

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

Tuesday, April 15, 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.

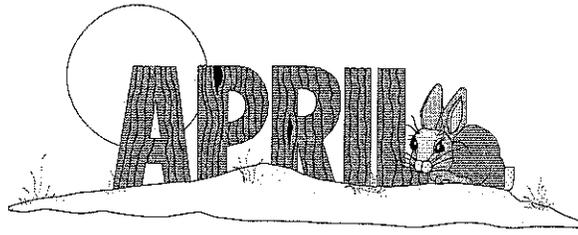
1. Minutes of March 18, 2014 meeting

REGULAR AGENDA

2. 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, R7.2 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 – cont. to April 15. (no attachments – information previously received by Planning Commission)*
3. Public Hearing: Z0091-14-D; Design Review for Armstrong Volkswagen – remodel showroom, re-grading and surfacing a portion of the site, interior upgrades. Subject property is zoned C-3, General Commercial at 20000 McLoughlin Boulevard, at the intersection of McLoughlin Boulevard with Arlington Street. (Design Review application attached separately)
4. Public Hearing: Z0096-14-D; Design Review to convert half of duplex to commercial use, Brenda Laam. Subject property is at 758 Portland Avenue in the C-2 Zone, Community Commercial.
5. Work Session: Gladstone Code Review

BUSINESS FROM THE PLANNING COMMISSION

ADJOURN



CONSENT AGENDA

MINUTES OF PLANNING COMMISSION MEETING – March 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, Michele Kremers, Pat McMahon, Craig Seghers, Kim Sieckmann, and Kirk Stempel.

Absent: None.

Staff: Clay Glasgow, City Planner; David Doughman, City Attorney; Jolene Morishita, Assistant City Administrator; and Scott Tabor, Director of Public Works (left at 7:30).

Chair Tamara Stempel lead the flag salute.

Consent Agenda:

1. Minutes of February 18, 2014 Meeting

Commissioner Kim Sieckmann moved and Commissioner Kirk Stempel seconded a motion to approve the consent agenda consisting of the minutes of February 18, 2014 as presented.

Motion carried unanimously.

Regular Agenda:

2. Appoint a member of the Planning Commission to serve as a Planning Commission Representative on the Park and Recreation Board (Meets as needed on the fourth Monday of the month at 7:00 p.m.)

Questions from the Commissioners: Is there an expiration date on the term of the representative? Answer: Assistant City Administrator stated the meetings are held as needed on the fourth Monday of the month. Craig Seghers noted he would be interested.

Commissioner Pat McMahon moved and Commissioner Kim Sieckmann seconded a motion to appoint Craig Seghers to be the Commission representative on the Park and Recreation Board.

Motion carried unanimously.

3. 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 7:05 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. All ex-parte contacts are still on record from the February 18th meeting.

Commissioner Craig Seghers stated he was absent at the last meeting and was asked to review the video which he did. He did have a conversation with Scott the other day.

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 this is an open public hearing that has been continued from the February 18th meeting. At that hearing the staff report was presented and discussed, testimony was taken and there was a request to continue the hearing to allow for additional testimony to be submitted. The Commission decided to continue the public hearing until this evening.

The proposal is for a Comprehensive Plan Change from Residential to Open Space, and a corresponding zone change from R-7.2 to Open Space.

Questions from the Commissioners:

- The application still indicates that the site size being rezoned is 7.2 acres, it has a cell tower and the cell tower is located on the site. Have these numbers changed? Answer: City Planner Glasgow stated the property is approximately 7.2 acres in size. The Commission is looking at a portion. At the time the application was written there was no specific size for the open space. The size is not 7.2 acres; it is .59 acres the portion adjacent to the north of the Nick Shannon Memorial Park.

City Attorney David Doughman noted when you have a case where there is a plan amendment with something else; people wonder what happens to the 120-day clock. The answer is that it doesn't apply. In terms of the continuance, it is limited to the initial hearing. The Commission can be accommodating but it is usually done at the first hearing.

- Could the property be sold and built out as residential houses (three houses). Answer: Mr. Doughman stated theoretically if the water towers were not there the property could be subdivided into lots averaging 7,200 sqft. It would be up to the owner.
- Will there be a need for a partition for this half of the property. Answer: Mr. Doughman stated he understood it to be a lease.

Applicant Presentation: City Planner Glasgow stated he had no new information to introduce.

Public Testimony in Favor: Chair Tamara Stempel explained since this is a continuance; all of the testimony that was made at last month's meeting is still on record. This time is for new testimony.

Public Testimony in Opposition: Jeff Kleinman, 1207 SW Sixth Avenue, Portland 97204 stated he is an attorney representing Ken Yielding. He thanked the Commission for the continuance

he requested at the last meeting. They have had an opportunity to present a memorandum; he is here to summarize the key points.

There are several approval standards under the City Zone criteria and they don't think the City has met the burden as the applicant in this case of complying with any of them. There is no demonstration of the public need would be best carried out by granting this petition or the need is best served by granting the petition at this time. He just learned there is currently an off-leash dog area at Meldrum Bar Park which hasn't been discussed in front of the Commission.

The action is not consistent with any of the relevant components of the Comprehensive Plan, Metro's Functional Plan, and State-wide Planning Goals. There is no proof whatsoever of any change at all in the neighborhood or community that would justify the change. There is no evidence there was a mistake in the way the City originally zoned this property. There no evidence of adequacy of public services in terms of safe and healthful drainage of the subject property which is an enormous problem for his client when the property is wet and drainage of waste seeps into their back yard.

There is no evidence that the traffic needs are met. People are attracted to bring dogs from elsewhere to the dog park. The traffic needs and parking needs must be met. There needs to be justification open or a project like the dog park in open space. Compatibility with adjacent land uses is horrendously incompatible with adjacent residential uses. The access and parking facility is questionable.

Donna Todd, 16710 SE Valley View Road submitted information to the Council. She has lived at this residence for 21 years and the area has not changed enough to constitute a zone change from residential to open space. 36 feet from her front door is not enough space to rezone to open space. The street is not equipped to handle the traffic or the number of people the open space would bring.

Shirley Gardner, 6907 Oakridge Drive stated she has lived here for 36 years. Since the fence went up, the area is being utilized by people with dogs and kids to play. It used to be just an open area that the kids would play with balls and learn to play catch. Now only the dogs have that. They have seen a lot of untidiness there and grass isn't being kept. The area is filthy and someone has been going by and pulling out the green slats. The area has not been maintained and cleaned since the fence has gone up.

She talked to a lady that was walking her dog and she is looking for a place for her mother-in-law to live. She noted she would not want to live by a dog park. Many people have said they like the dog park and use it but they do not want to live next to a dog park. She will lose the value of her nice quiet neighborhood when these homes go up for sale and become rentals. The open space has been just for the neighborhood. Once it became noticed that it was an unleashed dog park, they have had a lot of traffic. A traffic study and a safety study would have been great to have done while the park was open.

Chair Tamara Stempel explained the Commission has certain criteria they have to consider for this open space. A lot of what is brought up is really not relevant to the criteria they have to consider. She asked if someone has new information that is relevant to the criteria please come up.

Applicant Rebuttal: City Attorney Doughman stated the issue is whether there is an off-lease area and is operating in Meldrum Bar Park. He is not aware of a dog park. He would like to clarify this officially. Scott Tabor, Public Works Supervisor reported to his knowledge there is no authorized off-leash dog park at Meldrum Bar Park.

City Attorney Doughman stated the best thing to do from here is to analyze where they are right now. He received Mr. Kleinman's memo yesterday and there are a number of arguments that he would like to review; particularly regarding the issue of the City's obligation with respect to housing and to meet a need. Every city in Oregon has to do this. There is history in Gladstone about residential properties being taken out of the R-72 land. The Comprehensive Plan expressed a need in 1978/1979 for a certain amount of R-72 land. This is critical even if the data is outdated to see if Gladstone meets that need.

City Attorney Doughman noted he needs to look at the Metro Code; he is not in a position now to advise the Council on whether this has happened or not because some of the facts are new. He did not realize some of the facts in terms of some changes that have historically happened. The City would be taking .08% of the residential stock. He recommends the Commission allow him additional time to review the new information and come back at the next meeting.

Commissioner Kim Sieckmann moved and Commissioner Craig Seghers seconded a motion to continue the hearing on file Z0017-14-CP/Z0018-14-Z until the April 15, 2014 Planning Commission meeting at 7:00 p.m.

Motion carried unanimously.

Commission discussion continued on Open Space. Chair Tamara Stempel asked for the history behind the dog park. City Planner Glasgow explained City Council allowed the dog park. Complaints started coming in. It occurred to the City that a plan and zone change was necessary. Assistant City Administrator Morishita stated the citizens wanted a dog park. There were a number of people over a period of time that came in and actually testified during the Council meetings requesting an off-leash dog park. The agreement that the City Council made to the public was they would move forward, make it an off-leash dog park and have it fenced. When it didn't happen rapidly and there were people asking why it was taking so long. There was a petition signed.

Commissioner Sieckmann asked if many people came in to ask for a zoning change. Answer: City Planner Glasgow stated the criteria for consideration of the plan/zone designation. Open space zoning allows more than a dog park. If it is changed to open space it allows any other use that is allowed within an open space. The Gold Wrench was rezoned from residential to commercial. The criteria were reviewed relative to all the potential uses. Someone can come

in and say I want to change that to commercial and they do not have to disclose why they want to change to commercial.

Chair Tamara Stempel noted dog parks are not in the code as allowed in open spaces; is that something that would have to be added? Answer: City Planner Glasgow noted it can be interpreted as a similar use to allow it. A conditional plan and zone change is possible where the plan and zone change is approved for a specific use.

Commissioner Sieckmann asked if this is passed can the dog park be opened without addressing the other possible uses. Answer: City Planner Glasgow stated it makes it easier if there is a specific use to go through the criteria. A vague plan change application makes it difficult to go through the criteria; it puts burden on the applicant as far as providing information.

Commissioner Sieckmann asked if he can suggest additional conditions next month. Answer: City Planner Glasgow stated that there is nothing in the code to prevent a zone change with a specific use. However the Council imposes conditions.

A member from the audience asked if open space is an overlay zone. Answer: City Planner Glasgow stated open space was an overlay but it is actually a zone, a different zone than R-7.2. This proposal is to take it out of residential zone and put it into open space zone. They are different. Gladstone uses its open space for schools, parks, etc. so often times there is open space scattered in residential areas. Nick Shannon is open space and the subject site is not.

4. Develop a Recommendation to City Council for Zoning Regulations of Medical Marijuana Dispensaries. Chair Tamara Stempel opened discussion on medical marijuana dispensaries. City Attorney Doughman reported there was a joint worksession with Council on this issue. Senate Bill 1531 made it through the House, Senate and Oregon Legislature. The final iteration gives cities and counties the ability to temporarily ban dispensaries within their jurisdiction until May 1, 2015. It has not yet been signed by the Governor. He has 30 days to do so and if he doesn't do so, or veto it becomes law. There has been a delay in signing the Bill.

It is his thought tonight that the Bill will become law. The City Attorney's office previously recommended there be a two-track approach. Have something that would prohibit them and based that prohibition on Federal law conflicts. Also have a parallel track that would essentially amend the City's development code to permit dispensaries in certain areas. The goal was to have something in place prior to March 1, when dispensaries could apply for a license. The idea was to have the prohibition in place and only if House Bill 1531 passed would the land use regulations be applicable.

There is still the Federal law issue to be litigated and there will be an answer at some point. There is likely to be more discussion on this issue during the 2015 Legislative Session. It is very likely that Oregonians will be voting in November 2014 on something having to do with adult recreational legalization. This dynamic has the ability to be included in the City's decision.

With that background, City Attorney Doughman suggested the Commission begin thinking and operating under the assumption that at some point cities will be left with only the ability to regulate not prohibit. For what the Commission is being tasked to do, SB-1531 gives the temporary authority to ban, it also allows cities to impose reasonable regulations on dispensaries. State Law will grant a permit to an operation in cities in industrial, commercial and mixed-use zones. The city has the ability to limit that further. The State Law has a 1,000 foot buffer between K-12 schools (can be expanded to include preschools, daycare, etc.), parks, etc. Waiting for the bill to be signed gives the City time to see what other cities are doing and collect more information. Council has in place to prohibit to a date; however, if the law is passed, Council can change the date.

Questions from the Commissioners:

- Commissioner Sieckmann asked if a marijuana dispensary would stand as a title if the law passed for a medical dispensary. Answer: City Attorney Doughman stated that if this were to happen the City could change the definition. The recommendation to Council could be non-specific to medical marijuana dispensaries; it could be for any retail facility that may be dispensing marijuana. City Planner Glasgow stated to put retail in an industrial zone would be poor planning. You would be introducing retail commercial traffic into an industrial zone. The impacts would be wrong, it's not a good idea but it is provided for.

City Planner Glasgow noted he is on a group with the County that is reviewing the same issues. There are far too many variables to begin consideration of anything. No matter what you come up with tonight or next month will have to be changed. The voters will get at least two ballot measures to vote on this and Legislature is going to have a hay day with this issue. It will be different come next May. What the Governor is going to sign is a bill that says just say no until May 2015. He feels it is too soon to have this discussion.

It was suggested to wait until November after the vote to see what issues need to be addressed. It seems that Council is leaning towards placing dispensaries into light industrial areas and that area is mostly retail. Light industrial allows a host of commercial issues.

- Commissioner Sieckmann asked if there could be a square footage restriction on the facility. Answer: City Attorney Doughman stated at the end of the day a dispensary is a retail facility and restricting square footage is different than doing something like a pharmacy. There could be some reasonable square footage, safety and security regulations. If the state has not specifically prohibited a city from doing something, the City can regulate it. Even though there won't be changes until November there are still a lot of things that can be discussed. Colorado is state focused and he feels Federal is looking at them as a model more so than Washington.

Public Testimony: Shiloh Wilson, 825 E. Berkeley asked if it makes sense to wait until November. If you wait until November the Commission is in the same spot; no previous discussion and being faced with emergency decisions with Council again. The Mayor said they

are not trying to outright ban dispensaries, he said there is a process. That process involves the Commission. They asked the Commission to follow the process. It is important that the Commission do the job of looking at this issues and coming back with a recommendation.

Marijuana is people's medicine; for the patients he deals with daily it is there medicine. People have this view of the 60's of potheads, hippies, etc.; it is not who he sees. His patients are predominately over 40 and most over 50. They are dealing with chronic pain. It is not the young generation trying to get high that is going to medical marijuana dispensaries. He would like the Commission to have the conversations and come back with a recommendation.

Mr. Wilson submitted an article written by Dr. Sanjay Gupta, Medical Correspondent for CNN, who used to be completely against marijuana until he looked at the evidence. He doesn't hold the same view on recreational, whether it is legalized or not; however, the medical purpose behind these dispensaries is huge and the benefits are enormous. He asked if the City could do different regulations for medical versus recreational dispensaries. Answer: City Attorney Doughman stated no one has the authority now to say on recreational; however if recreational marijuana becomes legal there may be something that prohibits localities from doing anything or something in the middle because of the Federal background.

Chair Tamara Stempel stated when the time is right, there will be discussions and the issue will be thoroughly reviewed. There will be opportunities for public testimony. Until they find out what is coming up in November, she doesn't want to waste staff time, city attorney time, and anyone else's time until they have concrete information.

A Commissioner asked Mr. Wilson what qualifications are needed to open a dispensary. Answer: Mr. Wilson stated he doesn't prescribe or have anything to do with that side of it; right now he cultivates marijuana (a grower) and patients come in to get the product. He is reimbursed for his expenses. He counsels folks on the general knowledge that he has as he knows certain types are better for different conditions. There is so much they don't know about cannabis; there are a bunch of cannabinoids involved but they don't know what most of them do. THC is the cycle-active one that people get high off of. It is looking more and more like that is actually a very small part of what the actual good stuff is. They found that from patients who take marinol THC because they can synthetically make that. However it does not do what the cannabis can do. The State regulations are coming in to help standardize dispensaries because there are so many different business models. A lot of State regulations cover common sense things like put the product in a big safe, when you leave at night don't useable product all over the place, security cameras, commercial locking doors, etc.

Chair Tamara Stempel asked Mr. Wilson for his contact information so they can call on him if the Commission needed his help in the future. Mr. Wilson wrote his information on the sign-in sheet.

Mr. Wilson was asked if recreational marijuana becomes legal, what he sees happening to the medical side. Mr. Wilson stated they would probably follow more of what the Colorado model is because in Washington they didn't safeguard their medical patients.

5. Work Session: Gladstone Code Review. Commissioner Sieckmann reported he attended the City Council meeting and there was discussion on Chapter 2.28.040, Vacancies and Removals and what constitutes an excused absence. Commissioner McMahon stated it was suggested that the Council Guide Book be reviewed to see what is excused for Council. Assistant Administrator Morishita explained that the Council was more concerned about prior notification than the excuse. The entirety of Section 13 was to go to the City Attorney's office to be put in motion for the changes that the Planning Commission recommended except for the changes to the attendance for the Planning Commission.

Assistant Administrator Morishita stated if the Commission wishes to have any changes made to the code insofar as the Planning Commission attendance, then it should be addressed. Council felt there was nothing to be changed; they like the wording the way it is. Chair Tamara Stempel repeated the text that the Planning Commission approved, "A member who is absent from two consecutive meetings without an excuse approved by the Planning Commission is rebuttably presumed to be in nonconformance of duties and the City Council should declare the position vacant unless extenuating circumstances are determined at the hearing."

Assistant City Administrator Morishita reported that Council felt an excused absence is essentially anytime any of the Commissioners call in or notify staff ahead of time of an absence, unless it is an absolute emergency. Commissioner Pat McMahon stated the big point was to make sure the Commissioner is calling in ahead of the meeting so that others are aware he would not be there and there will be a quorum.

City Attorney Doughman suggested a change in the wording, "A certain number of consecutive absences, whether excused or not, may be the basis for the Planning Commission to recommend removal." Since the Commission is not trying to say definitely if that happens you will be tossed, but if a pattern develops and someone isn't making it and can't then there can be a recommendation to remove.

It was the consensus of the Commission to change the language in Title 2, Administration and Personnel, Chapter 2.28, Planning Commission, 2.28-040 Vacancies and Removal, "If a member is absent from three consecutive meetings with or without an excuse notification approved by the Planning Commission is reputedly presumed to be in nonperformance of duty and the City Council shall declare the position vacant unless extenuating circumstances are determined at the hearing."

Commissioner Sieckmann asked if staff could develop a map from the Clear Vision Code showing what it means. City Planner Glasgow stated there could be figures and definitions showing what things mean.

It was the decision of the Commission to discuss Clear Vision issues at the next scheduled Planning Commission meeting.

Other Business: City Planner Glasgow reported that he had a copy of the inventory of historical resources in Gladstone. It was done by the County in 1984 and is still valid.

Upcoming Commission Considerations: None.

Business from the Commission: None.

Adjourn:

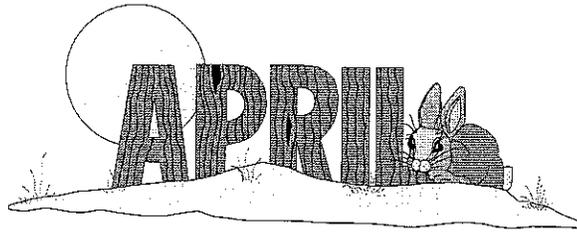
Commissioner Craig Seghers moved to adjourn the March 18, 2014 Planning Commission meeting. Commissioner Kim Sieckmann seconded the motion.

Motion carried unanimously.

Chair Tamara Stempel closed the Planning Commission meeting of March 18, 2014 at 9:00 p.m.

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

_____, Tamara Stempel, Chair



REGULAR AGENDA

City of GLADSTONE

STAFF REPORT/RECOMMENDATION TO THE GLADSTONE PLANNING COMMISSION

File: Z0091-14-D
Applicant: AXIS Design Group
Hearing Date: April 15, 2014
Planning Staff: Clay Glasgow
Report Date: April 4, 2014

I. GENERAL INFORMATION

- A. Proposal: This is a proposal to remodel the Armstrong Volkswagen development, to include re-grading and re-surfacing a portion of the site and interior upgrades to the showroom and service reception areas.
- B. Legal Description: T2S, R2E, Section 19DD, Tax Lot 5800
- C. Location: 20000 McLoughlin Boulevard; at the northeast corner of the intersection of W. Arlington Street with McLoughlin Boulevard.
- D. Zone: C-3; General Commercial
- E. Comprehensive Plan Designation: Commercial
- F. Site Information: The subject parcel is approximately 1.31 acres in size, part of the McLoughlin commercial corridor. An auto dealership is in place, comprised of two buildings and a parking field. The site is nonconforming with respect to landscaping and off-street parking. Sanitary sewer, storm sewer and water are available to serve the property. There are no known significant natural features on site.

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Fire Department
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Public Library
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FAX: (503) 655-2438
E-Mail: qjref@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

- G. Vicinity Description: The surrounding area is a mix of various development types. The site itself is on the east side of Mcloughlin Boulevard and in the Mcloughlin Boulevard commercial corridor; north of the subject is continuing commercial uses; Arlington Street bounds the site to the south, with Walgreen's just south of Arlington. To the east is mixed residential/commercial. Further south is the Clackamas River then Oregon City.
- H. Background: The Armstrong car sales business has been in place for many years. Last land use activity was accomplished in 2002 through File #Z0406-02-D, and concerned remodel/addition to the dealership.

II. FINDINGS

This request is subject to Chapter 17.20, C-3, General Commercial District; Chapter 17.80, Design Review, and the Development Standards of Title 17 of the Gladstone Municipal Code (GMC).

III. CONCLUSIONS

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

1. *Chapter 17.80* of the GMC establishes the requirements for design review. Pursuant to *Subsection 17.80.021(1)*, site development in the C-3 zoning district is subject to design review.

Section 17.80.061 lists submittal requirements for Design Review. The application as submitted satisfies these requirements.

Section 17.80.100(1) provides for approved design plans to remain valid for one year. If construction has not begun by that time, design plan approval may be renewed once by the Planning Commission for not more than one year.

2. *Chapter 17.20* of the GMC establishes basic requirements for the General Commercial District. *Section 17.20.020* identifies uses permitted outright in the General Commercial District, and includes automobile sales and service such as is in place. This criterion is met.

Section 17.20.050 establishes dimensional standards for the C-3 district. The proposed buildings as shown/modified comply with setbacks and the 35-foot maximum building height standard.

Section 17.20.050(4) requires off-street parking areas to be a minimum of five feet from all property lines. The proposed off-street parking areas are shown as being at least five feet from property lines. The proposed development satisfies this provision of the GMC.

3. *Chapter 17.44 of the GMC* identifies standards for building siting and design.

These standards apply to all development that is subject to Design Review. *Section 17.44.020(1)* deals with siting specifically, and requires that, where there are no conflicts with other design standards or requirements in Title 17, to site buildings to maximize solar access where practical, using such techniques as maximizing east-west street length; orienting buildings within twenty degrees of true south as well as maximizing their south-facing dimension; placing higher buildings on the north portion of the site while protecting solar access for adjacent sites, and placing major yard spaces on south side of buildings.

The subject property is roughly square in shape. Vehicle access is from the northwest and southeast portions of the site, away from the intersection of McLoughlin with Arlington Street. The buildings are located along the south, and east portions of the property. As discussed by the applicant the proposed remodel will incorporate "low-e" glazing on all new exterior glazing systems. The new roof proposed over the showroom portion of the main building will have R-values meeting or exceeding current energy code standards. New mechanical and electrical systems will function more efficiently and will utilize energy efficient technologies.

Section 17.44.020(2) requires buildings to have energy efficient designs. The proposed design includes abundant windows to provide natural lighting. The building will be required to meet the energy codes of the Oregon Structural Specialty Code, which will be evaluated through the building permit process. This is consistent with this subsection of the GMC.

Section 17.44.020(3) of the GMC addresses compatibility in building design. This subsection encourages the arrangement of structures and use areas to be compatible with adjacent developments and surrounding land uses. The proposed building(s) will provide visual order and interest to the showroom space. No changes are being proposed to the existing loading and delivery areas along Arlington Street. The existing refuse storage area is currently screened with an opaque enclosure. A condition of approval should require screening of mechanical equipment as required by this subsection.

Section 17.44.020(4) of the GMC deals with building materials. That Section requires buildings be constructed using high-image exterior

materials and finishes such as masonry, architecturally treated tilt-up concrete, glass, wood or stucco. Screening of roof-mounted equipment is also discussed in this section.

Applicant states proposed exterior building materials at the new showroom include clear glazing and a high-quality metal panel system. The other building facades will incorporate stucco, glass, and high quality horizontal corrugated metal siding. See submitted building elevations for detail. This criterion is satisfied.

Section 17.44.020(5) of the GMC establishes lighting standards. All existing site lighting will receive light fixture upgrades. The locations and specifications of the proposed fixtures will be adequate to protect public safety. See site plans and building elevations for detail. As shown this criterion is satisfied.

Section 17.44.020(6) of the GMC establishes illumination level standards. It requires that all on-site lighting shall be designed, located, shielded or deflected so as not to shine into off-site structures or impair the vision of the driver of any vehicle. Applicant notes all new lighting will be cut-off so as not to deflect lighting to adjacent properties or impair the vision of the drivers of vehicles. A condition of approval should require that final lighting design meet IES standards and that lighting not shine into off-site structures or impair the vision of the driver of any vehicle.

Section 17.44.020(7) regarding equipment and facilities establishes that all utility lines shall be placed underground. All roof-mounted fixtures and utility cabinets or similar equipment, which must be installed above ground, shall be visually screened from public view. A condition of approval shall require compliance with this subsection for new utility lines, roof-mounted fixtures, utility cabinets or similar equipment installed aboveground.

Section 17.44.020(8) regarding trash disposal and recycling collection requires new construction to incorporate functional and adequate space for on-site storage and efficient collection of mixed solid waste and source separated recyclables prior to pick-up and removal by haulers. The proposed plan shows no changes to the existing trash/recycling facilities. Existing facility-meets this criterion.

Section 17.44.024 establishes design standards for nonresidential construction. These provisions require that new, non-residential buildings, with the exception of buildings housing institutional, warehouse or manufacturing uses shall be subject to the following design standards:

(1) Ground floor windows. Ground floor windows shall be required on walls fronting a public street and shall comply with the following standards:

(a) The windows shall cover at least 50% of the length and 25% of the ground level wall area. Ground level wall areas include all exterior wall area up to nine feet above the finished grade. The bottom of required window shall be no more than 4 feet above the adjacent exterior finished grade.

(b) Required windows shall be windows that allow views into work areas or lobbies, pedestrian entrances or display windows set into the wall. Display cases attached to the outside wall shall not qualify.

The applicant has submitted evidence that new glazing will meet the requirements for ground floor windows in the showroom area. The proposed remodel to the existing showroom space will not include a second level. No changes are being proposed to the exterior of the existing second floor spaces at other locations in the building. This section is satisfied.

3. *Chapter 17.46 of the GMC* identifies landscaping standards and states that these standards are applicable to all developments subject to design review.

Subsection 17.46.020(1) requires a minimum of fifteen percent of the lot area be landscaped. The development currently is non-conforming with respect to this standard. The scope of the project requires landscape upgrades per 17.46.020(10)© See submitted landscape plan for detail. A new display area is proposed along the McLoughlin frontage which will utilize permeable pavers. Applicant notes permeable pavers reduce stormwater runoff, reduce the amount of impervious surface, and create a sustainable pedestrian-friendly environment. Applicant seeks to count the 4,509 sq ft of proposed permeable pavers as a percentage toward the landscaping requirement. The Planning Commission may want to discuss this at hearing.

Subsection 17.46.020(2)(a) requires that a parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than ten square feet per parking space. Applicant responds to this criterion by stating no modifications are being proposed for the existing loading area adjacent to Arlington Street. A ten (10) foot landscape strip is currently separating the loading area from the street with four deciduous trees spaced at 25 feet apart. This situation meets requirements.

Subsection 17.46.020(2)(b) requires that a parking or loading area be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width and from any other lot line by a landscaped strip

at least five feet in width. As noted above this criterion is satisfied.

Subsection 17.46.020(2)(c) requires landscaped strips separating a parking or loading area from a street to contain street trees, low shrubs, and vegetative ground cover and establishes spacing requirements for the trees and shrubs. No modifications proposed. This standard is met.

Subsection 17.46.020(3) requires that provisions for irrigating planting areas be made where needed. Applicant states that, where new landscaping is being proposed under the scope of this project, irrigation shall be provided as determined by the landscape architect. This criterion is satisfied.

Subsection 17.46.020(4) requires landscaping to be continuously maintained. This standard can be met with conditions.

Subsection 17.46.020(5) pertains to the planting of trees under overhead utility lines or near sidewalks or curbs. Applicant states this will be taken into account when choosing tree species.

Subsection 17.46.020(6) indicates that sight-obscuring plantings, fencing or berming may be required to screen parking lots, outdoor storage or other unsightly features from the road or neighboring properties. The Planning Commission may want to discuss this.

Subsection 17.46.020(7) pertains to grading and states, "The natural form of the site shall be preserved insofar as practicable unless berming or contouring of land is required." Applicant notes that existing grades along Mcloughlin will be maintained. The new display plaza will require re-grading of the existing site.

Subsection 17.46.020(8) requires that land within the public right-of-way not developed as sidewalks or driveways be landscaped and maintained by the abutting property owner. This is currently done.

Subsection 17.46.020(9) provides for street trees to be required of any development and states that, if planted, street trees shall be of a species compatible with the width of the planting strip and nearby street tree species. Applicant states that this proposal will take advantage of the exception language in 17.46.020 (9)(b), allowing sod along Mcloughlin in lieu of trees.

4. *Chapter 17.48 of the GMC* regulates off-street parking and loading. The site has 20-minute peak hour transit service and is therefore considered Zone A. By applicant's calculations the minimum off-street parking required for the use is 42 spaces, with the maximum being 87 spaces. Staff concurs. The existing site does not provide the

required minimum parking. The site is non-conforming with respect to parking. The site will be parked per Section 17.48.030(2)(d). See Section 17.48.(2)(d). Applicant provide discussion. This criterion is met.

Section 17.48.040(1)(a) requires parking and loading areas to be paved with asphalt and/or concrete meeting city standards, maintained adequately for all-weather use and so drained as to avoid flow of water across public sidewalks. The proposal as shown meets this requirement.

Section 17.48.040(1)(c) requires areas for standing and maneuvering vehicle, other than for the off-street parking and storage of truck tractors and /or semi trailers, to be paved. The existing development is paved and the new development will also be paved.

Section 17.48.040(2)(a) states that required parking spaces must be located within two hundred feet of the building or use they are required to serve. The required parking spaces meet this provision.

Section 17.48.040(2)(b) states that required parking shall be provided in the same zoning district or a different zoning district of a more intensive use. The proposed structure will be located in the C-3 zoning district as will all required parking spaces.

Section 17.48.040(2)(c) prohibits parking for a commercial or industrial use from being located in a residential district except in the case of a conditional use. As noted above, all parking will be located in the C-3 district. Staff points out some employee vehicles are parked along Arlington Street.

Section 17.48.040(2)(d) requires groups of more than four parking spaces to be permanently marked and so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley. The parking lot design complies with this subsection.

Section 17.48.040(2)(f), (g) and (i) establish the minimum width of access aisles and the minimum dimensions of parking spaces. The parking lot proposal has the required 24 feet aisle width for 90 degree parking spaces. Staff finds that, as discussed above the proposal can comply with this subsection.

Section 17.48.040(2)(h) requires parking areas to be designed to the maximum extent practicable, to avoid large, uninterrupted rows of parking spaces. Generally speaking, the parking lot design complies with this subsection.

Section 17.48.040(3)(b), (c) and (d) establish requirements for loading areas. See discussion. Met as shown.

Section 17.48.050 establishes requirements for bicycle parking. See discussion provided by applicant. This criterion is satisfied.

5. *Chapter 17.50 of the GMC* establishes the requirements for vehicular and pedestrian circulation. Subsection 17.50.020(1) requires that provisions be made for the least amount of impervious surface necessary to adequately service the type and intensity of proposed land uses within developments as well as providing adequate access for service vehicles. Based on submitted site plan information, staff is able to find that impervious surface is limited to that required by other sections of the Code. Pervious pavers are proposed in place of a portion of the impervious surface area. This standard is met.

Subsection 17.50.020(2) requires provisions to be made, when feasible, for a separation of motor vehicular, bicycle and pedestrian traffic. The master plan for the site considered this criterion. This standard is met.

Subsection 17.50.020(3) requires curbs, associated drainage and sidewalks within the right-of-way or easement for public roads and streets. Sidewalks currently exist along both frontages. ODOT has recently replaced sidewalk at the intersection as part of the larger work being done along Mcloughlin generally.

Subsection 17.50.020(4) requires provisions to be made to accommodate any increased volume of traffic resulting from the development. Applicant does not expect additional traffic as a result of this project. Staff concurs.

Subsection 17.50.020(5) requires provisions to be made for the special needs of the handicapped. This Subsection is met.

Subsection 17.50.020(6) pertains to pedestrian access. This Subsection is met with the proposal.

Subsection 17.50.020(7) deals with new development requiring full site design review that, when completed, generate an average daily traffic count of 1000 trips or greater. In such case, a transit stop shall be provided. There is no evidence this proposal will result in an ADT of 1000 trips or greater – in any case there is an existing Tri-met bus stop and shelter nearby.

Section 17.50.040, Streets and Roads Generally, Full improvements exist on both the Arlington frontage and along Mcloughlin. See submitted site plan materials.

6. *Chapter 17.52 of the GMC* establishes sign requirements. Applicant provide discussion. The signs proposed meet this Chapter's standards.
7. *Chapter 17.54 of the GMC* establishes clear vision requirements. These standards will be continue to be met and maintained.
8. *Chapter 17.56 of the GMC* establishes drainage requirements. The storm drainage system shall be designed and built consistent with the standards of this Chapter.
9. *Chapter 17.58 of the GMC* establishes standards for grading and fill and requires enforcement of the Uniform Building Code (UBC). The city contracts with Clackamas County for administration of grading permits. The county enforces its own Excavation and Grading Ordinance in lieu of Chapter 70 of the UBC. Grading proposed through this application will be required to meet applicable standards.
10. *Chapter 17.60 of the GMC* establishes requirements for utilities. All utilities shall be installed consistent with the standards of this Chapter.

REQUEST FOR COMMENTS:

City of Gladstone Public Works, Gladstone Fire, r, Water Environment Services (WES), ODOT, Building Department

RESPONSES RECEIVED:

No comments received as of this report.

IV. RECOMMENDATION

The Planning Commission is authorized to approve design review applications pursuant to *Subsection 17.94.060(2)(c) of the GMC*. Planning staff recommends the Planning Commission approve the design review application, based on the submitted application materials, subject to the following conditions:

1. This approval shall remain valid for one year following the date of approval. If construction has not begun by that date, this approval shall

expire unless the Planning Commission pursuant to Section 17.80.100 of the GMC grants an extension.

2. The applicant shall obtain required permits from Clackamas County, including for site grading. The applicant shall comply with the requirements of the permits.
3. On-site lighting shall comply with Subsections 17.44.020(4) and (5) of the GMC, including compliance with IES standards as demonstrated in an engineered site light plan which must be submitted to staff.
4. Any new utility lines shall be placed underground unless prohibited by the utility service provider. New roof-mounted fixtures and utility cabinets or similar equipment shall be visually screened from public view as required by GMC Subsection 17.44.020(6).
5. The applicant shall submit a detailed landscape plan to show compliance with Subsection 17.46 of the GMC.
6. The landscaped area shall be provided with an automatic irrigation system.
7. Landscaping shall be continuously maintained. Landscape maintenance shall be the responsibility of the owner.
8. Paving shall comply with city standards. Plans shall be submitted to the city for approval prior to construction.
9. This approval is subject to the development complying with the provisions of the Americans with Disabilities Act (ADA), including provisions for curb ramps.
10. Construction of storm drainage improvements associated with the development shall be consistent with city standards and comply with the drainage requirements of the plumbing code administered by Clackamas County.
11. Water and sanitary sewer improvements shall be constructed to city and Tri-City Service District standards, respectively. Plans to be submitted to the city for approval prior to construction and utilities shall be developed in accordance with the requirements of Chapter 17.60.
12. For storm drainage: the site is located within the Gladstone City limits. WES provides the erosion control plan review for this area. An erosion control plan is required to be submitted to Water Environment Services for review and shall be implemented prior to and throughout the construction period.
13. Final certificate of occupancy shall not be granted until all conditions of the design review approval have been met.

14. Any changes in the approved design review plans shall be submitted and approved prior to execution. Any departure from the approved design review may cause revocation of building permits or denial of the final certificate of occupancy.
15. Prior to issuance of a final occupancy permit, required improvements shall be installed and existing streets and other public facilities damaged during development shall be repaired or the developer shall file a financial guarantee of performance in a form acceptable to the city attorney. The financial guarantee must be valid until the improvements are complete or the damages repaired, as determined by the city.



City of GLADSTONE

STAFF REPORT/RECOMMENDATION TO THE GLADSTONE PLANNING COMMISSION

File: Z0096-14-D
Applicant: Brenda Laam
Hearing Date: April 15, 2014
Planning Staff: Clay Glasgow
Report Date: April 4, 2014

I. GENERAL INFORMATION

- A. Proposal: This is a proposal to convert a residence – in this case one half of a duplex, into commercial use. The other unit will remain residential. Proposed use for that converted is retail sales along with a coffee shop.
- B. Legal Description: T2S, R2E, Section 20BD, Tax Lot 8400
- C. Location: 785 Portland Avenue; east side of Portland Avenue and south side of E. Gloucester Street.
- D. Zone: C-2; Community Commercial
- E. Comprehensive Plan Designation: Commercial
- F. Site Information: The subject parcel is approximately 0.11 acres in size, located at the intersection of Portland Avenue with E. Gloucester Street. A duplex is in place.
- G. Vicinity Description: This area along Portland Avenue is a mix of commercial and residential uses. North of the subject, across Gloucester is a building

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

owned by Clackamas County and used in the past for elections, south of the property is in residential use, directly across Portland Avenue to the west is market, with an insurance business located to the northwest. Further east along Gloucester use is generally single family residential. City of Gladstone sewer and water services are available to serve the property.

II. FINDINGS

This request is subject to Chapter 17.18, C-2, Community Commercial District; Chapter 17.80, Design Review; and Division IV, Development Standards of Title 17 of the Gladstone Municipal Code (GMC).

III. CONCLUSIONS

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

1. *Chapter 17.80* of the GMC establishes the requirements for design review. Pursuant to *Subsection 17.80.021(1)*, site development in the C-3 zoning district is subject to design review.

Section 17.80.061 lists submittal requirements for Design Review. The application as submitted satisfies these requirements.

Section 17.80.100(1) provides for approved design review to remain valid for one year. If construction has not begun by that time, the approval may be renewed once by the Planning Commission for not more than one year.

2. *Chapter 17.18* of the GMC establishes basic requirements for the Community Commercial District. *Section 17.20.020* identifies uses permitted outright in the District, and includes retail/service commercial uses. This criterion is met.

Section 17.18.050 establishes dimensional standards for the C-2 district. The existing building complies with setbacks and the 35-foot maximum building height standard.

Section 17.20.050(4) requires off-street parking areas to be a minimum of five feet from all property lines. In this case off-street parking consists of the driveway to the unit.

Section 17.20.070(2) notes that when an existing residence in the C-2 Zoning District along Portland Avenue is converted to commercial or mixed use development, additional off-street parking shall not be required (subject to standards discussed therein.).

Staff is able to find applicable standards from Chapter 17.18 of the GMC, Parking, are met with this proposal.

3. *Chapter 17.44 of the GMC* identifies standards for building siting and design.

These standards apply to all development that is subject to Design Review. *Section 17.44.020(1)* deals with siting specifically, and requires that, where there are no conflicts with other design standards or requirements in Title 17, to site buildings to maximize solar access where practical, using such techniques as maximizing east-west street length; orienting buildings within twenty degrees of true south as well as maximizing their south-facing dimension; placing higher buildings on the north portion of the site while protecting solar access for adjacent sites, and placing major yard spaces on south side of buildings.

The subject property is roughly rectangular in shape, with the long dimension oriented approximately north-south. A building is in place. Exterior changes proposed include replacing the door with four (4) sets of French doors, placing planter containers at middle of existing driveway, install masonry columns and wrought iron fence as shown on site plan, and install concrete patio.

Section 17.44.020(2) requires buildings to have energy efficient designs. The proposed design includes abundant windows to provide natural lighting. The building will be required to meet the energy codes of the Oregon Structural Specialty Code, which will be evaluated through the building permit process. This is consistent with this subsection of the GMC.

Section 17.44.020(3) of the GMC addresses compatibility in building design. This subsection encourages the arrangement of structures and use areas to be compatible with adjacent developments and surrounding land uses. The proposed/existing building is typical of other uses along the Portland Avenue commercial corridor - mixed residential/commercial. There will be no change in building footprint. Changes to the façade and site are as discussed, above.

Staff finds the proposal as submitted satisfies applicable provisions from Chapter 17.44 of the GMC, Building Siting and Design.

Section 17.44.020(4) of the GMC deals with building materials. That Section requires buildings be constructed using high-image exterior materials and finishes such as masonry, architecturally treated tilt-up concrete, glass, wood or stucco. Screening of roof-mounted equipment is also discussed in this section.

Exterior building materials for the existing building are mostly wood, with stone accents. This criterion is satisfied.

Section 17.44.020(5) of the GMC establishes lighting standards. Site lighting will be minimal, and typical of that for residential use.

Section 17.44.020(6) of the GMC establishes illumination level standards. It requires that all on-site lighting shall be designed, located, shielded or deflected so as not to shine into off-site structures or impair the vision of the driver of any vehicle. Again, exterior lighting will be minimal.

Section 17.44.020(7) regarding equipment and facilities establishes that all utility lines shall be placed underground. All roof-mounted fixtures and utility cabinets or similar equipment, which must be installed above ground, shall be visually screened from public view. A condition of approval shall require compliance with this subsection for new utility lines, roof-mounted fixtures, utility cabinets or similar equipment installed aboveground.

Section 17.44.020(8) regarding trash disposal and recycling collection requires new construction to incorporate functional and adequate space for on-site storage and efficient collection of mixed solid waste and source separated recyclables prior to pick-up and removal by haulers. The proposed plan identifies general area for recycling/trash enclosures, but no detail is given on construction type/screening. Staff assume trash/recycling will simply be put out at the street on the appointed day. The Planning Commission may want to discuss this. A condition of approval will require that the applicant submit a letter to staff from the franchise hauler indicating approval of a plan for trash/recline storage and collection.

Section 17.44.024 establishes design standards for nonresidential construction. These provisions require that new, non-residential buildings, with the exception of buildings housing institutional, warehouse or manufacturing uses shall be subject to the following design standards:

(1) Ground floor windows. Ground floor windows shall be required on walls fronting a public street and shall comply with the following standards:

(a) The windows shall cover at least 50% of the length and 25% of the ground level wall area. Ground level wall areas include all exterior wall area up to nine feet above the finished grade. The bottom of required window shall be no more than 4 feet above the adjacent exterior finished grade.

(b) Required windows shall be windows that allow views into work areas or lobbies, pedestrian entrances or display windows set into the wall. Display cases attached to the outside wall shall not qualify.

The building was constructed as a residence, and in part will retain a residential appearance – blending with the mixed commercial/residential character along Portland Avenue.

Staff finds the proposal as submitted satisfies applicable provisions from Chapter 17.44 of the GMC, Building Siting and Design.

3. *Chapter 17.46 of the GMC* identifies landscaping standards and states that these standards are applicable to all developments subject to design review.

Subsection 17.46.020(1) requires a minimum of fifteen percent of the lot area be landscaped. The portion site currently exceeds the 15% requirement, though no detail is given. Applicant mentions additions of planters. A condition of approval is warranted to require submission and approval of a landscape plan showing satisfaction of this subsection.

Subsection 17.46.020(2)(a) requires that a parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than ten square feet per parking space. This does not apply to this proposal.

Subsection 17.46.020(3) requires that provisions for irrigating planting areas be made where needed. A condition of approval to this effect is warranted.

Subsection 17.46.020(4) requires landscaping to be continuously maintained. This standard can be met with conditions.

Subsection 17.46.020(5) pertains to the planting of trees under overhead utility lines or near sidewalks or curbs. No trees will be planted.

Subsection 17.46.020(6) indicates that sight-obscuring plantings, fencing or berming may be required to screen parking lots, outdoor storage or other unsightly features from the road or neighboring properties. This should be discussed by the Planning Commission.

Subsection 17.46.020(7) pertains to grading and states, “The natural form of the site shall be preserved insofar as practicable unless berming or contouring of land is required.”

The site itself will see minor changes but no fill/grading. *Subsection 17.46.020(8)* requires that land within the public right-of-way not developed as sidewalks or driveways be landscaped and maintained by the abutting property owner. The proposal meets these conditions.

Subsection 17.46.020(9) provides for street trees to be required of any development and states that, if planted, street trees shall be of a species compatible with the width of the planting strip and nearby street tree species. Street trees exist at this location.

4. *Chapter 17.48 of the GMC* regulates off-street parking and loading. The existing driveway, along with on-street parking will be used. Bicycle parking is not shown and should be discussed. The remainder of this Chapter is as modified by 17.20.070(2): when an existing residence in the C-2 Zoning District along Portland Avenue is converted to commercial or mixed use development, additional off-street parking shall not be required (subject to standards discussed therein.)

Section 17.48.040(1)(a) requires parking and loading areas to be paved with asphalt and/or concrete meeting city standards, maintained adequately for all-weather use and so drained as to avoid flow of water across public sidewalks. The existing driveway is paved.

Section 17.48.040(1)(c) requires areas for standing and maneuvering vehicle, other than for the off-street parking and storage of truck tractors and /or semi trailers, to be paved. *Not applicable.*

Section 17.48.040(2)(a) states that required parking spaces must be located within two hundred feet of the building or use they are required to serve. *Not applicable.*

Section 17.48.040(2)(b) states that required parking shall be provided in the same zoning district or a different zoning district of a more intensive use. Driveway and on-street parking are within the same zoning district.

Section 17.48.040(2)(c) prohibits parking for a commercial or industrial use from being located in a residential district except in the case of a conditional use. As noted above, all parking will be located in the C-2 district.

Section 17.48.040(2)(d) requires groups of more than four parking spaces to be permanently marked and so located and served by driveways that their use will require no backing movements or other maneuvering within a street right-of-way other than an alley. *Not applicable.*

Section 17.48.040(2)(f),(g) and (i) establish the minimum width of access aisles and the minimum dimensions of parking spaces. The parking lot proposal has the required 24 feet aisle width for 90 degree parking spaces. *Not applicable.*

Section 17.48.040(2)(h) requires parking areas to be designed to the maximum extent practicable, to avoid large, uninterrupted rows of parking spaces. *Not applicable.*

Section 17.48.040(3)(b),(c) and (d) establish requirements for loading areas. *Not applicable.*

Section 17.48.050 establishes requirements for bicycle parking. The proposal as submitted does not show bicycle parking for the facility. This requirement can be met if at least one (1) bicycle parking space is provided.

5. *Chapter 17.50 of the GMC* establishes the requirements for vehicular and pedestrian circulation. Subsection 17.50.020(1) requires that provisions be made for the least amount of impervious surface necessary to adequately service the type and intensity of proposed land uses within developments as well as providing adequate access for service vehicles. Based on submitted site plan information, staff is able to find that impervious surface is limited to that required by other sections of the Code. This standard is met.

Subsection 17.50.020(2) requires provisions to be made, when feasible, for a separation of motor vehicular, bicycle and pedestrian traffic. The master plan for the site considered this criterion. This standard is met.

Subsection 17.50.020(3) requires curbs, associated drainage and sidewalks within the right-of-way or easement for public roads and streets. Sidewalks currently exist along the Portland Avenue frontage.

Subsection 17.50.020(4) requires provisions to be made to accommodate any increased volume of traffic resulting from the development. No evidence has been provided that the proposed commercial activity will produce traffic beyond the capacity of the existing street development.

Subsection 17.50.020(5) requires provisions to be made for the special needs of the handicapped. This Subsection is met with the on-street parking.

Subsection 17.50.020(6) pertains to pedestrian access. This Subsection is met with the proposal.

Subsection 17.50.020(7) deals with new development requiring full site

design review that, when completed, generate an average daily traffic count of 1000 trips or greater. In such case, a transit stop shall be provided. There is no evidence to indicated this proposal will result in an ADT of 1000 trips or greater.

Section 17.50.040, Streets and Roads Generally: Many portions of this Section do not apply. Right-of-way is adequate along Portland Avenue, and full improvements exist on the Arlington frontage. Bicycle and Pedestrian Routes are provided for along Portland Avenue.

Applicable portions of this criterion are met.

6. *Chapter 17.52 of the GMC* establishes sign requirements. No information has been provided relative to signs. A condition of approval will require signage to meet requirements from Chapter 17.52.
7. *Chapter 17.54 of the GMC* establishes clear vision requirements. These standards will be continue to be met and maintained.
8. *Chapter 17.56 of the GMC* establishes drainage requirements. Applicant to work with city regarding any new impervious surface.
9. *Chapter 17.58 of the GMC* establishes standards for grading and fill and requires enforcement of the Uniform Building Code (UBC). The city contracts with Clackamas County for administration of grading permits. The county enforces its own Excavation and Grading Ordinance in lieu of Chapter 70 of the UBC. No additional grading has been proposed.
10. *Chapter 17.60 of the GMC* establishes requirements for utilities. All utilities shall be installed consistent with the standards of this Chapter.

REQUEST FOR COMMENTS:

City of Gladstone Public Works, Gladstone Fire,

RESPONSES RECEIVED:

No comments received as of this report.

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IV. RECOMMENDATION

The Planning Commission is authorized to approve design review applications pursuant to *Subsection 17.94.060(2)(c) of the GMC*. Planning staff recommends the Planning Commission approve this application for design review, based on the submitted application materials, subject to the following conditions:

1. This approval shall remain valid for one year following the date of approval. If construction has not begun by that date, this approval shall expire unless the Planning Commission pursuant to Section 17.80.100 of the GMC grants an extension.
2. The applicant shall obtain required permits from Clackamas County. The applicant shall comply with the requirements of the permits.
3. New mechanical equipment and garbage receptacles shall be screened as required by the GMC.
4. On-site lighting shall comply with Subsections 17.44.020(4) and (5) of the GMC, including compliance with IES standards as demonstrated in an engineered site light plan which must be submitted to staff.
5. New utility lines shall be placed underground unless prohibited by the utility service provider. New roof-mounted fixtures and utility cabinets or similar equipment shall be visually screened from public view as required by GMC Subsection 17.44.020(6).
6. The applicant shall submit a letter to the city from the franchise hauler indicating approval of a plan for trash/recycling storage and collection. Alternatively, the applicant may submit calculations demonstrating compliance with the minimum standards method described in GMC Subsection 17.44.020(7).
7. Landscaping shall be continuously maintained. Landscape maintenance shall be the responsibility of the owner.
8. The applicant shall submit a bicycle parking plan to staff for approval demonstrating compliance with the provisions of Subsection 17.48.050.
9. Signs for the use shall comply with Chapter 17.52 of the GMC
10. This approval is subject to the development complying with the provisions of the Americans with Disabilities Act (ADA)
11. Construction of storm drainage improvements associated with the development shall be consistent with city standards and comply with

the drainage requirements of the plumbing code administered by Clackamas County.

12. Water and sanitary sewer improvements shall be constructed to city and Tri-City Service District standards, respectively. Plans to be submitted to the city for approval prior to construction and utilities shall be developed in accordance with the requirements of Chapter 17.60. For sanitary sewer, the development is subject to the rules and regulations and standard specifications of Tri-City Service District. This property may be subject to a System Development Charge (SDC) for additional impacts to the system. Contact City of Gladstone. This property is not allowed to connect directly into the Tri-City force main.
13. For storm drainage: the site is located within the Gladstone City limits. WES provides the erosion control plan review for this area. An erosion control plan is required to be submitted to Water Environment Services for review and shall be implemented prior to and throughout the construction period.
14. Final certificate of occupancy shall not be granted until all conditions of the design review approval have been met.
15. Any changes in the approved design review plans shall be submitted and approved prior to execution. Any departure from the approved design review may cause revocation of building permits or denial of the final certificate of occupancy.



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

Property Report

TRYGG MARY E TRUSTEE
4603 SE GLEN ECHO AVE
MILWAUKIE, OR 97267

Site Address: 785 PORTLAND AVE

Taxlot Number: 22E20BD08400

Land Value: 76690

Building Value: 103190

Total Value: 179880

Acreage:

Year Built: 1962

Sale Date: 02/01/1992

Sale Amount: 0

Sale Type:

Land Class:

101

Building Class:

242

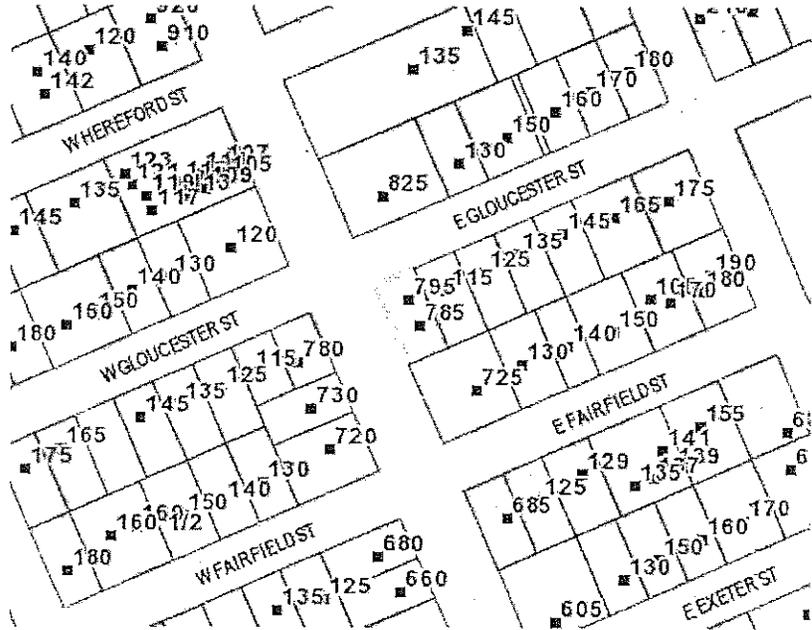
Neighborhood:

Gladstone plexes 100, 101

Taxcode Districts: 115040

Fire Gladstone
 Park N/A
 School SCH 115 GLADSTONE
 Sewer TRI-CITIES
 Water N/A
 Cable City
 CPO City
 Garb/Recyc Gladstone Disposal
 City/County Gladstone

Location Map:



Site Characteristics:

UGB: METRO
 Flood Zone: Not Available

Zoning Designation(s):

Zone	Overlays:	Acreage:
C2		0.11

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.

4-11

WEDNESDAY

3/19/2014

NARRATIVE:

APPLICANT PROPOSES TO CHANGE OCCUPANCY USE OF SOUTH HALF OF AN EXISTING DUPLEX AT 785 PORTLAND AVE, GARDSTONE INTO A COFFEE SNACK BAR AND RETAIL SPACES.

PHYSICAL IMPROVEMENTS (EXTENSION)

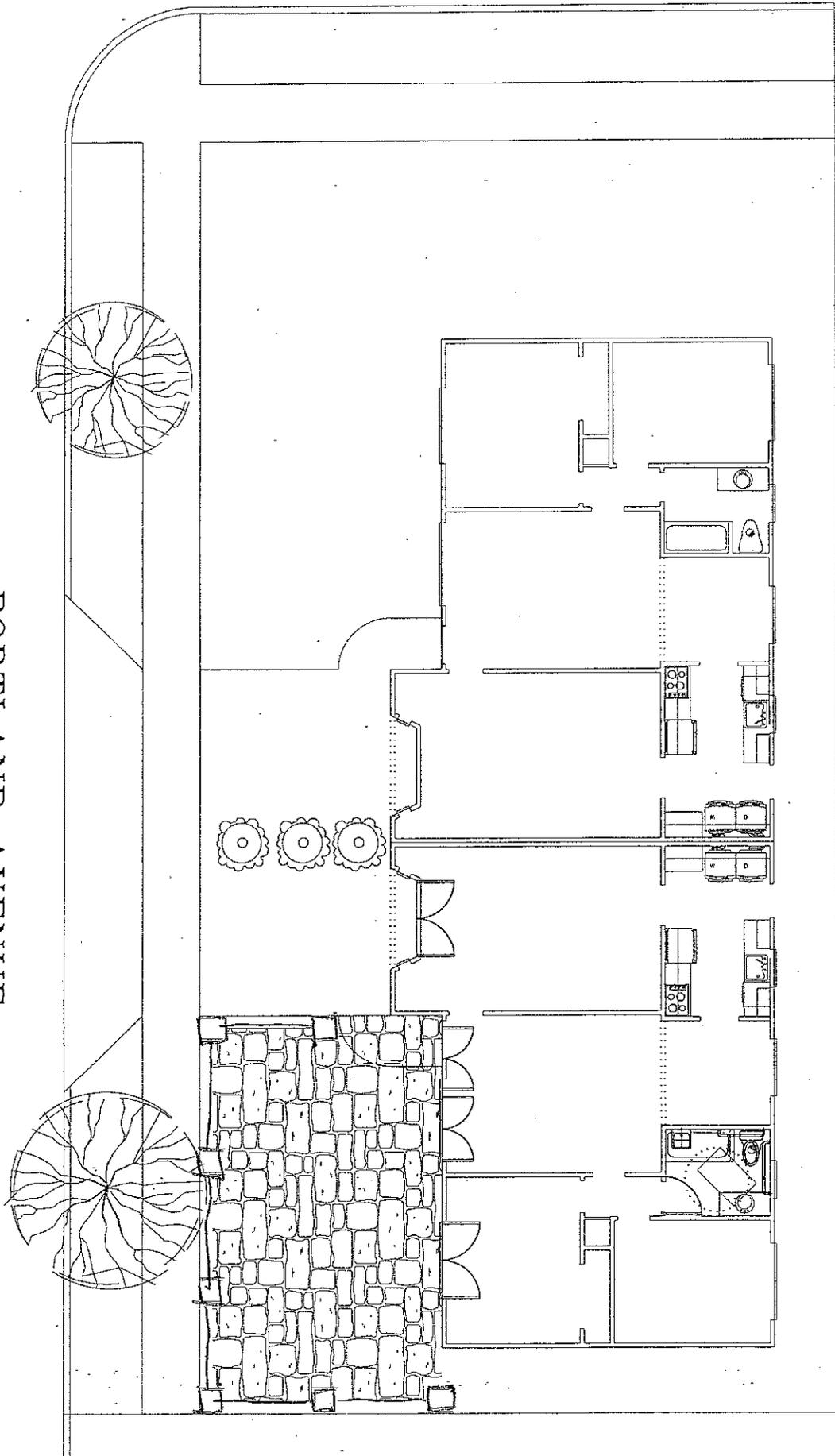
- ① REMOVE EXISTING DOORS AND WINDOWS FACING PORTLAND AVE AND REPLACE WITH FOUR (4) SETS OF FRENCH DOORS
- ② PLACE PLANTED CONTAINERS AT MIDDLE OF EXISTING DRIVEWAY FOR PRIVACY AND IDENTIFICATION
- ③ PLACE MASONRY COLUMNS (42" HIGH) AND WROUGHT IRON FENCE (36" HIGH) AS PER PLAN
- ④ INSTALL CONCRETE PATIO AS PER PLAN.
- ⑤ PARKING IS TO BE PROVIDED IN SOUTH DRIVEWAY AND ALONG PORTLAND AVE. FRONTAGE.

Brenda Luam

DATE:

E GLOUCESTER STREET

PORTLAND AVENUE



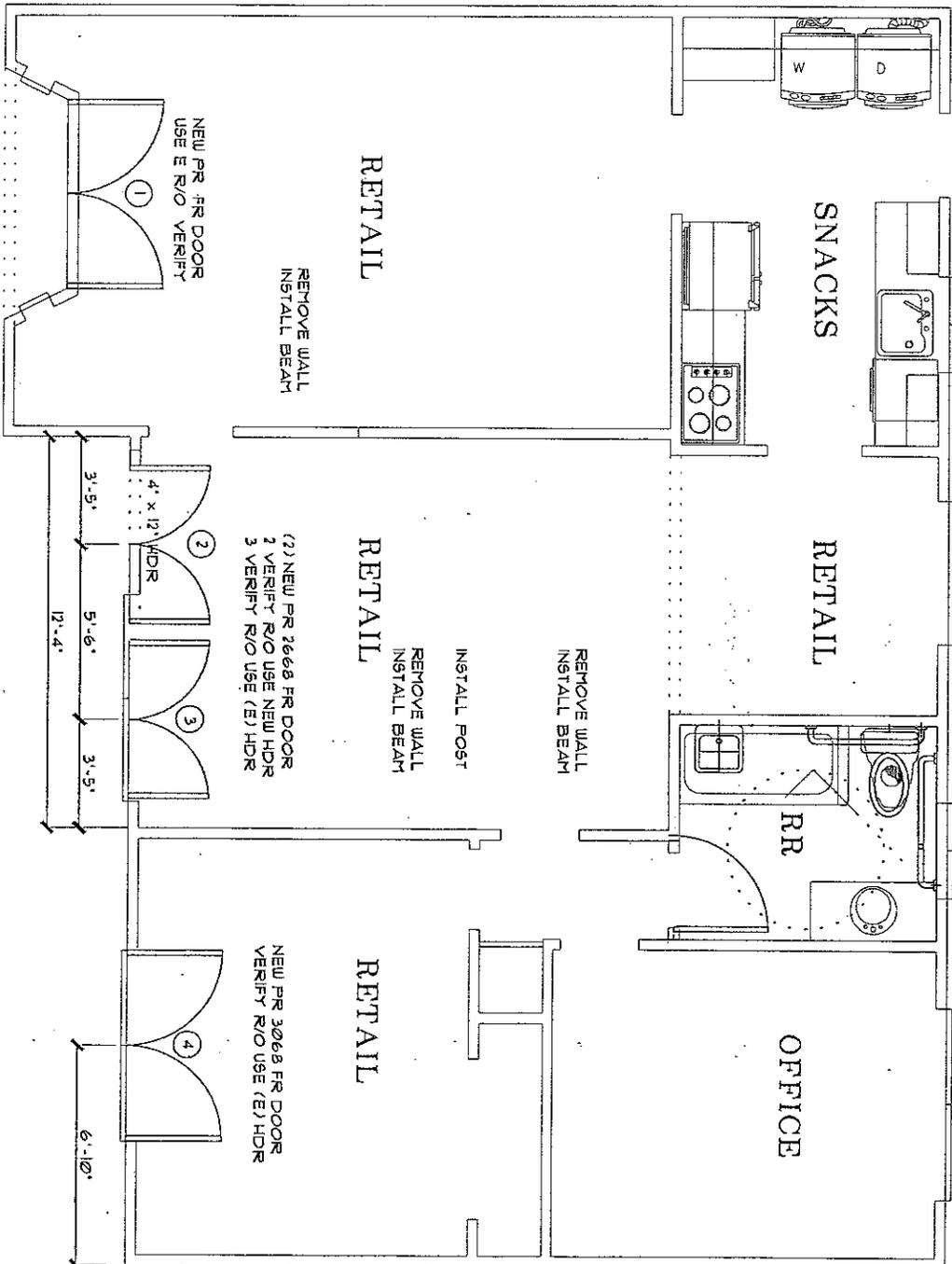
4-14

OWNER

BRENDA LAAM
4603 SE GLEN ECHO
MILWAUKIE, OREGON 97267
PHONE 971-998-3546

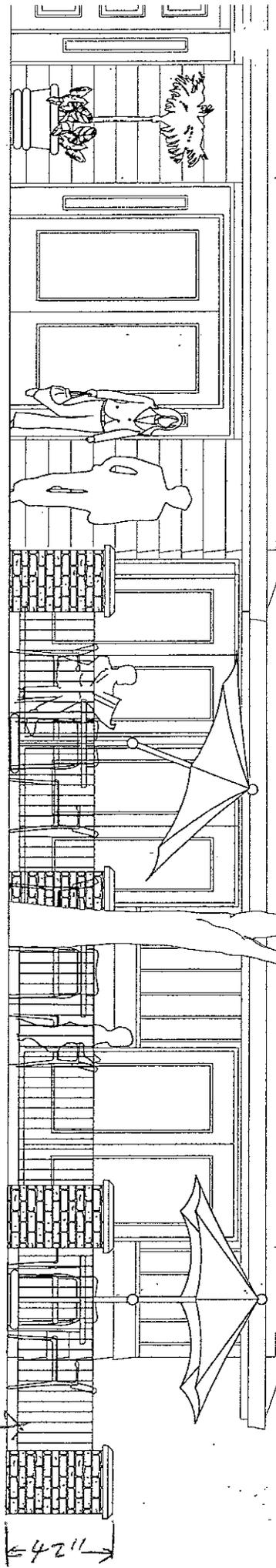
SITE ADDRESS

785 PORTLAND AVENUE
GLADSTONE, OREGON 97027
MAP (TLND) 22E208D08400
PARCEL NO .00537618
PROPERTY ID C163182
COUNTY CLACKAMAS
STATE ID 1S1E24BA 200
ALT ACCOUNT # 537618
YEAR BUILT 1962
SIZE 2,192 SQ. FT.
ZONING MAP #4937 ZONE C2



4-15

U.S. DEPT. OF COMMERCE
BUREAU OF ARCHITECTURE
WASHINGTON, D.C.



W. T. PENNELL

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42"

WORK SESSION

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

I Upon review and recommendation by the City Council, the Planning Commission would like to change our recommendation from the February 18, 2014 meeting relating to Title 2 Administration and Personnel, Chapter 2.28 Planning Commission as follows:

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 three consecutive meetings with or 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.”

NEXT STEPS

The next scheduled Code and Ordinance Review work session will continue the discussion of the following items:

- IV Title 17 Zoning and Development
Division 4 Section 17.54 Clear Vision Codes
-Clay will bring an example of what the county has on this subject
- V Title 8 Health & Safety
Section 8.04 Nuisances

Section 8.12 Noise Control

See Attachments

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

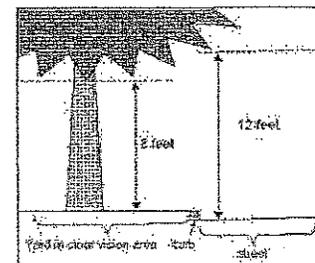
Clear vision areas are required by the Milwaukie Municipal Code to ensure that persons traveling in the City have unobstructed views at street and driveway intersections.

Where Clear Vision Areas Exist

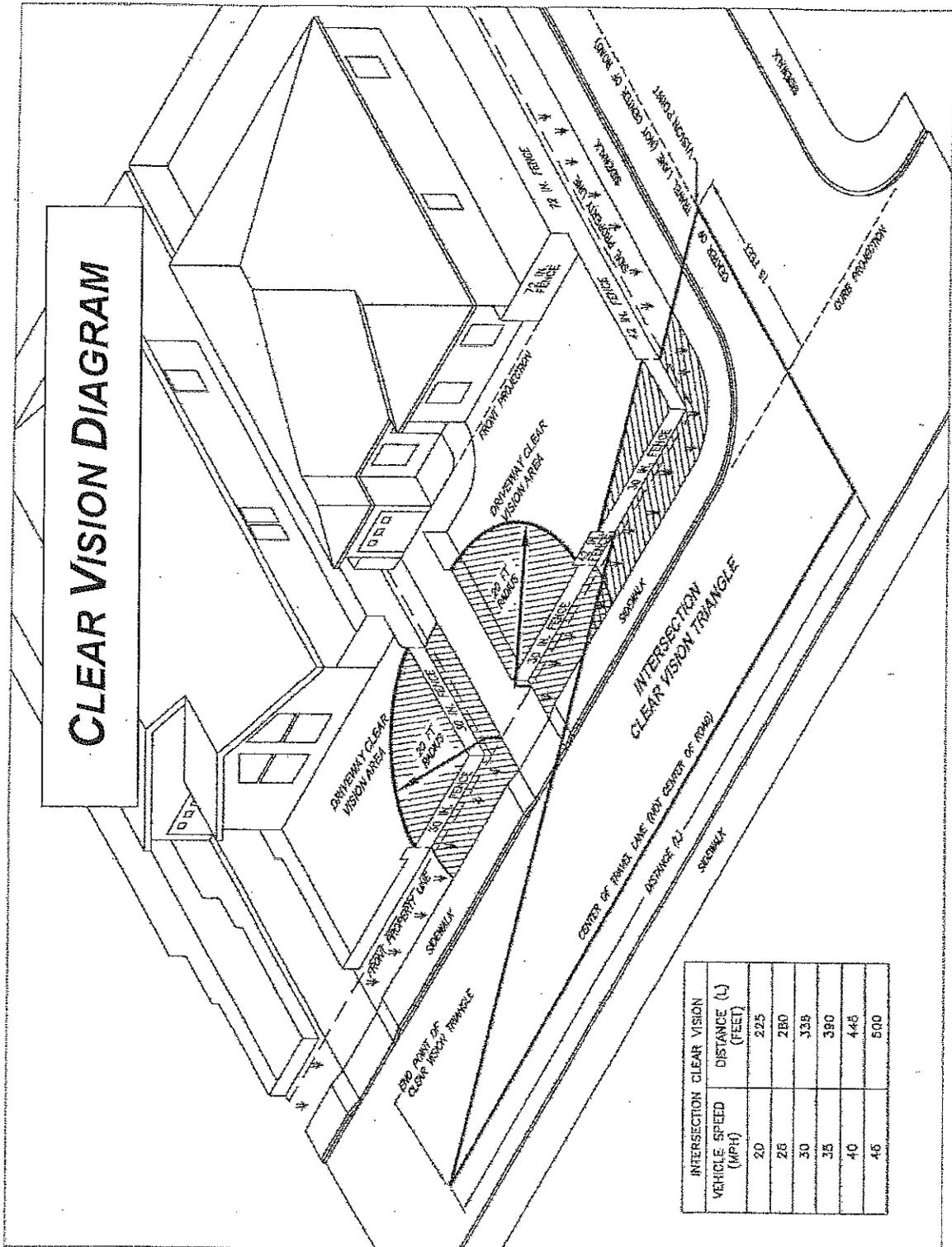
1. **Street intersections:** The clear vision area is defined in the Clear Vision Diagram on the next page.
2. **Driveways:** Defined by a 20' radius from the point where the driveway meets the lot line. See the Clear Vision Diagram on the next page.

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



INTERSECTION CLEAR VISION VEHICLE SPEED (MPH)	DISTANCE (L) (FEET)
20	225
26	280
30	335
35	390
40	445
45	500

55 57

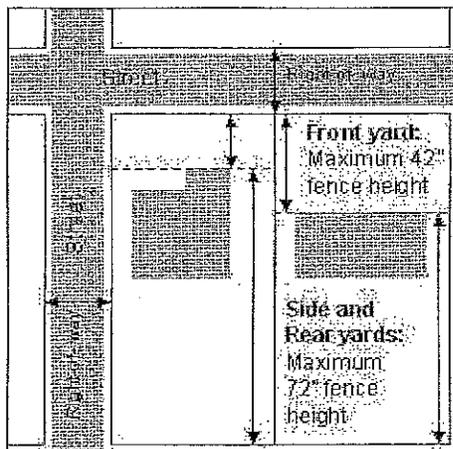
FENCE REGULATIONS

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.)***

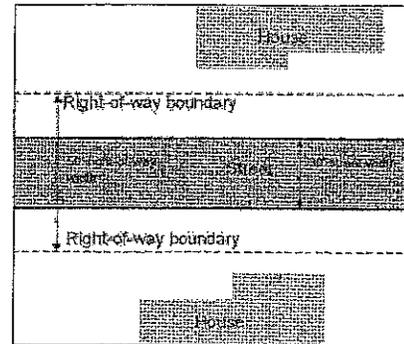
* Flag lots have different fence height standards. Please contact the Planning Department at 503-786-7630 for these regulations.

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.

Milwaukie Municipal Code

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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

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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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Milwaukie Municipal Code

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TITLE 19 ZONING

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

[remove highlighting]

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

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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'	240 sq ft
B	5'	12'	400 sq ft
C	Large zone yard requirements	25' OR height of primary structure (whichever is less)	Lower or 75% of primary structure OR 1,500 sq ft; OR 200 sq ft was allowed at least 5 ft from 100-foot 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 ZONING](#)

[CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS](#)

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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

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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

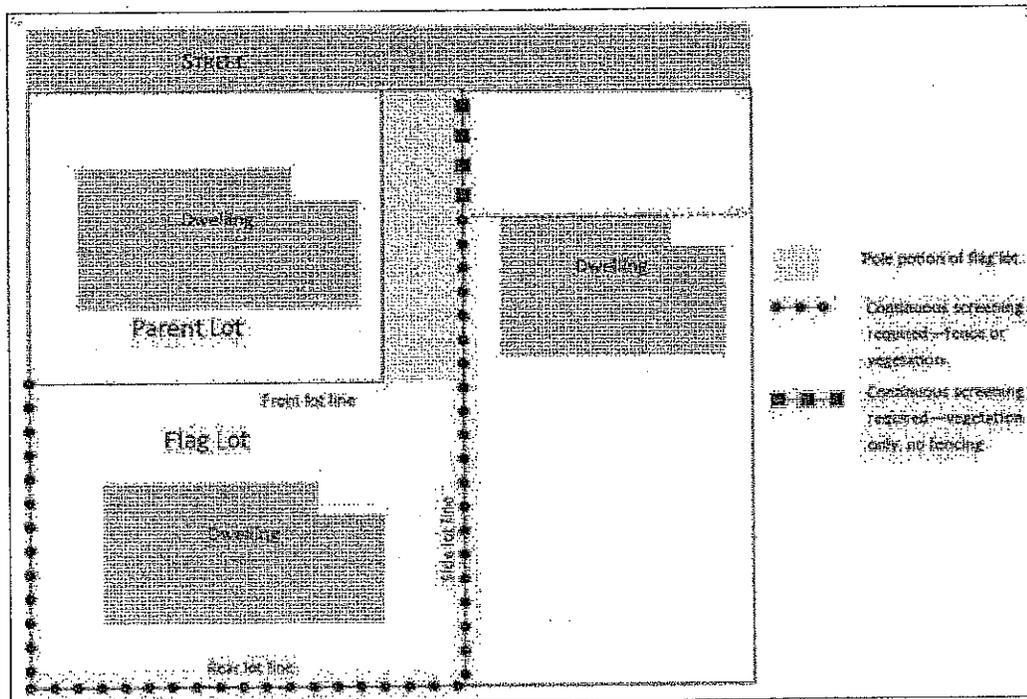
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Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the **clear vision** standards of Chapter 12.24. Fencing shall conform to the standards 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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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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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 (8,000 lbs) 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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