

ORDINANCE NO. 1999

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
AMENDING MILWAUKIE MUNICIPAL CODE CHAPTER 12.12 SIDEWALK AND  
STREET OBSTRUCTIONS TO INCLUDE TRAFFIC CONTROL DEVICE  
OBSTRUCTIONS.**

**WHEREAS**, the City Council finds that vehicle, bicycle, and pedestrian safety are impacted by the transportation system; and

**WHEREAS**, the City Council finds that in the City of Milwaukie's Transportation System Plan, adopted by Ordinance 1975, "Safety" is goal number two; and

**WHEREAS**, the City Council finds that vegetation on private property and in the adjoining right-of-way can have an impact on the transportation system including traffic control devices; and

**WHEREAS**, the City's Municipal Code requires that vegetation be maintained by the property owner in clear vision areas and also above sidewalks and streets, but does not address vegetation obstructing the view of a traffic control device; and

**WHEREAS**, the City's Municipal Code requires that no person place an object that may block a traffic control device, but does not address a person who allows vegetation growth to obstruct the view of a traffic control device;

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

Section 1. Chapter 12.12, "Sidewalk and Street Obstructions", of the Milwaukie Municipal Code is hereby amended to read as follows:

**"CHAPTER 12.12"**

**Chapter 12.12 TRAFFIC CONTROL DEVICE, SIDEWALK AND STREET  
OBSTRUCTIONS**

**12.12.010 Overhanging vegetation in right-of-way.**

A. It is made the duty and routine obligation of all owners or occupants of land adjoining any improved right-of-way in the city to trim overhanging shrubs or trees and to remove any growth or fixed object which creates an unreasonable risk of harm to any person or property.

B. It shall be unlawful for the owner or occupant of any real property in the city to permit any tree, shrub, and any growth, or any fixed object located on the real property or the abutting right-of-way to overhang any sidewalk within the city at a height of less than eight feet; or to overhang any other traveled portion of any street or improved right-of-way within the city at a height of less than twelve feet. Trees, shrubs and any growth or fixed objects which are not trimmed or placed so as to meet these specifications shall be deemed to present an unreasonable risk of harm to persons or property.

**12.12.015 Visibility Standards for Traffic Control Devices**

It shall be unlawful for the owner or occupant of any real property in the city to permit any tree, shrub, or other growth, or any fixed object located on the real property or the abutting improved right-of-way to partially or wholly obstruct the visibility of any traffic control devices for drivers, bicyclists, or pedestrians. Trees, shrubs and any growth or fixed objects which are not trimmed or placed so as to meet the specifications in Table 12.12.015 shall be deemed to present an unreasonable risk of harm to persons or property. Wherever there is a conflict in traveling speed the higher speed and greater sight distance calculations shall be used.

Table 12.12.015

When the traveling speed limit is ...	Traffic Signals must be visible from ...	Stop, yield, speed, and crosswalk signs must be visible from ...	All other signs must be visible from ...
20	185'	125'	75'
25	210'	150'	90'
30	260'	200'	110'
35	310'	250'	130'
40	385'	325'	145'
45	460'	400'	165'

**12.12.020 Removal by city.**

If the owner, agent or occupant of any real property adjoining any street or sidewalk in the city fails, neglects or refuses to trim overhanging shrubs or trees or to remove any growth or fixed object which creates an unreasonable risk of harm to persons or property within the time designated, the city manager or designee may, for safety purposes, cause the trimming or removal to be accomplished and keep an accurate account of the cost of the labor and materials used, including legal, administrative and engineering costs, for each lot or parcel of land and shall make available a report containing such information upon the city council's request.

**12.12.025 Charges for removal by city.**

On completion of the trimming or removal by the city, the city manager or city finance director shall determine the cost as defined in Section 12.12.020. The city manager or city finance director shall send a bill for the costs, by regular mail, to the owner of the property or the owner's agent, to the same address as the notice to repair, or to any later known address. The bill shall advise the property owner or owner's agent that within thirty days, the owner or owner's agent must pay the bill in full, otherwise the city's actual cost of the removal activity will be entered on to the City lien docket and assessed to the property owner at an interest rate determined by Title 3 of the Milwaukie Municipal Code.

**12.12.030 Liability of property owner.**

The owners of land adjoining any improved right-of-way in the city shall be liable to any person suffering injury by reason of failure to trim overhanging shrubs or trees or to remove any growth or fixed object which creates an unreasonable risk of harm to persons or property. The city disclaims any liability to any person suffering personal injury or property damage by reason of the owner's negligence in failing to trim overhanging shrubs or trees or to remove any growth or fixed object which creates an unreasonable risk of harm to persons or property. Said property owner(s) shall be liable

to the city for any amounts which may be paid or incurred by the city by reason of all claims, judgment or settlement, and for all reasonable costs of defense, including investigation costs and attorney fees, by reason of said property owner's failure to satisfy the obligations imposed by this chapter to trim overhanging shrubs or trees or to remove any growth or fixed object which creates an unreasonable risk of harm to persons or property.

**12.12.040 Enforcement.**

The provisions of Chapter 1.08, "Short-form Uniform Complaint and Citation Method and Code Enforcement Procedures" may be used to enforce this chapter.

**12.12.050 Violation—Penalty.**

Violation of the chapter is punishable, upon conviction, by a fine not exceeding one hundred dollars. When the violation is a continuous one, each day the violation continues to exist shall be deemed a separate violation.

Section 2. Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 3. Effective Date and Publication

This Ordinance shall take effect and be enforced thirty (30) days after its adoption.

Read the first time on 4/21/09, and moved to second reading by 5-0 vote of the City Council.

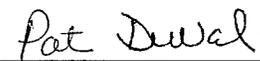
Read the second time and adopted by the City Council on 4/21/09.

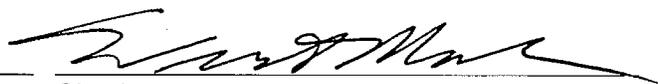
Signed by the Mayor on 4/21/09.

  
\_\_\_\_\_  
Jeremy Ferguson, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Schrader Ramis P.C.

  
\_\_\_\_\_  
Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney