new provisions to determine whether any amendments are necessary or desired.

2 2011 Oregon laws Chapter 597 (HB 2712) substantially revised the fines and distribution of fines for violations. It adds a "presumptive fine". Section 1.11 states that the new amounts and presumptive fines are not mandated for cities; but the city may wish to review these provisions and make such changes as it deems appropriate. The statute continues to provide that the city may not exceed the statutory maximum fines. The bill also labels some city code violations as misdemeanors and converts some statutory fine provisions to violation categories. See, for example, Sections 198 and 248. It adopts administrative provisions and deadlines for fund transfers to the state from municipal court. See, generally, Section 50. A comprehensive review of whether any city code violation fine amounts impermissibly exceed these revisions is beyond the scope of this review. At a minimum, it is likely that the municipal court will have to modify its practices to conform to various provisions of this bill. (MUNI CT)

3 §1.08.080
Note that 1999 Oregon Laws Chapter 788, as further revised by 2001 Oregon Laws Chapter 249 and 2003 Oregon Laws Chapter 576 substantially revised the provisions relating to enforcement of judgments, including those in municipal court. Although the GMC does not contain detailed provisions relating to such enforcement, it is suggested that these new provisions be reviewed for any code changes or additions, or revisions to current practices.

Chapter 2.16 Trial by Jury

/ §2.16.010
The statutory authority reference now should be ORS 221.354,

/ §2.16.040
ORS 10.040 was repealed and replaced with ORS 10.050.

/ §2.16.080
The statutory authority reference now should be ORS 221.354.

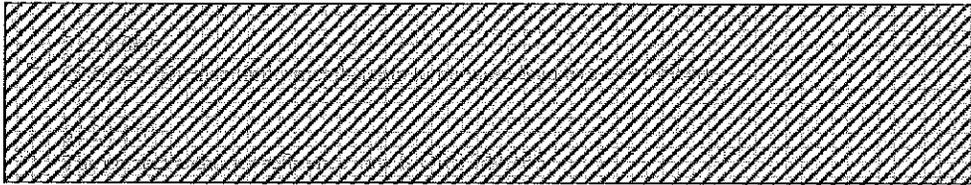
/ §2.16.090
The statutory authority reference now should be ORS 10.061. The only significant change is that jurors are to get \$25.00 for each day over two.

/ §2.16.095
ORS 136.603 now requires witness fees only for those who are indigent or from out of state.

/ §2.16.100
ORS 10.660, cited as authority for this provision has been repealed. ORS 221.349 was renumbered ORS 221.354.

The City should consider a reference to the mandatory state assessments, ORS 137.290 through .309, similar to that found in GMC §1.08.090.

Chapter 2.28 Planning Commission



Chapter 2.35 Personnel System

(w/ HB Changes)

/ §2.36.030
ORS 659A.030 added sexual orientation and those who have had a juvenile record expunged to those protected against discrimination.

/ §2.36.050(2)(b) references "confidential personnel files" in relation to criminal background checks. Oregon law does not provide a general exemption from disclosure for personnel files. Rather, it is an issue of whether release would constitute an unreasonable invasion of privacy. The reference to confidential personnel files may give rise to an unfounded expectation of confidentiality and should be considered for revision. See, generally, ORS 192.502.

Chapter 2.40 Unclaimed Property

w §2.40.010
There is a typo in the authority listed; it should be ORS 98.302 through 98.436.

Chapter 2.48 Historic Preservation Policy

Q The policy should be revised to reflect ORS 197.772 which now prohibits designating a property for historic preservation without the property owner's consent and permits an owner to withdraw prior consent.

Chapter 2.52 Liquor License Review

Q The correct statutory authority reference now is ORS 471.155-.166.

R §2.52.050

The cross-reference in subsection (2)(b) should be to Section 2.52.090.

Chapter 2.58 Measure 37 Claims Procedure

✓ Measure 37 and the implementing statutes were repealed and replaced by Measure 49. See ORS 195.300 to 195.336 (2010 ORS Law Chapter 8.) Also see 2011 Oregon Laws Ch. 612.

Chapter 3.12 Special Assessments

§3.12.050

✓ Subsection (1) provides for abandonment or delay if remonstrances are received from owners representing two-thirds of the area to be assessed. This appears to be inconsistent with Charter Chapter IX, Section 38, which provides for suspension if remonstrances are received from three-fifths of the owners.

§3.12.070

✓ Subsection (1) provides for assessment prior to completion of the improvements. This may subject the assessment to classification as a property tax pursuant to Oregon Constitution Article XI, Section 11(b) (Ballot Measure 5). ORS 310.040(12) purports to define a single assessment as both a pre and post construction assessment to avoid Ballot Measure 5, but some question whether that is permissible.

✓ §3.12.190

The correct reference to the Bancroft Bonding Act is ORS 223.205 and 223.210 to 223.295.

Chapter 5.04 Business Licenses Generally

✓ §5.04.025

ORS 701.055 was renumbered to ORS 701.026. The relevant definitions now are at ORS 701.005 and refer to a "residential contractor" rather than a "residential builder."

✓ ORS 701.013-.020 has added to the list of contractors exempt from city licensure if licensed by Metro unless the contractor has a principal place of business in the city or derives \$250,000 or more in gross receipts from within the city. Other exemptions apply.

✓ See also ORS 671.750-.755, containing similar exemptions for landscape contractors and ORS 696.365 prohibiting a business license on certain real estate agents.

Chapter 5.06 Adult Businesses

✓ The Oregon Supreme Court has ruled essentially that adult businesses may not be regulated differently from other businesses. See, *City of Nyssa v. Duffloth*, 121 P.3d 639, 339 Oregon. 330 (2005) and *State v. Ciancanelli*, 121 P.3d 613, 339 Oregon. 282 (2005). This chapter should be considered for repeal or substantial revision.

Chapter 5.12 Bingo

2 §5.12.010(4)
ORS 167.117, relating to bingo, now references the Internal Revenue Code of 1986, as amended.

2 ORS 464.420 permits a city to ban bingo, but if it does not, such games shall be regulated only as provided under state law. The city should review whether this preempts the regulations in this chapter.

2 Note that the Department of Justice now regulates bingo, and a license from the DOJ is required. ORS 464.250.

Chapter 5.16 Cable Television Franchise Application

2 The Cable Communications Policy Act of 1984, as amended, substantially impacted the scope of regulatory authority of local governments. This is a very complex, specialized area and an analysis for conformance is beyond the scope of this review. The city should consider whether an update is needed.

Chapter 5.32 Transient Merchants

As noted previously, the Oregon Supreme Court has held that Article I, Section 8 of the Oregon Constitution essentially prohibits any content based regulation of speech. It has declined to permit more regulation of commercial speech than other speech, as would be permitted under the U.S. Constitution. No cases directly on point could be found, but the city attorney should consider whether these regulations are improperly content based. See generally, *City of Eugene v. Miller*, 871 P.2d 454, 318 Oregon. 480 (1994); *Hillsboro v Purcell*, 306 Oregon 547, 761 P2d 510 (1988).

Chapter 5.44 Erotic Dance Studios

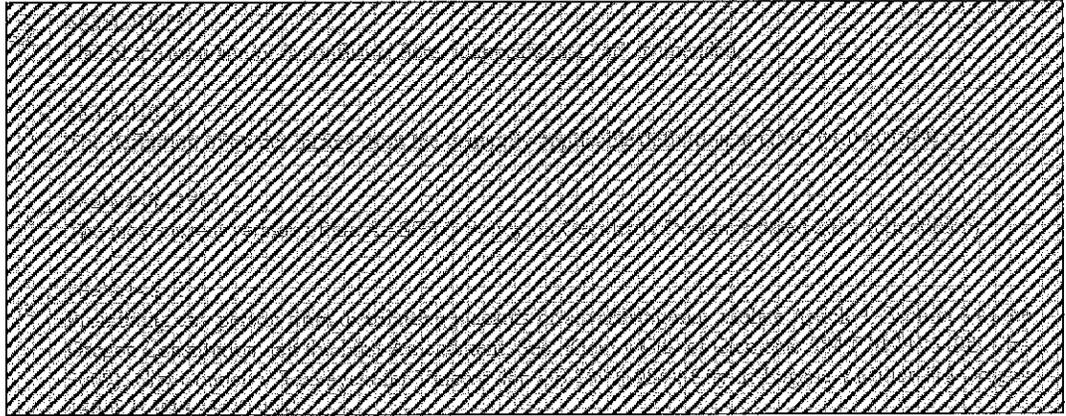
1 The discussion under Chapter 5.06, Adult Businesses, applies here as well.

Chapter 6.04 Dogs

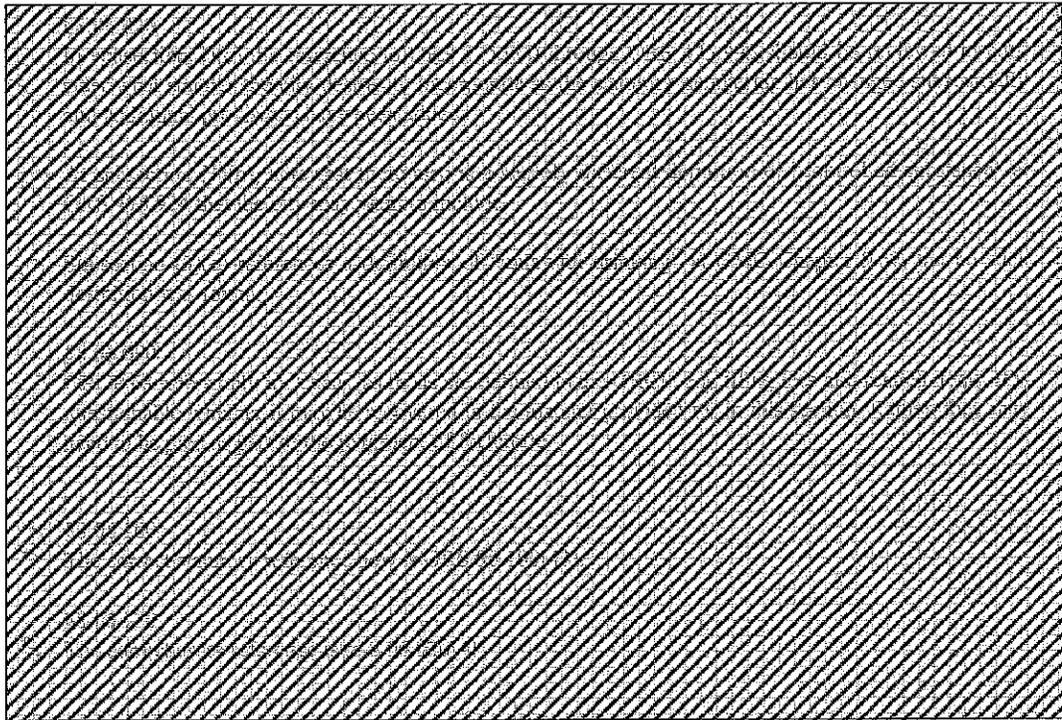
3 ORS 609.010, cited as part of the authority for this chapter, was repealed. No substantive impact is apparent.

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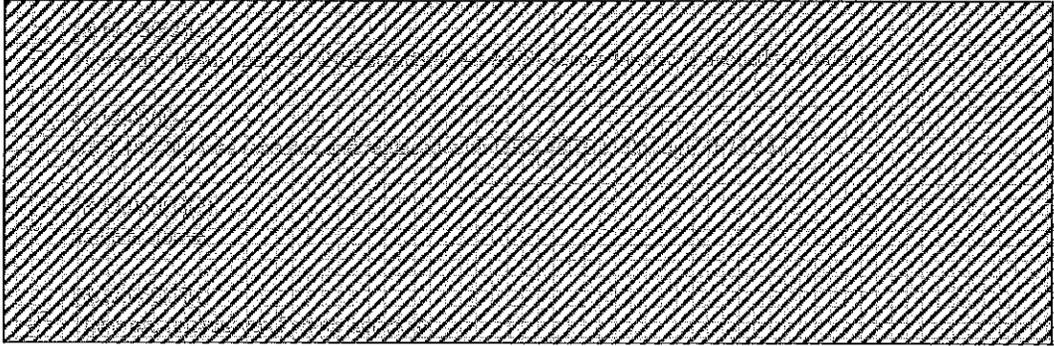
Chapter 8.04 Nuisances



Chapter 8.06 Chronic Nuisance Property



5-10

Chapter 8.12 Noise ControlTitle 9

3 Note regarding Title 9, relating to criminal procedure and offenses: In *City of Portland v. Dollarhide*, 714 P.2d 220, 300 Oregon 490 (1986), the Court held that, "in determining whether the defining and prohibiting provisions of a city criminal ordinance conflict with a state criminal statute, the test is whether the ordinance prohibits an act which the statute permits, or permits an act which the statute prohibits." Similarly, the penalty provided by a city ordinance may be "lighter" than provided by state law but not greater.

In some cases, the conflict is evident. In others it depends on the facts or on the legislative history of the statute at issue. Cf. *City of Portland v. Jackson*, 850 P.2d 1093, 316 Oregon 143 (1993) (Indecent exposure ordinance upheld); *City of Portland v. Lodi*, 308 Oregon 468, 474, 782 P.2d 415 (1989) (Ordinance regarding carrying a knife held preempted.) Accordingly, a comprehensive analysis of whether a portion of the GMC impermissibly conflicts with state law is beyond the scope of this review. It is recommended that the city review changes in state law for potential conflicts and amend code provisions if necessary.

Also see the discussion of 2011 Oregon Laws Ch. 597 (HB 2712) under Chapter 108 above, as it substantially revised statutory fines and revised some statutory violation classifications.

Chapter 9.08 Alcoholic Beverages

2  General Note: The statutes governing liquor have been revised significantly since the adoption of this Chapter. See e.g. 1995 Oregon laws Ch. 301, 2010 Oregon Laws Ch. 33. It is recommended that the city conduct a thorough review and comparison. Following are some of the more significant changes.

§9.08.010(1)

The statutory definition now includes solids. ORS 471.001(1)

3  §9.08.010(3)
"Hard liquor" is not defined or referenced in state law.

§9.08.010(8)

Chapter 472 was repealed. Although it is still referenced at places in the ORS, there no longer is an "Oregon Distilled Liquor Control Act", demarcated as such.

§9.08.020

ORS 471.410 contains several new exceptions to the prohibitions and restrictions on providing alcohol to minors. This likely raises a Dollarhide issue.

§9.08.707

State law has expanded the opportunities for minors to be permitted on premises serving alcohol. See, for example, OAR 845-006-0335-0340.

§9.08.110

The correct authority citation appears to be ORS 471.360 through .390 and 471.403 through .406.

§9.08.150

There is a typo in the authority; it should be ORS 471.385.

Chapter 9.12 Cruelty to Animals

§9.12.090

Several new provisions regarding securing and forfeiting animals have been added to state law. ORS 167.347-350.

Chapter 9.20 Disorderly Conduct

§9.20.010

ORS 166.023-.025 now establish disorderly conduct in the first and second degree. Further, they require "intent to cause public inconvenience, annoyance or alarm, or knowingly creating a risk thereof". They do not include the acts set forth in subsection (8) or (9).

§9.20.020

State law does not expressly address "rude, indecent, vulgar or profane words." It is likely that criminalizing such speech in this manner is unconstitutional under the Article I, Section 8 analysis discussed above.

Chapter 9.25 Graffiti

Note that ORS 164.388 expressly provides that state statutes regarding graffiti do not preempt local ordinances, so there should be no Dollarhide issue

§9.25.040

2009 Oregon Laws Chapter 15 repealed the requirement that certain community service be under the supervision of community corrections.

512

Chapter 9.28 Criminal Mischief

W §9.28.020

ORS 164.354 defines criminal mischief in the second degree as involving an amount exceeding \$500. This may be a Dollarhide issue.

Chapter 9.32 Offenses Against Government

Q §9.32.070

ORS 162.255 has been amended to exempt the media. It classifies this as a Class B violation rather than a Class A. This may be a Dollarhide issue.

Q §9.32.080

ORS 133.045, .050, .075, .077, and .080 have been repealed. It appears that the correct statutory references now should be ORS 133.055 through .076 and ORS 153.042 through .064.

Q §9.32.090

The definition and elements of failure to appear have been changed. ORS 162.195.

Q §9.32.100

The statute relating to false information has been revised although the GMC provision does not appear to conflict. ORS 162.385.

Q §9.32.110

ORS 163.208 is limited to public safety employees, the GMC provision applying it to other city employees raises a Dollarhide issue.

Chapter 9.36 Offenses Against Decency

W §9.32.040

Although there are no cases directly on point, prohibiting nude massage may be inconsistent with City of Nyssa v. Dufloth, 121 P.3d 639, 339 Oregon. 330 (2005) and State v. Ciancanelli, 121 P.3d 613, 339 Oregon. 282 (2005). Note, however, that the state requires a license for masseurs. ORS 698.021.

Chapter 9.40 Possession and Delivery of Drugs

3 §9.32.010

The reference to the Board of Pharmacy schedule should be updated to the current OAR 855 through 80 et. seq.

W §9.40.020(1)

The statutes have been revised and renumbered to ORS 475.840 through .980.

§9.40.020(2)
The prohibition on Cannabis may not be consistent with the Oregon Medical Marijuana Act, ORS 475.300 through .346. This may be a Dollarhide issue.

Chapter 9.44 Theft

§9.40.020
Theft in the third degree must be property less than \$100. ORS 164.043.

§9.40.030
Theft in the first degree must be property of \$100 or more and less than \$1,000. ORS 164.055.

§9.40.040
ORS 164.170 has been rewritten substantially and requires an amount in excess of \$100 but less than \$1,000 to constitute a Class A misdemeanor.

Chapter 9.45 Civil Forfeiture

Article XV, Section 10 of the Oregon Constitution adopted the Oregon Property Protection Act of 2000. This prompted adoption of ORS chapter 131A. The primary purpose of these provisions is to govern civil forfeiture for drug offenses, but it is not limited to such offenses. See generally, ORS 131A.010 (2) (The Legislative Assembly adopts the provisions of this chapter as the sole and exclusive law of the state governing civil forfeiture of real and personal property based on prohibited conduct. This chapter supersedes all charter provisions, ordinances, regulations and other enactments adopted by cities and counties relating to civil forfeitures. All forfeitures under the provisions of this chapter are subject to the limitations of section 10, Article XV of the Oregon Constitution)

Note that ORS 809.698 through .735 provides specific provisions for impoundment and, in limited cases, forfeiture of vehicles for the driving offenses listed therein. These statutes were adopted or amended after adoption of Chapter 9.45. ORS 809.735 (1) provides that, "The seizure and forfeiture provisions of ORS 809.730 do not preempt a city or county ordinance enacted and in effect on June 22, 1999, relating to forfeiture of a motor vehicle operated by a person described in ORS 809.730". Nevertheless, ORS 809.735 (2) requires that all vehicle forfeiture provisions conform to the procedures set forth in ORS Chapter 131A.

It is recommended that the city review these provisions and consider conforming amendments. 2011 Oregon Laws Ch. (SB 430) added certain crimes to those eligible for civil forfeiture.

§9.45.030
Numerous statutory references have changed:

Subsection (1): The reference to the 1983 version of ORS 475.005(6) is outdated.

Subsection (4): Gambling now is defined at ORS 167.114(7)

514

Subsection (6): Manufacture now is defined at ORS 475.005 (15)

Subsection (7): Marijuana now is defined at ORS 475.005 (16)

Subsection (8): 21 USC 841(a) does not actually define possession with intent to distribute, nor could an ORS reference be found.

Subsection (9): Production now is defined at ORS 475.005(20)

§9.45.040

Subsection (1): "Gambling" is defined at ORS 167.117(7), the reference in the GMC is to the crime of unlawful gambling in the first degree.

Subsection (2): The reference to the 1983 ORS should be updated or removed.

§9.45.050(3)

The reference to the 1983 ORS should be updated or removed.

Chapter 9.48 Trespass

§9.48.030

P The definition of trespass in the first degree appears to be broader than that in ORS 164.255. This may be a Dollarhide issue.

Chapter 9.49 City Parks and City Property Exclusion

CV Two recent cases addressed the due process requirements for exclusion. *Koenig v Washington County*, 238 Oregon App 297, 242 P3d 649 (2010), *State v Barnes*, 232 Oregon App 70, 220 P3d 1195 (2009). The GMC provisions appear to substantially conform to these cases but counsel for the city may wish to review them.

Chapter 9.50 Vehicular Trespass

CV §9.50.040

Map ORS 164.245 makes vehicular trespass a Class C misdemeanor. This may be Dollarhide issue.

Chapter 9.58 Fish and Game

CV §9.58.010

The statutory reference probably should extend to ORS 486.018.

CV §9.58.020

The references to the 1983 ORS should be updated or removed.

§9.58.030

The reference to the 1989 ORS should be updated or removed.

Chapter 9.60 Camping Prohibited in Certain Places

No statutory conflicts found, but note that ORS 203.077 requires all cities to have a camping by homeless policy.

Chapter 9.70 Unlawful Carrying of Loaded Firearm

§9.70.020

ORS 166.370 has a slightly expanded list of persons entitled to carry a firearm in a public building.

Chapter 10.04 Vehicles and Traffic

§10.04.030

Several terms defined in the GMC now have statutory definitions that may not be entirely consistent.

Subsection (1): Bicycle ORS 801.150.

Subsection (6): Motor Vehicle ORS 801.360.

Subsection (7): Park or parking ORS 801.380.

Subsection (9): Stand or standing ORS 801.505.

Subsection (11): Stop ORS 801.510.

Subsection (14): Traffic control device ORS 801.540.

Subsection (16): Vehicle ORS 801.590. The definition of "mobile home" at paragraph (c) was repealed and the vehicle code no longer has a definition. Cf. ORS 446.003. The term mobile home used in paragraph (d) now is a reference to "motor home."

§10.04.040

The general statutory authority of cities to adopt special provisions in ORS 801.040 has been revised substantially. Since many provisions in this chapter rely on that authority, it is recommended that the city attorney review ORS 801.040.

§10.04.230(1)(D)

ORS 767.815 is now ORS 825.470.

§10.04.270

The authority cited, ORS 811.430 does not relate to leaving keys in the ignition. No statutory authority or prohibition on this topic could be found.

5-16

§10.04.340

ORS 814.430 regarding bicycles in travel lanes has been substantially revised and contains exceptions to the requirement to stay to the right.

§10.04.400

The statutes relating to funeral processions have been revised although there appears to be no significant conflict.

§10.04.430

The statutes regarding "implied consent" have been revised substantially. ORS 813.100 now provides that refusal to submit to a test to result in a suspension of driving privileges. ORS 813.310 permits refusal to take a test to be used in evidence. It is recommended that the city attorney or law enforcement personnel review this section for amendment.

Chapter 10.08 Traffic Control Devices

§10.08.010

It appears that the most current edition of the UTCOD is the 2009 edition.

Chapter 10.16 Abandoned and Hazardous Vehicles

The sanction for violation of these provisions is not clear. Abandoning a car is not expressly labeled an offense. Cf. ORS 819.100. The driver or owner commits an "offense" by placing a hazardous vehicle, but the offense is not categorized, apparently becoming a misdemeanor by default pursuant to GMC §1.08.110.

Chapter 10.18 Impounding Vehicles

§10.18.010(1)(f)

Language appears permissible, but see, State v. Gonzales A138187 (Oregon, App., 2010); Miranda v. City of Cornelius, 429 F3d 858 (9th Cir 2005) re limits on authority to tow in certain situations.

§10.18.020(3)(d)

Although ORS 801.040 permits the city to modify state provisions on impoundment, note that ORS 819.190 excludes Sundays and holidays in calculating the five day period to request a hearing.

§10.18.030(1)(2)

Same comment as above, also note that state law requires the hearing to be held within 72 hours.

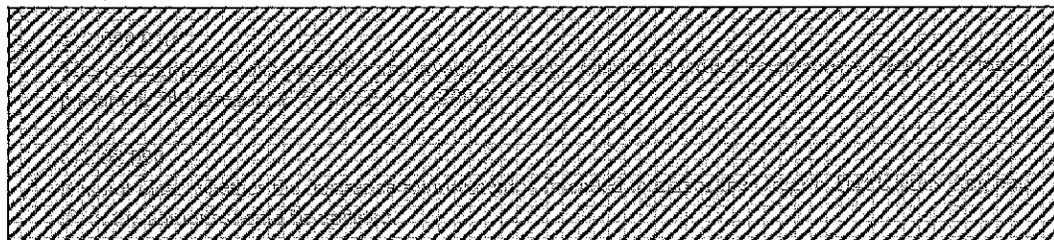
§10.18.050

ORS 819.220 has been repealed. ORS 819.215 sets the value at \$500. Again, it appears to be permissible to modify this per ORS 801.040.

Chapter 10.20.010 Off-Road Vehicles

W §10.20.070
ORS 105.655-.670,.675,.677 and.680 have been repealed. The recreational immunity statutes were substantially revised by 2010 ORS Law 52.

Chapter 12.08 Sidewalk Benches



Chapter 12.12 Park Regulation

§12.12.030
Concealed handgun permittees may carry firearms in parks. ORS 166.173

Chapter 13.14 Industrial Waste Regulations

P Note: Due to the specialized nature of this Chapter and any NPDES or other permits issued to the city, this review is limited to checking cross-references and citations.

P §13.14.030(2)(p)
It appears this OAR now is at 333-100-0001 et. seq.

P §13.14.090
It appears the reference to LOG 13.13 should be to GMC.

Chapter 13.15 Surface Water Management

P Note: Due to the specialized nature of this Chapter and any NPDES or other permits issued to the city, this review is limited to checking cross-references and citations.

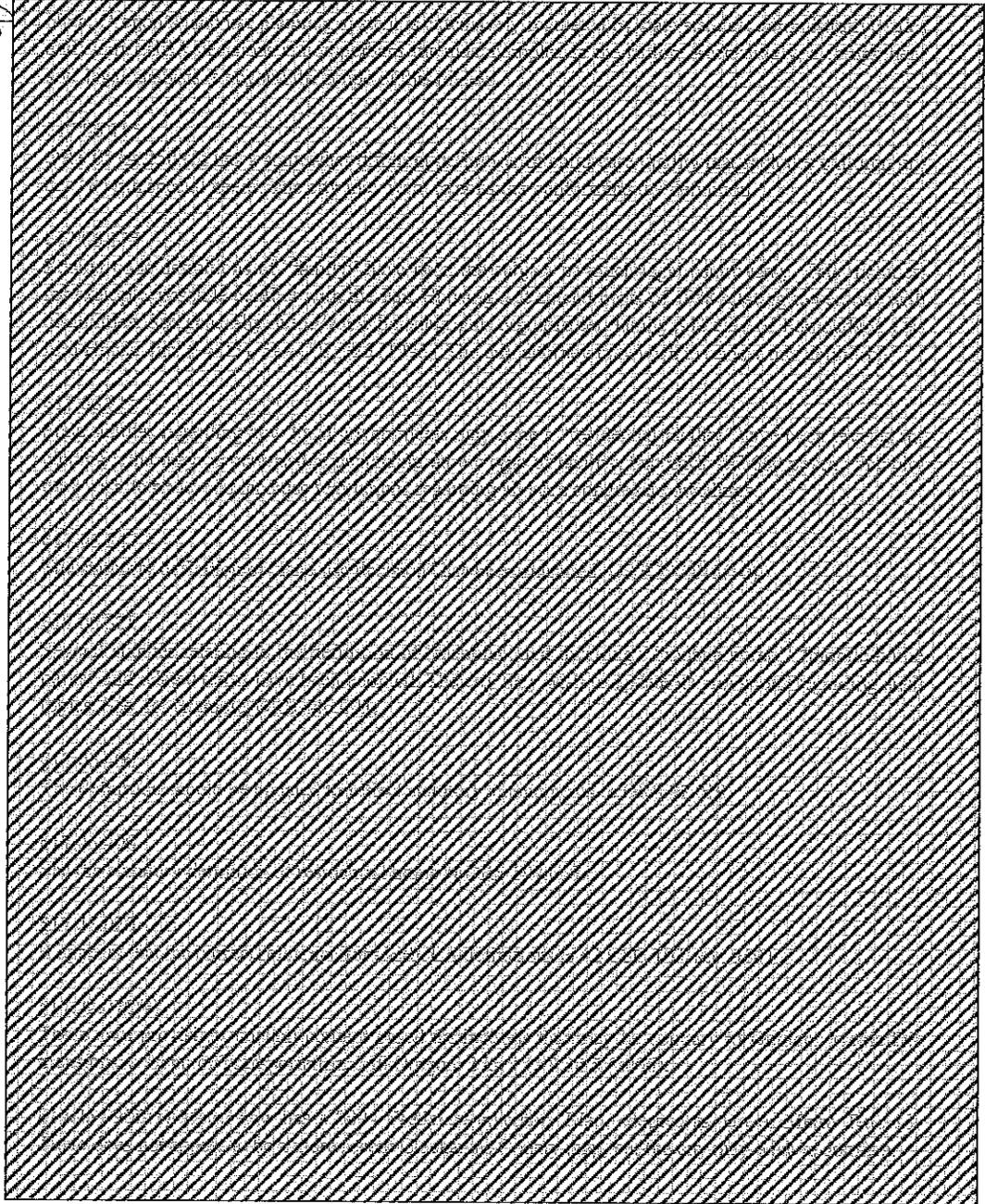
Chapter 13.16. System Development Charges

R §13.16.030(7)
The ORS 223.304(4) definition of qualified public improvement has been modified to require that the improvement be built larger than that necessary to serve the development.

R §13.16.050
ORS 223.304(1) now contains additional methodology factors.

Title 17 Zoning and Development

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Gladstone Municipal Code							
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Title 17 ZONING AND DEVELOPMENT DIVISION IV. DEVELOPMENT STANDARDS							

Chapter 17.54 CLEAR VISION

Note

* Prior history:

17.54.030 **History:** Ord. 1131 §2 (part), 1990; Repealed by Ord. 1366, 2005.

17.54.010 Applicability.

Clear vision standards shall apply to all development in the city.

Statutory Reference: ORS Ch. 197 and 227

History: Ord. 1131 §2 (part), 1990; Ord. 1366, 2005.

17.54.020 Clear vision area.

(1) Obstruction Prohibited. On property at any corner formed by the intersection of two streets, or a street and a railroad, it is unlawful to install, set out or maintain, or to allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstructions to the view higher than three feet above the level of the center of the adjacent intersection with that triangular area between the property line and a diagonal line joining points on the property lines at the distance from the intersection specified in this regulation. In the case of rounded corners, the triangular areas shall be between the lot lines extended in a straight line to a point of intersection and so measured, and a third side which is a line across the center of the lot joining the nonintersecting ends of the other two sides. The following measurements shall establish clear-vision areas:

Right-of-Way (in feet)	Measurement Each Lot Line (in feet)
80'	20'
60'	30'
50' or less	40'

(2) Exceptions. Provisions set out in Subsection (1) of this section shall not apply to:

(a) Public utility poles; trees trimmed (to the trunk) to a line at least eight feet (8') above the level of the intersection; provided, that the remaining limbs and foliage of the trees must be trimmed as to leave, at all seasons, a clear and unobstructed cross-view of the intersection; saplings, or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed cross-view of the intersection, supporting members of appurtenances to permanent buildings existing on the date when this ordinance in this Chapter becomes effective; official warning signs or

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signals; places where the contour of the ground is such that there can be no cross-visibility at the intersection; or to signs mounted ten or more feet above the ground and whose supports do not constitute an obstruction as described in Subsection (1) of the section.

(b) At a driveway serving a parking lot with capacity of more than eight automobiles and at corners of an intersection of a street controlled by stop signs or a traffic signal if the street intersection or driveway has an unobstructed sight distance specified in a 2001 publication titled "A Policy on Geometric Design of Highways and Streets" prepared by the American Association of State Highway and Transportation Officials (AASHTO), summarized in the table below; however, the Planning Commission may approve a driveway location with less than minimum intersection sight distance if no other suitable location is available:

Posted Speed Limit	Minimum Intersection Sight Distance
20	225 ft.
25	280 ft.
30	335 ft.
35	390 ft.
40	445 ft.
45	500 ft.

Statutory Reference: ORS Ch. 197 and 227

History: Ord. 1131 §2 (part), 1990; Ord. 1366, 2005.

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COMMUNITY DEVELOPMENT DEPARTMENT
6101 SE Johnson Creek Blvd
Milwaukie OR 97206

PHONE: 503-786-7630 Planning
503-786-7606 Engineering
FAX: 503-774-8236
E-MAIL: planning@milwaukieoregon.gov
engineering@milwaukieoregon.gov

For General Information

Clear Vision Areas and Fences

Property owners are responsible for maintaining clear vision areas and fences in conformance with City regulations. Because fence regulations often overlap with clear vision areas, the regulations for both fence and clear vision areas are presented together in this handout. It is strongly recommended that citizens contact the Planning and/or Engineering Department if they have questions regarding fences or clear vision areas.

As a general guideline, fences will meet fence and clear vision regulations if they are:

- Under 30" tall, measured from curb or street height, in front yards and side yards adjacent to the street.
- Under 72" tall in rear yards and side yards not adjacent to the street.
- Placed entirely within property boundaries.

CLEAR VISION AREAS

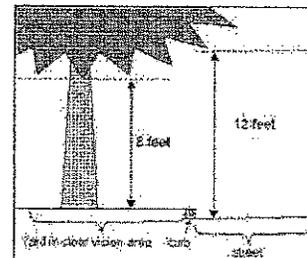
Clear vision areas are required by the Milwaukie Municipal Code to ensure that persons traveling in the City have unobstructed views at street and driveway intersections.

Where Clear Vision Areas Exist

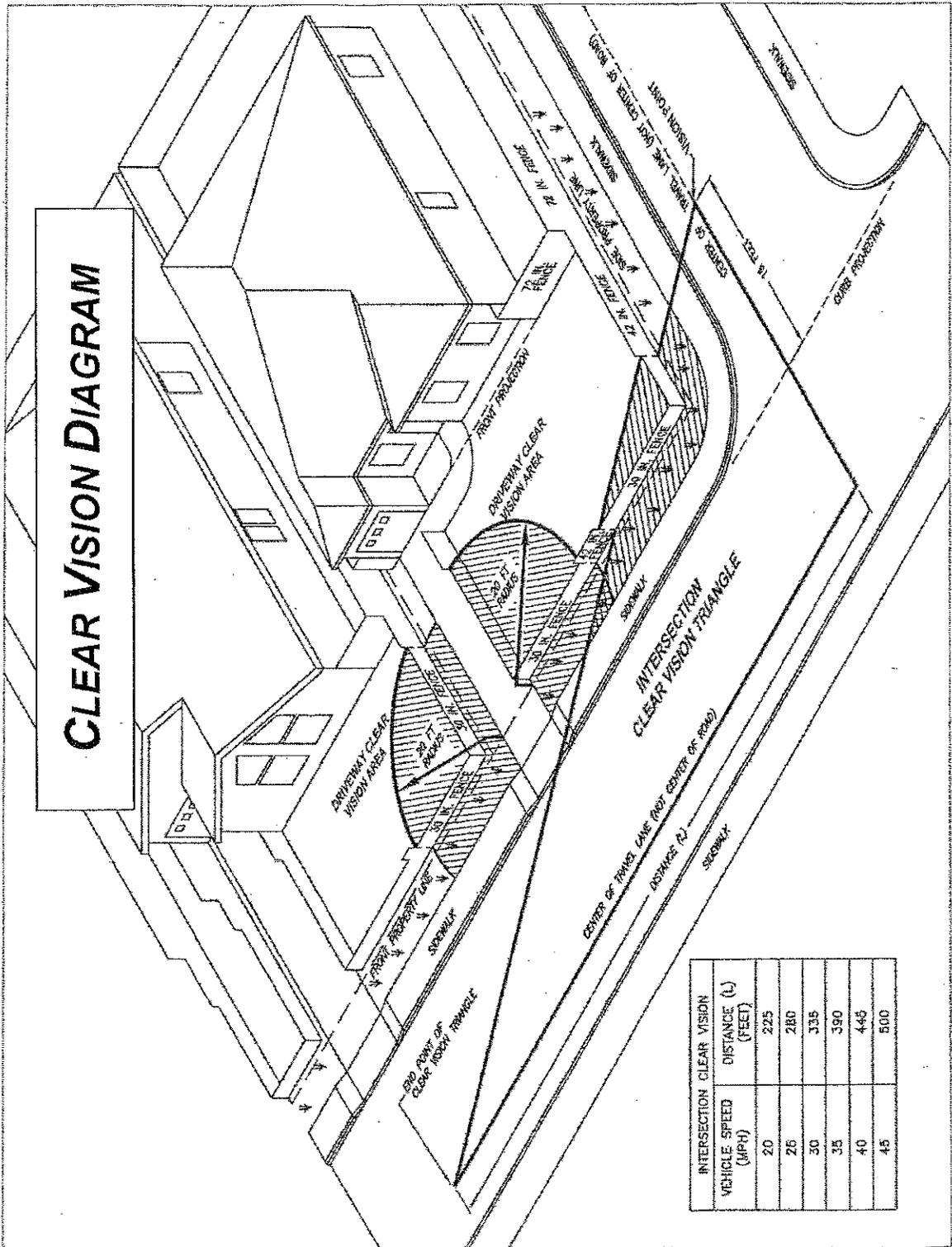
1. **Street intersections:** The clear vision area is defined in the Clear Vision Diagram on the next page.
2. **Driveways:** Defined by a 20' radius from the point where the driveway meets the lot line. See the Clear Vision Diagram on the next page.

Regulations for Clear Vision Areas

1. **Fences, shrubs, walls, and other landscaping are limited to 30" measured from top of curb or 36" above street level if no curb exists.** The only exceptions to this regulation are:
 - Fences may exceed the maximum clear vision height if they do not obscure sight by more than 10% (such as a chain-link fence). Fences are subject to height restrictions of 42" in front yards and 72" in side yards, and cannot exceed these heights even if they do not obscure sight by more than 10% (see Fence Regulations below).
 - Vegetation may exceed the maximum clear vision height if it does not obscure sight by more than 10%.
2. **Trees and poles may be allowed in the clear vision area, provided they allow continuous view of vehicles approaching the intersection.** Branches and foliage of trees must be removed to a height of at least 8' above the ground. Trees that overhang a street must be clear of branches and foliage to a height of at least 12' above the street.



Tree pruning over streets
and in clear vision areas



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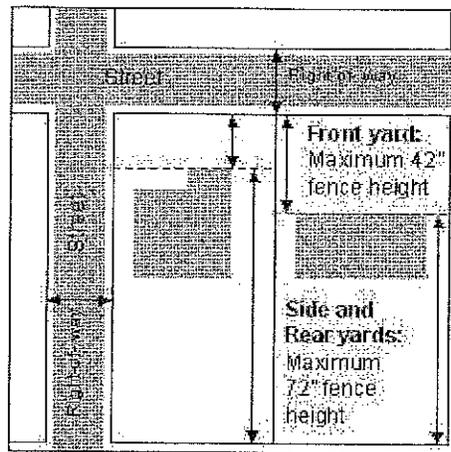
FENCE REGULATIONS

The Milwaukie Municipal Code has fence regulations to protect the residential character of neighborhoods and to ensure that fences do not pose safety hazards.

Height

Fence heights are regulated by the location of the fence on the property (see the Clear Vision Diagram and the graphic below). In residential zones, and for residential uses in all zones, fence heights are limited to the following:

- 42" in the front yard, * defined as the area between the front lot line and the nearest point of the main building.
- 72" in side and rear yards, defined as the area anywhere behind the front yard.



Maximum fence heights
allowed on residential lots

Fence heights are measured from the highest ground level within a 1' horizontal distance from the fence. **In clear vision areas, clear vision standards apply for fences over 30" above curb height or 36" above street level if no curb exists. (Fences over these heights must not obscure sight by more than 10%; e.g., chain-link.)**

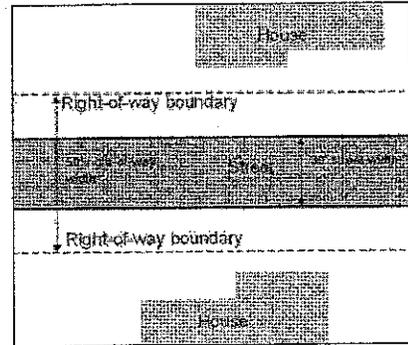
* Flag lots have different fence height standards. Please contact the Planning Department at 503-786-7630 for these regulations.

Location

Fences are not allowed to encroach upon adjoining properties or the public right-of-way. In most areas of Milwaukie, the right-of-way is wider than the width of the streets and sidewalk. The Engineering Department (503-786-7606) can assist in determining the right-of-way boundary.

Disputes about fence encroachment across property lines are a civil matter between property owners and are not mediated by the City. The City recommends placing fences at least 6" away from a known property line, identified by property pins.

Existing fence lines are not an accurate indicator of property lines. If a known property line cannot be found, the City recommends constructing a new fence well within the apparent property boundary or hiring a surveyor to locate the property line.



*Sample street and
right-of-way width diagram*

Materials

In residential zones and residential uses in all zones, no electrified, barbed, or razor-wire fencing is permitted.

This handout is a general guide and may not contain all necessary information. Please contact the Planning Department (503-786-7630) or Engineering Department (503-786-7606) if you have questions.

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Milwaukie Municipal Code[Up](#) [Previous](#) [Next](#) [Main](#) [Collapse](#) [Search](#) [Print](#) [No Frames](#)[TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES](#)**CHAPTER 12.24 CLEAR VISION AT INTERSECTIONS****12.24.010 PURPOSE**

The purpose of this chapter is to maintain clear vision areas at intersections in order to protect the safety and welfare of the public in their use of City streets. (Ord. 1679 § 1, 1990)

12.24.020 DEFINITIONS

As used in this chapter:

"Clear vision area" means that area, as computed by Section 12.24.040, which allows the public using the City streets an unobstructed view of an intersection.

"Driveway" or "accessway" means the point at which a motor vehicle gains ingress or egress to a property from a public road or highway.

"Fence" means a barrier intended to prevent escape or intrusion or to mark a boundary. A fence may consist of wood, metal, masonry, or similar materials, or a hedge or other planting arranged to form a visual or physical barrier.

"Person" means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer, or employee of any of them.

"Street" means the entire width between right-of-way lines of every way for vehicular and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations. (Ord. 1679 § 2, 1990)

12.24.030 REQUIREMENTS

A. No person shall maintain, or allow to exist on property which they own or which is in their possession or control, trees, shrubs, hedges, or other vegetation or projecting overhanging limbs thereof, which obstruct the view necessary for safe operation of motor vehicles or otherwise cause danger to the public in the use of City streets. It shall be the duty of the person who owns, possesses, or controls the property to remove or trim and keep trimmed any obstructions to the view.

B. A clear vision area shall be maintained at all driveways and accessways and on the corners of all property adjacent to an intersection as provided by Section 12.24.040.

C. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction, except for an occasional utility pole or tree, exceeding three (3) feet in height, measured from the top of the curb, or where no curb exists, from the street centerline grade. Trees exceeding this height may be located in this area; provided, all branches and foliage are removed to the height of eight (8) feet above the grade. Open wire fencing that does not obscure sight more than ten percent (10%) is allowed to a maximum height of six (6) feet. (Ord. 2004 § 1, 2009; Ord. 1679 § 3, 1990)

12.24.040 COMPUTATION

A. The clear vision area for all street intersections and all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of

Highways and Streets.” The clear vision area for all street and driveway or accessway intersections shall be that area within a twenty (20)-foot radius from where the lot line and the edge of a driveway intersect.

B. Modification of this computation may be made by the Engineering Director after considering the standards set forth in the most recent edition of the “AASHTO Policy on Geometric Design of Highways and Streets” and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area. (Ord. 2004 § 1, 2009; Ord. 1679 § 4, 1990)

12.24.050 VARIANCE

The provisions of this chapter relate to safety. They shall not be modified by variance and are not subject to appeal. (Ord. 2004 § 1, 2009; Ord. 1679 § 5, 1990)

12.24.060 ENFORCEMENT

The provisions of Chapter 1.08 shall be used to enforce this chapter. (Ord. 2004 § 1, 2009; Ord. 1679 § 6, 1990)

12.24.070 LIABILITY

The person owning, in possession of, occupying, or having control of any property within the City shall be liable to any person who is injured or otherwise suffers damage by reason of the failure to remove or trim obstructions and vegetation as required by Section 12.24.030. Furthermore, the person shall be liable to the City for any judgment or expense incurred or paid by the City, by reason of the person's failure to satisfy the obligations imposed by this chapter. (Ord. 1679 § 7, 1990)

12.24.080 VIOLATION—PENALTY

Violation of Section 12.24.030 is punishable, upon conviction, by a fine of not more than two hundred fifty dollars (\$250.00). When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation. (Ord. 1679 § 8, 1990)

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Milwaukee Municipal Code

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[TITLE 19 ZONING](#)

[CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS](#)

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19.502 ACCESSORY STRUCTURES**19.502.1 General Provisions**

- A. No accessory 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 private easements.
- B. Multiple accessory structures are permitted subject to building separation, building coverage, and minimum vegetation requirements of the zoning district in which the lot is located.
- C. An accessory structure shall comply with all of the requirements of the Uniform Building Code.
- D. Accessory structures excluding fences, flagpoles, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.
- E. Regardless of the base zone requirements in Chapter 19.300, the required side and rear yards for an accessory structure are reduced to 5 ft, except as described below.
 - 1. Accessory structures are subject to the minimum street side yard requirements of the base zones in Chapter 19.300.
 - 2. Regulations for overlay zones or special areas in Chapter 19.400 may require an accessory structure to be set back beyond the minimum side or rear yard requirements.
 - 3. If the rear or side yard requirement in the base zone in Chapter 19.300 is less than 5 ft, then the yard requirements of the base zone shall apply.
 - 4. The rear or side yard requirement for residential accessory structures per Subsection 19.502.2.A or 19.910.1.E.4 may specify a different yard requirement.
- F. Alteration or modification of nonconforming accessory structures is subject to the provisions of Chapter 19.800 Nonconforming Uses and Development.
- G. Fences, flagpoles, pergolas, arbors, and trellises are permitted in yards in all residential zones.

19.502.2 Specific Provisions for Accessory Structures

- A. The following standards apply for residential accessory structures on single-family detached, duplex, rowhouse, and cottage cluster properties. The standards in Subsection 19.502.2.A do not apply to pools, uncovered decks, and patios.

The purpose of these standards is to allow accessory structures that accommodate the typical needs of a single-family residence, while protecting the character of single-family neighborhoods.

- 1. Development Standards
 - a. Height and Footprint

The maximum height and footprint allowed for an accessory structure is determined by the yard depths between the structure and the lot lines. Accessory structures with a larger height and footprint must meet the increased yard requirements. An accessory

structure is allowed the maximum building height and footprint listed in Table 19.502.2.A.1.a only if the entire structure meets or exceeds all the yard requirements in the same column. See Figure 19.502.2.A.1.a.

Table 19.502.2.A.1.a Residential Accessory Structure Height and Footprint Standards			
Standard	Type A	Type B	Type C
Maximum building height	10'	15'	Lesser of 25' OR not taller than highest point of the primary structure (allowed at least 15' height regardless of primary structure height)
Maximum building footprint	200 sq ft	600 sq ft	Lesser of 75% of primary structure OR 1,500 sq ft (allowed at least 850 sq ft if lot area > 10,000 sq ft) On lots less than 1 acre in area, maximum is 800 sq ft if any portion of the structure is in the front yard.

Table 19.502.2.A.1.a CONTINUED Residential Accessory Structure Height and Footprint Standards			
Standard	Type A	Type B	Type C
Required rear yard	3 ft	5 ft	Base zone required rear yard
Required side yard	3 ft	5 ft	Base zone required side yard
Required front yard	Not allowed in front yard unless the structure is at least 40 ft away from the front lot line.		

Figure 19.502.2.A.1.a

Accessory Structure Height, Footprint, and Yard Requirements

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Accessory Structure Type	Distance from side / rear lot line	Structure Height	Structure Footprint
A	5'	10'	200 sq ft
B	5'	12'	400 sq ft
C	Base zone yard requirements	25' OR height of primary structure (whichever is less) 15'	Lesser of 7.5% of primary structure OR 1,500 sq ft; 20,000 sq ft lots allowed at least 650 sq ft; 400 sq ft maximum if located in front yard

If the footprint of a structure is in more than one area, the entire structure is subject to the size and height limits of the most restrictive area.

b. Other Development Standards

- (1) Maximum accessory structure footprint allowance is subject to lot coverage and minimum vegetation standards of the base zone. Multiple accessory structures are allowed on a lot, subject to lot coverage and minimum vegetation standards of the base zone.
- (2) The yard exceptions in 19.501.2 are applicable for accessory structures.
- (3) A minimum of 5 ft is required between the exterior wall of an accessory structure and any other structure on a site, excluding a fence or similar structure.
- (4) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed and meets the building code definition of a conditioned space.

2. Design Standards

- a. Metal siding is prohibited on structures more than 10 ft high or with a footprint greater than 200 sq ft, unless the siding replicates the siding on the primary dwelling or has the appearance of siding that is commonly used for residential structures.
- b. Structures located in a front, side, or street side yard that are visible from the right-of-way at a pedestrian level shall use exterior siding and roofing materials that are commonly used on residential structures.

3. Roof Pitch

There are no roof pitch requirements for an accessory structure with a height equal to or less than 10 ft. A minimum 4/12 roof pitch is required for an accessory structure with a height over 10 ft.

4. Exceptions for Large Lots

Lots larger than 1 acre in size are allowed an exception to the Type C accessory structure height limitation and footprint size limitation of 75% of the primary structure.

a. The allowed exceptions are:

- (1) The structure is allowed the base zone height limit or 25 ft, whichever is greater.

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(2) The structure is allowed a maximum footprint of 1,500 sq ft, regardless of the footprint of the primary structure.

b. The exceptions are allowed with the following limitations:

(1) The sum of accessory structure footprints that exceed 75% of the footprint of the primary structure is limited to 2,500 sq ft.

(2) The side yard requirement shall be 20 ft, regardless of the base zone.

(3) The structure must conform to all other base zone and accessory structure regulations.

✓ B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

1. Fences, walls, and plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fences, walls, and plantings shall meet clear vision standards provided in Chapter 12.24. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

a. Residential Zones and Residential Uses in All Zones

Maximum height is 6 ft for rear, street side, and side yards; 42 in for front yards, except that for flag lots fences in the front yard may be 6 ft. No electrified, barbed, or razor wire fencing is permitted. Specific standards for fences on cottage cluster developments are contained in Subsection 19.505.4.D.2.h.

b. Commercial Zones

Maximum height 6 ft. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, following a Type II review per Section 19.1005 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a 6-ft-high sight-obscuring fence.

c. Industrial Zones

Maximum height 8 ft. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, except where such fencing is proposed adjacent to residential zones or residential uses, in which case such may be allowed following a Type II review per Section 19.1005 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a sight-obscuring fence with a minimum height of 6 ft.

2. In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a 1-ft horizontal distance from the fence.

C. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to 3 ft for an uncovered patio, deck, or swimming pool not exceeding 18 in high above the average grade of the adjoining ground (finished elevation). An uncovered ramp with handrails is allowed to exceed 18 in high if it provides access from grade to the elevation of the main entrance of a residential structure.

D. A stand-alone flagpole in a residential zone is limited to 25 ft high and must be at least 5 ft from any lot line. A stand-alone flagpole in commercial or industrial zones is subject to the height

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limits of the base zone in which it is located, and it must be at least 5 ft from any lot line.

19.502.3 Sustainability-Related Accessory Structures

A. Purpose

The purpose of these regulations is to allow apparatus for the generation of renewable energy and collection of stormwater, subject to standards to ensure that these structures are appropriate for their surroundings in both design and scale.

B. Maintenance Requirement

All of the sustainability-related structures in this subsection shall be maintained to be functional and safe. The Planning Director may require the repair or removal of a structure listed in this subsection if the structure is deteriorated, malfunctioning, or is otherwise unsafe.

C. Solar Energy Systems

1. Allowance

The installation of a solar energy system is an outright permitted use in zones where commercial, industrial, and residential structures are allowed outright. Installation of solar equipment that does not meet the definition of a solar energy system shall be reviewed as a Community Service Use, per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Solar Energy Systems

a. A stand-alone solar energy system that is not wholly supported by another structure is subject to the reviews required by applicable base zones and overlay zones or special areas.

b. A solar energy system that is wholly supported by another structure shall be subject to review, or not, as described below.

(1) The installation of a solar energy system on an historic resource that is designated either "contributing" or "significant," per Section 19.403, shall follow the review procedures of that section for alteration of the resource.

(2) The installation of a solar energy system in a downtown zone shall be exempt from downtown design review, per Section 19.907.

(3) The installation of a solar energy system on a structure within the Willamette Greenway Zone, or within a designated Natural Resource, is exempt from the review requirements of that zone or special area.

(4) The installation of a solar energy system on a structure that has been designated as a Conditional Use or a Community Service Use is exempt from the reviews of Subsections 19.904.3 and 19.905.3.

(5) The installation of a solar energy system under circumstances other than those described in Subsections 19.502.3.C.2.b(1)-(4) above is exempt from any land use review.

c. A Type I development review permit may be required for installation of a solar energy system depending upon the applicability criteria in Subsection 19.906.2.A. In no case shall a Type II development review application be required for installation of a solar energy system.

3. Standards

a. A stand-alone solar energy system is subject to the development standards that apply to the site. The design standards of Subsection 19.502.2.A.2 shall not be

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construed so as to prevent installation of a stand-alone solar energy system.

b. A solar energy system that is attached to a structure is subject to the following standards.

(1) The solar energy system will not increase the lot coverage or footprint of the structure on which the system is installed.

(2) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof, except that the plane of the system is allowed a minimum slope of 35 degrees from horizontal regardless of the slope of the roof.

D. Wind Energy Systems

1. Allowance

A wind energy system is allowed outright as an accessory use in all zones. Installation of wind turbines, and related equipment that does not meet the definition of a wind energy system, shall be reviewed as a Community Service Use per Section 19.904, unless the use is allowed outright in a zone.

2. Review Process for Installation of Wind Energy Systems

The review of a freestanding or roof-mounted wind energy system is subject to the reviews required by applicable base zones and overlay zones or special areas.

3. General Standards

a. The minimum distance between the ground and any part of a rotor blade must be at least 20 ft.

b. Wind energy systems may not be illuminated, nor may they bear any signs or advertising.

c. Wind energy systems must have an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the support structure, rotor blades, and turbine components.

d. All wiring serving small wind energy systems must be underground.

e. Noise produced by wind energy systems may not exceed 45 dBA measured at the property line.

f. Wind energy systems must not cause any interference with normal radio and television reception in the surrounding area, any public safety agency or organization's radio transmissions, or any microwave communications link. The owner shall bear the costs of immediately eliminating any such interference, should any occur, or must immediately shut down the system or parts of the system causing the interference.

g. A finish (paint/surface) must be provided for the wind energy system that reduces the visibility of the facility, including the rotors. The Planning Director may specify that the support structure and rotors be brown, blue, light gray haze, or other suitable color to minimize the structure's visibility. If the support structure is unpainted, it must be of a single color throughout its height. The owner must maintain the finish, painted or unpainted, so that no discoloration is allowed to occur.

h. The rotor sweep area, as defined by the American Wind Energy Association, is 50 sq ft in residential zones and 150 sq ft in all other zones.

4. Standards for Freestanding Systems

Wind energy systems may be mounted on a tower that is detached from other structures on

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the lot.

a. Setback

A freestanding wind energy system is not allowed in a required front yard or street side yard, and it must be at least 10 ft away from any side or rear lot line. All portions of the support pole, blades, guy wires, and associated structures or equipment must meet these standards.

b. Height

The pole and turbine are subject to the base zone height limit for primary structures, except that an increase of 1 additional ft high is allowed for every 1 ft that the wind energy system is set back beyond what is required in Subsection 19.502.3.D.4.a, up to a maximum of 50% above the base zone height limit.

c. Number

A maximum of 1 freestanding small wind generator system may be allowed on a lot of 15,000 sq ft or less. 1 additional freestanding system is allowed for each 7,500 sq ft of lot area above 15,000 sq ft.

5. Standards for Roof-Mounted Systems

Wind energy systems may be mounted on the roof of a structure.

a. Setback

The roof-mounted wind energy system is subject to the minimum yard requirements of the building on which it is mounted.

b. Height

Roof-mounted systems are subject to the height limit for freestanding systems in Subsection 19.502.3.D.4.b.

c. Number

There is no maximum number of roof-mounted systems permitted.

E. Rainwater Cisterns

1. A rainwater cistern installed below ground, at grade, or above ground is a permitted accessory use for all properties.

2. A rainwater cistern that meets the standards listed below may encroach up to 3 ft into a required yard, but not be closer than 3 ft from any lot line. Rainwater cisterns that meet the standards below are not subject to any design or materials standards.

a. The rainwater cistern is not mounted more than 2 ft above grade.

b. The rainwater cistern's storage capacity is 80 gallons or less.

3. A rainwater cistern that exceeds the standards listed in Subsection 19.502.3.E.2 is allowed subject to all other applicable regulations for an accessory structure.

4. A below-ground rainwater cistern shall be located at least 3 ft away from any lot line.

(Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)

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TITLE 19 ZONINGCHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS[remove highlighting]**19.504 SITE DESIGN STANDARDS**

19.504.1 Clear Vision Areas

A clear vision area shall be maintained on the corners of all property at the intersection of 2 streets or a street and a railroad according to the provisions of the clear vision ordinance in Chapter 12.24.

19.504.2 Maintenance of Minimum Ordinance Requirements

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use.

19.504.3 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in Subsection 19.605.4.

19.504.4 Buildings on the Same Lot

- A. In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.
- B. In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.

19.504.5 Distance from Property Line

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 ft from the property line.

19.504.6 Transition Area Measures

Where commercial or industrial development is proposed adjacent to properties zoned for lower-density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower-density residential uses. The downtown zones are exempt from this subsection.

- A. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be at least as wide as the required front yard width of the adjacent lower-density zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable.
- B. All yards that abut, or are adjacent across a right-of-way from, a lower-density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to the 6-ft level to screen lower-density residential uses from direct view across the open space.

19.504.7 Minimum Vegetation

No more than 20% of the required vegetation area shall be covered in mulch or bark dust. Mulch or

bark dust under the canopy of trees or shrubs is excluded from this limit. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

19.504.8 Flag Lot Design and Development Standards

A. Applicability

Flag lots in all zones are subject to the development standards of this subsection.

B. Development Standards

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots

- a. Front and rear yard: The minimum front and rear yard requirement for flag lots is 30 ft.
- b. Side yard: The minimum side yard for principal and accessory structures in flag lots is 10 ft.

C. Variances Prohibited

Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

D. Frontage, Accessway, and Driveway Design

1. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.
2. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.
3. Driveway Design and Emergency Vehicle Access
 - a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.
 - b. Driveways serving single flag lots shall have a minimum paved width of 12 ft.
 - c. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.
 - d. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.
 - e. Driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft.
 - f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.
 - g. Design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.
 - h. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

E. Protection of Adjoining Properties

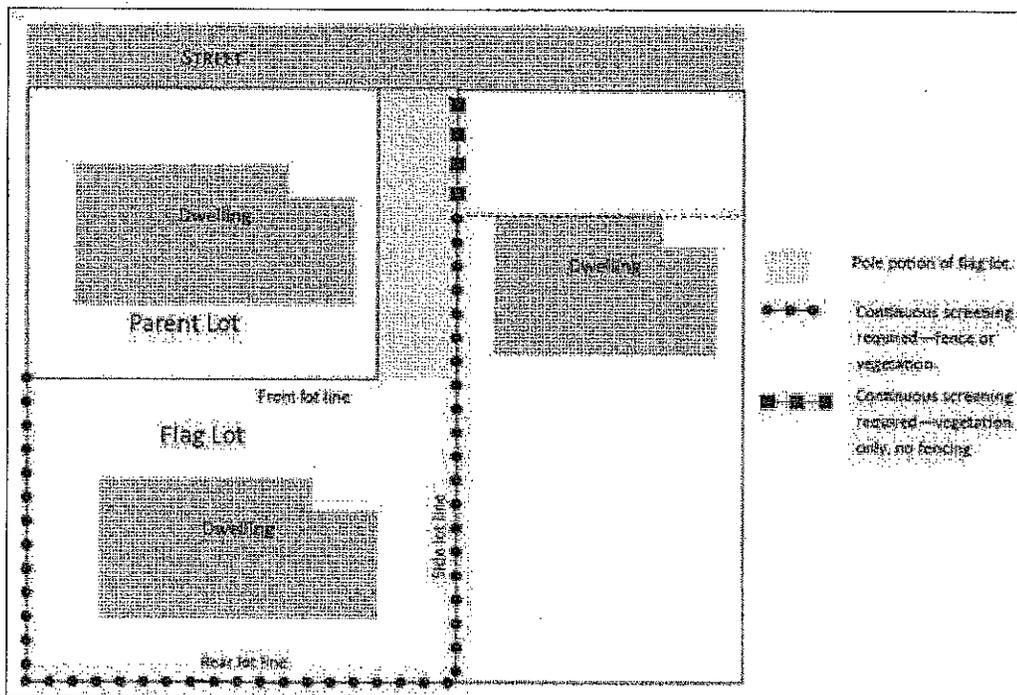
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Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the **clear vision** standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.
2. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as described below. See Figure 19.504.8.E.
 - a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.
 - b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.
 - c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

Figure 19.504.8.E

Flag Lot Screening



F. Tree Mitigation

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All trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 in caliper and evergreen trees shall be a minimum of 5 ft tall.

G. Landscaping Plan Required

A landscaping plan shall be submitted to the Planning Director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

19.504.9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single-family and multifamily residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

B. Location

A walkway into the site shall be provided for every 300 ft of street frontage.

C. Connections

Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys, and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional, or park use. The City may require connections to be constructed and extended to the property line at the time of development.

D. Routing

Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

E. Design Standards

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Walkways shall be constructed with a hard surface material, shall be permeable for stormwater, and shall be no less than 5 ft in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average 5/10-footcandle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.504.10 Setbacks Adjacent to Transit

The following requirement applies to all new commercial, office, and institutional development within 500 ft of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

When adjacent to a street served by transit, new commercial, office, or institutional development, including uses authorized under Section 19.904 Community Service Uses, shall be set back no more than 30 ft from the right-of-way that is providing transit service.

- A. An individual building may be set back more than 30 ft, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30-ft setback standard.
- B. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 ft.
- C. If the proposed building is part of an institutional campus, the Planning Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.
- D. If the site abuts more than 1 street served by transit, then the maximum setback requirement need only apply to 1 street. (Ord. 2051 § 2, 2012; Ord. 2025 § 2, 2011)

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TITLE 8 HEALTH AND SAFETY
CHAPTER 8.04 NUISANCES

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✓ **8.04.130 FENCES**

- A. No person may construct or maintain a barbed-wire fence or allow barbed wire to remain as a part of a fence along a sidewalk or public way, unless such wire is placed not less than six (6) inches above the top of a board or picket fence which is not less than seven (7) feet high.
- B. No person may install, maintain, or operate an electric fence along a street or sidewalk, or along the adjoining property line of another person. (Ord. 1028 § 12, 1964)

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[Title 8 HEALTH AND SAFETY](#)

Chapter 8.04 NUISANCES

I. General Provisions

8.04.010 Interpretation and definitions.

For the purpose of this chapter, except where the context indicates otherwise, the singular number includes the plural and the masculine gender includes the feminine, and the following mean:

- (1) "City Administrator" means the City Administrator or person authorized by the City Administrator.
- (2) "Solid waste" means all putrescible and non-putrescible wastes, as defined by ORS 459.005(24), including but not limited to garbage, rubbish, refuse, waste paper, cardboard and, grass clippings.
- (3) "Junk," as used in this chapter, includes all motor vehicles which may not be operated due to lack of legal requirements and/or are not capable of being operated or driven, motor vehicle parts, abandoned motor vehicles, machinery, machinery parts, appliances or parts thereof, scrap iron, or other metal, glass, paper, lumber, wood, or other abandoned or discarded material.
- (4) "Owner" means "to have or hold real or personal property or to have power or mastery over such property."
- (5) "Person in charge of property" means an agent, occupant, lessee, contract purchaser or person, other than the owner, having possession or control of real or personal property.
- (6) "Public place" means a building, place of accommodation, whether publicly or privately owned, open and available to the general public.

Statutory Reference: ORS 221.410.

History: Ord. 670 §1, 1964; Ord. 1387, 2007.

II. Nuisances Affecting Public Health

8.04.020 Scattering rubbish.

No owner or person in charge may throw, dump, deposit, or allow to remain upon public or private property an injurious or offensive substance or any kind of rubbish, trash, debris, or refuse or any substance which would mar the appearance, create a stench or detract from the cleanliness or safety of such property, or would be likely to injure an animal, vehicle or person traveling upon a public way.

Statutory Reference: ORS 221.410.

History: Ord. 670 §2, 1964; Ord. 1387, 2007.

8.04.030 Junk keeping.

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(1) Keeping of Junk a Nuisance. It is determined and declared that the keeping of any junk out-of-doors on any street, lot or premises within the city, or in a building that is not wholly or entirely enclosed except doors for use for ingress and egress, is a nuisance and unlawful.

(2) Keeping of Junk Without Enclosure Unlawful. No owner or person in charge of property may keep or allow to be kept any junk out-of-doors, on any street, or on any lot, or premises within the city; or, in a building that is not wholly or entirely enclosed except doors used for ingress and egress.

Statutory Reference: ORS 221.410.

History: Ord. 1035 §2, 1984; Ord. 1162 §1, 1992, Ord. 1387, 2007.

8.04.060 Prohibited and designated.

No owner or person in charge of property may permit or cause a nuisance affecting public health. The following are nuisances affecting the public health and may be abated as provided in this chapter:

(1) Privies. An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the Oregon State Board of Health regulations.

(2) Debris on Private Property. Accumulations of debris, rubbish, manure and other refuse located on private property that are not removed within a reasonable time and that affect the health, safety or welfare of the city.

(3) Stagnant Water. Stagnant water which affords a breeding place for mosquitoes and other insect pests.

(4) Water Pollution. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near such water in a manner that will cause harmful material to pollute the water.

(5) Food. Decayed or unwholesome food which is offered for human consumption.

(6) Odor. Premises which are in such a state or condition as to cause an offensive odor or which are in an unsanitary condition.

(7) Surface Drainage. Drainage of liquid wastes from private premises.

(8) Solid Waste.

(a) Solid waste not contained in a closed container stored in a manner not unreasonably offensive to surrounding neighbors.

(b) Storage of solid waste for more than 10 days from the date of deposit, except that leaves and trimmings may be stored in a manner not unreasonably offensive to surrounding neighbors.

(9) Smoke, Etc. Dense smoke, noxious fumes, gas soot or cinders in unreasonable quantities.

(10) Harborage for Rats. Accumulation of any litter, filth, garbage, decaying animal or vegetable matter, which may or does offer harborage or source of food for rats.

(11) Properties Declared "Unfit for Use". Property placed on the Oregon Health Division "unfit for use list" because it has been used for the manufacture of illegal drugs, until the property has been issued a "Certificate of Fitness" by the Oregon Health Division.

Statutory Reference: ORS 221.410.

History: Ord. 670 §6, 1964; Ord. 1387, 2007.

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III. Nuisances Affecting Public Safety

8.04.070 Abandoned ice boxes.

No owner or person in charge of property may leave in a place accessible to children an abandoned, unattended or discarded ice box, refrigerator or similar container which has an airtight door with a snap lock or lock or other mechanism which may not be released for opening from the inside, without first removing such lock or door from such ice box, refrigerator or similar container.

Statutory Reference: ORS 221.410.

History: Ord. 670 §7, 1964; Ord. 1387, 2007.

8.04.080 Attractive nuisances for playing children.

(1) No owner or person in charge of property may permit:

(a) Unguarded machinery, equipment or other devices on such property which are attractive, dangerous and accessible to children;

(b) Lumber, logs or piling placed or stored on such property in a manner so as to be attractive, dangerous and accessible to children; or

(c) An open pit, quarry, cistern or other excavation without erecting adequate safeguards or barriers to prevent such places from being used by children.

(2) This section shall not apply to authorized construction projects, if during the course of construction reasonable safeguards are maintained to prevent injury or death to playing children.

Statutory Reference: ORS 221.410.

History: Ord. 670 §8, 1964.

8.04.090 Snow and ice removal.

No owner or person in charge of property, improved or unimproved, abutting on a public sidewalk may permit:

(1) Snow to remain on the sidewalk for a period longer than the first two hours of daylight after the snow has fallen;

(2) Ice to cover or remain on a sidewalk, after the first two hours of daylight after the ice has formed. Such person shall remove ice accumulating on the sidewalk or cover the ice with sand, ashes or other suitable material to assure safe travel.

Statutory Reference: ORS 221.410.

History: Ord. 670 §9, 1964.

8.04.100 Sidewalk repair.

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(1) Owner Responsibility. It is the duty of all property owners in the city to keep the sidewalks on the streets thereof adjacent to or abutting on their respective real property in a good state of repair so as to eliminate the hazard of injuries to pedestrians using the same.

(2) Owner Liability. The owner or owners of real property in the city shall be liable to any person suffering injury by reason of any defect in the sidewalk adjacent to or abutting on the real property of the respective owner or owners.

(3) Maintenance and Repair Required. Real property owners in the city shall maintain and keep in repair all sidewalks, curbs and driveways, not to exceed one-half-inch vertical uplift or as determined by the City Administrator, along the streets and highways of the city in front of and as are adjacent to or abut on such owner's or owners' real property.

Statutory Reference: ORS 221.410.

History: Ord. 1398, 2008.

8.04.120 Certain fences.

(1) No person may construct or maintain a barbed wire fence or allow barbed wire to remain as a part of a fence along a sidewalk or public way, unless such wire is placed not less than six inches above the top of a board of picket fence which is not less than six feet high.

(2) No person may install, maintain or operate an electric fence within the city except to enclose livestock as such are defined in Section 17.06.250. In no event shall such an electric fence be located within a required yard setback area.

Statutory Reference: ORS 221.410.

History: Ord. 670 §12, 1964; Ord. 1048 §1, 1985.

8.04.130 Falling ice or snow from structures—Drainage of surface waters—Obstructing natural water course.

(1) No owner or person in charge of any building or structure may suffer or permit rain water, ice or snow to fall from such building or structure onto a street or public sidewalk or to flow across such sidewalk.

(2) The owner or person in charge of property shall install and maintain in a proper state of repair adequate drainpipes or a drainage system so that any overflow water accumulating on the roof or about such building is not carried across or upon the sidewalk.

(3) No person may construct or maintain any fence, dam or other obstruction of any kind in a natural water course such that water backed up by the obstruction would significantly affect any other property or improved public street.

Statutory Reference: ORS 221.410.

History: Ord. 670 §13, 1964; Ord. 1354, 2004.

8.04.140 Clear-vision area.

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(1) Obstructions Prohibited. On property at any corner formed by the intersection of two streets, or a street and a railroad, it is unlawful to install, set out or maintain, or to allow the installation, setting out or maintenance of any sign, fence, hedge, shrubbery, natural growth or other obstructions to the view higher than three feet above the level of the center of the adjacent intersection with that triangular area between the property line and a diagonal line joining points on the property lines at the distance from the intersection specified in this regulation. In the case of rounded comers, the triangular areas shall be between the lot lines extended in a straight line to a point of intersection and so measured, and a third side which is a line across the center of the lot joining the nonintersecting ends of the other two sides. The following measurements shall establish clear-vision areas:

Right-of-Way (in feet)	Measurement Each Lot Line (in feet)
80	20
60	30
50 or less	40

(2) Exceptions. The provisions set out in subsection (1) of this section shall not apply to:

(a) Public utility poles; trees trimmed (to the trunk) to a line at least eight feet above the level of the intersection; provided that the remaining limbs and foliage of the trees must be trimmed as to leave, at all seasons, a clear and unobstructed cross-view of the intersection; saplings, or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed cross-view of the intersection; supporting members of appurtenances to permanent buildings existing on the date when the ordinance codified in this chapter becomes effective; official warning signs or signals; places where the contour of the ground is such that there can be no cross-visibility at the intersection; or to signs mounted 10 or more feet above the ground and whose supports do not constitute an obstruction as defined in subsection (1) of this section.

(b) At corners of an intersection of a street controlled by stop signs or a traffic signal if the intersection has an unobstructed sight distance specified in a 2001 publication titled, "A Policy on Geometric Design of Highways and Streets" prepared by the American Association of State Highway and Transportation Officials (AASHTO), summarized in the table below.

Minimum Posted Speed	Intersection Sight Distance
20	225 ft.
25	280 ft.
30	335 ft.
35	390 ft.
40	445 ft.
45	500 ft.

Statutory Reference. ORS 221.410.

History: Ord. 670 § 15A, 1964; Ord. 844 § 1, 1975; amended during 1980 codification; Ord. 1359 §1, 2005.

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IV. Other Nuisances

8.04.141 Noxious vegetation.

No owner or person in charge of property may maintain or allow noxious vegetation on any property or within public rights-of-way adjacent to that property:

- (1) The term “noxious vegetation” includes:
 - (a) Weeds more than 10 inches high;
 - (b) Grass more than 10 inches high;
 - (c) Trees, bushes, roots, other natural growth, soil or solid waste that obstructs public sidewalks or roadways;
 - (d) Dead or decaying trees or tree limbs, dead bushes, stumps, and any other thing likely to cause a fire or that presents a safety hazard to the public or to abutting property owners;
 - (e) Uncontrolled or uncultivated growth of weeds, brush, berry vines, poison oak, poison ivy, tansy ragwort, or grasses which offer vector or rodent harborage, contribute noxious pollens to the atmosphere, constitute a fire hazard or unreasonably interfere with the use and enjoyment of abutting public or private property;
 - (f) Vegetation that is a health hazard;
 - (g) Trees, bushes, hedges, shrubbery, natural growth or other obstructions, weeds, grass or debris on property, or on adjoining street or public right-of-way, which interfere with street or sidewalk traffic, impair the view of a public thoroughfare, or otherwise make use of the thoroughfare hazardous. This includes trees and bushes on property and on the adjoining right-of-way which are not trimmed to a height of not less than seven and one-half feet above sidewalk level, over the street area at an elevation of not less than 11 feet above the street level and to a height of not less than 14 feet above the street level on any street designated as an arterial or one-way street, and where parking has been prohibited.

(2) The term “noxious vegetation” does not include vegetation that constitutes an agricultural crop, unless that vegetation is a fire, health or traffic hazard and is vegetation within the meaning of subsection (1) of this section. The term “noxious vegetation” does not include vegetation that is part of the natural topographic condition of city or state parks and greenway areas.

Statutory Reference: ORS 221.410.

History: Ord. 670 § 110, 1964; Ord. 1387, 2007.

8.04.143 Garage, estate and yard sales.

No owner or person in charge of property shall conduct or allow to be conducted garage, estate, yard or similar sales for more than five days in any calendar month or for more than three consecutive days in any one week; otherwise sales are regulated as second hand dealers pursuant to Chapter 5.40 of the Gladstone Municipal Code.

Statutory Reference: ORS 221.410.

History: Ord. 1378 §1, 2006.

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8.04.144 Radio and television interference.

(1) No person may operate or use an electrical, mechanical or other device apparatus, instrument or machine that causes reasonably preventable interference with radio or television reception; provided, that the radio or television receiver interfered with is of good engineering design.

(2) This section does not apply to electrical and radio devices licensed, approved and operated under the rules and regulations of the Federal Communications Commission.

Statutory Reference: ORS 221.410

History: Ord. 1035 §2, 1984.

8.04.146 Notices and advertisements.

(1) No person may affix or cause to be distributed any placard, bill, advertisement or poster upon real or personal property, public or private, without first securing permission from the owner or person in control of the property. This section shall not be construed as an amendment to or a repeal of any regulation now or hereafter adopted by the city regulating the use of and the location of signs or advertising.

(2) No person, either as principal or agent, may scatter, distribute or cause to be scattered or distributed on public or private property any placards or advertisements or other similar material.

(3) This section does not prohibit the distribution of advertising material during a parade or approved public gathering.

Statutory Reference: ORS 221.410.

History: Ord. 1035 §2, 1984.

8.04.148 Declaration of nuisance.

(1) The acts, conditions or objects specifically enumerated and defined in this chapter are declared to be public nuisances and such acts, conditions or objects may be abated by any of the procedures set forth in this chapter.

(2) In addition to those nuisances specifically enumerated within this chapter, every other thing, substance or act which is determined by the council to be injurious or detrimental to the public health, safety or welfare of the city is declared to be a nuisance and may be abated in this chapter.

Statutory Reference: ORS 221.410.

History: Ord. 1035 §2, 1984.

V. Abatement Procedure

8.04.149 Options for abatement.

The City Administrator or designee may abate nuisances through the municipal court in accordance with procedures as prescribed in Chapter 1.08 and/or as described in Sections 8.04.150 through 8.04.200 of this chapter.

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Statutory Reference: ORS 221.410.

History: Ord. 1387, 2007.

8.04.150 Notice—Posting and mailing—Contents.

(1) Upon determination by the City Administrator that a nuisance as defined in this chapter and Chapter 9.12 (cruelty to animals) or any other ordinance of the city exists, the City Administrator shall forthwith cause a notice to be posted on the premises where the nuisance exists, directing the owner or person in charge of the property to abate such nuisance.

(2) At the time of posting, the City Recorder shall cause a copy of such notice to be forwarded by registered or certified mail, postage prepaid, to the owner or person in charge of the property at the last-known address of such owner or other person.

(3) The notice to abate shall contain:

(a) A description of the real property, by street address or otherwise, on which such nuisance exists;

(b) A direction to abate the nuisance within 10 days from the date of the notice;

(c) A description of the nuisance;

(d) A statement that unless such nuisance is removed the city may abate the nuisance and the cost of abatement shall be a lien against the property; and

(e) A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the City Recorder within 10 days from the date of the notice.

(4) Upon completion of the posting and mailing, the person posting and mailing the notice shall execute and file a certificate stating the date and place of such mailing and posting.

(5) An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or other person shall not make the notice void and in such a case the posted notice shall be sufficient.

Statutory Reference: ORS 221.410.

History: Ord. 670 §18, 1964.

8.04.160 Abatement by owner.

(1) Within 10 days after the posting and mailing of the notice as provided in Section 8.04.150, the owner or person in charge of the property shall remove the nuisance or show that no nuisance exists.

(2) The owner or person in charge protesting that no nuisance exists shall file with the City Recorder a written statement which shall specify the basis for so protesting.

(3) The statement shall be referred to the council as a part of the council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the council and the council shall thereupon determine whether or not a nuisance in fact exists and such determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where a written statement has been filed as provided.

(4) If the council determines that a nuisance does in fact exist, the owner or other person shall within 10 days after such council determination abate such nuisance.

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(5) An owner or person in charge of property may not protest a determination of a public nuisance when the nuisance has been already determined by the City Council.

Statutory Reference: ORS 221.410.

History: Ord. 670 §19, 1964; Ord. 1354, 2004.

8.04.170 Abatement by city.

(1) If within the time allowed the nuisance has not been abated by the owner or person in charge of the property, the City Administrator may cause the nuisance to be abated.

(2) The officer charged with abatement of such nuisance shall have the right at reasonable times to enter into or upon property to investigate or cause the removal of a nuisance.

(3) The City Recorder shall keep an accurate record of the expense incurred by the City in abating the nuisance and shall include therein a charge of 20% of the expense for administrative overhead.

Statutory Reference: ORS 221.410.

History: Ord. 670 §20, 1964.

8.04.180 Assessment of costs.

(1) The City Recorder, by registered or certified mail, postage prepaid, shall forward to the owner or person in charge of the property a notice stating:

(a) The total cost of abatement including administrative overhead, including, but not limited to, the costs of police services incurred in city abatement of nuisances;

(b) That the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice; and

(c) That if the owner or person in charge of the property objects to the cost of the abatement as indicated, he or she may file a notice of objection with the City Recorder not more than 10 days from the date of the notice.

(2) Upon the expiration of 10 days after the date of the notice, the council in the regular course of business shall hear and determine the objections to the costs to be assessed.

(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as stated or as determined by the council shall be made by the City Administrator and shall thereupon entered in the docket of city liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was removed or abated.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of eight percent per year. Such interest shall commence to run from the date of the entry of the lien in the lien docket.

(5) An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property.

Statutory Reference: ORS 221.410.

History: Ord. 670 §21, 1964; Ord. 872 §1, 1976; Ord. 1435 §1, 2011.

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8.04.190 Not exclusive.

The procedure provided by this chapter is not exclusive but is in addition to procedure provided by other ordinances and the health officer, the chief of the fire department and chief of police may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property.

Statutory Reference: ORS 221.410.

History: Ord. 670 §22, 1964.

VI. Penalty

8.04.200 Violation—Penalty.

Violation of any provision of this chapter shall be a Class “A” infraction.

(1) Each day’s violation of a provision of this chapter constitutes a separate offense.

(2) The abatement of a nuisance is not a penalty for violating this chapter, but is an additional remedy.

The imposition of a penalty does not relieve a person of the duty to abate a nuisance.

Statutory Reference: ORS 221.410.

History: Ord. 670 §§23, 24, 1964; Ord. 1035 §3, 1984.

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[Title 8 HEALTH AND SAFETY](#)

Chapter 8.12 NOISE CONTROL

8.12.010 Declaration of purpose.

The City Council has determined that excessive sound is a serious hazard to the public health, welfare and the quality of life and it shall be the policy of the city to prevent excessive sound which may jeopardize the health, welfare and safety of citizens or degrade the quality of life.

Statutory Reference: ORS 467.100

History: Ord. 1023 §2 (part), 1983.

8.12.020 Scope.

This chapter shall apply to the regulation of all sounds originating within the city limits.

Statutory Reference: ORS 467.100

History: Ord. 1023 §2 (part), 1983.

8.12.030 Standards and definitions.

(1) Terminology and Standards. All terminology used in this chapter that is not defined below shall be in accordance with the American National Standards Institute (ANSI.)

(2) Measurement of Sound Level:

(a) Measurements shall be made with a calibrated sound level meter in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971(R1976) or S1.4-1983, "Specifications for Sound Level Meters". For purposes of this chapter, a sound level meter shall contain at least an "A" weighting network, and both fast and slow meter response capability;

(b) Persons conducting sound level measurements shall have received training in the techniques of sound measurement and the operation of sound measuring instruments prior to engaging in any enforcement activity;

(c) Procedures and tests required by this chapter and not specified herein shall be placed on file with the City Recorder.

(3) Definitions:

(a) "Amplifying equipment" means public address systems, musical instruments and other similar devices which are electronically amplified.

(b) "City" means the City of Gladstone, Oregon, or the area within the territorial city limits of the City of Gladstone, Oregon, and such territory outside of this city over which the city has jurisdiction or control by virtue of ownership, or any Constitutional or charter provision, or any law.

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(c) "Commercial land use" includes land uses zoned C-1, C-2 and C-3 or any use of an office, service establishment, retail store, park, amusement or recreation facility, or other use of the same general type, whether publicly or privately owned.

(d) "Construction" means any and all activity necessary or incidental to the erection, demolition, assembling, altering, installing, repair or equipping of buildings, roadways and utilities. It shall include land clearing, grading, excavating and filling before, during or following such activity.

(e) "Continuous sound" means any steady sound with a deviation no greater than plus or minus 2 dBA of its mean, or total fluctuation of 4 dBA, during the period of observation when measured with a sound level meter set on fast response.

(f) "Daytime period" means seven a.m. until ten p.m. of the same day, local time.

(g) "Domestic power tools" means any mechanically powered saw, drill, sander, grinder, lawn or garden tool, or similar device generally used out of doors in residential areas.

(h) "Emergency work" means work made necessary to restore property to a safe condition following severe-inclement weather and natural disasters, work required to restore public utilities or work required to protect persons or property from imminent exposure to danger.

(i) "Industrial land use" includes land use zoned LI or any use of a warehouse, factory, mine, wholesale trade establishment, or other use of the same general type, whether publicly or privately owned.

(j) "Nighttime period" means ten p.m. of one day until seven a.m. the following day, local time.

(k) "Noise sensitive land use" includes property on which residential housing, apartment buildings, schools, churches, hospitals, and nursing homes are located.

(l) "Off-road recreational vehicle" means any self-propelled land vehicle designed for, or capable of traversing over natural terrain, including, but not limited to, racing vehicles, mini-bikes, motorcycles, go-karts, and dune buggies, when operated off the public right-of-way for noncommercial purposes.

(m) "Persons" means a person, persons, firm, association, copartnership, joint venture, corporation or any entity public or private in nature.

(n) "Plainly audible" means unambiguously communicated sounds which disturb the comfort, repose or health of the listener. Plainly audible sounds include, but are not limited to, understandable musical rhythms, understandable spoken words, and vocal sounds other than speech which are distinguishable as raised or normal.

(o) "Powered model vehicle" means any self-propelled airborne, waterborne or land-borne plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

(p) "Recreational park" means a facility open to the public for the operation of off-road recreational vehicles.

(q) "Warning devices" means electronic devices used to protect persons or property from imminent danger, including, but not limited to, fire alarms, civil defense warning systems, and safety alarms required by law.

Statutory Reference: ORS 467.100

History: Ord. 1023 §2 (part), 1983.) Ord. 1400, 2008.

8.12.040 Responsibility and authority.

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(1) Responsibility. The responsibility for enforcement of this chapter shall reside with the City Administrator or his designee.

(2) Authority. In order to implement this chapter and for the general purpose of sound abatement and control, the City Administrator or his designee shall have, in addition to any other authority vested with him, the following powers:

(a) Planning. Implement a noise control strategy in consonance with the city's zoning ordinance and comprehensive plan to assure public and private enterprises do not adversely impact existing noise sensitive properties and properties designated for noise sensitive use and to prevent the encroachment of noise sensitive uses into high impact areas such as industrial zones and immediately adjacent to major highways or arterials which are incompatible for such uses by virtue of existing or projected noise impacts;

(b) Inspections. Upon presentation of proper credentials, enter and inspect any private property or place, and inspect any report or record at any reasonable time when granted permission by the owner, or by some other person with apparent authority to act for the owner. Such inspection may include administration of

(c) Issue Summons. Issue summons, notices of violation or other legal orders to any person in alleged violation of any provision of this chapter;

(d) Investigate Violations. In accordance with all other provisions of this chapter, investigate and document violations and take necessary actions preparatory to enforcement;

(e) Amendments and Modifications. Develop and recommend amendments and modifications to this chapter so as to maintain or enhance the effectiveness of the noise control program;

(f) Education. Develop programs for public education regarding the requirements and remedies available through the noise control ordinance.

Statutory Reference: ORS 467.100

History: Ord. 1023 §2 (part), 1983.

8.12.050 Prohibited acts.

(1) No person shall knowingly continue, cause or permit to be made or continue to make any excessive or unnecessary sounds which are listed in Subsection (2) of this Section or GMC Section 8.12.060.

(2) The following acts are declared to create excessive and unnecessary sounds in violation of this chapter without regard to the maximum sound levels of GMC Section 8.12.060:

(a) Radios, Phonographs, Tapeplayers, Television Sets, Stereo Systems. The playing, using or operating of any radio, tape player, television set or stereo system, including those installed in a vehicle, in such a manner so as to be plainly audible at any time between ten p.m. and seven a.m. the following day, local time:

(A) within a noise sensitive unit which is not the source of the sound, or

(B) at a distance of one hundred feet or more from the source of the sound.

(b) Amplified sounds, external speakers, paging systems. Sounds produced by sound amplification equipment, specifically including but not limited to external speaker and paging systems, in such a manner so as to be plainly audible at any time between seven p.m. and seven a.m. the following day, local time:

(A) within a noise sensitive unit which is not the source of the sound, or

(B) at a distance of one hundred feet or more from the source of the sound.

(c) Revvng engines. Operating any motor vehicle engine above idling speed off the public right-of-way so as to create excessive or unnecessary sounds within a noise sensitive area;

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(d) Compression braking devices. Using compression brakes, commonly referred to as jake brakes, on any motor vehicle except fire engines, causing noise in violation of federal Interstate Motor Carrier Operations Standards (see 43 U.S.C. 4917(c) and 40 C.F.R. 202.20), and except to avoid imminent danger to persons or property.

(e) Exhausts. Discharging into the open air the exhaust of any steam engine, internal combustion engine, or any mechanical device operated by compressed air or steam without a muffler, or with a sound control device less effective than that provided on the original engine or mechanical device;

(f) Idling engines on motor vehicles. Idling more than fifteen (15) consecutive minutes between the hours of ten p.m. and seven a.m. the following day, local time, any motor vehicle with a Gross Vehicle Weight Rating (GVWR) of eight thousand pounds (8,000lbs) or greater which exceeds 50 dBA on the nearest occupied noise sensitive property;

(g) Vehicle tires. Squealing tires by excessive speed or acceleration on or off public right-of-way except when necessary to avoid imminent danger to persons or property;

(h) Motorcycles, go-karts, dune buggies. Operating motorcycles, go-karts, dune buggies and other off-road recreational vehicles off the public right-of-way on property not designated as a recreational park;

(i) Motorboats. Operating or permitting the operation of any motorboat within the city's jurisdictional boundaries in such manner as to exceed 84 dBA at fifty feet (50') or more;

(j) Powered model vehicles. Operating or permitting the operation of powered model vehicles, with the exception of gliders, aircraft and ground vehicles propelled by electric motors, in areas not designated by the City Administrator or City Council for such use;

(k) Explosives. The discharge of fireworks and other explosive devices;

(l) Tampering. The removal or rendering inoperative for purposes other than maintenance, repair or replacement, of any noise control device;

(m) Animals. Owning, possessing or harboring any bird or other animal, for reasons other than being provoked by a person trespassing or threatening to trespass, which barks, bays, cries, howls or makes any other noise continuously for a period of ten (10) minutes or more;

(n) Steam whistles. Blowing any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work;

(o) Horns. The sounding of a horn or signaling device on a vehicle on a street, or public or private place, except as a necessary warning of danger;

(p) Compressed air devices. The use of a mechanical device operated by compressed air, steam or otherwise, unless the noise thereby created is effectively muffled.

(3) No person shall operate a motor vehicle on a public right-of-way unless it meets the noise emission standards promulgated by Oregon Revised Statute 483.449 and Oregon Administrative Rule 340-35-030 (l)(a) and (c), which are adopted by reference. Copies of ORS 483.449 and (OAR 340-35-030) are on file in the office of the City Administrator.

(4) The Municipal Court in its discretion may dismiss a citation issued under this subsection pursuant to the presentation to the clerk of the court, one day prior to the scheduled arraignment date, a certificate of compliance issued by the Department of Environment Quality.

Statutory Reference: ORS 467.100

History: Ord. 1023 §2 (part), 1983; Ord. 1139 §1, 1990; Ord. 1241 §1, 1997, Ord. 1400, 2008; Ord. 1423, 2009.

[Ed. Note: The publication(s) referred to or incorporated by reference in this ordinance are available from the office of the City Recorder.]

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8.12.060 Maximum permissible sound levels.

(1) No person shall cause or permit sound(s) to intrude onto the property of another person which exceeds the maximum permissible sound levels set forth below in this section.

(2) The sound limitations established herein, as measured at or within the property boundary of the receiving land use, are as set forth in Table I after any applicable adjustments provided for herein are applied. When the sound limitations are exceeded, it shall constitute excessive and unnecessary sound(s) and shall be violations in their own right as well as being prima facie evidence of noise.

(3) This section is violated if any of the following occur:

(a) Any continuous sound that exceeds Table I for a cumulative total of greater than one minute in any five-minute period; or

(b) Any sound that exceeds Table I by 5 dBA for any point in time.

TABLE I**TABLE OF ALLOWABLE SOUND LEVELS IN ANY TEN-MINUTE PERIOD (in dBA)**

Type of Source by Use	Type of Received by Use					
	Noise Sensitive		Commercial		Industrial	
	Day	Night	Day	Night	Day	Night
Noise Sensitive	55	45		—		—
Commercial	55	50	70	65		—
Industrial	55	50	70	65	75	70

Statutory Reference: ORS 467.100

History: Ord. 1023 §2 (part), 1983, Ord. 1400, 2008.

8.12.070 Exceptions and variances.

(1) Exceptions. The following sounds are exempted from provisions of this chapter:

(a) Sounds caused by the performance of emergency work, vehicles and/or equipment;

(b) Aircraft operations in compliance with applicable federal laws or regulations;

(c) Railroad activities as defined in Subpart A, Part 201 of Title 40, CFR of the Environmental Protection Agency's railroad emission standards, incorporated herein by reference;

(d) Sounds produced by sound amplifying equipment at activities sponsored by Gladstone School District No. 115 between seven a.m. and twelve midnight, local time;

(e) Sounds created by the tires or motor to propel or retard any vehicle on the public right-of-way in compliance with ORS 483.449 and OAR 340-35-030, incorporated herein by reference;

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(f) Notwithstanding GMC Section 8.12.070(5), sounds created by refuse pickup operations during the period of four a.m. to ten p.m., local time;

(g) Sounds created by domestic power tools during the period of seven a.m. to ten p.m., local time, provided sound dissipating devices on tools so equipped, are maintained in good repair;

(h) Sounds made by warning devices operating continuously for three minutes or less;

(i) Idling motor vehicles with a Gross Vehicle Weight Rating (GVWR) of eight thousand pounds (8,000 lbs) or greater between the hours of seven a.m. to ten p.m., local time, provided they are equipped with an exhaust system which is in good working order and in constant operation;

(j) Construction activities during the period of seven a.m. to six p.m., local time, provided equipment is maintained in good repair and equipped with sound dissipating devices in good working order.

(k) Construction activities during the period 6:00 p.m. to 7:00 a.m. on rights of way owned by the Oregon Department of Transportation provided typical measures for work in urban areas are used to mitigate noise, including notification of affected property owners and the city.

(l) Sounds produced by stage entertainment and music performance between ten a.m. and twelve thirty a.m., local time, as part of the annual Chautauqua Festival.

(2) Variances. Any person who owns, controls or operates any sound source which violates any of the provisions of this chapter may apply to the City Council for a variance from such provisions. Any person who is planning a noise source which is expected to violate any provision of this chapter may apply to the City Council for a variance from such provision. Any person granted a variance under this chapter may apply for renewal of that variance upon its expiration. Such renewal application shall be processed just as if it was an initial application.

(a) Application. The application shall state the provision from which a variance is being sought, the period of time the variance is to apply, the reason for which the variance is sought and any other supporting information which the City Council may reasonably require.

(b) Review Standards. In establishing exceptions or granting variances, the City Council shall consider:

(A) The protection of health, safety and welfare of citizens as well as the feasibility and cost of noise abatement;

(B) The past, present and future patterns of land use;

(C) The relative timing of land use changes;

(D) The acoustical nature of the sound emitted;

(E) Whether compliance with the provision would produce a benefit to the public.

(c) Time Duration of Variance. Any variance shall be granted for a specific time interval, not to exceed one (1) year.

(d) Public Notification and Public Hearing:

(A) Public notice shall be given in the manner provided for by city ordinance for all variance applications;

(B) A Public hearing shall be held before the granting of a variance if such hearing is requested by any affected party.

(e) Conditions for Granting:

(A) The City Council may grant specific variances from the particular requirements of any rule, regulation or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance

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with such rule, regulations or order is inappropriate because of conditions beyond the control of the persons requesting such variance or because of special circumstances which would render strict compliance unreasonable or impractical due to special physical conditions or cause, or because strict compliance would result in substantial curtailment or closing down of a business, plant or operation, or because no other alternative facility or method of handling is yet available.

(B) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the city for consideration by the City Council and shall state in a concise manner the facts to show cause why such variance should not be granted.

(C) Revocation or Modification. A variance granted may be revoked or modified by the City Council after a public hearing held upon not less than twenty (20) days notice. Such notice shall be served upon the holder of the variance by certified mail and all persons who have filed with the City Council a written request for such notification.

(f) Emergency and Safety Hazard. In the case of an emergency or safety hazard, the City Administrator or his designee, may revoke a variance by setting forth the nature of the emergency or hazard in a letter mailed to the holder of the variance. A public hearing before the City Council shall be held at the next regularly scheduled City Council meeting following the revocation to reverse, affirm or modify the revocation action.

Statutory Reference: ORS 467.100

History: Ord. 1023 §2 (part), 1983; Ord. 1330, 2002; Ord. 1335, (part), 2002.

[Ed. Note: The publication(s) referred to or incorporated by reference in this ordinance are available from the office of the City Recorder.]

8.12.080 Chapter additional to other law.

The provisions of this chapter shall be cumulative and nonexclusive and shall not affect any other claim, cause of action or remedy; nor, unless specifically provided, shall it be deemed to repeal, amend or modify any law, ordinance or regulation relating to noise or sound, but shall be deemed additional to existing legislation and common law on such subject.

Statutory Reference: ORS 467.100

History: Ord. 1023 §2, 1983.

8.12.090 Penalties.

(1) A violation of any provision of this chapter is a Class "A" infraction as specified in GMC 1.08.010 through 1.08.100.

(2) Each and every day during which any provision of this chapter is violated shall constitute a separate offense.

(3) The City Council, acting in the name of the city, may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of this chapter as additional remedy.

Statutory Reference: ORS 467.100

History: Ord. 1023 §2, 1983; Ord. 1344, 2004.

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GLADSTONE CODE REVIEW
Suggested Changes Per February 18, 2014 Planning Commission Meeting

I Code Analysis Ordinance Review January 2012

- After review, this is mostly housekeeping and we should recommend our codes be updated per the suggestions listed in this document.

RECOMMENDATION: It is recommended by the Gladstone Planning Commission for the city to update the cities current Codes and Ordinances to reflect the changes listed on the Code Analysis Ordinance Review completed January of 2012 by Mr. Dan R. Olsen except for the area's we have pulled out for further discussion (noted by the hatched frame). See Attachment A.

II Review Completed Approximately a Year Ago

-The city hired a firm approximately a year ago to review our codes to see if there were any issues stopping development. We should look at their suggestions to see what barriers there are for encouraging development in our commercial zones.

RECOMMENDATION: Upon review by the Gladstone Planning Commission, we felt the report submitted by Winterbrook Planning does not give us direction on what can be done to inspire commercial growth, but instead states there is nothing prohibiting this growth. It is our intent to reach out to the local MABA (McLoughlin Area Business Alliance), MAP (McLoughlin Area Plan), Clackamas County and ODOT to learn of their plans for the McLoughlin Corridor and see how we can participate in their process. Clay Glasgow will make the contacts for us and will ask if someone can come and make a presentation at a special meeting convened for this purpose.

III Title 2 Administration & Personnel

Specifically Chapter 2.28 Planning Commission

RECOMMENDATION: Upon review we felt that most of this section was appropriate and would not need to be changed. However, there were two items we discussed in depth:

1. 2.28.040 Vacancies and Removal—Section (2)

RECOMMENDATION: We would like the wording changed from:

“(2) A member who is absent from two consecutive meetings without an excuse approved by the Planning Commission is rebuttably presumed to be in nonperformance of duty and the City Council shall declare the position vacant unless extenuating circumstances are determined at the hearing.”

To:

“(2) A member who is absent from two consecutive meetings will be considered to be in nonperformance and will be referred to the City Council for further action.”

2. 2.28.090 Meetings—Section (1)

RECOMMENDATION: We discussed in depth the second sentence “The commission *shall meet* at least once a month.” We felt the wording made it easy for meetings to be canceled. We have every intention of meeting monthly, and not just on dates where applications are to be considered. We feel there are always planning items to discuss, as it being done with this code review, and would like to take a proactive approach to our duties instead of simply reactive.

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GLADSTONE CODE REVIEW
Suggested Changes Per February 18, 2014 Planning Commission Meeting
Continued

I
III Title 2 Administration & Personnel
Specifically Chapter 2.28 Planning Commission

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“(2) A member who is absent from two consecutive meetings will be considered to be in non-performance and will be referred to the City Council for further action.”
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3. 2.48 Historic Preservation Policy - 2.48.020 Historic Review Board—Creation
RECOMMENDATION: The Gladstone Planning Commission recommends formally creating a Historic Review Board due to potential future historically significant improvements (i.e. Trolley Bridge, Portland Ave. Redevelopment). During this discussion we discovered the city is required to complete a historic property survey which has yet to be done. We recommend this process be started as soon as possible.

NEXT STEPS:

The next scheduled Code and Ordinance Review work session will cover the following items:

- IV Title 17 Zoning & Development**
Division 4 Section 17.54 Clear Vision Codes
-Since this was a specific area directed from the City Council for improvement, we should start with Division 4 Section 17.54.
- V Title 8 Health & Safety**
Section 8.04 Nuisances
-This topic took up most of the work session, so I feel we should start by looking at this section for clarification and application.

Section 8.12 Noise Control

ATTACHMENT A

- 1 High Priority
- 2 mid-level priority
- 3 Low Priority

**CODE ANALYSIS
ORDINANCE REVIEW
FOR THE
CITY
OF
GLADSTONE, OREGON**

January 2012

Introduction

This Code Analysis and Ordinance Review has been prepared by Dan R. Olsen, Attorney at Law, and published by Quality Code Publishing Company. The Gladstone Municipal Code is abbreviated as "GMC" throughout this report.

All titles, chapters, and sections in this report refer to provisions of the Gladstone Municipal Code. If a title is not listed, although thoroughly reviewed, the preparer found no issues of note warranting comment.

Chapter 1.08 General Penalty

Note that the ORS now uses the term "violation" rather than "infraction". This probably is not a problem as 1.08.020 (1) defines "city infraction" as a violation.

3 Note that ORS 153.110 through 120 and 153.150 through 310, cited as part of the authority for this Code chapter, were repealed by 1999 Oregon laws 1051. The provisions relating to violations were substantially rewritten. Although no clear inconsistencies are noted, it is recommended that the city review the new provisions to determine whether any amendments are necessary or desired.

2 2011 Oregon laws Chapter 597 (HB 2712) substantially revised the fines and distribution of fines for violations. It adds a "presumptive fine". Section 111 states that the new amounts and presumptive fines are not mandated for cities; but the city may wish to review these provisions and make such changes as it deems appropriate. The statute continues to provide that the city may not exceed the statutory maximum fines. The bill also labels some city code violations as misdemeanors and converts some statutory fine provisions to violation categories. See, for example, Sections 198 and 248. It adopts administrative provisions and deadlines for fund transfers to the state from municipal court. See, generally, Section 50. A comprehensive review of whether any city code violation fine amounts impermissibly exceed these revisions is beyond the scope of this review. At a minimum, it is likely that the municipal court will have to modify its practices to conform to various provisions of this bill. (MUST CT)

3 §1.08.080
Note that 1999 Oregon Laws Chapter 788, as further revised by 2001 Oregon Laws Chapter 249 and 2003 Oregon Laws Chapter 576 substantially revised the provisions relating to enforcement of judgments, including those in municipal court. Although the GMC does not contain detailed provisions relating to such enforcement, it is suggested that these new provisions be reviewed for any code changes or additions, or revisions to current practices.

Chapter 2.16 Trial by Jury

/ §2.16.010
The statutory authority reference now should be ORS 221.354.

/ §2.16.040
ORS 10.040 was repealed and replaced with ORS 10.050.

/ §2.16.080
The statutory authority reference now should be ORS 221.354.

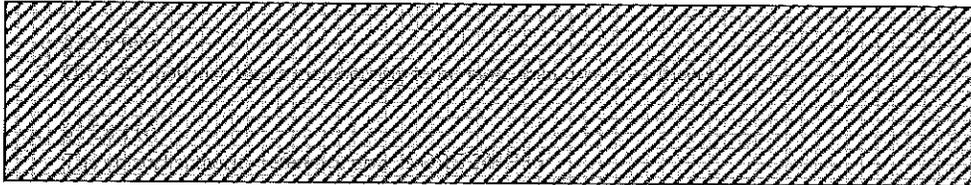
/ §2.16.090
The statutory authority reference now should be ORS 10.061. The only significant change is that jurors are to get \$25.00 for each day over two.

/ §2.16.095
ORS 136.603 now requires witness fees only for those who are indigent or from out of state.

/ §2.16.100
ORS 10.660, cited as authority for this provision has been repealed. ORS 221.349 was renumbered ORS 221.354.

The City should consider a reference to the mandatory state assessments, ORS 137.290 through .309, similar to that found in GMC §1.08.090.

Chapter 2.28 Planning Commission



Chapter 2.35 Personnel System

(w/ HB Changes)

/ §2.36.030
ORS 659A.030 added sexual orientation and those who have had a juvenile record expunged to those protected against discrimination.

/ §2.36.050(2)(b) references "confidential personnel files" in relation to criminal background checks. Oregon law does not provide a general exemption from disclosure for personnel files. Rather, it is an issue of whether release would constitute an unreasonable invasion of privacy. The reference to confidential personnel files may give rise to an unfounded expectation of confidentiality and should be considered for revision. See, generally, ORS 192.502.

Chapter 2.40 Unclaimed Property

w §2.40.010
There is a typo in the authority listed; it should be ORS 98.302 through 98.436.

Chapter 2.48 Historic Preservation Policy

- Q The policy should be revised to reflect ORS 197.772 which now prohibits designating a property for historic preservation without the property owner's consent and permits an owner to withdraw prior consent.

Chapter 2.52 Liquor License Review

- Q The correct statutory authority reference now is ORS 471.155-.166.

§2.52.050

The cross-reference in subsection (2)(b) should be to Section 2.52.090.

Chapter 2.58 Measure 37 Claims Procedure

- ✓ Measure 37 and the implementing statutes were repealed and replaced by Measure 49. See ORS 195.300 to 195.336 (2010 ORS Law Chapter 8.) Also see 2011 Oregon Laws Ch. 612.

Chapter 3.12 Special Assessments

§3.12.050

- ✓ Subsection (1) provides for abandonment or delay if remonstrances are received from owners representing two-thirds of the area to be assessed. This appears to be inconsistent with Charter Chapter IX, Section 38, which provides for suspension if remonstrances are received from three-fifths of the owners.

§3.12.070

- ✓ Subsection (1) provides for assessment prior to completion of the improvements. This may subject the assessment to classification as a property tax pursuant to Oregon Constitution Article XI, Section 11(6) (Ballot Measure 5). ORS 310.040(12) purports to define a single assessment as both a pre and post construction assessment to avoid Ballot Measure 5, but some question whether that is permissible.

§3.12.190

The correct reference to the Bancroft Bonding Act is ORS 223.205 and 223.210 to 223.295.

Chapter 5.04 Business Licenses Generally

§5.04.025

ORS 701.055 was renumbered to ORS 701.026. The relevant definitions now are at ORS 701.005 and refer to a "residential contractor" rather than a "residential builder."

✓ ORS 701.013-.020 has added to the list of contractors exempt from city licensure if licensed by Metro unless the contractor has a principal place of business in the city or derives \$250,000 or more in gross receipts from within the city. Other exemptions apply.

✓ See also ORS 671.750-.755, containing similar exemptions for landscape contractors and ORS 696.365 prohibiting a business license on certain real estate agents.

Chapter 5.06 Adult Businesses

/ The Oregon Supreme Court has ruled essentially that adult businesses may not be regulated differently from other businesses. See, *City of Nyssa v. Duffloth*, 121 P.3d 639, 339 Oregon. 330 (2005) and *State v. Ciancanelli*, 121 P.3d 613, 339 Oregon. 282 (2005). This chapter should be considered for repeal or substantial revision.

Chapter 5.12 Bingo

2 §5.12.010(4)
ORS 167.117, relating to bingo, now references the Internal Revenue Code of 1986, as amended.

2 ORS 464.420 permits a city to ban bingo, but if it does not, such games shall be regulated only as provided under state law. The city should review whether this preempts the regulations in this chapter.

2 Note that the Department of Justice now regulates bingo, and a license from the DOJ is required. ORS 464.250.

Chapter 5.16 Cable Television Franchise Application

2 The Cable Communications Policy Act of 1984, as amended, substantially impacted the scope of regulatory authority of local governments. This is a very complex, specialized area and an analysis for conformance is beyond the scope of this review. The city should consider whether an update is needed.

Chapter 5.32 Transient Merchants

As noted previously, the Oregon Supreme Court has held that Article I, Section 8 of the Oregon Constitution essentially prohibits any content based regulation of speech. It has declined to permit more regulation of commercial speech than other speech, as would be permitted under the U.S. Constitution. No cases directly on point could be found, but the city attorney should consider whether these regulations are improperly content based. See generally, *City of Eugene v. Miller*, 871 P.2d 454, 318 Oregon. 480 (1994); *Hillsboro v Purcell*, 306 Oregon 547, 761 P.2d 510 (1988).

Chapter 5.44 Erotic Dance Studios

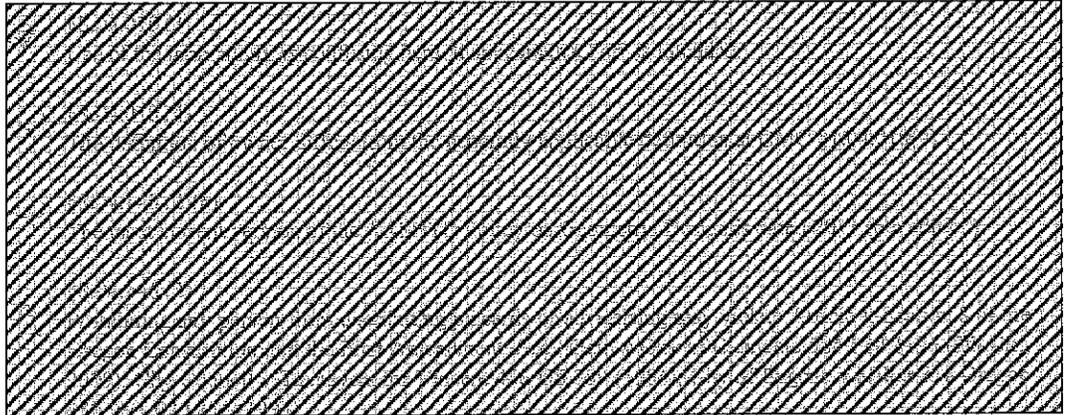
The discussion under Chapter 5.06, Adult Businesses, applies here as well.

Chapter 6.04 Dogs

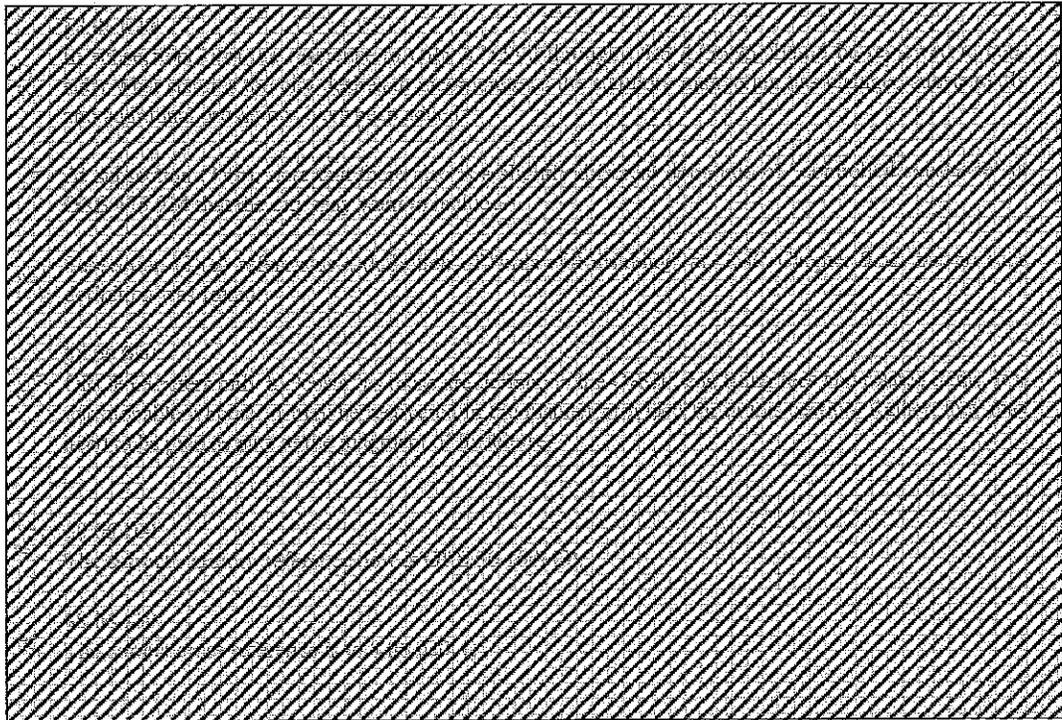
3 ORS 609.010, cited as part of the authority for this chapter, was repealed. No substantive impact is apparent.

5
1-2
See other places

Chapter 8.04 Nuisances

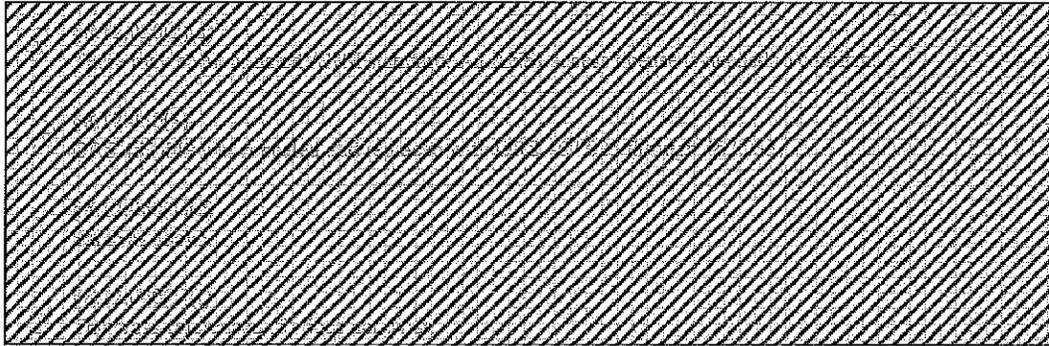


Chapter 8.06 Chronic Nuisance Property



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Chapter 8.12 Noise Control



Title 9

Note regarding Title 9, relating to criminal procedure and offenses: In *City of Portland v. Dollarhide*, 714 P.2d 220, 300 Oregon. 490 (1986), the Court held that, "in determining whether the defining and prohibiting provisions of a city criminal ordinance conflict with a state criminal statute, the test is whether the ordinance prohibits an act which the statute permits, or permits an act which the statute prohibits." Similarly, the penalty provided by a city ordinance may be "lighter" than provided by state law but not greater.

In some cases, the conflict is evident. In others it depends on the facts or on the legislative history of the statute at issue. Cf. *City of Portland v. Jackson*, 850 P.2d 1093, 316 Oregon. 143 (1993) (Indecent exposure ordinance upheld.); *City of Portland v. Lodi*, 308 Oregon. 468, 474, 782 P.2d 415 (1989) (Ordinance regarding carrying a knife held preempted.) Accordingly, a comprehensive analysis of whether a portion of the GMC impermissibly conflicts with state law is beyond the scope of this review. It is recommended that the city review changes in state law for potential conflicts and amend code provisions if necessary.

Also see the discussion of 2011 Oregon Laws Ch. 597 (HB 2712) under Chapter 108 above, as it substantially revised statutory fines and revised some statutory violation classifications.

Chapter 9.08 Alcoholic Beverages

General Note: The statutes governing liquor have been revised significantly since the adoption of this Chapter. See e.g. 1995 Oregon laws Ch. 301, 2010 Oregon Laws Ch. 33. It is recommended that the city conduct a thorough review and comparison. Following are some of the more significant changes.
§9.08.010(1)
The statutory definition now includes solids. ORS 471.001(1).

§9.08.010(3)
"Hard liquor" is not defined or referenced in state law.

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P §9.08.010(8)

Chapter 472 was repealed. Although it is still referenced at places in the ORS, there no longer is an "Oregon Distilled Liquor Control Act", demarcated as such.

P §9.08.020

ORS 471.410 contains several new exceptions to the prohibitions and restrictions on providing alcohol to minors. This likely raises a Dollarhide issue.

P §9.08.707

State law has expanded the opportunities for minors to be permitted on premises serving alcohol. See, for example, OAR 845-006-0335-0340.

P §9.08.110

The correct authority citation appears to be ORS 471.360 through .390 and 471.403 through .406.

P §9.08.150

There is a typo in the authority; it should be ORS 471.385.

Chapter 9.12 Cruelty to Animals

P §9.12.090

Several new provisions regarding securing and forfeiting animals have been added to state law. ORS 167.347-350.

Chapter 9.20 Disorderly Conduct

P §9.20.010

ORS 166.023-.025 now establish disorderly conduct in the first and second degree. Further, they require "intent to cause public inconvenience, annoyance or alarm, or knowingly creating a risk thereof". They do not include the acts set forth in subsection (8) or (9).

P §9.20.020

State law does not expressly address "rude, indecent, vulgar or profane words." It is likely that criminalizing such speech in this manner is unconstitutional under the Article I, Section 8 analysis discussed above.

Chapter 9.25 Graffiti

P Note that ORS 164.388 expressly provides that state statutes regarding graffiti do not preempt local ordinances, so there should be no Dollarhide issue

P §9.25.040

2009 Oregon Laws Chapter 15 repealed the requirement that certain community service be under the supervision of community corrections.

Chapter 9.28 Criminal Mischief

§9.28.020

ORS 164.354 defines criminal mischief in the second degree as involving an amount exceeding \$500. This may be a Dollarhide issue.

Chapter 9.32 Offenses Against Government

§9.32.070

ORS 162.255 has been amended to exempt the media. It classifies this as a Class B violation rather than a Class A. This may be a Dollarhide issue.

§9.32.080

ORS 133.045, .050, .075, .077, and .080 have been repealed. It appears that the correct statutory references now should be ORS 133.055 through .076 and ORS 153.042 through .064.

§9.32.090

The definition and elements of failure to appear have been changed. ORS 162.195.

§9.32.100

The statute relating to false information has been revised although the GMC provision does not appear to conflict. ORS 162.385.

§9.32.110

ORS 163.208 is limited to public safety employees, the GMC provision applying it to other city employees raises a Dollarhide issue.

Chapter 9.36 Offenses Against Decency

§9.32.040

Although there are no cases directly on point, prohibiting nude massage may be inconsistent with City of Nyssa v. Dufloth, 121 P.3d 639, 339 Oregon. 330 (2005) and State v. Ciancanelli, 121 P.3d 613, 339 Oregon. 282 (2005). Note, however, that the state requires a license for masseurs. ORS 698.021.

Chapter 9.40 Possession and Delivery of Drugs

§9.32.010

The reference to the Board of Pharmacy schedule should be updated to the current OAR 855 through 80 et. seq.

§9.40.020(1)

The statutes have been revised and renumbered to ORS 475.840 through .980.

3 §9.40.020(2)

The prohibition on Cannabis may not be consistent with the Oregon Medical Marijuana Act, ORS 475.300 through .346. This may be a Dollarhide issue.

Chapter 9.44 Theft

7 §9.40.020

Theft in the third degree must be property less than \$100. ORS 164.043.

7 §9.40.030

Theft in the first degree must be property of \$100 or more and less than \$1,000. ORS 164.055.

7 §9.40.040

ORS 164.170 has been rewritten substantially and requires an amount in excess of \$100 but less than \$1,000 to constitute a Class A misdemeanor.

Chapter 9.45 Civil Forfeiture

3 Article XV, Section 10 of the Oregon Constitution adopted the Oregon Property Protection Act of 2000. This prompted adoption of ORS chapter 131A. The primary purpose of these provisions is to govern civil forfeiture for drug offenses, but it is not limited to such offenses. See generally, ORS 131A.010(2) (The Legislative Assembly adopts the provisions of this chapter as the sole and exclusive law of the state governing civil forfeiture of real and personal property based on prohibited conduct. This chapter supersedes all charter provisions, ordinances, regulations and other enactments adopted by cities and counties relating to civil forfeitures. All forfeitures under the provisions of this chapter are subject to the limitations of section 10, Article XV of the Oregon Constitution)

Note that ORS 809.698 through .735 provides specific provisions for impoundment and, in limited cases, forfeiture of vehicles for the driving offenses listed therein. These statutes were adopted or amended after adoption of Chapter 9.45. ORS 809.735 (1) provides that, "The seizure and forfeiture provisions of ORS 809.730 do not preempt a city or county ordinance enacted and in effect on June 22, 1999, relating to forfeiture of a motor vehicle operated by a person described in ORS 809.730". Nevertheless, ORS 809.735 (2) requires that all vehicle forfeiture provisions conform to the procedures set forth in ORS Chapter 131A.

It is recommended that the city review these provisions and consider conforming amendments. 2011 Oregon Laws Ch. (SB 430) added certain crimes to those eligible for civil forfeiture.

§9.45.030

Numerous statutory references have changed:

Subsection (1): The reference to the 1983 version of ORS 475.005(6) is outdated.

Subsection (4): Gambling now is defined at ORS 167.114(7)

Subsection (6): Manufacture now is defined at ORS 475.005 (15)

Subsection (7): Marijuana now is defined at ORS 475.005 (16)

Subsection (8): 21 USC 841(a) does not actually define possession with intent to distribute, nor could an ORS reference be found.

Subsection (9): Production now is defined at ORS 475.005(20)

§9.45.040

Subsection (1): "Gambling" is defined at ORS 167.117(7), the reference in the GMC is to the crime of unlawful gambling in the first degree.

Subsection (2): The reference to the 1983 ORS should be updated or removed.

§9.45.050(3)

The reference to the 1983 ORS should be updated or removed.

Chapter 9.48 Trespass

§9.48.030

The definition of trespass in the first degree appears to be broader than that in ORS 164.255. This may be a Dollarhide issue.

Chapter 9.49 City Parks and City Property Exclusion

Two recent cases addressed the due process requirements for exclusion. Koenig v Washington County, 238 Oregon App 297, 242 P3d 649 (2010), State v Barnes, 232 Oregon App 70, 220 P3d 1195 (2009). The GMC provisions appear to substantially conform to these cases but counsel for the city may wish to review them.

Chapter 9.50 Vehicular Trespass

§9.50.040

ORS 164.245 makes vehicular trespass a Class C misdemeanor. This may be Dollarhide issue.

Chapter 9.58 Fish and Game

§9.58.010

The statutory reference probably should extend to ORS 486.018.

§9.58.020

The references to the 1983 ORS should be updated or removed.

§9.58.030

The reference to the 1989 ORS should be updated or removed.

Chapter 9.60 Camping Prohibited in Certain Places

No statutory conflicts found, but note that ORS 203.077 requires all cities to have a camping by homeless policy.

Chapter 9.70 Unlawful Carrying of Loaded Firearm

§9.70.020

ORS 166.370 has a slightly expanded list of persons entitled to carry a firearm in a public building.

Chapter 10.04 Vehicles and Traffic

§10.04.030

Several terms defined in the GMC now have statutory definitions that may not be entirely consistent.

Subsection (1): Bicycle ORS 801.150.

Subsection (6): Motor Vehicle ORS 801.360.

Subsection (7): Park or parking ORS 801.380.

Subsection (9): Stand or standing ORS 801.505.

Subsection (11): Stop ORS 801.510.

Subsection (14): Traffic control device ORS 801.540.

Subsection (16): Vehicle ORS 801.590. The definition of "mobile home" at paragraph (c) was repealed and the vehicle code no longer has a definition. Cf. ORS 446.003. The term mobile home used in paragraph (d) now is a reference to "motor home."

§10.04.040

The general statutory authority of cities to adopt special provisions in ORS 801.040 has been revised substantially. Since many provisions in this chapter rely on that authority, it is recommended that the city attorney review ORS 801.040.

§10.04.230(1)(f)

ORS 767.815 is now ORS 825.470.

§10.04.270

The authority cited, ORS 811.430 does not relate to leaving keys in the ignition. No statutory authority or prohibition on this topic could be found.

§10.04.340

K ORS 814.430 regarding bicycles in travel lanes has been substantially revised and contains exceptions to the requirement to stay to the right.

§10.04.400

L The statutes relating to funeral processions have been revised although there appears to be no significant conflict.

§10.04.430

B The statutes regarding "implied consent" have been revised substantially. ORS 813.100 now provides that refusal to submit to a test to result in a suspension of driving privileges. ORS 813.310 permits refusal to take a test to be used in evidence. It is recommended that the city attorney or law enforcement personnel review this section for amendment.

Chapter 10.08 Traffic Control Devices

§10.08.010

W It appears that the most current edition of the UTCD is the 2009 edition.

Chapter 10.16 Abandoned and Hazardous Vehicles

W The sanction for violation of these provisions is not clear. Abandoning a car is not expressly labeled an offense. Cf. ORS 819.100 The driver or owner commits an "offense" by placing a hazardous vehicle, but the offense is not categorized, apparently becoming a misdemeanor by default pursuant to GMC §1.08.110.

Chapter 10.18 Impounding Vehicles

§10.18.010(1)(f)

L Language appears permissible, but see, State v. Gonzales A138187 (Oregon, App., 2010); Miranda v. City of Cornelius, 429 F3d 858 (9th Cir 2005) re limits on authority to tow in certain situations.

§10.18.020(3)(d)

L Although ORS 801.040 permits the city to modify state provisions on impoundment, note that ORS 819.190 excludes Sundays and holidays in calculating the five day period to request a hearing.

§10.18.030(1)(2)

L Same comment as above, also note that state law requires the hearing to be held within 72 hours.

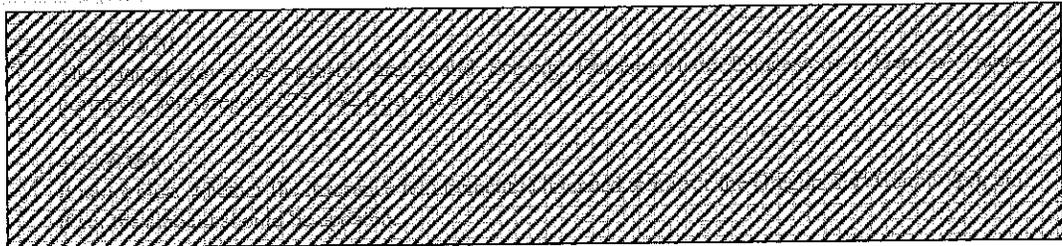
§10.18.050

P ORS 819.220 has been repealed. ORS 819.215 sets the value at \$500. Again, it appears to be permissible to modify this per ORS 801.040.

Chapter 10.20.010 Off-Road Vehicles

W §10.20.070
ORS 105.655-.670,.675,.677 and 680 have been repealed. The recreational immunity statutes were substantially revised by 2010 ORS Law 52.

Chapter 12.08 Sidewalk Benches



Chapter 12.12 Park Regulation

§12.12.030
Concealed handgun permittees may carry firearms in parks. ORS 166.173

Chapter 13.14 Industrial Waste Regulations

R Note: Due to the specialized nature of this Chapter and any NPDES or other permits issued to the city, this review is limited to checking cross-references and citations.

R §13.14.030(2)(p)
It appears this OAR now is at 333-100-0001 et. seq.

R §13.14.090
It appears the reference to LOG 13.13 should be to GMC.

Chapter 13.15 Surface Water Management

R Note: Due to the specialized nature of this Chapter and any NPDES or other permits issued to the city, this review is limited to checking cross-references and citations.

Chapter 13.16. System Development Charges

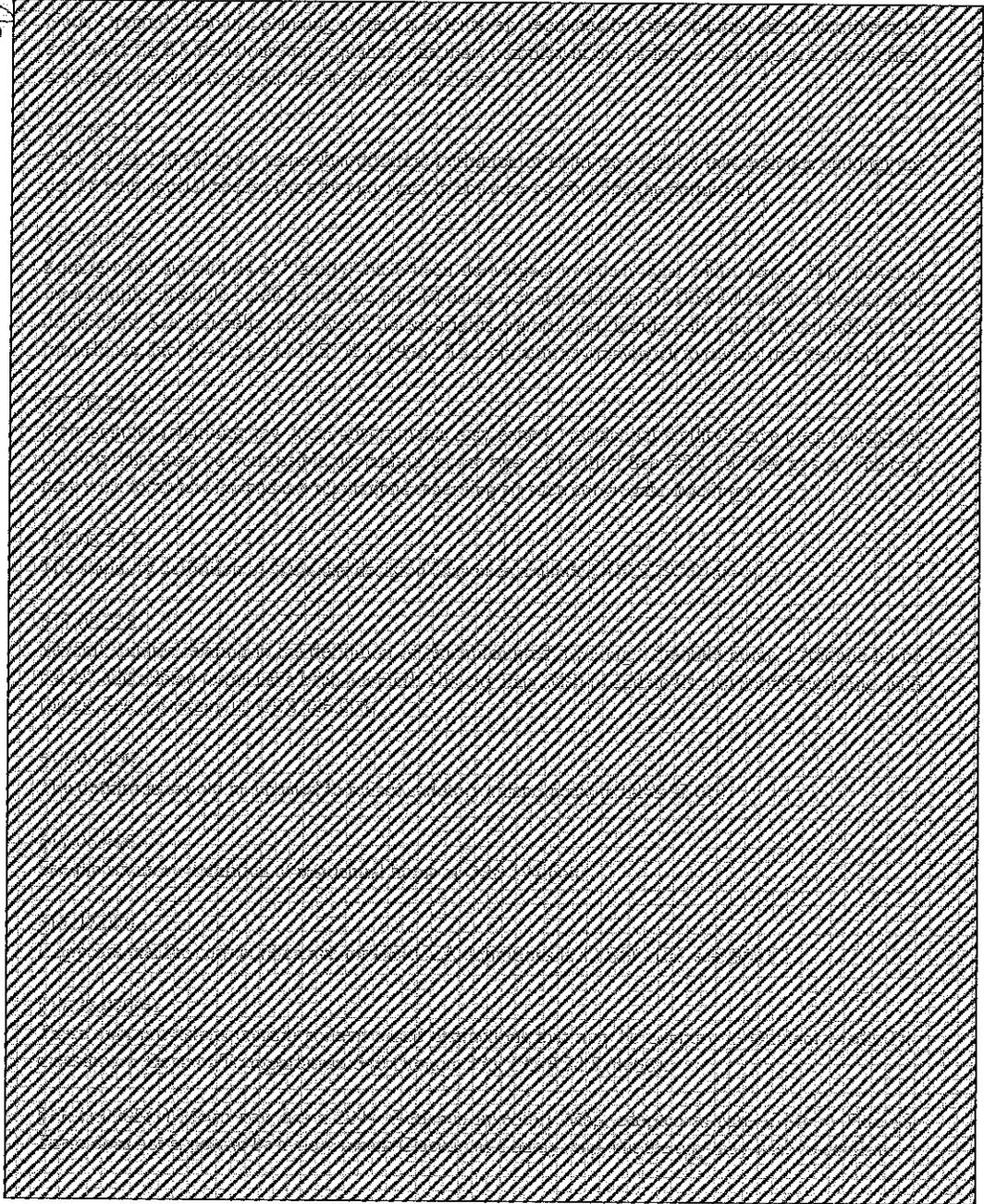
R §13.16.030(7)
The ORS 223.304(4) definition of qualified public improvement has been modified to require that the improvement be built larger than that necessary to serve the development.

R §13.16.050
ORS 223.304(1) now contains additional methodology factors.

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Title 17 Zoning and Development

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