

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

**Tuesday, July 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 May 20, 2014 meeting

**REGULAR AGENDA**

2. Discussion of Webster Road Property
3. Discussion of Ordinance 1450 – Establish a Planning Pre-Application Conference Fee – City Council Requested the Planning Commission make a Recommendation to the Council
4. Work Session: Gladstone Code Review

**BUSINESS FROM THE PLANNING COMMISSION**

**ADJOURN**





## **CONSENT AGENDA**



MINUTES OF PLANNING COMMISSION MEETING – May 20, 2014

**Call to Order at 7:02 p.m.**

**Roll Call:** The following Planning Commission members answered the roll call: Vice Chair Kim Sieckmann, Kevin Johnson, Michele Kremers, Pat McMahon, Craig Seghers and Kirk Stempel.

**Absent:** Chair Tamara Stempel

**Staff:** David Doughman, City Attorney; and Jolene Morishita, Assistant City Administrator.

Vice Chair Kim Sieckmann lead the flag salute.

**Consent Agenda:**

**1. Minutes of March 18, 2014 Meeting**

Correction on page 1-2: change the word “regarding” to “re-grading.”

*Commissioner Pat McMahon moved and Commissioner Kevin Johnson seconded a motion to approve the consent agenda consisting of the minutes of April 15, 2014 as revised.*

*Motion carried unanimously.*

**Regular Agenda:**

- 2. Work Session: Gladstone Code Review.** Vice Chair Kim Sieckmann explained this is a worksession to review, discuss and come to a consensus on the codes being reviewed tonight. The changes will be compiled into a formal recommendation to Council at the next Planning Commission meeting.

**Section IV, Title 17 Zoning & Development – Review Section 17.54, Clear Vision Codes**

- Question: 25 mph in residential area means 280’ site distance at intersection. How far back is the side street that you have to have the 280’; it’s not a perfect triangle? Staff was asked to provide a diagram showing the triangle?
- The first chart has the right-of-way in feet, which is not the width of the street. Should it be the width of the street and not the right-of-way? City Attorney David Doughman said you would measure from the right-of-way in order to accommodate any future widening or changes that would potentially measure it from the road. The triangle established is based on the road width.
- If that road width were to essentially get bigger to accommodate all the right-of-way in the future, that triangle may be too small relative to that wider road? If the right-of-way is widened, the clear vision on the lot lines goes down? If the street widens, why wouldn’t the right-of-way?
- Who enforces the site lines? Maybe code enforcement if there is a complaint.
- The posted speed limit is a graph. Does it have anything to do with the right-of-way and measurement? On corner lots there should be 40’ each way. The clear vision makes more sense.
- Where are the minimum intersection sites distances measured from; center one direction or center both directions? In last month’s materials a graph shows the

- triangle moves depending on the direction you travel. The site distance would turn depending on which way you are traveling.
- Commissioner Michele Kremers noted Page 5-4 shows Milwaukie's explanation and regulations for clear vision. It is simple and easy to understand.
  - Suggestion to use Milwaukie's explanation and Gladstone's text of the code.
  - Commissioner Pat McMahon asked for more clarification on what the numbers mean.
  - Commissioner Kevin Johnson suggested doing away with first chart altogether.
  - Should there be language included for clear vision distance from driveways; RV's, hedges, or other plantings. It may be appropriate to put language in Residential R-7.2 Chapter 7.10.030(3) fences and walls between front lot line and front building line, R-5 fences and the commercial section, page 5-9 definition of site line and clear vision definition of fence.

Request for Staff (City Planner/City Attorney) to bring to June Planning Commission meeting:

- (1) develop a map that meets the criteria with triangles,
- (2) a one-page description on 5-4 of April packet
- (3) an explanation about the two charts with the minimum intersection site distance, posted speed limits, right-a-way in feet measurements, each lot line in feet
- (4) An actual figure that spells out Gladstone's code.
- (5) (City Attorney) Definition for fences/hedges that can be used in all chapters that address this issue.

Section V – Title 8 Health and Safety – Review Section 8.04 Nuisances and Section 8.12 Noise Control. Concerns were raised about the Abatement procedures which have the appeals process going through City Council. It was suggested that the hearings officer should make the final decision. In many instances these enforcement issues are time sensitive (example of waiting over 60 days for Council to hear an appeal because of timing of enforcement.) City Attorney Doughman agrees that taking out the Council's jurisdiction and putting it in municipal court reduces the political aspect of the situation.

- City Attorney Doughman stated it is possible to change Section Chapter 8.04.160 and to reflect "municipal court" rather than "City Council." Assistant City Administrator Morishita she will make the changes and send it to the City Attorney for approval. City Attorney Doughman stated he will do a global search on Chapter 8.04 and 8.12 to see if there are any other instances that need to be changed for consistency.
- Vice Chair Sieckmann asked if 8.04.10, General Provisions applied to compost bins. It was the consensus that if did become a problem there are other independent reasons in the code that would address it (rubbish, smell, animal attraction).
- Vice Chair Sieckmann questioned whether yard debris should be added in the description of Section 8.04.10.2. He suggested yard debris as it would cover vegetative trimmings of any kind. It was the consensus of the Commission to leave as is.
- Vice Chair Sieckmann suggested changing Section 8.04.020, Scattering of Rubbish as there is a list of things that can be removed and use the term solid waste. City Attorney

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Doughman stated he didn't see any reason for changing it. It was the consensus of the Commission to leave it as is.

- Vice Chair Sieckmann suggested changing Section 8.04.060(3), "...stagnant water that affords a breeding place for "mosquitoes and other insects" to "mosquitoes or other insects." City Attorney Doughman agreed it should be "or." It was the consensus of the Commission to make that change.

Michele Kremers left the meeting at 8:10 p.m.

- Vice Chair Sieckmann asked if Section 804.070, Abandoned Iceboxes, refrigerators or similar container which has an airtight door which may not be released from the inside should be expanded to include microwaves, stoves, and other appliances. City Attorney Doughman stated that "similar container" covers all concerns. It was the consensus of the Commission to make no change. Vice Chair Sieckmann asked if Section 804.100(3), Sidewalk Repair..."or as determined by the City Administrator." Does the City Administrator have the authority to allow a 1-1/2 foot vertical up-lift? City Attorney Doughman stated he will bring something to the next Commission meeting that would address this issue.
- Vice Chair Sieckmann asked in Section 804.141(E), Noxious Vegetation, if the vegetation listed does not harbor rodents, are they okay to have. The section also includes, "...contributes to noxious pollen, constitutes a fire hazards or unreasonably interferes with the use and enjoyment of abutting or private property. City Attorney Doughman suggested changing the text to read, "...uncontrolled or uncultivated growth of weeds, brush, berry vines, poison oak, poison ivy, ragwort, or grasses. For the purposes of this subsection, uncontrolled or uncultivated (examples...)." City Attorney Doughman will prepare clearer text for this section.
- Section 804.141.2(1), "...the term noxious vegetation does not include vegetation that is part of natural topographical conditions of city or state parks are greenway areas." Why do the city and state have different regulation rules than a private property owner? He would like the see the second sentence removed. Assistant City Administrator Morishita explained the City owns vacant lands in the City and if this is changed, tax dollars will have to be used to maintain these lands. It was the consensus of the Commission to leave the text as stated.

#### Section 8.12 – Noise Control – Review

- In Code Enforcement Boyle's email he recommends noise variance requests not go through Council. He feels the process should go through staff with an appeals process through a designated hearings officer. Assistant City Administrator Morishita explained the turn-around time is not really feasible for Council.
- It was suggested that Vice Chair Sieckmann attend the Adjourned Council meeting and ask Council to review 8.12.070 to see if there are specific reasons that the variance process needs to be so detailed and whether it can be an administrative decision rather than a Council decision.

- It was suggested to reword 8.12.070.1(I), Sound Stage Entertainment and Music Performances; 2(A), Variances; and 2(L) to reflect the event permit rather than the festival.
- Vice Chair Sieckmann noted 8.12.070(E) references document ORS-483.499 and OAR-340-35030 asked if staff to include these documents as part of the code. It was the consensus of the Commission to include the documents.

**Other Business:** Recently there was a hearing on the reimbursement of a sewer problem that the city took care of. Assistant City Administrator Morishita explained there was an issue with the process that the Code allows. Which process is followed in the Code determines if: (1) The City is reimbursed for all charges in connection with the repair and (2) The City only is reimbursed the cost of the repair. City Attorney Doughman stated he would look into the sewer incident to see what part of the process needs to be changed so that all costs incurred by the City is reimbursed.

**Upcoming Commission Considerations:** None.

**Business from the Commission:** None.

**Adjourn:**

*Commissioner Pat McMahon moved to adjourn the May 15, 2014 Planning Commission meeting. Commissioner Kevin Johnson seconded the motion. Motion carried unanimously.*

Vice Chair Kim Sieckmann closed the Planning Commission meeting of May 15, 2014 at 9:35 p.m.

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

\_\_\_\_\_, Kim Sieckman, Vice Chair

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## **REGULAR AGENDA**



# City of Gladstone Staff Report

To: Planning Commission

From: Jolene Morishita, Assistant City Administrator

Meeting Date: July 15, 2014

## AGENDA ITEM

Review Webster Road Property

## STAFF RECOMMENDED ACTION

No recommendation

## BACKGROUND

At the May 27 Council Work Session and the June 10 Council Meeting, Mayor Byers requested that the Planning Commission Review the Webster Road property for allowed uses. Currently the property is zoned Community Commercial. The request was for the Planning Commission to go through the process of determining if this is an appropriate designation going forward, should the City ultimately decide to sell the parcel.

## COST IMPACT

The property was purchased for \$3.1M. In October 2013 the property value was assessed at \$2.57M. It is reasonable to assume that different zoning designations could impact the value of the property.



**Gladstone Municipal Code**

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[Title 17 ZONING AND DEVELOPMENT](#)  
[DIVISION II. ZONING DISTRICTS](#)

**Chapter 17.18 C-2—COMMUNITY COMMERCIAL DISTRICT****17.18.010 Purpose.**

The purpose of a C-2 district is to implement the comprehensive plan and to provide for the establishment of a community shopping center serving most of the occasional retail and specialty shopping needs of area residents and thus service a much larger area and a much larger population than is served by the C-1, local commercial district.

**Statutory Reference:** ORS Ch. 197, Ch. 227

**History:** Ord. 1131 §2, 1990.

**17.18.020 Uses allowed outright.**

In a C-2 zoning district, the following uses and their accessory uses are allowed outright:

- (1) Retail trade establishment, except when listed as a conditional use.
- (2) Business, governmental or professional office.
- (3) Medical clinic.
- (4) Financial institution.
- (5) Personal and business service establishments such as a barber shop, tailoring shop, printing shop, laundry or dry cleaning, sales agency, or photography studio, except as listed as a conditional use.
- (6) Eating or drinking establishment.
- (7) Hotel or motel.
- (8) Small appliance repair including radio, television and electronics repair.
- (9) Community service facility such as a fire station, library, community center, park, utility facility or meeting hall.
- (10) Mixed use development.

**Statutory Reference:** ORS Ch. 197, Ch. 227

**History:** Ord. 1131 §2, 1990; Ord. 1289 § 1, 2000; Ord. 1323 §1, 2002.

**17.18.030 Residential accessory uses.**

Accessory uses allowed in a residential zoning district shall be allowed in connection with single-family, two-family and multi-family dwellings in this zoning district. Such accessory use shall comply with the standards applicable to accessory uses allowed in the R-5 zoning district.

**Statutory Reference:** ORS Ch. 197, Ch. 227

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**History:** Ord. 1131 §2, 1990; Ord. 1323 §1, 2002.

**17.18.040 Conditional uses allowed.**

In a C-2 zoning district, the following uses and their accessory uses are allowed subject to GMC Chapter 17.70 (conditional uses):

- (1) Automobile service station.
- (2) Dwelling subject to GMC Subsections 17.12.050 (1) through (5) except that the minimum lot area for a two-family dwelling shall be five thousand square feet.
- (3) Funeral home.
- (4) Small scale amusement or recreational facility such as a billiard or pool hall.
- (5) School and associated buildings, structures and facilities.
- (6) A use listed as a permitted outright use but not meeting the limitations of GMC Section 17.18.050 (limitations on use).
- (7) Planned unit development (PUD).
- (8) Foster homes.
- (9) Day care center.
- (10) Recreation vehicle park, subject to GMC Section 17.62.100 (recreation vehicle park).
- (11) Business activities conducted in conjunction with a use allowed outright under GMC Section 17.18.020 (uses allowed outright), not conducted wholly within an enclosed building and not specifically provided for under GMC Subsections 17.18.050(1) through (3).
- (12) Uses operating between 12:00 a.m. and 5:00 a.m.

**StatutoryReference:** ORS Ch. 197, Ch. 227

**History:** Ord.1131 §2 (Part), 1990; Ord. 1198 §1(C), 1994; Ord. 1289 §1, 2000; Ord. 1323 §1, 2002; Ord. 1341, 2003.

**17.18.050 Limitations on use.**

All business activities, including service, repair, processing, storage and merchandise display shall be conducted wholly within an enclosed building except for the following:

- (1) Drive-through windows accessory to a use allowed outright;
- (2) Outdoor play areas accessory to a community service facility;
- (3) Display of merchandise along the outside of the walls of a building provided such display does not extend more than three feet (3') from the walls and does not obstruct required pedestrian or bicycle access, emergency access or off-street parking areas; and
- (4) Activities approved in conjunction with a conditional use allowed under GMC Section 17.18.040 (conditional uses allowed).
- (5) The following limitations apply to developments along Portland Avenue:
  - (a) All development shall provide ground floor windows along Portland Avenue. Required window areas must be either windows that allow views into working areas or lobbies, pedestrian entrances or display windows.

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Required windows may have a sill no more than 4 feet above grade. Where interior floor levels prohibit such placement, the sill may be raised to allow it to be no more than 2 feet above the finished floor level, up to a maximum sill height of 6 feet above grade.

(b) All buildings shall have their primary entrances face Portland Avenue. Primary entrance is defined as the principal entry through which people enter the building. A building may have more than one primary entry, as defined in the Uniform Building Code.

(6) The use of Portable Storage Containers as defined in Chapter 5.22.

**Statutory Reference:** ORS Ch. 197, Ch. 227

**History:** Ord. 1131 §2 (Part), 1990; Ord. 1323 §1, 2002; Ord. 1392 §6, 2008, Ord. 1404, 2008.

### **17.18.060 Dimensional standards.**

Except as provided in GMC Chapter 17.38 (planned unit development), Chapter 17.72 (variances), and Chapter 17.76 (exceptions), the following dimensional standards shall apply in a C-2 zoning district:

(1) Setbacks. There shall be no minimum setback requirements, except a maximum setback of five feet (5') shall be maintained along Portland Avenue frontages.

(2) Off-Street Parking. The boundary of any area developed or intended for off-street parking shall be located a minimum of five feet (5') from all property lines. An exception to the minimum setback standard for off-street parking shall be made for existing parking when the use complies with GMC Section 17.18.070 (off-street parking standards).

(3) Building Height. The maximum building height shall be thirty-five feet (35'). This restriction may be varied as follows:

(a) Maximum building height may be increased by one (1) story if the building is provided with an approved automatic sprinkler system throughout as provided in Section 506 of the Oregon Structural Specialty Code or its successor;

(b) Vertical projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flagpoles and similar objects not used for human occupancy are exempt from the maximum building height standard;

(c) Maximum building height may be increased if the city fire department reports that it possesses sufficient fire-fighting capability to provide emergency response to a structure of the height proposed.

(4) Equipment Setbacks. There shall be no minimum setback requirements for central air conditioners, heat pumps and similar equipment except when a lot line abuts a residential zoning district, in which case the minimum setback requirement from the lot line abutting the residential zoning district shall be ten feet (10').

(5) Density. Residential density shall not exceed that allowed in the R-5 zoning district.

(6) Hotels and Motels:

(a) The minimum lot area shall be five hundred (500) square feet per dwelling unit;

(b) The minimum frontage shall be one hundred feet (100').

(7) Fences and Walls. The following standards shall apply to fences and walls of all types whether open, solid, wood, metal, masonry or other material.

(a) When located between the front lot line and the front building line, fences and walls shall not exceed three feet (3') in height.

(b) Fences and walls not subject to Subsection (7)(a) of this Section shall not exceed six feet (6') in height.

(c) An exception may be granted to the maximum fence or wall height standards pursuant to review of an

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application for conditional use; alteration, expansion or change of use of a nonconforming use; or design review and when an exception is found necessary to provide adequate screening for the use.

(d) Fences and walls shall comply with GMC Chapter 17.54 (clear vision).

**Statutory Reference:** ORS Ch. 197, Ch. 227

**History:** Ord. 1131 §2 (Part), 1990; Ord.1140 §1, 1991; Ord. 1323 §1, 2002, Ord. 1404, 2008.

[Ed. Note: The publication(s) referred to or incorporated by reference in this ordinance are available from the office of the City Recorder.]

#### **17.18.070 Off-street parking standards.**

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(1) Where one commercial use allowed outright is substituted for another in an existing building and the building is not expanded by more than ten percent (10%) of the floor area used for commercial purposes on January 1, 1980, no more off-street parking shall be required than was possessed by the previous commercial use. Where successive expansions of a building are proposed, the total area of all expansions shall not exceed the ten-percent (10%) standard.

(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 the following standards:

(a) The new commercial use shall not exceed a "B" occupancy rating as described in the Oregon Structural Specialty Code or its successor and shall be identified in GMC Section 17.18.020 (2), (5) or (8);

(b) Signs shall be on-building and indirectly illuminated;

(c) The use shall generate low traffic volumes and require minimal off-street parking; and

(d) Structures and landscaping shall retain a residential appearance.

**Statutory Reference:** ORS Ch. 197, Ch. 227

**History:** Ord. 1131 §2 (Part), 1990; Ord. 1323 §1, 2002.

#### **17.18.080 Exceptions in case of large scale development.**

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The standards and requirements of the regulations of this section may be modified by the Planning Commission in the case of a plan and program for a planned unit development, or a large scale shopping center, providing the modifications are not detrimental to the public health, safety and welfare and providing the Planning Commission determines there is provision for adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the developed tract and its relation to adjacent areas and for such covenants or other legal provisions as will assure conformity to and achievement of the plan.

**Statutory Reference:** ORS Ch. 197, Ch. 227

**History:** Ord. 1131 §2 (Part), 1990.

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# City of Gladstone

## Staff Report

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TO: City Council

FROM: Jolene Morishita

DATE: April 1, 2014

### AGENDA ITEM

Addition to the Fee Schedule

### RECOMMENDED ACTION

1. Change the GMC language for a Planning Pre-Application charge.
2. Add the following Pre-Conference fees to the City's fee schedule:

Minor	\$ 300.00
Major	\$1000.00

### BACKGROUND

Individuals/companies request meetings with our City staff, contracted engineer, and contracted planner to discuss private property that is for sale within Gladstone City limits. These are fact-finding meetings to help a potential buyer determine if they are actually interested in purchasing a parcel of property and discover costs, requirements, restrictions, etc. Sometimes these meetings result in the property being purchased and the project moving ahead. Other times, no sale occurs and the fact-finding meetings repeat with each potential buyer.

Gladstone Municipal Code 17.90.030 allows for Pre-Application Conferences. However, Gladstone has not implemented a pre-application conference fee as other cities. We would like to remedy this to cover our costs. Charges by other neighboring Cities include:

#### City of Canby

Minor	\$300
Major	\$700

#### City of Oregon City

Minor	\$ 538.00
Major	\$1044.00

City of West Linn

Minor	\$ 350.00
Major	\$1000.00

**COST IMPACT**

Approval of a Pre-Planning Fee will have no negative impact to the City.



## PRE-APPLICATION CONFERENCE

THIS SECTION FOR STAFF COMPLETION		
CONFERENCE DATE:	TIME:	PROJECT #:
STAFF CONTACT:		FEE:

Pre-application conferences occur on the first and third Thursdays of each month. In order to be scheduled for a conference, this form including property owner's signature, the pre-application fee, and accompanying materials must be submitted at least 14 days in advance of the conference date. Twenty-four hour notice is required to reschedule.

Address of Subject Property (or map/tax lot): \_\_\_\_\_

Brief Description of Proposal: \_\_\_\_\_

Applicant's Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone No: ( ) \_\_\_\_\_ Email Address: \_\_\_\_\_

Please attach additional materials relating to your proposal including a site plan on paper up to 11 x 17 inches in size depicting the following items:

- North arrow
- Scale
- Property dimensions
- Streets abutting the property
- Conceptual layout, design and/or building elevations
- Easements (access, utility, all others)
- Access to and from the site, if applicable
- Location of existing trees, highly recommend a tree survey
- Location of creeks and/or wetlands, highly recommend a wetland delineation
- Location of existing utilities (water, sewer, etc.)

Please list any questions or issues that you may have for city staff regarding your proposal:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By my signature below, I grant city staff right of entry onto the subject property in order to prepare for the pre-application conference.

Property owner's signature

Date

Property owner's mailing address (if different from above)

Councilor Nelson moved and Councilor Martinez seconded a motion to adopt Ordinance 1448 – An Ordinance Amending Chapter 6.08 of the Gladstone Municipal Code to Allow For The Keeping of Wild or Dangerous Animals Under Specific circumstances.

A roll call was taken with the following results: Councilors Martinez, yes; Mersereau, yes; Nelson, yes; Reisner, No; and Mayor Byers, yes.

The motion failed 4-1.

11. Ordinance 1449 – Removal from Planning Commission For Absences From Planning Commission Meetings. Mayor Byers asked for the first reading of the Ordinance. Assistant City Administrator Morishita read the Ordinance by title only.

Councilor Nelson moved and Councilor Reisner seconded a motion to consider the first reading of Ordinance 1449.

The motion carried unanimously.

**Discussion:** None.

Councilor Nelson moved and Councilor Reisner seconded a motion to adopt Ordinance 1449 – An Ordinance Amending Chapter 2.28.040 Of The Gladstone Municipal Code Regarding Removal From The Planning Commission For Absences From Planning Commission Meetings.

A roll call was taken with the following results: Councilors Martinez, yes; Mersereau, yes; Nelson, yes; Reisner, yes; and Mayor Byers, yes.

The motion carried unanimously.

Mayor Byers asked for a second reading of Ordinance 1449. Assistant City Administrator Morishita read the Ordinance by title only for the second time.

Councilor Nelson moved and Councilor Reisner seconded a motion to adopt Ordinance 1449 – An Ordinance Amending Chapter 2.28.040 Of The Gladstone Municipal Code Regarding Removal From The Planning Commission For Absences From Planning Commission Meetings.

A roll call was taken with the following results: Councilors Martinez, yes; Mersereau, yes; Nelson, yes; Reisner, Yes; and Mayor Byers, yes.

The motion carried unanimously and the Ordinance is adopted.

12. Ordinance 1450 – Amending Chapter 17.90 of the GMC to Establish a Planning Pre-Application Conference Fee. City Counsel Martin asked that this issue be removed from the agenda. This Ordinance must first go before the Planning Commission and they will make a recommendation to Council.

13. Update Regarding the Library Advisory Committee. City Administrator Boyce noted he has asked for a worksession on the fourth Tuesday of May to discuss the library issues. An adjourned meeting will be held first which will deal with the Ordinance that was not unanimously passed tonight.

The Committee met several times and they did a lot of work and asked a lot of good questions. He asked the Committee to consider three main questions: (1) Should Gladstone and Oak

ORDINANCE NO. 1450

**AN ORDINANCE AMENDING CHAPTER 17.90 OF THE GLADSTONE MUNICIPAL CODE TO ESTABLISH A PLANNING PRE-APPLICATION CONFERENCE FEE**

**WHEREAS**, Gladstone Municipal Code (GMC) Section 17.90.030 requires a planning pre-application conference for “administrative actions” initiated by a property owner, contraction purchaser, option holder or agent of the owner under the City’s Zoning and Development Code; and

**WHEREAS**, with respect to property that is for sale within the city, it is not unusual for potential purchasers of property to utilize the pre-application conference as a “fact finding” opportunity to better understand potential costs or restrictions regarding future use of the property; and

**WHEREAS**, planning pre-application conferences require city staff time and resources; and

**WHEREAS**, the City of Gladstone does not currently assess a fee for a planning pre-application conference and, thus, the city bears all costs involved; and

**WHEREAS**, the City of Gladstone should have the authority to defray the costs that it reasonably incurs in providing city staff and resources to conduct a pre-application conference;

**NOW, THEREFORE**, the Common Council of the City of Gladstone ordains as follows:

**Section 1.** The current provision of Section 17.90.030 of the Gladstone Municipal Code is hereby amended to read as follows. New language appears as underlined text; deleted language appears as ~~strikethrough~~ text.

**“17.90.030 Pre-application conference**

- (1) ~~With respect to actions~~ For an application that is initiated by a property owner, contract purchaser, option holder or agent of the owner, the applicant or his applicant’s authorized representative shall meet ~~and confer~~ with the City Administrator or designee in a pre-application conference, in order to discuss the application, approval criteria and at which time views may be exchanged as to the requisites for formal application and the feasibility of approval may be discussed.
- (2) The City Administrator or designee may waive the requirement for a pre-application conference in writing.
- (3) Any opinion expressed by the City Administrator or designee during a pre-application conference is advisory in nature, and is subject to change upon ~~official~~ official review of the complete application.
- (4) The City may charge an administrative fee to defray the costs of the pre-application conference, with such fee being specified in the Master Fee Resolution. The City will designate a separate fee amount for a major and minor development.

(5) A property owner, contract purchaser, option holder or agent of the owner may request a pre-application conference on a form provided by the City and shall pay the pre-application conference fee prior to the conference.

(6) For purposes of this section only, the term "major development" means a land use application that involves one or more of the following:

(a) A subdivision;

(b) A Design Review Application that proposes to create or disturb 5,000 square feet or more of impervious surface (except for remodels of one or two-family dwellings);

(c) A zone change involving more than one piece of real property;

(d) A Planned Unit Development; or

(e) An annexation.

(7) For purposes of this section only, the term "minor development" means a land use application that is not a major development.

**Section 2.** Except as herein amended, Section 17.90.030 of the Gladstone Municipal Code shall remain in full force and effect.

**Section 3.** This Ordinance takes effect 30 days from its adoption.

Adopted by the Common Council for the City of Gladstone this \_\_\_\_ day of May, 2014.

ATTEST:

\_\_\_\_\_  
Wade Byers, Mayor

\_\_\_\_\_  
Jolene Morishita, Assistant City Administrator

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# **WORK SESSION**



# **CLEAR VISION**



-DRAFT-

## Clear Vision Areas

Clear vision areas are those areas that need to remain open so as to allow unobstructed view for motorists, as follows: on property at any corner formed by the intersection of two streets, a street and a driveway, 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 intersections 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 (20'). 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 third side which is a line across the center of the lot joining the nonintersecting ends of the other two sides (see illustration.)

*(same thing phrased slightly different: The clear vision area is a triangular-shaped area at the intersection of two roads, or a road with a driveway, to be kept clear of obstruction so that drivers stopped at an intersection can see traffic. No site-obscuring structures or plantings exceeding thirty (30) inches in height shall be located within a clear vision area – generally described as a twenty (20) foot measurement along each intersecting property line with a diagonal line joining the two points, of the lot corner of two public, county, city or state roads, or from the intersection of a private road or driveway with a public, county, city or state road. Trees located within a clear vision area shall be maintained to allow eight (8) feet of visual clearance below the lowest hanging branches.)*

Exceptions: Public utility poles; trees trimmed to a line at least eight feet above the level of the intersection; plant species of open growth habits and not planted in the form of a hedge which are so planted and trimmed to allow in all seasons a clear and unobstructed cross-view of the intersection; and official signs or signals.

Add illustration (suggest using simplest possible. It can become unduly cluttered with much more than the very basics.)

6-03-14



## Clear Vision

### Notes:

Definition of "clear vision" area in Title 8, Nuisances. Conforming changes likely necessary if changes made to Title 17, Chapter 17.54.

The speed/distance chart shows required stopping distances based on speed of vehicle (traveling at posted speed limit on absolutely level ground.) Illustration used by City of Milwaukie seems cluttered, and confusing. Also – it only addresses part of the situation (vehicle turning left from intersecting street onto main road.) Gladstone could use essentially the same illustration, yes, or could make different version. Why not simply use the "clear-vision triangle" used by many other jurisdictions, which is a measurement of twenty feet (20') along the edge of each road right-of-way, then connect those two points with a line. By so doing you would get essentially the same protection without having to use the chart for speed/distance. Easier to explain and enforce.

City of Gladstone already has provisions in place limiting height of fences in front yards (in front of building façade, with exception of C-3, et all.) The Milwaukie illustration focuses on fences relative to clear vision. That is already covered in other Gladstone code sections.

Commercial zone setback provisions potentially conflict with clear vision areas (zero lot-line setback allowed on front and sides.) Should we add language to the commercial zones regarding clear vision areas?

Suggest simplifying as much as possible. Makes for easier, more consistent explanation and enforcement.

6-03-14



<b>Gladstone Municipal Code</b>							
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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.

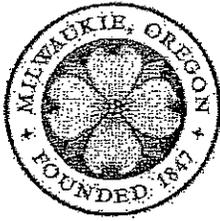
(b) At a driveway serving a parking lot with capacity of more than eight automobiles and at corners of an intersection of a street controlled by stop signs or a traffic signal if the street intersection or driveway has an unobstructed sight distance specified in a 2001 publication titled "A Policy on 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](mailto:planning@milwaukieoregon.gov)  
[engineering@milwaukieoregon.gov](mailto: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

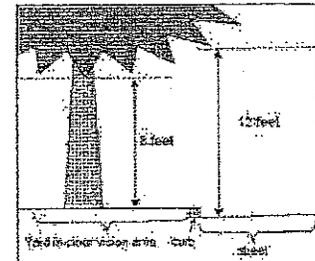
Clear vision areas are required by the Milwaukie Municipal Code to ensure that persons traveling in the City have unobstructed views at street and driveway intersections.

### 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



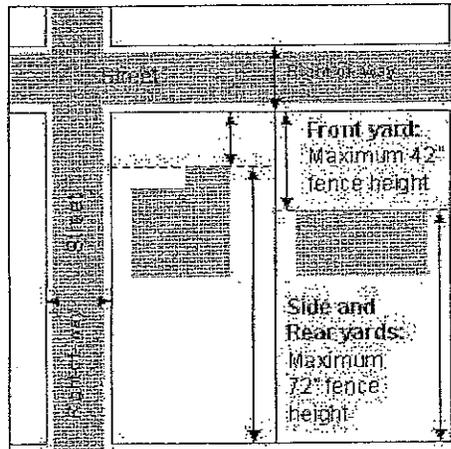
## FENCE REGULATIONS

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 visions 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.)*

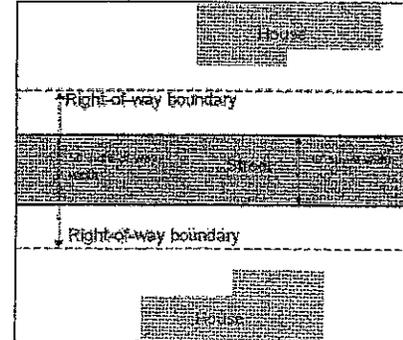
\* Flag lots have different fence height standards. Please contact the Planning Department at 503-786-7630 for these regulations.

## 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

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)

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**12.24.050 VARIANCE**

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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)

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**12.24.060 ENFORCEMENT**

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

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**12.24.070 LIABILITY**

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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)

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**12.24.080 VIOLATION—PENALTY**

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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**[Up](#)[Previous](#)[Next](#)[Main](#)[Search](#)[Print](#)[No Frames](#)[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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The diagram shows a rectangular lot with a 'STREET' at the top. A 'FRONT YARD' is defined between the street and a 'FRONT LOT LINE'. A 'SIDE YARD' is defined between the 'FRONT LOT LINE' and a 'SIDE LOT LINE'. A note states: 'NO ACCESSORY STRUCTURES ALLOWED UNLESS AT LEAST 40' FROM FRONT LOT LINE'. To the right of the diagram is a table with the following columns: 'Accessory Structure Type', 'Distance from Side / Rear Yard', 'Structure Height', and 'Structure Footprint'.

Accessory Structure Type	Distance from Side / Rear Yard	Structure Height	Structure Footprint
A	5'	10'	200 sq ft.
B	5'	15'	400 sq ft.
C	Base zone yard requirements	25' OR height of primary structure (whichever is greater) 15'	Lesser of 75% of primary structure size OR 1,200 sq ft. OR 10,000 sq ft. (whichever is least) 65% to 800 sq ft. maximum if located in front yard.

If the footprint of a structure is in more than one zone, 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

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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**Milwaukee Municipal Code**

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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.

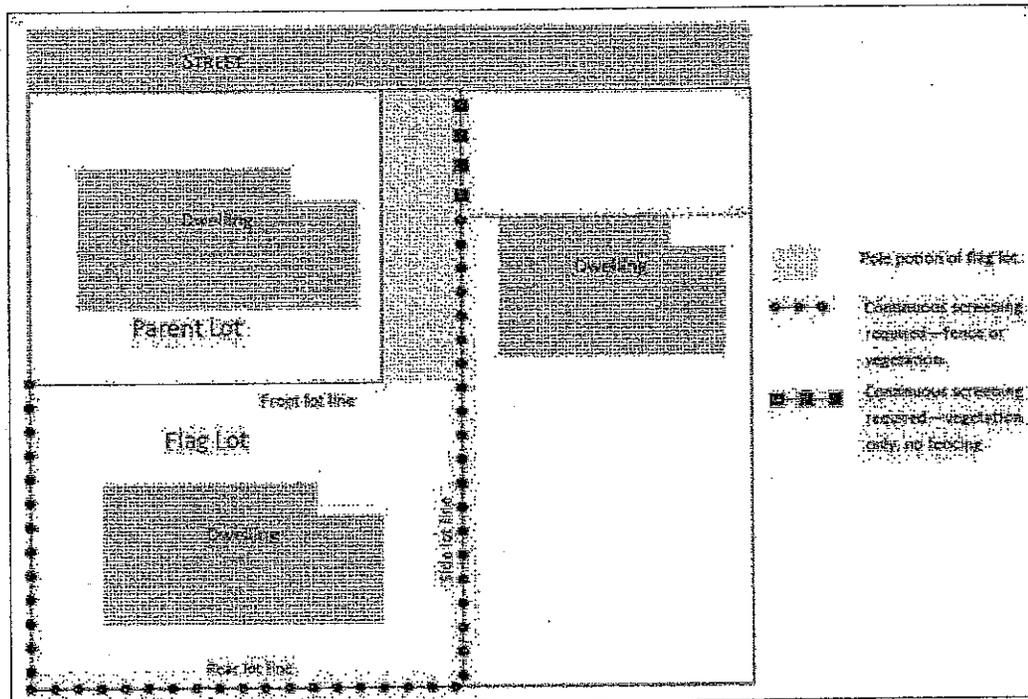
##### E. Protection of Adjoining Properties

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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**



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F. Tree Mitigation

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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**Milwaukie Municipal Code**

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[TITLE 8 HEALTH AND SAFETY](#)  
[CHAPTER 8.04 NUISANCES](#)

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✓ **8.04.130 FENCES**

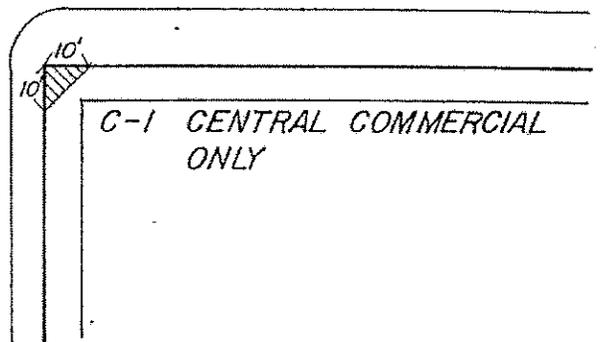
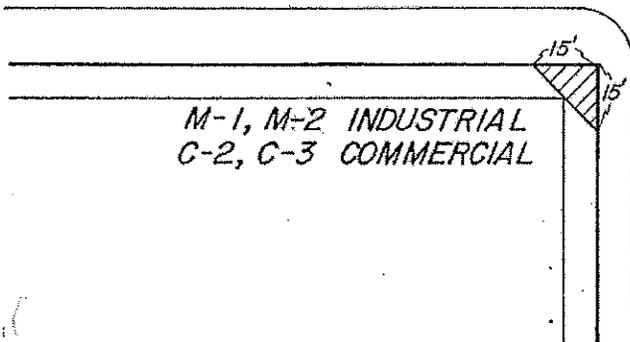
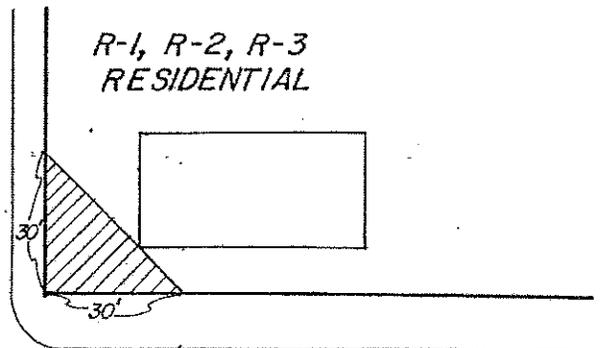
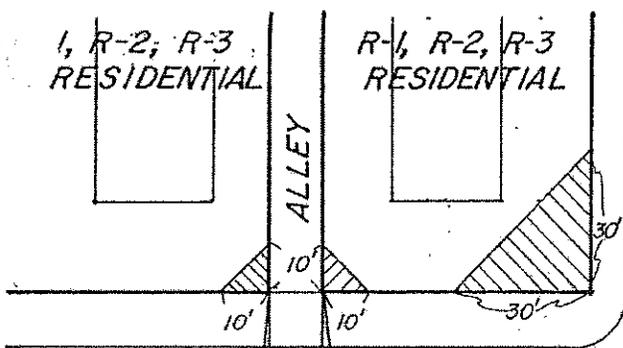
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- A. No person may construct or maintain a barbed-wire fence or allow barbed wire to remain as a part of a fence along a sidewalk or public way, unless such wire is placed not less than six (6) inches above the top of a board or picket fence which 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)

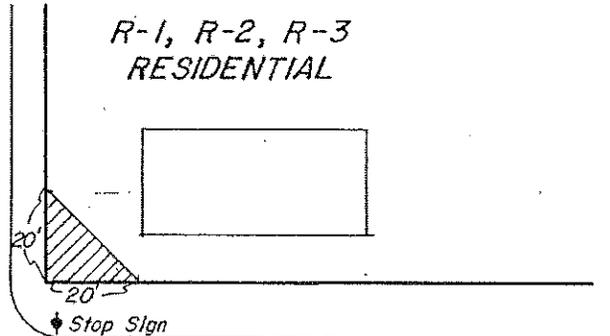
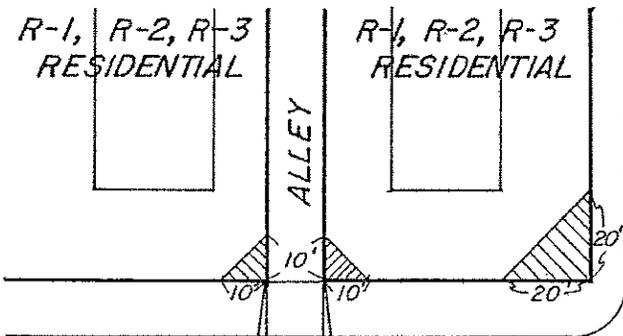
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# CLEAR VISION AREAS INTERSECTIONS WITHOUT STOP SIGNS OR STOP LIGHTS



## INTERSECTIONS WITH STOP SIGNS OR STOP LIGHTS



● Traffic Light

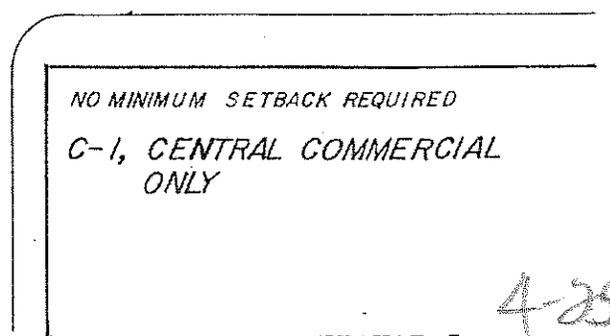
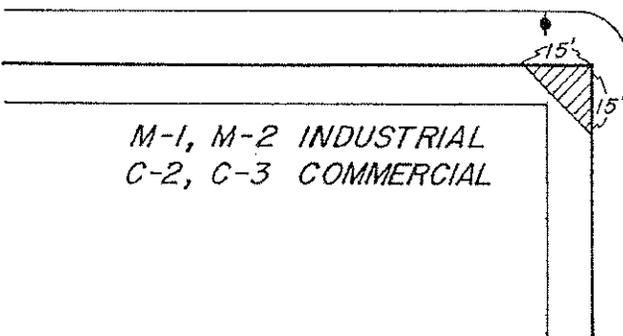


FIGURE 9

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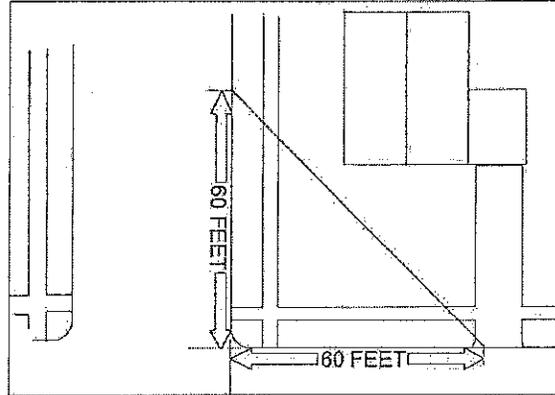
**15A-02-11 Yard to be Unobstructed: Exceptions**

Every part of a required yard shall be open to the sky and unobstructed except for accessory buildings in a rear or side yard and for the ordinary projections of skylights, sills, cornices, chimneys, flues, other ornamental features which project into a yard not more than 2 feet, and fire escape structures projecting into a yard not more than 5 feet.

**15A-02-12 Clear View of Intersecting Streets**

In all districts or uses for which a front yard is required, no opaque obstruction to view in excess of 3 feet high (above top back of curb) shall be placed on any corner lot within a triangular area formed by the intersection of straight lines extended from the back of the curb (or future curb) and a line connecting them at points 60 feet from the intersection of the curb line, except a reasonable number of trees pruned to permit unobstructed views to automobile drivers.

Deviations from these requirements must be reviewed by the Transportation Engineer to determine if there is an acceptable degree of safety.

**15A-02-13 Sale or Lease of Required Space**

No space needed to meet the width, yard, area, coverage, parking, or other requirements of this Code for a lot or building may be sold or leased apart from such lot or building.

**15A-02-14 Division of Lots Below Minimum Space Requirements**

No parcel of land which has less than the minimum width and area requirements for the zone district in which it is located may be divided from a larger parcel of land for the purpose, whether immediate or future, of a building or development as a lot.

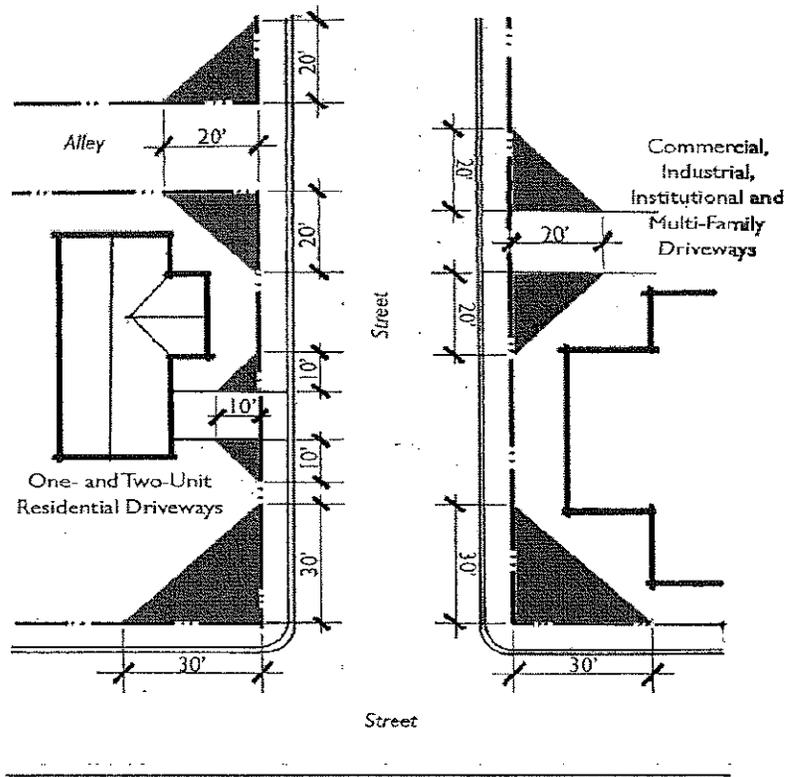
**15A-02-15 Conservation of Values**

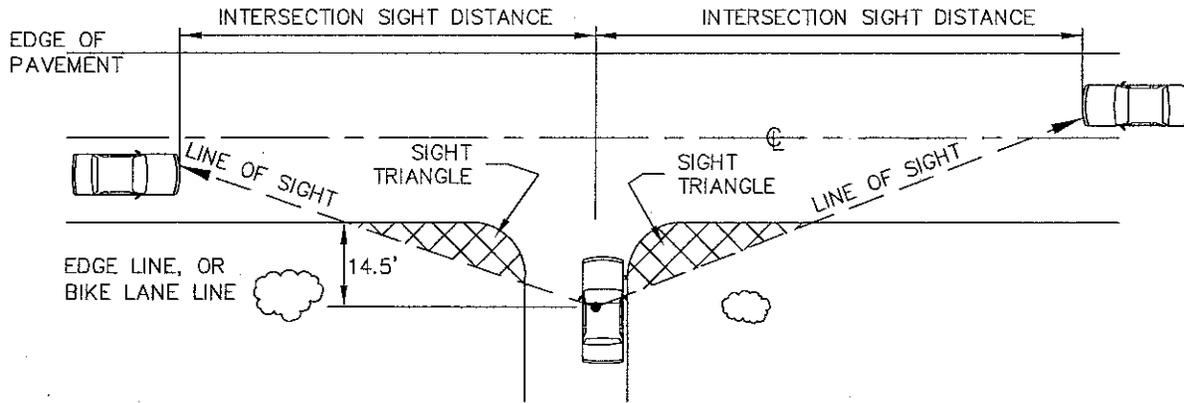
It shall be the responsibility of each property owner to maintain their property in a good, clean condition, making necessary repairs to the home, accessory structures, e.g., fencing, yard lights, and other appurtenances, and landscaping. Good condition shall mean properly painted structures, fences in an upright and stable position, landscaping free of weeds, dead materials, e.g., dead trees or shrubs, as well as generally accepted maintenance practices for residential property, as more specifically addressed within the Sandy City Property Maintenance Ordinance.

### 9.0202 Driveway Clear Vision Area

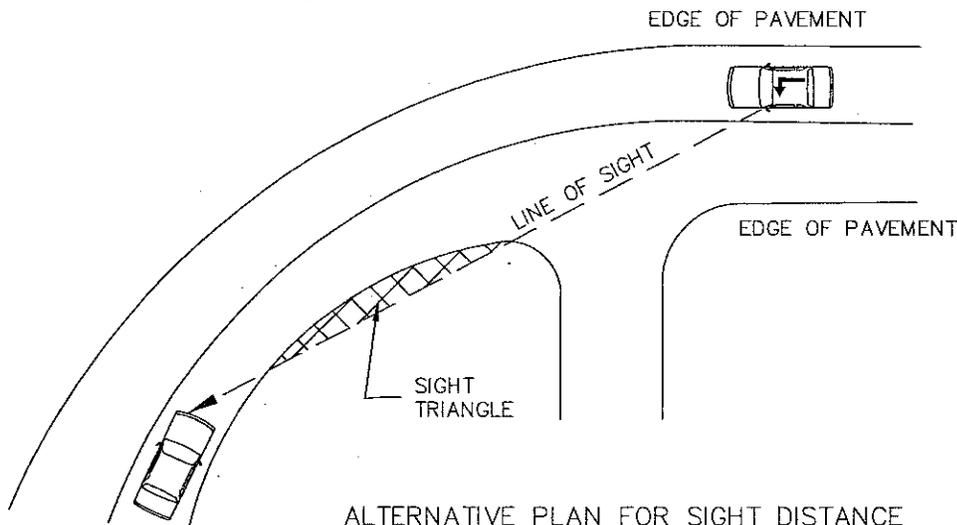
- A. Commercial, Industrial, Three or more Attached Dwellings and Institutional Developments. Service drives to public streets shall have a minimum clear-vision area formed by the intersection of the edges of the driveway, the street right-of-way line, and a straight line joining said lines through points 20 feet from their intersection. No fence, wall, landscaping, sign, structure or parked vehicle that would impede visibility between a height of 3 feet to 10 feet above the center line grade of the intersecting street shall be located within the clear vision area. No off-street parking area shall be located in a driveway clear vision area.
- B. One-and Two- Unit Residential Developments. Driveways to public streets shall have a minimum clear vision area formed by the intersection of the edges of the driveway, the street right-of-way line, and a straight line joining said lines through points 10 feet from their intersection. No fence, wall, landscaping, sign or other structure that would impede visibility between a height of 3 feet to 10 feet above the center line grade of the intersecting street shall be located within the clear vision area. No off-street parking area shall be located in a driveway clear vision area.

Figure 9.0202





TYPICAL PLAN FOR SIGHT DISTANCE



ALTERNATIVE PLAN FOR SIGHT DISTANCE

NOTES

1. THIS DETAIL DOES NOT ADDRESS VERTICAL SIGHT DISTANCE REQUIREMENTS.
2. SIGHT DISTANCE IS GENERALLY MEASURED 14.5' FROM THE EDGE OF THE TRAVEL LANE.
3. REFER TO SECTION 240 FOR MORE INFORMATION OR EXCEPTIONS.
4. VISUAL OBSTRUCTIONS WITHIN THE SIGHT DISTANCE TRIANGLE SHALL BE REMOVED.

REVISION	DATE	BY	DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT	APPROVAL DATE: 2/1/13	SCALE: N.T.S.	STANDARD DRAWING
TXT, NOTES UPDATE	1/30/13	RN	150 BEAVERCREEK ROAD OREGON CITY, OR 97045			T300

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"Clear vision area" means a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines adjoining the street or railroad measured from the corner to a distance specified in DCC 18.116.020(B). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines."

**18.116.020. Clear Vision Areas.**

A. In all zones, a clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad. A clear vision area shall contain no planting, fence, wall, structure, or temporary or permanent obstruction exceeding three and one-half feet in height, measured from the top of the curb or, where no curb exists, from the established street centerline grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height of eight feet above the grade.

B. A clear vision area shall consist of a triangular area on the corner of a lot at the intersection of two streets or a street and a railroad. Two sides of the triangle are sections of the lot lines adjoining the street or railroad measured from the corner to a distance specified in DCC 18.116.020(B)(1) and (2). Where lot lines have rounded corners, the specified distance is measured from a point determined by the extension of the lot lines to a point of intersection. The third side of the triangle is the line connecting the ends of the measured sections of the street lot lines.

**Clear Vision Area.** A triangular area on a lot at the intersection of two streets or a street and a railroad, two sides of which are lot lines measured from the corner intersection of the lot lines to a distance specified in these regulations. The third side of the triangle is a line across the corner of the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. (See Sections 116 and 117.)



# **NOISE**



**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, 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, 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.

(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-incident 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, 1983; Ord. 1400, 2008.

**8.12.040 Responsibility and authority.**

(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, 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:

(Ai) within a noise sensitive unit which is not the source of the sound, or

(Bii) 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:

(Ai) within a noise sensitive unit which is not the source of the sound, or

(Bii) 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;

(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.(1)(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, 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.]

**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, 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;

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(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~~ an approved Special Event Application.

(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~~ City Administrator or his/her designee 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~~ City Administrator or his/her designee 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~~ City Administrator or his/her designee may reasonably require.

(b) Review Standards. In establishing exceptions or granting variances, the ~~City Council~~ City Administrator or his/her designee shall consider:

(A*i*) The protection of health, safety and welfare of citizens as well as the feasibility and cost of noise abatement;

(B*ii*) The past, present and future patterns of land use;

(C*iii*) The relative timing of land use changes;

(D*iv*) The acoustical nature of the sound emitted;

(E*v*) 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*i*) Public notice shall be given in the manner provided for by city ordinance for all variance applications;

(B*ii*) 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:

(Ai) ~~The City Council~~ City Administrator or his/her designee 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 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.

(Bii) Procedure for Requesting. Any person requesting a variance shall make his request in writing to the city for consideration by the City Council Administrator or his/her designee and shall state in a concise manner the facts to show cause why such variance should not be granted.

(Ciii) Revocation or Modification. A variance granted may be revoked or modified by the City Council Administrator after a public hearing before the City Council, ~~held upon with~~ 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 Administrator 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, 1983; Ord. 1330, 2002; Ord. 1335, 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 Municipal Court~~, 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.

# **NUISANCES**



## **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.**

(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.

### **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.

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**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.**

- (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.**

(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 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:

<b>Right-of-Way (in feet)</b>	<b>Measurement Each Lot Line (in feet)</b>
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.

<b>Minimum Posted Speed</b>	<b>Intersection Sight Distance</b>
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.

#### **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.

**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~~ Municipal Court 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.

**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~~ Municipal Court a written statement which shall specify the basis for so protesting.
- (3) The statement shall be referred to the ~~council~~ Municipal Court ~~as a part of the and placed on the council's regular agenda at the next succeeding meeting~~ Court's docket. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the ~~council~~ Municipal Court and the ~~council~~ Judge shall thereupon determine whether or not a nuisance in fact exists and ~~such determination shall be entered in the official minutes of the council~~ such determination shall be entered in the official Court record by court order or judgment. Council determination shall be required only in those cases where a written statement has been filed as provided.
- (4) If the ~~council~~ Municipal Court determines that a nuisance does in fact exist, the owner or other person shall within 10 days after such ~~council~~ Court determination abate such nuisance.

(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~~ Municipal Court.

**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~~ Court 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~~ Court 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.

**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.

