ORDINANCE NO. 2004

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE FOLLOWING TITLES OF THE MILWAUKIE MUNICIPAL CODE: TITLE 12 STREETS, SIDEWALKS, AND PUBLIC PLACES AND TITLE 15 BUILDINGS AND CONSTRUCTION. THE AMENDMENTS ARE PRIMARILY IN RESPONSE TO RECENT TRANSPORTATION-RELATED AMENDMENTS TO CHAPTER 19.1400 OF THE MILWAUKIE MUNICIPAL CODE (FILE #ZA-09-02).

WHEREAS, City Council adopted amendments to Titles 17 and 19 to make the City's transportation regulations easier to use, understand, and defend; and

WHEREAS, the amendments to Titles 12 and 15 ensure that City's access management, clear vision, and public facility regulations are consistent with the recently adopted amendments to Titles 17 and 19; and

WHEREAS, it is the City's goal to provide a safe, convenient, and economic transportation system; and

WHEREAS, the amendments to Title 12 provide for a safer transportation system by improving the City's access management and clear vision standards; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, City Council finds that the amendments are in the public interest;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Titles 12 and 15 of the Milwaukie Municipal Code are amended as described in Exhibit A (strikeout version) and Exhibit B (clean version).

Section 2. All sections not amended as described in Exhibits A and B remain as written.

Read the first time on 6/2/09, and moved to second reading by 4-1 vote of the City Council.

Read the second time and adopted by the City Council on 6/16/09

Signed by the Mayor on 6/16/09

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

City Attorney

Document2 (Last revised 2/6/2008)

EXHIBIT A

MILWAUKIE
Dogwood City of the West

Milwaukie Municipal Code Amendments

File No. ZA-09-02
Strikeout Copy

New text is underlined. Deleted text is shown as ~~strikethrough text~~.

Title 12 Streets, Sidewalks, and Public Places
Chapter 08
Chapter 16
Chapter 24

Title 15 Buildings and Construction
Chapter 32

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.08 STREET AND SIDEWALK EXCAVATIONS, CONSTRUCTION AND REPAIR

12.08.010 Jurisdiction and management of the public rights-of-way.

A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the city charter and state law.

B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.

C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.

E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

F. The city retains the right and privilege to cut or move any facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

12.08.020 Construction standards.

A. Permit Required. No person shall commence or continue with any work in the right-of-way except as provided in this code and in compliance with Title 19, the Milwaukie Public Works Standards, and ~~Milwaukie Transportation Design Manual,~~ other applicable codes, rules and regulations, and design standards. As used in this chapter, "work" means any activity in the public rights-of-way resulting in physical change thereto, including the following:

1. Excavation or placement of structures;
2. Any activity resulting in alteration of the surface of the right-of-way;
3. Pavement overlays;
4. New traffic control and changes to existing traffic control;
5. Drainage improvements;
6. New sidewalks and alterations to existing sidewalks;
7. New road construction;
8. Alteration of street configuration or geometry;
9. New traffic calming structures and alterations to existing traffic calming devices; and/or
10. New bicycle lanes or bicycle accommodations and alterations to existing bicycle lanes or accommodations.

B. Preapplication Conference. A ~~pre-application~~ preapplication conference with the Engineering Director ~~civil engineer~~, or designee, is required prior to submission of any application for work within public rights-of-way.~~, except for the~~ The Engineering Director ~~city engineer~~ may waive this requirement for small-scale projects.

C. Permit Applications. Applications for permits to perform work within city rights-of-way shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

1. That the work will be performed in accordance with all applicable codes, rules and regulations, specifically including city standard specifications and drawings;

2. That all issues identified in the preapplication conference have been resolved to the satisfaction of the civil engineer;

3. That any proposed new or modified facilities will be constructed in accordance with any applicable franchise agreement;

4. The location and route of all facilities to be installed aboveground or on existing utility poles;

5. The location and route of all new facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;

6. The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way; and

7. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

D. (Repealed by Ord. 1893).

E. Applicant's Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall commence no earlier than twenty-four (24) hours following city approval, and shall include a deadline for completion of construction. The construction schedule is subject to approval by the city.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount determined by resolution of the city council. Such fee shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this code, the city shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they may deem necessary or appropriate.

I. ~~Notice of Construction. Except in the case of an emergency, the permittee shall notify the city not less than two (2) working days in advance of any excavation or construction in the public rights-of-way.~~ (Repealed by Ord._____.)

J. Notice of Construction. All applicants for work in the right-of-way must notify the ~~city engineer~~ Engineering Director at least one hundred and twenty (120) days prior to planned commencement of work. Once a permit has been issued and except in the case of an emergency, the permittee shall notify the city not less than two (2) working days in advance of any excavation or construction in the public rights-of-way.

K. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

L. Noncomplying Work. All work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee.

M. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as required herein.

N. As-Built Drawings. If requested by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all facilities constructed pursuant to the permit. These plans shall be submitted to the Engineering Director ~~city engineer~~ or designee within sixty (60) days after completion of construction, in a format mutually acceptable to the permittee and the city.

O. Restoration of Public Rights-of-Way, City Property and Protected Trees.

1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, or trees protected by Chapter 16.32 of this code, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good or better condition as it was before as determined by the Engineering Director ~~city engineer~~ or designee.

2. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule shall be subject to approval by the city.

3. If the permittee fails to restore rights- of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty (30) days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration to be made at the expense of the permittee. In cases where the city determines in its sole discretion that the failure to restore rights-of-way results in an immediate threat to the

public safety or welfare, the city may proceed with restoration with no prior notice to the permittee.

4. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property. A traffic control plan describing all such measures shall be required, and must receive city approval no less than twenty-four hours (24) prior to the commencement of any work in the right-of-way.

P. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred percent (100%) of the estimated cost of the proposed work within the public rights-of-way of the city, shall be provided before construction is commenced.

1. The surety shall remain in force until one year after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

a. Timely completion of construction;

b. Construction in compliance with applicable plans, permits, technical codes and standards;

c. Proper location of the facilities as specified by the city;

d. Restoration of the public rights-of- way and other property affected by the construction; and

e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

12.08.030 Liability.

Every person having occasion to work in or to place any obstruction in any public right-of-way, or to make any alteration thereto, under the provisions of this chapter, shall be responsible to any one for any injury or damage resulting in any way from the presence of such obstruction, alteration or work, and also shall be liable to, indemnify and defend the city for any claim arising therefrom.

12.08.040 Exceptions to application of this chapter.

A. City or Franchisee Work. The provisions of this chapter shall not be deemed to apply to the construction or maintenance of pavement by the city, either by its employees or by persons operating under contract with the city, nor to cuts or excavations made by utilities operated by the city or by grantees operating under lawfully granted franchises. Prior written notice of at least forty-eight (48) hours shall, however, be provided to the ~~city engineer~~ Engineering Director or designee of all work to be done in city rights-of-way which would otherwise be subject to the provisions of this chapter.

B. Other Exceptions ~~as Determined by city engineer~~. The city manager or designee may exempt applications for permits from the requirements of this chapter, when in his or her discretion:

1. The amount of work to be done in city streets does not warrant the imposition of these requirements; and

2. The public interest in the city's streets and ways is adequately safeguarded.

The city manager or designee may develop administrative regulations and policies to implement the provisions of this section.

12.08.050 Violations Penalty.

Any person violating any provision of this chapter shall be punished by a fine not to exceed two hundred fifty ~~one hundred~~ dollars ($250.00~~100.00~~). Each day that such violation exists shall be deemed a separate violation of this chapter.

~~Chapter 12.16 DRIVEWAYS~~

~~12.16.010 Definitions.~~

~~For the purpose of this chapter, the following definitions shall apply:~~

~~A. "Apron" means that portion of the driveway approach extending from the gutter flow line to the sidewalk section and lying between the end slopes of the driveway approach.~~

~~B. "Curb return" means the curved portion of a street curb at street intersections or the curved portion of a curb in the end slopes of a driveway approach.~~

~~C. "Driveway" means an area on private property where automobiles and other vehicles are operated or allowed to stand.~~

~~D. "Driveway approach" means an area, construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to a definite area of the private property, such as a parking area, a driveway, or a door at least seven feet wide, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or the curb return, and the sidewalk section.~~

~~E. "End slopes" means those portions of the driveway approach which provide a transition from the normal curb and sidewalk elevations to the grade of the apron, either by means of a sloping surface or by means of a curb return together with the area between the projected tangents of the curb return.~~

~~F. "Sidewalk section" means that portion of the driveway approach lying between the back edge of the sidewalk and the apron, plus the end slopes measured at the front edge of the sidewalk.~~

~~12.16.020 Permit—Required.~~

~~No person, firm or corporation shall remove, alter or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley or other property owned by or dedicated to or used by the city and over which it has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the city and no permit shall be granted until the applicant shall file with the city engineer for his approval two copies of a drawing showing the location and size of all such proposed improvements to serve the property affected.~~

~~12.16.030 Permit—Application.~~

~~Application for permits to construct such improvements shall be made to the city engineer on forms provided for that purpose. A permit fee as approved by the city council shall accompany each application.~~

~~12.16.040 Permit—Issuance.~~

~~Before approving the drawing of such improvement and issuing the permit, the city engineer shall determine that the proposed improvement is in conformance with the provisions and standards set forth in this chapter. The standards as set forth shall be deemed a part of this chapter.~~

~~12.16.050 Driveway approaches and curb cuts.~~

~~A. No driveway approach shall be permitted to encompass any municipal facility. Under the permit provided for in this chapter, the applicant may be authorized to relocate any municipal facility,~~

~~including any within the limits of a curb return which may be encroached upon or allowed providing that the applicant shall bear the cost of the relocation of the municipal facility.~~

~~B. At street intersections no portion of any driveway approach, including the end slopes, shall be permitted within fifteen feet of the property lines, or the point of intersection of extended property lines.~~

~~C. The width of the driveway approach shall be within the limits established by standard details which are a part of this chapter.~~

~~D. No driveway approach shall be less than five feet from the side property line projected except in cul-de-sacs, without approval and written permission of the city. The end slopes may encroach within the five-foot restricted area.~~

~~E. Where there is more than one driveway approach serving a property, the spacing between the end slopes of the driveway approaches shall not be less than twenty feet.~~

~~12.16.060 Industrial driveway approaches and curb cuts.~~

~~All curb cuts and driveway approaches in industrial areas shall be by city-approved design to meet the requirement of industrial area to be served.~~

~~12.16.070 Width of driveway approach apron.~~

~~The width of driveway approach aprons shall meet the requirements of the standards within this chapter.~~

~~12.16.080 Construction standards.~~

~~A. All driveway approaches between the curb line and the property line shall be constructed of portland cement concrete, except as provided in this chapter.~~

~~B. The concrete thickness of the driveway approach, including the sidewalk section shall be at least six inches.~~

~~12.16.090 Areas of limited street improvements.~~

~~A. Where concrete sidewalks have not been installed, the applicant shall be required to construct the driveway approach from curb line to the applicant's premises.~~

~~B. Where standard gutter and curbs have not been installed, the apron and driveway approach may be constructed of the same material used for surfacing the driveway. Pursuant to the permit provided for in this chapter, applicant may surface the driveway approaches within the right-of-way by extending the area between the curbline and the existing pavement with the same material as the street pavement. The applicant shall grade that portion between the curbline and existing pavement in such a manner as to not impede surface drainage along the street. The cost of this portion of the pavement between the curbline and existing pavement shall be borne by the applicant.~~

~~12.16.100 Removal of abandoned driveway approaches.~~

~~In the event a person, firm or corporation shall make an application for a relocation of a driveway approach and abandon an existing driveway approach, the applicant shall remove the driveway and replace the curb to a standard curb section at his own expense.~~

~~12.16.110 Sufficient parking required.~~

~~No permit for the construction of driveway approaches shall be issued unless sufficient parking area is provided on the property served, entirely within the property lines.~~

~~12.16.120 Variances granted when.~~

~~The city is authorized to grant in writing variances from the regulations and requirements of this chapter, provided it is first determined that the following conditions are present:~~

~~A. That the variance requested arises from peculiar physical conditions not ordinarily existing in similar districts in the city, or is due to the nature of the business or operation upon the applicant's property;~~

~~B. That the variance requested is not against the public interest, particularly safety, convenience and general welfare;~~

~~C. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or tenants; and~~

~~D. That the terms of this chapter will work unnecessary hardship upon the applicant property owner or tenant.~~

~~12.16.130 Right of appeal.~~

~~Any person, firm or corporation who is aggrieved by the denial of permit may appeal to the city council for relief.~~

~~12.16.140 Specifications and drawings.~~

~~Specifications and driveway approach details on file with the city recorder shall be deemed a part of this chapter.~~

~~12.16.150 Violation—Penalty.~~

~~Any person, firm or corporation violating any of the provisions of this chapter, or causing, permitting or suffering the same to be done shall be fined not more than one hundred dollars. Each such person, firm or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued or permitted.~~

Chapter 12.16 ACCESS MANAGEMENT

12.16.010 Definitions

For the puposes of this chapter, the following definitions shall apply.

"Accessway" means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

"Driveway" means the portion of the accessway on private property or public lands outside of the public right-of-way.

"Driveway Approach" means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section

"Driveway Apron" means the ramped portion of the driveway approach extending from the public roadway to the sidewalk section and lying between the wings of the driveway approach

"Driveway Wings" means those portions of the driveway approach which provide a transition from the sidewalk, curb, and existing ground grades to the driveway apron grade.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Sidewalk Section" means the portion of the driveway approach where the existing or proposed adjacent sidewalk extends through the driveway approach.

"Street" means the entire width between right-of-way lines for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

12.16.020 Applicability

A New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the Engineering Director.

12.16.030 Access Permitting

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other

improvement in any public street, alley, or other property owned by, dedicated to, or used by the public and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the Engineering Director on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include three copies of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The Engineering Director shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

D. Permits for access to State highways shall be subject to review and approval by ODOT, except where ODOT has delegated this responsibility to the City. Decisions regarding access permits to State highways shall be subject to the access standards adopted by ODOT.

E. Permits for access to County roads shall be subject to review and approval by Clackamas County, except where the County has delegated this responsibility to the City. Where the County has delegated access review responsibility to the City, decisions regarding access permits to County roads shall be subject to the standards of Chapter 12.16 and the Milwaukie Public Works Standards.

F. Approval of an access permit may be in the form of a drawing stamped by the City, a letter from the City, or a land use decision condition of approval.

12.16.040 Access Requirements and Standards

A. Access.

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing.

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

1. Standards. Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

   a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 600 feet.

   b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 300 feet.

2. Modification of Access Spacing. Access spacing may be modified with submission of an access study prepared and certified by a registered professional Traffic Engineer in the State of Oregon. The access study shall assess transportation impacts adjacent to the

project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within 600 feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design.

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.

c. Review of all modes of transportation to the site.

d. Mitigation measures where access spacing standards are not met that include, but are not limited, to assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the Engineering Director.

C. Accessway Location

1. Double Frontage. When a lot has frontage on 2 or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

2. Location Limitations. Individual access to single-family residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the Engineering Director only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line. The nearest edge of the driveway apron shall be at least 7 ½ feet from the side property line in residential districts and at least 10 feet from the side property line in all other districts. This standard does not apply to accessways shared between two or more properties.

4. Distance from Intersection. To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of driveway apron shall be maintained. Where intersecting streets do not have curb, the distance shall be measured from the nearest intersecting street edge of pavement.

a. At least 45 feet for single-family residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least 100 feet for multifamily residential properties and all other uses accessing local and neighborhood streets.

c. At least 300 feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least 600 feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access. Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access. The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multifamily areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single-Family Residential. One accessway per property is allowed for single-family residential uses.

   a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

   b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced 50 feet apart, upon review and approval by the Engineering Director. The spacing is measured between the nearest edges of the driveway aprons. Where the 50-foot spacing cannot be met, an additional accessway shall not be granted.

   c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single-Family Residential. The number of accessways for uses other than single-family residential is subject to the following provisions.

   a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B.

   b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced 150 feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines. Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act and Milwaukie Public Works Standards.

2. Authority to Restrict Access. The Engineering Director may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

   a. Cause or increase existing hazardous traffic conditions;

   b. Provide inadequate access for emergency vehicles; or

   c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited. Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single-family residential uses on local streets and neighborhood routes.

F. Accessway Size.

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The Engineering Director may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.
2. Single-family attached and detached residential uses shall have a minimum driveway apron width of 9 feet and a maximum width of 20 feet.
3. Multifamily residential uses with three dwellings shall have a minimum driveway apron width of 16 feet and a maximum width of 20 feet.
4. Multifamily residential uses with between 4 and 7 dwellings shall have a minimum driveway apron width of 20 feet and a maximum width of 24 feet.
5. Multifamily residential uses with more than 8 dwelling units, and off-street parking areas with 16 or more spaces, shall have a minimum driveway apron width of 24 feet and a maximum width of 30 feet.
6. Commercial, office, and institutional uses shall have a minimum driveway apron width of 12 feet and a maximum width of 36 feet.
7. Industrial uses shall have a minimum driveway apron width of 15 feet and a maximum width of 45 feet.
8. Maximum driveway apron widths for commercial and industrial uses may be increased if the Engineering Director determines that more than 2 lanes are required based on the number of trips generated or the need for on-site turning lanes.

12.16.050 Variance

Relief from any access management requirement or standard of Subsection 12.16.040 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

12.16.060 Right of Appeal

Appeal of any access management requirement or standard of Section 12.16.040 not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

12.16.070 Violation Penalty

Any person, firm, or corporation violating any of the provisions of this chapter, or causing, permitting, or suffering the same to be done, shall be fined not more than two hundred fifty dollars ($250.00). Each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

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.

12.24.020 Definitions.

As used in this chapter:

A. "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.

B. "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.

C. "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.

D. "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.

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

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 ~~thirty inches~~ three 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 feet above the grade. Open wire fencing that does not obscure sight more than ten percent is allowed to a maximum height of six feet.

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."~~, and~~ The clear vision area for all street and driveway or accessway intersections shall be that area ~~within a twenty-foot radius of the lot corner nearest the~~

~~intersection, or~~ within a twenty-foot radius from where ~~of the intersection of~~ the lot line~~,~~ and the edge of a driveway intersect.

B. Modification of this computation may be made by the Engineering Director ~~director of public works, or his designee,~~ after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" ~~Traffic Engineering Handbook on intersection site distance after~~ 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.

12.24.050 Variance.

The provisions of this chapter relate to safety. They shall not be modified by variance and are not subject to appeal.

~~A. Variances from the provisions of this chapter may be granted by the traffic safety commission.~~

~~B. Vehicle and pedestrian safety shall be the primary factors in decisions when variances are considered. The type of intersections, site characteristics, types of vehicle controls, vehicle speed, traffic volume and other similar items are factors to be considered. The standards set forth in the Traffic Engineering Handbook on intersection sight distance and any other appropriate standards shall be considered. Aesthetics and length of time fences or vegetation have existed are not relevant factors.~~

~~C. A property owner or the owner's agent may initiate a request for a variance by filing an application with the city within ten working days of warning or citation for violation.~~

~~D. Any decision of the traffic safety commission may be appealed to the city council without fee within ten working days of receipt of the traffic safety commission's written decision.~~

~~E. Fees for the variance application to the traffic safety commission shall be set by resolution of city council.~~

12.24.060 Enforcement.

The provisions of Chapter 1.08 shall be used to enforce this chapter. ~~Enforcement procedures shall be suspended while an application or appeal for a variance is being considered. Enforcement procedures shall resume upon denial of a variance.~~

12.24.070 Liability.

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

12.24.080 Violation ~~of Section 12.24.030—~~Penalty.

Violation of Section 12.24.030 is punishable, upon conviction, by a fine of not more than two hundred fifty dollars. When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation.

Title 15 BUILDINGS AND CONSTRUCTION

Chapter 15.32 PUBLIC FACILITIES IMPROVEMENTS

(Repealed by Ord.____.)

~~Article I. Statement of Purpose and Objectives~~

~~15.32.010 Purpose.~~

~~It is the purpose of this chapter to provide for the orderly construction of needed public facilities by provisions designed to:~~

~~A. Meet city Comprehensive Plan requirements for public facility improvements;~~

~~B. Minimize the expenditure of public moneys for public facilities improvements;~~

~~C. Identify public facilities improvements necessary for given property development proposals;~~

~~D. Allow actual improvements of public facilities to occur at a time appropriate for the improvements needed; and~~

~~E. Provide an equitable and consistent method of requiring public facilities improvements.~~

~~Article II. Definitions~~

~~15.32.020 Interpretation.~~

~~A. Unless specifically defined in Section 15.32.030, words or phrases used in this chapter are intended to be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.~~

~~B. Specific words, phrases, or standards, other than as specifically defined in Section 15.32.030, may be interpreted by the public works director based upon the finding that such interpretation shall be in keeping with the intent of this chapter.~~

~~15.32.030 Definitions.~~

~~A. "Change in land use" means a change in the primary existing use or the addition of other use(s) for a specific real property. A proposal to change a land use may require other land use processes including rezone, conditional use, community service use, etc.~~

~~B. "City" means the city of Milwaukie, Oregon.~~

~~C. "Construction" means the development, building, remodeling, adding or improvement of structures for a specific real property.~~

~~D. "Developer's agreement" means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facilities improvements specifically identified in the document, or, (in cases where local improvement district or project formation is necessary), to share in the cost of necessary public facilities improvements, to not remonstrate against the city for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or~~

~~project formation. This may consist of such determination methods as street frontage percentage, lot square footage and/or standard per lot assessment.~~

~~E. "Minor damage" means damages incurred by a structure or structures by either manmade or natural means where the cost of repair is twenty-five percent (25%) or less than the current assessed valuation of the total of all on-site improvements before the damage occurred.~~

~~F. "New construction" means construction occurring on vacant property or construction occurring as part of reconstruction or redevelopment of an existing developed site.~~

~~G. "On-site improvements" means all structures or improvements on a specific real property which would require a building permit prior to constriction, but not including the following: driveways, walkways, parking areas, fences, retaining walls, landscaping, and ground level patios/decks. On-site improvements also refers to public facility improvements occurring on the subject property or within adjacent public right-of-way or utility easements.~~

~~H. "Public facilities" means facilities intended to serve the public and consisting of either city-owned, or other public service agency-owned, storm drainage systems, water systems, sanitary sewer systems, utility easements, excluding transportation related facilities including but not limited to rights-of-way, streets, curbs, sidewalks, bike lanes, traffic controls, street lighting, and other transportation improvements that are governed under Chapter 19.1400.~~

~~I. "Public works director" means the public works director for the city, or an assigned designee.~~

~~Article III. General Provisions~~

~~15.32.040 Situations to which this chapter applies.~~

~~This chapter shall apply for all situations within the jurisdiction of the city described as:~~

~~A. New construction, including residential, commercial, industrial, or other;~~

~~B. Construction resulting in an increase in occupancy;~~

~~C. Construction resulting in increased traffic;~~

~~D. Creation of new parcels and lots by minor land partition, major land partition, subdivision, and planned development; and~~

~~E. A change in land use.~~

~~15.32.050 Exempt situations.~~

~~This chapter shall not apply to the following situations within the city:~~

~~A. Construction not subject to the provisions of subsections B, C and E of Section 15.32.040 and where the improvement value is twenty-five percent or less than the current assessed valuation of the total of existing on-site improvements; or~~

~~B. Construction consisting of reroofing, residing, window installation, minor damage repair, or interior remodeling not subject to provisions of Section 15.32.040B.~~

~~C. New construction not subject to the provisions of Section 15.32.040B for the purposes of replacing or remodeling a single-family dwelling damaged by a fire, flood, or other casualty.~~

~~15.32.060 Compliance.~~

~~No structure or land shall be constructed, located, converted, altered, or occupied, as indicated in Section 15.32.040, after the effective date of the ordinance codified in this chapter, without full compliance with the terms of this chapter and other applicable regulations. In cases of noncompliance, the city may take enforcement action, terminate city water service, establish property liens, or use other methods to ensure chapter compliance.~~

~~Article IV. Administration~~

~~15.32.070 Public facility improvements review.~~

~~All situations to which this chapter applies shall be reviewed by the city public works department based upon established review standards in order to determine the adequacy of public facilities for the use intended and whether or not new public facilities or expansion of existing public facilities is required.~~

~~15.32.080 Public works director—Administrator.~~

~~The public works director is appointed to administer and implement this chapter.~~

~~15.32.090 Public works director—Duties and responsibilities.~~

~~Duties of the public works inspector shall include, but not be limited to:~~

~~A. Permit Review.~~

~~1. City public works department, community development department, and structural safety division shall submit copies of nonexempt land use and building permit applications to the public works director for review.~~

~~2. The public works director shall respond within ten working days with an indication of chapter applicability along with proposed conditions, if any, for compliance with this chapter.~~

~~3. Conditions proposed for compliance with this chapter shall be attached to the application, if approved.~~

~~B. Review Standards. Review standards for public facilities shall be those standards currently in effect, or as modified, and identified in such public documents as the Comprehensive Plan of the City of Milwaukie, the City Sewerage Master Plan, the City Water Master Plan, the Roadway and Traffic Safety Management Plan for the City of Milwaukie, City of Milwaukie Public Works Design Standards, Standard Specifications and Drawings for Public Works Construction by the American Public Works Association Oregon Chapter, the city zoning ordinance, and city subdivision ordinance.~~

~~15.32.100 Appeals.~~

~~A. Appeals. Appeals of a decision or interpretation of the public works director must be filed on forms prescribed by the city and accompanied by the appropriate filing fee within fifteen days of the decision of the public works director.~~

~~B. Appeal Review. The city manager for the city shall review and decide requests for appeals of the requirements of this chapter.~~

~~C. Appeal Review Procedure. Appeals to the requirements of this chapter shall be scheduled for consideration of the city manager during normal City Hall business hours.~~

~~D. City Council Review. A decision of the city manager may be appealed to the city council for consideration within fifteen days of the action date. The appeal must be on forms prescribed by the city and accompanied by the appropriate filing fee.~~

~~E. Appeal Criteria. An appeal of a decision or condition of approval for actions provided for in this chapter shall be granted if conformance is shown to one of the following criteria:~~

~~1. That the proposal is not, in fact, a situation to which this chapter applies; or~~

~~2. That reasonable alternatives to conditions or interpretations applied can be substituted while still maintaining chapter purpose.~~

~~Article V. Provisions for Public Facilities Improvements~~

~~15.32.110 Improvement methods.~~

~~If, upon review of the development proposal by the public works director, the affected street or other public facility does not meet applicable standards, the property owner shall provide the improvement or other action necessary to satisfy the applicable standards. The public works director may select, from the following, the most appropriate method:~~

~~A. Construction by the property owner subject to public works inspection approval;~~

~~B. Payment in lieu of construction, either in the form of a trust account or posted bond; or~~

~~C. Developer's agreement committing the property owner to not remonstrate against the city for the necessary improvements and to pay the assessment for such improvements. In approving this method, the public works director may require a temporary improvement at a lesser standard appropriate to the circumstances.~~

~~D. Reimbursement agreements may be authorized for off-site facilities improvements fronting other properties.~~

~~15.32.120 On-site facilities improvement requirements.~~

~~Any situation to which this chapter applies shall be required to complete or make provision for completion of improvements to public facilities following the improvement method selected from Section 15.32.110. Method C will be used when immediate construction of public facilities is not feasible or practical from an engineering standpoint.~~

~~15.32.130 Off-site facilities improvement requirements.~~

~~Off-site facilities improvements shall be required for construction or development proposals which would result in detrimental effects to existing public facilities or cause existing public facilities capacity problems. Improvements shall follow the methods identified in Section 15.32.110.~~

~~15.32.140 Off-site facilities improvement criteria.~~

~~Off-site facilities improvement requirements shall be based upon analysis by the public works director that the development proposal will result in one of the following:~~

~~A. Exceed the design capacity of the facility;~~

~~B. Exceed other generally accepted standards;~~

~~C. Create a potential safety hazard; or~~

~~D. Create an ongoing maintenance problem.~~

~~15.32.150 Facilities oversizing.~~

~~Public facilities improvement required by the public works director shall be at sizes specified in city standards documents. Oversizing may be required in anticipation of additional systems demand. Oversizing proposed by the property owner may be allowed at the property owner's expense. The public works director may authorize a reduction in systems development charges or a reimbursement agreement for developments where oversizing of facilities is required.~~

~~15.32.160 Progress to be monitored.~~

~~The public works director shall monitor the progress of all public facilities improvements required to ensure project completion and compliance. Follow-up action, such as facilities inspection, bond release, and enforcement shall be considered a part of the monitoring process.~~

~~15.32.170 Public facilities design.~~

~~Construction projects shall meet design standards for public facilities installation or improvements as identified by the public works director or city design standards. The property owner is responsible for providing engineered facility plans to the public works director for review.~~

~~15.32.180 Formation of local improvement districts.~~

~~As developer's agreements are collected to a sufficient majority for a given area, or, as needs for facilities improvements arise, the public works director shall organize local improvement districts and solicit additional funds, as necessary to allow facility construction to completion.~~

~~15.32.190 Coordination.~~

~~The public works director shall coordinate with other public service agencies to ensure that public facility improvements required reflect the full range of public facilities, and not just city-provided services.~~

EXHIBIT B

MILWAUKIE
Dogwood City of the West

Milwaukie Municipal Code Amendments

File No. ZA-09-02
Clean Copy

Title 12 Streets, Sidewalks, and Public Places
Chapter 08
Chapter 16
Chapter 24

Title 15 Buildings and Construction
Chapter 32

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.08 STREET AND SIDEWALK EXCAVATIONS, CONSTRUCTION AND REPAIR

12.08.010 Jurisdiction and management of the public rights-of-way.

A. The city has jurisdiction and exercises regulatory management over all public rights-of-way within the city under authority of the city charter and state law.

B. Public rights-of-way include, but are not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements and all other public ways or areas, including the subsurface under and air space over these areas.

C. The city has jurisdiction and exercises regulatory management over each public right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way. The city has jurisdiction and regulatory management of each right-of-way whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

D. No person may occupy or encroach on a public right-of-way without the permission of the city. The city grants permission to use rights-of-way by franchises and permits.

E. The exercise of jurisdiction and regulatory management of a public right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

F. The city retains the right and privilege to cut or move any facilities located within the public rights-of-way of the city, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency.

12.08.020 Construction standards.

A. Permit Required. No person shall commence or continue with any work in the right-of-way except as provided in this code and in compliance with Title 19, the Milwaukie Public Works Standards, and other applicable codes, rules and regulations, and design standards. As used in this chapter, "work" means any activity in the public rights-of-way resulting in physical change thereto, including the following:

1. Excavation or placement of structures;
2. Any activity resulting in alteration of the surface of the right-of-way;
3. Pavement overlays;
4. New traffic control and changes to existing traffic control;
5. Drainage improvements;
6. New sidewalks and alterations to existing sidewalks;
7. New road construction;
8. Alteration of street configuration or geometry;
9. New traffic calming structures and alterations to existing traffic calming devices; and/or
10. New bicycle lanes or bicycle accommodations and alterations to existing bicycle lanes or accommodations.

B. Preapplication Conference. A preapplication conference with the Engineering Director, or designee, is required prior to submission of any application for work within public rights-of-way. The Engineering Director may waive this requirement for small-scale projects.

C. Permit Applications. Applications for permits to perform work within city rights-of-way shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

1. That the work will be performed in accordance with all applicable codes, rules and regulations, specifically including city standard specifications and drawings;

2. That all issues identified in the preapplication conference have been resolved to the satisfaction of the civil engineer;

3. That any proposed new or modified facilities will be constructed in accordance with any applicable franchise agreement;

4. The location and route of all facilities to be installed aboveground or on existing utility poles;

5. The location and route of all new facilities on or in the public rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public rights-of-way. Existing facilities shall be differentiated on the plans from new construction;

6. The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public rights-of-way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way; and

7. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

D. (Repealed by Ord. 1893).

E. Applicant's Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall commence no earlier than twenty-four (24) hours following city approval, and shall include a deadline for completion of construction. The construction schedule is subject to approval by the city.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount determined by resolution of the city council. Such fee shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this code, the city shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they may deem necessary or appropriate.

I. (Repealed by Ord._____.)

J. Notice of Construction. All applicants for work in the right-of-way must notify the Engineering Director at least one hundred and twenty (120) days prior to planned commencement of work. Once a permit has been issued and except in the case of an emergency, the permittee shall notify the city not less than two (2) working days in advance of any excavation or construction in the public rights-of-way.

K. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city and its representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

L. Noncomplying Work. All work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee.

M. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty (120) days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as required herein.

N. As-Built Drawings. If requested by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all facilities constructed pursuant to the permit. These plans shall be submitted to the Engineering Director or designee within sixty (60) days after completion of construction, in a format mutually acceptable to the permittee and the city.

O. Restoration of Public Rights-of-Way, City Property and Protected Trees.

1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, or trees protected by Chapter 16.32 of this code, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good or better condition as it was before as determined by the Engineering Director or designee.

2. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule shall be subject to approval by the city.

3. If the permittee fails to restore rights- of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty (30) days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration to be made at the expense of the permittee. In cases where the city determines in its sole discretion that the failure to restore rights-of-way results in an immediate threat to the public safety or welfare, the city may proceed with restoration with no prior notice to the permittee.

4. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property. A traffic control plan describing all such measures shall be required, and must receive city approval no less than twenty-four hours (24) prior to the commencement of any work in the right-of-way.

P. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred percent (100%) of the estimated cost of the proposed work within the public rights-of-way of the city, shall be provided before construction is commenced.

1. The surety shall remain in force until one year after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

a. Timely completion of construction;

b. Construction in compliance with applicable plans, permits, technical codes and standards;

c. Proper location of the facilities as specified by the city;

d. Restoration of the public rights-of- way and other property affected by the construction; and

e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

12.08.030 Liability.

Every person having occasion to work in or to place any obstruction in any public right-of-way, or to make any alteration thereto, under the provisions of this chapter, shall be responsible to any one for any injury or damage resulting in any way from the presence of such obstruction, alteration or work, and also shall be liable to, indemnify and defend the city for any claim arising therefrom.

12.08.040 Exceptions to application of this chapter.

A. City or Franchisee Work. The provisions of this chapter shall not be deemed to apply to the construction or maintenance of pavement by the city, either by its employees or by persons operating under contract with the city, nor to cuts or excavations made by utilities operated by the city or by grantees operating under lawfully granted franchises. Prior written notice of at least forty-eight (48) hours shall, however, be provided to the Engineering Director or designee of all work to be done in city rights-of-way which would otherwise be subject to the provisions of this chapter.

B. Other Exceptions. The city manager or designee may exempt applications for permits from the requirements of this chapter, when in his or her discretion:

1. The amount of work to be done in city streets does not warrant the imposition of these requirements; and

2. The public interest in the city's streets and ways is adequately safeguarded.

The city manager or designee may develop administrative regulations and policies to implement the provisions of this section.

12.08.050 Violation Penalty.

Any person violating any provision of this chapter shall be punished by a fine not to exceed two hundred fifty dollars ($250.00). Each day that such violation exists shall be deemed a separate violation of this chapter.

Chapter 12.16 ACCESS MANAGEMENT

12.16.010 Definitions

For the puposes of this chapter, the following definitions shall apply.

"Accessway" means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

"Driveway" means the portion of the accessway on private property or public lands outside of the public right-of-way.

"Driveway Approach" means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section

"Driveway Apron" means the ramped portion of the driveway approach extending from the public roadway to the sidewalk section and lying between the wings of the driveway approach

"Driveway Wings" means those portions of the driveway approach which provide a transition from the sidewalk, curb, and existing ground grades to the driveway apron grade.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Sidewalk Section" means the portion of the driveway approach where the existing or proposed adjacent sidewalk extends through the driveway approach.

"Street" means the entire width between right-of-way lines for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

12.16.020 Applicability

A New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the Engineering Director.

12.16.030 Access Permitting

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other

improvement in any public street, alley, or other property owned by, dedicated to, or used by the public and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the Engineering Director on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.

B. The access permit application shall include three copies of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.

C. The Engineering Director shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

D, Permits for access to State highways shall be subject to review and approval by ODOT, except where ODOT has delegated this responsibility to the City. Decisions regarding access permits to State highways shall be subject to the access standards adopted by ODOT.

E. Permits for access to County roads shall be subject to review and approval by Clackamas County, except where the County has delegated this responsibility to the City. Where the County has delegated access review responsibility to the City, decisions regarding access permits to County roads shall be subject to the standards of Chapter 12.16 and the Milwaukie Public Works Standards.

F. Approval of an access permit may be in the form of a drawing stamped by the City, a letter from the City, or a land use decision condition of approval.

12.16.040 Access Requirements and Standards

A. Access.

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing.

Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.

1. Standards. Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

   a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 600 feet.

   b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of 300 feet.

2. Modification of Access Spacing. Access spacing may be modified with submission of an access study prepared and certified by a registered professional Traffic Engineer in the State of Oregon. The access study shall assess transportation impacts adjacent to the

project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within 600 feet of the adjacent property. The access study shall include the following:

a. Review of site access spacing and design.

b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.

c. Review of all modes of transportation to the site.

d. Mitigation measures where access spacing standards are not met that include, but are not limited, to assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the Engineering Director.

C. Accessway Location

1. Double Frontage. When a lot has frontage on 2 or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.

2. Location Limitations. Individual access to single-family residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the Engineering Director only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line. The nearest edge of the driveway apron shall be at least 7 ½ feet from the side property line in residential districts and at least 10 feet from the side property line in all other districts. This standard does not apply to accessways shared between two or more properties.

4. Distance from Intersection. To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of driveway apron shall be maintained. Where intersecting streets do not have curb, the distance shall be measured from the nearest intersecting street edge of pavement.

a. At least 45 feet for single-family residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.

b. At least 100 feet for multifamily residential properties and all other uses accessing local and neighborhood streets.

c. At least 300 feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

d. At least 600 feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access. Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access. The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multifamily areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single-Family Residential. One accessway per property is allowed for single-family residential uses.

   a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.

   b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced 50 feet apart, upon review and approval by the Engineering Director. The spacing is measured between the nearest edges of the driveway aprons. Where the 50-foot spacing cannot be met, an additional accessway shall not be granted.

   c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single-Family Residential. The number of accessways for uses other than single-family residential is subject to the following provisions.

   a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B.

   b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced 150 feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines. Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act and Milwaukie Public Works Standards.

2. Authority to Restrict Access. The Engineering Director may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

   a. Cause or increase existing hazardous traffic conditions;

   b. Provide inadequate access for emergency vehicles; or

   c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited. Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single-family residential uses on local streets and neighborhood routes.

F. Accessway Size.

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The Engineering Director may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.
2. Single-family attached and detached residential uses shall have a minimum driveway apron width of 9 feet and a maximum width of 20 feet.
3. Multifamily residential uses with three dwellings shall have a minimum driveway apron width of 16 feet and a maximum width of 20 feet.
4. Multifamily residential uses with between 4 and 7 dwellings shall have a minimum driveway apron width of 20 feet and a maximum width of 24 feet.
5. Multifamily residential uses with more than 8 dwelling units, and off-street parking areas with 16 or more spaces, shall have a minimum driveway apron width of 24 feet and a maximum width of 30 feet.
6. Commercial, office, and institutional uses shall have a minimum driveway apron width of 12 feet and a maximum width of 36 feet.
7. Industrial uses shall have a minimum driveway apron width of 15 feet and a maximum width of 45 feet.
8. Maximum driveway apron widths for commercial and industrial uses may be increased if the Engineering Director determines that more than 2 lanes are required based on the number of trips generated or the need for on-site turning lanes.

12.16.050 Variance

Relief from any access management requirement or standard of Subsection 12.16.040 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

12.16.060 Right of Appeal

Appeal of any access management requirement or standard of Section 12.16.040 not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

12.16.070 Violation Penalty

Any person, firm, or corporation violating any of the provisions of this chapter, or causing, permitting, or suffering the same to be done, shall be fined not more than two hundred fifty dollars ($250.00). Each such person, firm, or corporation shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed, continued, or permitted.

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.

12.24.020 Definitions.

As used in this chapter:

A. "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.

B. "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.

C. "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.

D. "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.

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

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 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 feet above the grade. Open wire fencing that does not obscure sight more than ten percent is allowed to a maximum height of six feet.

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-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.

12.24.050 Variance.

The provisions of this chapter relate to safety. They shall not be modified by variance and are not subject to appeal.

12.24.060 Enforcement.

The provisions of Chapter 1.08 shall be used to enforce this chapter.

12.24.070 Liability.

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

12.24.080 Violation Penalty.

Violation of Section 12.24.030 is punishable, upon conviction, by a fine of not more than two hundred fifty dollars. When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation.

Title 15 BUILDINGS AND CONSTRUCTION

Chapter 15.32 PUBLIC FACILITIES IMPROVEMENTS

(Repealed by Ord. _____.)