

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS**
- 91. STREETS AND SIDEWALKS**
- 92. PARKS AND RECREATION**
- 93. TREES**
- 94. DISCARDED VEHICLES**

CHAPTER 90: ANIMALS

Section

Dog Control

- 90.01 Prohibition
- 90.02 Definition
- 90.03 Dogs at large prohibited; confiscation
- 90.04 Dogs in parks prohibited
- 90.05 Licenses
- 90.06 License fees
- 90.07 Vicious dogs
- 90.08 Reporting of biting dogs or other animals
- 90.09 Biting and rabid dogs; quarantine
- 90.10 Barking dogs
- 90.11 Interference with officer
- 90.12 Entry onto private property
- 90.13 Fines
- 90.14 Saving clause

- 90.99 Penalty

DOG CONTROL

' 90.01 PROHIBITION.

Hereafter it shall be unlawful for any person owning or having the care or custody or possession of any male or female dog of any age, to suffer or permit the same to run at large within the limits of the city. (1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977) Penalty, see ' 90.99

' 90.02 DEFINITION.

For the purpose of this chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

RUN AT LARGE. To wander or to stray or not to be within the complete control of the owner or person having the care, custody or possession of the dog.
(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977)

' 90.03 DOGS AT LARGE PROHIBITED; CONFISCATION.

All dogs running at large and/or not under the control of their owner or person having the care, custody or possession of a dog may be taken into custody by the police force, which shall advertise the facts of the taking of the dog or dogs by posting one notice thereof on the bulletin board of the City Hall in this city, for a period of five days after the taking of the dog. If the dog remains unclaimed after the five days have elapsed from the posting of the notice, then the dog shall be disposed of by the city, acting through its police force, as the police force shall deem wise, but if the dog so taken into custody shall be claimed by the owner thereof or person having the care, custody or possession thereof, within that time, the police may turn over the dog to the person so claiming same, upon payment to the city of the sum of \$10 plus the actual cost and expense incurred in the seizure, the cost for a rabies shot should the animal not be registered as having received one, holding and maintenance of the dog. Should the dog be taken up a second time as herein provided, before the dog can be redeemed, a sum of money in an amount of \$15, plus the actual cost and expense incurred in the seizure, holding and maintenance of the dog, shall be paid.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977)

' 90.04 DOGS IN PARKS PROHIBITED.

No person owning or having the care or custody or possession of any dog shall permit or allow the dog to be in any public park in the city.

(1977 Code, ' 4-13) (Ord. 917, passed 2-21-1978)

' 90.05 LICENSES.

(A) Every owner of a dog which has grown a set of permanent canine teeth or has attained the age of six months, whichever event occurs first, shall immediately obtain a license for the dog.

(B) Licenses shall be valid from January 1 to December 31 and are renewable on January 1 of each year, provided further that a penalty of an additional fee as set forth in ' 90.06(A) shall be collected for each dog not licensed within 30 days from the time prescribed. The licensing program shall become effective on January 1, 1978.

(C) No license shall be issued until a certificate of vaccination for rabies, valid for the license year, is presented to the licensing department.

(D) For record purposes, a new owner of a licensed dog is required to notify within 30 days the City Police Department at no additional cost to the new owner.

(E) A license tag issued to a dog owner shall be attached securely to a collar or harness on the dog for which it was issued. If a license tag is lost, the owner may obtain a duplicate license tag upon satisfactory proof of loss and payment of the required fee.

(F) Licenses shall be issued through the City Police Department during regular business hours. All accounting and records shall be the responsibility of that Department.
(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977)

' 90.06 LICENSE FEES.

(A) The dog license fee which is due and payable upon the issuance of a license, and the other fees required to be paid under the provisions of this subchapter, shall be as follows:

| <i>Description</i> | <i>Fee</i> |
|--|------------|
| Dog license fee - neutered fee | \$5.00 |
| Dog license fee - unneutered fee | \$7.50 |
| Dog license fee - owner 65 years of age or older | \$3.75 |
| Duplicate license | \$2.00 |
| Late licensing penalty fee (additional) | \$2.50 |

(B) (1) No license fee shall be required for any dog owned by a blind person who uses the dog as a guide. A license shall be issued for the dog upon proper proof of rabies vaccination and upon filing of an affidavit by the blind person showing the dog to come within this exemption. The affidavit shall be filed with the licensing department.

(2) A fee for an individual dog license will be required for dogs which have been neutered. Dog owners applying for this reduced fee must present to the licensing department a certificate from a licensed veterinarian stating that the dog to be licensed has been neutered.

(3) A fee for an individual dog license will be required for any dog owned by a person 65 years of age or older upon proper proof of rabies vaccination and proper proof of age.
(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977)

' 90.07 VICIOUS DOGS.

(A) A *VICIOUS DOG* is one which has the propensity to bite or attack any person without provocation. It shall be presumed that any dog seized while in the act of attacking a person without provocation or having bitten a person on one occasion without provocation is a vicious dog.

(B) (1) A vicious dog may be impounded by any peace officer or dog control officer and disposed of in accordance with provisions of this subchapter for the impoundment and disposition of dogs.

(2) A vicious dog running at large which, because of its disposition or diseased condition, is reasonably believed to be hazardous to apprehend may be destroyed.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977; Ord. 1076, passed 9-15-1986)

' 90.08 REPORTING OF BITING DOGS OR OTHER ANIMALS.

(A) The owner of a dog or other animal which bites a human being shall immediately notify the Police Department of the bite, and address of the person bitten, if known.

(B) Any person who is bitten by a dog or other animal shall forthwith notify the Police Department of the bite giving a description of the dog or other animal, the time and circumstances of the bite and the name and address of the owner, if known.

(C) When a doctor, veterinarian, hospital employee or other person has information that a person has been bitten by a dog or other animal, the person shall forthwith notify the Police Department.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977)

' 90.09 BITING AND RABID DOGS; QUARANTINE.

(A) When either the Police Department or the Departments of Public Health and Sanitation or Public Safety of the city has grounds to suspect that a dog is infected with the disease of rabies, there shall be delivered to the owner of the dog a written notice thereof. The owner shall thereupon be required to quarantine the dog for ten days. The biting of any person by the dog shall constitute adequate grounds for suspecting the dog to be so infected. The delivery of the notice to a member of the owner=s family 14 years of age or older at the premises where the dog is kept or at the owner=s usual place of abode, shall be considered a delivery of the notice to the owner. Any dog required to be quarantined shall be confined as follows:

(1) On the owner=s premises in such a manner as to prevent it from being in contact with any other animal or person; or

(2) At the owner=s expense in a veterinary hospital.

(B) Any animal that has been bitten by a dog or other animal proved to be rabid shall be destroyed.

(C) If a dog exhibits symptoms of rabies while it is under quarantine, the Director of Public Health may order in writing that it be destroyed and that its head be submitted to the State Public Health Laboratory.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977)

' 90.10 BARKING DOGS.

(A) *General prohibition.* No person who is the owner of a dog, or who has or shares the care, custody, possession or control of a dog shall allow the dog to bark loudly or with a frequency as to cause discomfort to other persons.

(B) *Complaints and citations on barking dogs.* Once a complaint has been received by the Police Department, a citation may be issued under the following condition: a complaint is signed by the person complaining on the barking dog.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977; Ord. 1066, passed 11-18-1985) Penalty, see ' 90.99

' 90.11 INTERFERENCE WITH OFFICER.

It shall be unlawful for any person to interfere in any way with any enforcement officer of the city engaged in seizing, impounding or investigating any complaint on dogs under authority of this subchapter.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977; Ord. 1066, passed 11-18-1985) Penalty, see ' 90.99

' 90.12 ENTRY ONTO PRIVATE PROPERTY.

Any city enforcement officer shall have the privilege of entering onto private land in the course of the officer=s duties in enforcing the provisions of this subchapter, but the officer shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977; Ord. 1066, passed 11-18-1985)

' 90.13 FINES.

Any person found guilty before the Municipal Court of any violation of this subchapter shall be punished by a fine as set forth in ' 90.99, plus court costs and the actual cost and expense incurred in the seizure, holding, treatment, maintenance and disposal of a dog which was permitted by its owner or the person having or sharing the care, custody, possession or control of the dog to violate any portion of this subchapter.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977; Ord. 1066, passed 11-18-1985)

' 90.14 SAVING CLAUSE.

The repeal of any ordinance by this subchapter shall not preclude any action against any person who violated the ordinance prior to the effective date of this subchapter.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977)

' 90.99 PENALTY.

Any person found guilty before the Municipal Court of any violation of ' ' 90.01 through 90.14 shall be punished by a fine of not less than \$25, nor more than \$75, in addition to the costs set forth in ' 90.13.

(1977 Code, ' 4-13) (Ord. 903, passed 9-6-1977; Ord. 1066, passed 11-18-1985)

CHAPTER 91: STREETS AND SIDEWALKS

Section

General Provisions

- 91.01 Adopting design standards and standard details
- 91.02 Defining city rights-of-way
- 91.03 Service driveways
- 91.04 Disturbance of pavement

Construction, Alteration, Repair and Cleaning of Sidewalks and Curbs

- 91.20 Definitions
- 91.21 Individual landowner duties; enforcement
- 91.22 Local improvement district; landowner duties; enforcement
- 91.23 Notice
- 91.24 Remedies

- 91.99 Penalty

GENERAL PROVISIONS

91.01 ADOPTING DESIGN STANDARDS AND STANDARD DETAILS.

(A) The document entitled *Design Standards and Standard Details for the City of Tillamook* shall be adopted to provide clear and concise information to contractors, developers and engineers providing services within the city.

(B) This section will provide acceptable construction standards and specifications for all improvements and repairs within the city.
(Ord. 1160, passed 3-20-2000)

91.02 DEFINING CITY RIGHTS-OF-WAY.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. The City of Tillamook, Oregon.

PERSON. Individual, corporation, association, firm, partnership, joint stock company and similar entities.

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 subsurface and air space over these areas.

WITHIN THE CITY. Territory over which the city now has or acquires jurisdiction for the exercise of its powers.

(B) *Jurisdiction.* The city has jurisdiction and exercises regulatory control over each public right-of-way within the city and state law.

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

(D) *City permission requirement.* No person may occupy or encroach on a public right-of-way within the city without the permission of the city. The city grants permission to use rights-of-way by franchises, licenses and permits.

(E) *Obligations of the city.* The exercise of jurisdiction and regulatory control over any 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.

(Ord. 1152, passed 3-3-1997) Penalty, see ' 91.99

' 91.03 SERVICE DRIVEWAYS.

(A) *Service driveway, definition.* The term **SERVICE DRIVEWAY** as used herein shall mean any driveway entering any street from private property and intended for use and used by the public or for private purposes.

(B) *Permit.* It shall be unlawful to construct or maintain any service driveway across any sidewalk or curbing without first obtaining a permit for the construction from the City Manager.

(C) *Specifications.* All driveways shall be constructed of 1:2:3 mix concrete, six inches thick and one and one-half inch curb face shall be retained across the driveway. The slope from the gutter to the sidewalk or property line shall be as directed by the City Manager. No curbing shall be disturbed within four feet of the regular street crosswalk, nor shall any driveway be permitted to interfere with any fire hydrant, power line or traffic sign.

(D) *Curb length.*

(1) The City Manager shall limit the curb length of all driveways as follows:

| <i>Frontage</i> | <i>Maximum Length</i> |
|----------------------|-----------------------|
| 25 to 52.5 feet | 22 feet |
| Over 52.5 to 75 feet | 30 feet |
| Over 75 feet | 35 feet |

(2) If more than one service driveway is desired for frontage up to 105 feet, the maximum length of driveway shall be 25 feet, and not more than two driveways will be permitted. If service driveways less than 20 feet in length are desired, three 15-foot service driveways may be permitted; provided, however, that not less than 12 feet of straight curb must separate service driveways under one ownership. For any frontage in excess of 105 feet, each additional 105 feet or fraction thereof shall be considered as separate frontage. Any service driveway in excess of the above maximum lengths must receive the approval of the City Council. No driveway apron shall extend out into the street farther than the face of the curb, and under no circumstances shall the driveway apron extend into the gutter area.

(E) *Permit fees.* The permit fees for each service driveway shall be as follows: for any service driveway authorized under permit from the City Manager, \$2 for each ten feet of length, or fraction thereof; for any service driveway requiring the approval of the City Council, \$4 for each ten feet of length, or fraction thereof.

(F) *Driveway aprons.* All existing driveway aprons which extend out into the street farther than the face of the curb and into the gutter area hereby are deemed a nuisance.

(G) *Abandoned driveways.* Any existing driveway or apron which has been or shall hereafter be abandoned by the property owner, his or her heirs or assigns, is hereby deemed a nuisance and the curb and sidewalk shall be restored to its original condition, as directed, at the expense of the property owner in the manner and at the times hereinafter provided.

Tillamook - General Regulations

(H) *Conformance of existing driveways.* Any existing driveway or apron violating any of the above requirements shall be altered to conform to these requirements on or before September 1, 1950, upon written notice to the owner, agent of the owner and/or occupant of the property from the City Manager; provided, nevertheless, that in any case where the City Manager shall find that a driveway or apron constructed in violation of this subchapter was so constructed at the express direction of and to the exact specifications of the city, then the driveway or apron shall be altered at city expense. The City Manager shall cause to be served on the owner, agent of owner and/or occupant, a notice describing the property with convenient certainty by its legal description or by the street number of the building situate thereon, requiring the owner, agent of the owner and/or occupant to conform to the above requirements by September 1, 1950, or that the city will require the same to be done and the cost thereof charged as a lien against the property.

(I) *Notice to owner; liens.* The notice shall be served upon the owner, agent of the owner and/or occupant in person if he or she shall be found upon the premises within the city, and in case the owner, agent of owner and/or occupant cannot be found in person within the city after reasonable diligence and inquiry, the notice shall be posted in a conspicuous place upon the premises and a copy thereof mailed to the last known post office address of the owner, agent of owner and/or occupant if any address is known and return of service shall be filed with the Recorder. If by September 1, 1950, the owner, agent of owner and/or occupant shall have failed and neglected to conform to the requirements, the City Manager of this city shall cause the same to be done and shall file with the Council a verified, itemized statement of the expenditure occasioned thereby, and the Recorder shall cause notice to be served upon the owner, agent of owner and/or occupant in the manner hereinbefore described that the statement will be considered and determined by the Council and a lien declared upon the property involved, the time of which meeting shall be specified in the notice not less than ten days nor more than 20 days from giving the same. The Council shall at the meeting hear any objection to the statement and by ordinance determine the correctness of the same and declare the corrected amount a lien upon the property benefited and instruct the Recorder to enter the same upon the city docket of liens in the same manner and with the same effect that the street improvement liens and sewer liens are entered; and the liens shall have the same force and effect as the street and sewer liens and shall be foreclosed in the same manner.

(J) *Penalty.* Any person violating any of the provisions of this section shall be subject to the provisions of ' 91.99.

(1977 Code, ' 2-3) (Ord. 651, passed 11-7-1949) Penalty, see ' 91.99

' 91.04 DISTURBANCE OF PAVEMENT.

(A) *Disturbance of pavement; supervision.* It shall be unlawful for any person, firm or corporation to cut any holes in paved streets, dig up any street, or in any way break the surface of the pavements or streets in the city for water or sewer purposes, or any other purpose, without first securing the consent of the City Manager. All work done pursuant to the above consent and for the above purposes shall be done under the supervision of the Superintendent of Public Works who shall have authority to control the work. All repairs of the streets or pavements thereof shall be done as the Superintendent directs with a view to preserving the same and without any cost to the city.

(B) *Penalties.* Any person, firm or corporation violating any of the terms of this section, upon

conviction thereof before the City Recorder shall be punished by a fine as set forth in ' 91.99. (1977 Code, ' 2-2) (Ord. 448, passed 7-21-1924; Ord. 861, passed 2-14-1977) Penalty, see ' 91.99

CONSTRUCTION, ALTERATION, REPAIR AND CLEANING OF SIDEWALKS AND CURBS

' 91.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABNORMALLY DANGEROUS OR HAZARDOUS CONDITION. A two-inch or greater displacement from grade or misalignment between or within sidewalk panels or any other condition threatening the immediate health, safety or welfare interests of the public, such as any condition which risks personal injury or property damage to any disabled person, whether or not wheelchair-bound.

CITY. The City of Tillamook, a municipal corporation of the State of Oregon, where the provision involves a duty owed the city in either its governmental or its corporate capacity; otherwise it shall mean the officer, department or agency of the city indicated by the context or where the context does not clearly indicate a specific officer, department or agency, then the City Manager.

COMMERCIAL PREMISES. Includes all premises which are not private premises.

CONSTRUCTION. Construction of sidewalks and curbs upon official grades, fixing dimensions of curbs and establishing curb lines on certain width streets and sidewalk widths.

COUNCIL. The City Council.

DANGEROUS/HAZARDOUS SIDEWALK. A sidewalk:

- (1) With a surface that is not constructed to *City Public Works Construction Standards - Street Design Standards* (ACity Standards@);
- (2) Which contains a vertical or horizontal misalignment between or within sidewalk panels, or between a sidewalk and curb, equal to three-fourths to two inches;
- (3) Which contains structural defects negatively affecting pedestrian use; or
- (4) Which has vegetation, whether growing on or overhanging the sidewalk, that negatively affects pedestrian use.

DAYS. Twenty-four hour, calendar days.

ENGINEER. The City Public Works Director or the duly appointed City Engineer or any consulting engineering firm who contracts with the city to provide engineering services.

PERSON. Every natural person, firm, partnership, association or corporation, social or fraternal organization, trust, estate, receiver, syndicate, branch of government or any group or combination acting as a unit.

SIDEWALK. A pedestrian walkway with permanent surfacing, which shall include curbs and road approaches crossing, adjacent to or between the walkways.
(Ord. 1205, passed 12-5-2005)

91.21 INDIVIDUAL LANDOWNER DUTIES; ENFORCEMENT.

(A) *Standards and specifications.* Sidewalks and curbs shall be constructed, altered, repaired and maintained according to *City Public Works Construction Standards - Street Design Standards* (a City Standards) as adopted and/or amended by the Council by resolution or otherwise.

(1) A sidewalk and/or curb not conforming to City Standards shall be, and is, a public nuisance.

(2) No landowner shall allow a dangerous or hazardous sidewalk or abnormally dangerous or hazardous sidewalk to exist on his or her property. This provision shall apply to existing exterior commercial premises open to the public, to private premises adjacent to a public way, street, alley, highway or road of any kind.

(B) *Permit requirements, applications, fees and issuance.*

(1) No person shall construct, reconstruct or repair any sidewalk or curb in or upon any public street or right-of-way without first obtaining a permit from the city and complying with the provisions of the *City Street Design Standards* and the city's tree ordinance (see Chapter 93).

(2) An application for a permit shall be filed with the city, on a form provided by the city, together with any other information and data as required by the Engineer. An applicant for a permit shall pay a permit fee to the city, which fee shall be set by Council by resolution to recover city's actual costs of review and monitoring.

(3) Upon application and fee payment for an improvement to which this subchapter applies, city shall issue a permit. The permit shall be automatically void six months from the issue date if the improvement is not complete. If the improvement is complete and receives City Engineer final approval, then the permit shall become permanent.

(C) *Owner responsibility and liability.*

(1) The owner of real property abutting a sidewalk is liable for any personal injury or property damage which occurs because of the owner=s failure to maintain the sidewalk in good repair or safe condition. The city shall not be liable under these circumstances unless the city is the owner and the city=s act or failure to act is the direct and proximate cause of the injury or damage.

(2) If the city is required to pay damages for personal injury or property damage caused by the failure of an owner to maintain a sidewalk in good repair or safe condition, the owner shall reimburse the city for the full amount of the damages thus paid and for the attorney fees and cost of defending against the claim for damages. The city may maintain an action in a court of competent jurisdiction to enforce the provisions of this section.

(Ord. 1205, passed 12-5-2005) Penalty, see ' 91.99

' 91.22 LOCAL IMPROVEMENT DISTRICT; LANDOWNER DUTIES; ENFORCEMENT.

The Council may proceed in the manner set forth in ' ' 36.091 through 36.113 and/or O.R.S. 223.387 et seq. for the creation of a local improvement district, as long as it is consistent with any existing city sidewalk plan, if any of the following conditions are found to exist:

(A) (1) A dangerous or hazardous condition to pedestrians or vehicular traffic exists on a sidewalk or in a street right-of-way;

(2) There is a general public health, safety and/or welfare need that a street be improved by the construction of a sidewalk thereon not to exceed one block in length if platted as a block, or 300 feet if not platted, which sidewalk would connect with the sidewalk or sidewalks already constructed on the street or cross-streets intersecting therewith; or

(3) The landowners within an area in the city specifically described request it; and

(B) Public funds sufficient to support the city=s portion of the project are available and appropriated for that purpose.

(Ord. 1205, passed 12-5-2005; Ord. 1227, passed 11-19-2007)

Cross-reference:

Local improvement districts, see TSO IV

' 91.23 NOTICE.

(A) *Notice.*

Tillamook - General Regulations

(1) *Notice of public nuisances.* Upon determination by the City Manager, City Engineer or their designee that a public nuisance, dangerous/hazardous sidewalk or abnormally dangerous/hazardous sidewalk exists, a written notice of the nuisance or hazard shall be provided to the landowner and/or occupant, ordering the landowner and/or occupant to abate the nuisance, hazard or danger within 14 days of receipt of the notice.

(2) *Stay of enforcement; stay not a bar to fine.* A notice shall stay the city=s enforcement until the expiration of the notice period. This means a city notice under this division (A) shall cause the city=s enforcement action under this subchapter only to be stopped or Aon hold@ until the notice period ends. However, a stay of enforcement to gain compliance shall not be a bar to any fine or penalty available under any law in any later prosecution to gain compliance. This means that, even though city=s enforcement action is on hold, the fines and/or penalties under any law are not on hold, but continue to accrue or increase as long as the condition constituting a violation continues to exist. A notice under this division (A) may be superseded by a subsequent notice, which subsequent notice shall control in any conflict between notices. This means the last notice issued to a landowner pursuant to this division (A) is the notice to follow as compared to any conflicting parts of (or whole) an earlier notice issued to that landowner on the same violation.

(3) *Response to abnormally dangerous condition.* Immediately upon receipt of notice of abnormally dangerous sidewalk or curb, the landowner and/or occupant shall erect legally approved and permitted safety devices to protect person(s) from the identified hazard. The safety devices shall remain in place until the hazard is repaired as directed by this section.

(B) *Notice service.* Notices shall be served in the following manner:

(1) By personally serving a written notice;

(2) By posting on the main entrance to the property or structure;

(3) By mailing first-class mail, certified, return receipt requested to the landowner of record as shown on records of the County Tax Collector/Assessor; or

(4) By any combination of the above or any other method reasonably calculated to provide actual notice to the landowner.

(C) *Notice contents.*

(1) The notice to abate shall contain:

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

(b) A direction to abate the nuisance within 14 days from the date of receiving the notice;

(c) A general description of the nuisance;

(d) A statement that, unless the nuisance is abated, the city may abate the nuisance; and the cost of abatement will be charged to the person responsible;

(e) A statement that failure to abate a nuisance may cause the person responsible be cited into Municipal Court with possible imposition of a fine, as well as abatement costs;

(f) A statement that the person responsible may protest the order to abate by giving notice to the City Manager within 14 days from the date of receipt of the notice; and

(g) A statement that the person responsible may request, to the City Manager, an extension of time to abate the nuisance, not to exceed 30 days, from date of receipt of original notice.

(2) The City Manager, City Engineer or Police Department shall, upon sending out notice, also cause a report to be filed in the Police Department, documenting all action occurring with this nuisance.

(3) An error in the name or address of the person responsible shall not make the notice void. (Ord. 1205, passed 12-5-2005; Ord. 1214, passed 11-20-2006; Ord. 1225, passed 11-5-2007) Penalty, see ' 91.99

' 91.24 REMEDIES.

(A) Inspections authorized.

(1) The City Engineer shall inspect city sidewalks and curbs as time and public funds permit:

(a) Upon City Council request;

(b) Upon any written complaint describing the nature and location of the violation;

(c) As outlined in any existing city sidewalk improvement plan; or

(d) As otherwise required to monitor the sidewalk/curb construction or repair within any city permit.

(2) Following inspection, the City Engineer shall report the Engineer=s analysis and recommended action to the Council, City Manager and/or enforcement officer.

(B) City construction. If a sidewalk is not constructed or repaired within the time required by the notice required by ' 91.23(A), (B) and/or (C), then the city may, subject to the availability and appropriation of public funds, proceed with enforcement, abatement and/or construction for all or part of the sidewalk frontage of the property. The city may assess and collect the costs for the abatement or construction as provided by this subchapter plus an administration fee of 25% of those costs. Additionally, the sidewalk may be considered a public nuisance and subject to prosecution as a violation punishable by a fine, as provided for in this subchapter. Each day a public nuisance exists shall be considered a separate offense.

Tillamook - General Regulations

(C) *Sidewalk construction requested by the property owner.* If a property owner petitions the Council for an order to build a sidewalk on the part of the street abutting his or her property, agrees to pay cash or to make an application to pay the cost in installments as provided by the Bancroft Bonding Act (as amended), waives the right of service and publication of notice of construction and consents to the assessment of the property upon which the sidewalk abuts, the Council may order the construction of the sidewalk if in its judgment the sidewalk should be built and sufficient public funds for the project are available.

(D) *Abatement by the person responsible.*

(1) Within the time specified in a notice, the person responsible shall remove the nuisance or show that no nuisance exists.

(2) A person responsible may protest that no nuisance exists by filing with the City Manager a written statement which specifies in detail the protest's bases. This statement shall be received by City within 14 days from the date of receipt of the notice.

(3) The City Manager shall have 14 days to respond from the date the City Manager receives the notice. The response shall indicate either that the nuisance no longer exists and no further action is required, or that the nuisance still exists and set a further timeline of 14 days to abate the identified nuisance.

(4) The person responsible may request an extension from the City Manager. The request must be received by the City Manager within 14 days of the person responsible receiving the notice. The City Manager may allow an extension to abate, not to exceed 30 days.

(5) Once the final date allowed to abate has passed, and the city determines the nuisance has not been abated, the Police Department shall then cite the person responsible into Municipal Court.

(6) The time here shall be extended by three days where notice or reply was served by mail.

(E) *City repair and liens.* Upon the city's completion of work placing a sidewalk or curb in good condition, a lien shall attach. Filing notice of city's claim of lien shall be consistent with O.R.S. 87.366 for claiming a lien on real property. Recording of the notice shall be with the City Recorder in the city's lien record and/or with the County Recording Officer in a book kept for the recording of liens. The city's lien shall be valid for six years, unless extended by written agreement with the landowner for two additional years. The landowners shall either pay the full amount or the city shall commence lien foreclosure within that time. Foreclosure shall be in the manner provided in O.R.S. Chapter 88. Except for tax liens, the city's lien shall be superior to all subsequently perfected liens, mortgages and/or other encumbrances, including state and federal liens, unless otherwise required by law. In suits to foreclose on a lien created here, the Court, upon entering judgment for the lien claimant, shall allow as part of the lien all monies paid for the filing and/or recording of the lien. In suits to foreclose a lien created here, the Court shall allow reasonable attorney fees, costs and disbursements, at trial and on appeal, to the prevailing party. This division (E) is effective on the thirtieth day after its adoption on November 19, 2007.

(Ord. 1205, passed 12-5-2005; Ord. 1227, passed 11-19-2007) Penalty, see ' 91.99

' 91.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Any person violating any of the provisions of ' 91.03, on conviction thereof in the Recorder's Court, shall be punished by a fine not exceeding \$200, or imprisonment not exceeding 30 days, or by both the fine and imprisonment.

(1977 Code, ' 2-3)

(C) Any person, firm or corporation violating any of the terms of ' 91.04, upon conviction thereof before the City Recorder, shall be punished by a fine of not more than \$50; and in default of payment of any fine so imposed, one day for each \$2 of the fine shall be served in the city jail.

(1977 Code, ' 2-2)

(D) Any offense described by ' ' 91.20 through 91.24 shall be a violation. Each day an offense continues to exist is a separate offense. An offense herein is punishable by a fine of not less than \$25, or more than \$250, per offense and/or per day.

(Ord. 448, passed 7-21-1924; Ord. 651, passed 11-7-1949; Ord. 1205, passed 12-5-2005)

CHAPTER 92: PARKS AND RECREATION

Section

Use of City Parks

- 92.01 Short title
- 92.02 Definitions
- 92.03 Powers of the Council
- 92.04 Organized functions in the park
- 92.05 Prohibited conduct

User Fees for Carnahan Park

- 92.20 Definitions
- 92.21 Duration
- 92.22 Use of user fees
- 92.23 Fees
- 92.24 Fee collection
- 92.25 Parking permit required
- 92.26 Season permits

- 92.99 Penalty

USE OF CITY PARKS

92.01 SHORT TITLE.

This subchapter may be cited as the *City Parks Ordinance*.
(Ord. 1192, passed 6-21-2004)

92.02 DEFINITIONS.

For the purpose of this subchapter, in addition to definitions found in other city ordinance(s), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY. Includes the Mayor, City Council.

CITY OFFICIAL. Includes the City Manager, Public Works Director, Public Works employee(s), Police Chief, any police officer, any police community resource ordinance officer and/or any other city designee.

ORGANIZED FUNCTION. Any planned activity of any kind involving 20 or more persons.

PARK. Any publicly or privately owned real property placed under the jurisdiction of the city for park or recreational purposes.
(Ord. 1192, passed 6-21-2004)

' 92.03 POWERS OF THE COUNCIL.

(A) The city, except as herein otherwise provided, shall have the general management and supervision of all parks, squares, openings and public grounds surrounding public buildings now owned or hereafter acquired by the city, and also the power to regulate and control the planting, trimming, growing, use, preservation and maintenance of all shade or ornamental trees, shrubs, plants or flowers in, upon or over any street, boulevard, path or sidewalk of the city. These powers are in addition to and not exclusive of any other powers or authority under the city's Charter, state law and this State and the United States Constitutions.

(B) The city may adopt any rules and regulations for the use, management and supervision of the parks, squares, openings, public grounds and grounds surrounding public buildings or other places of recreation, now belonging or hereafter acquired by the city as may be reasonable or necessary. The rules and regulations shall be consistent with other city ordinances, state statutes and State Administrative Rules.
(Ord. 1192, passed 6-21-2004)

' 92.04 ORGANIZED FUNCTIONS IN THE PARK.

It shall be unlawful for any person or organization or association to conduct or participate in any organized function in a park without the written permission of the city. Permission must first be requested in writing, in a timely manner, so that the request may be reviewed during a regular City Council meeting. Specific provisions relating to application form/permit shall be as established. Reasonable conditions to provide for the safety and sanitation needs and to protect park users shall be added to the permit with costs borne by the applicant. The request shall be subject to the appeal provisions hereinabove provided.
(Ord. 1192, passed 6-21-2004) Penalty, see ' 92.99

' 92.05 PROHIBITED CONDUCT.

The following conduct unless otherwise excepted shall be prohibited within city parks.

(A) *Alcohol.* Unless specifically authorized by city permit and subject to the further requirement, if any, of the OLCC, it shall be unlawful for any person to possess or drink any alcoholic beverage in any city park. Unless specifically authorized by permit it shall be unlawful for any person to sell any alcoholic beverage in any city park.

(B) *Park hours; closure.* It shall be unlawful for any person to be in a park any time between the hours of 10:00 p.m. and the following 4:00 a.m.

(C) *Additional park closures.* The City Council, City Manager, his, her or its designate, or an officer of the City Police Department may close any city park or any part thereof, at any time for any reason herein by erecting barricades or placing signs prohibiting access. Notices that any park or part thereof is closed shall be posted at appropriate locations during the period of the closure, if feasible. However, failure to post the notices shall not invalidate the closure, nor shall it be a defense to the charge of violating this section. The closure shall be done only in the interest of public safety and health. The decision for closure shall be based upon one or more of the following criteria or conditions existing in or near that park:

(1) Life or property is endangered and other means cannot reasonably be utilized to eliminate the danger;

(2) The overcrowding of persons or vehicles prevents access by emergency assistance or emergency vehicle(s);

(3) Park property or other property located near the park is endangered;

(4) Loud and unnecessary noise, fighting, violence or threatening behavior is occurring and other means cannot reasonably be utilized to eliminate the condition;

(5) A hazardous condition exists; and/or

(6) Violation of any criminal offense or ordinance is occurring and other means cannot reasonably be utilized to eliminate the condition.

(D) *Park closure control.* During the period of closure of a park in accordance with the above provisions, it shall be unlawful for any person to enter the park or any part thereof that has been closed or remain in the park or part thereof after having been notified of the closure and having been requested to leave by the city official. The closure shall not exceed 18 hours without the written approval of the City Manager or his or her designee. No person shall enter any building, enclosure or place within any of the parks upon which the words "No Admittance" shall be displayed or posted by sign, placard or otherwise without the consent of the city official in charge.

(E) *Animals in parks.* It shall be unlawful for the owner, possessor or keeper of any animal to permit the same to enter upon or to roam at large in any city park. Owners of dogs or other animals damaging and destroying park property will be held liable for the full value of the property damaged or destroyed in addition to any penalties that may be imposed for violation for this section. Animal(s) remaining in vehicle(s) are exempt from this section.

Tillamook - General Regulations

(F) *Motorized vehicles.* No motorized vehicles shall be permitted in any park or portion thereof within the city except upon designated roadway(s) and parking area(s).

(G) *Camping/campfires.* No overnight camping or campfires shall be permitted within or upon any public park within the city, unless otherwise specifically authorized by city.

(H) *Firearms and explosive devices.* No firearms, explosive devices, blowgun, bow and arrow, crossbow, BB or pellet gun of any kind shall be permitted upon or within any city park without appropriate permit or appropriate license during authorized hunting season(s).

(I) *Advertising.* It shall be unlawful for any person to place or attach any structure or sign of any kind whatsoever on or upon any part of a city park without written permission.

(J) *Rubbish and litter.* It shall be unlawful for any person to place any straw, dirt, chips, paper shavings, shells, ashes, swill or garbage, or other rubbish, refuse or debris in any city park.

(K) *Vandalism.* It shall be unlawful for any person to damage city property.
(Ord. 1192, passed 6-21-2004) Penalty, see ' 92.99

USER FEES FOR CARNAHAN PARK

' 92.20 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CARNAHAN PARK. The city park located on the westerly boundaries of this city adjacent to the Trask River.

USER. Any person, company, firm, partnership or corporation that has occasion to park a vehicle at Carnahan Park.

VEHICLE. Any motorized or unmotorized vehicle or assembled personal property, including but not limited to boats, trailers and house-trailers.

(Ord. 1124, passed 8-17-1992)

' 92.21 DURATION.

Fees for parking in Carnahan Park shall be charged during the months of September, October and November of each year.

(Ord. 1124, passed 8-17-1992)

' 92.22 USE OF USER FEES.

Fees collected shall be used for maintenance, repair, ordinance enforcement and capital costs associated with Carnahan Park usage only. Direct cost of personnel for normal maintenance/repair work and ordinance enforcement shall be based on actual hours worked, multiplied by the hourly rate and fringe costs paid by the city. Approved time slips shall be used for this purpose.
(Ord. 1124, passed 8-17-1992)

' 92.23 FEES.

(A) *Fee imposed.* Two dollars per day per parking day per stall used.

(B) *Seasonal permits.* Seasonal permits will be \$50 and are available at City Hall, 210 Laurel Avenue, Tillamook, OR 97141.
(Ord. 1124, passed 8-17-1992; Ord. 1127, passed 6-7-1993; Ord. 1130, passed 7-5-1994; Ord. 1252, passed 9-20-2010; Ord. 1275, passed 4-15-2013) Penalty, see ' 92.99

' 92.24 FEE COLLECTION.

(A) Parking fees shall be collected by insertion of \$2 within an approved Carnahan Park permit envelope and placement within the collection box provided.

(B) The envelope shall be completed by the user prior to deposit, with the user retaining a tear-off portion as a receipt of payment.

(C) The tear-off receipt taken from the completed envelope shall be displayed, including the date, vehicle description, and license plates number visible to enforcement persons, on the vehicle dashboard or, where no dashboard, in some clearly visible place in the vehicle.

(D) Failure to display this completed this tear-off portion of the permit shall constitute grounds for issuance of a citation to appear in Municipal Court for violation of this subchapter.
(Ord. 1124, passed 8-17-1992; Ord. 1252, passed 9-20-2010; Ord. 1275, passed 4-15-2013) Penalty, see ' 92.99

' 92.25 PARKING PERMIT REQUIRED.

No user of a parking space or stall in Carnahan Park shall use or occupy the space or stall with a vehicle owned by, occupied by, controlled by or in the possession of the user without first having obtained a parking permit as herein provided.
(Ord. 1124, passed 8-17-1992) Penalty, see ' 92.99

' 92.26 SEASON PERMITS.

(A) Permits may be issued at the office of the City Recorder with payment as set forth in ' 92.23(B).

(B) Permit shall be applied to lower left side of windshield to allow unobstructed view for enforcement.

(C) Permit will be issued to vehicle based on current registered license plate and shall not be transferred to other vehicles.

(D) Violators of this section will be cited per ' 92.99.

(Ord. 1130, passed 7-5-1994) Penalty, see ' 92.99

' 92.99 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to ' 10.99.

(B) Any person who violates any provision of ' ' 92.01 through 92.05 may, upon conviction, be punished as follows:

(1) Violation of ' 92.05(A), (B), (D), (G), (H) or (K) shall be punishable by a fine not to exceed \$250. In addition, cost of repair(s) and or cleanup may also be levied.

(2) Violation of ' 92.05(E), (F), (I) or (J) shall be punishable by a fine not to exceed \$100.

(C) Any user who violates any term of ' ' 92.20 through 92.26, upon conviction, shall pay a fine as follows:

(1) Failure to purchase, complete or display a parking permit: \$20; and

(2) Failure to park a vehicle within a marked space at any time: \$12.

(Ord. 1124, passed 8-17-1992; Ord. 1127, passed 6-7-1993; Ord. 1130, passed 7-5-1994; Ord. 1192, passed 6-21-2004; Ord. 1252, passed 9-20-2010; Ord. 1275, passed 4-15-2013)

CHAPTER 93: TREES

Section

- 93.01 Title
- 93.02 Purpose and intent
- 93.03 Definitions
- 93.04 Delegation of City Tree Committee functions
- 93.05 Permit procedures, tree planting and types of trees to be planted, by abutting property owners
- 93.06 Special tree districts within the city
- 93.07 Tree maintenance, care, pruning, corner clearance and removal of dangerous or nuisance trees
- 93.08 Abuse, mutilation or indiscriminate topping of trees
- 93.09 Interference with the city
- 93.10 Administration of this chapter

- 93.99 Penalty
- Appendix A: Planting Instructions
- Appendix B: Locating Trees on Property

‘ 93.01 TITLE.

This chapter shall be known and cited as the ‘Street Tree Ordinance’ of the city.
(Ord. 1266, passed 4-16-2012)

‘ 93.02 PURPOSE AND INTENT.

(A) *Purpose.* The city, recognizing the value of trees in preserving the aesthetic and environmental qualities of the community, wishes to maintain the Tree City USA Program. This chapter shall constitute the official Comprehensive City Tree Program of the city. It is the purpose of this chapter to promote and protect the public health, safety and general welfare by providing for the regulation of the planting, maintenance and removal of trees, shrubs and other plants within the city public parks, public right-of-way and other public places where the public has free access.

(B) *Intent.* It is the intent of the city that the terms of this chapter shall be construed as to promote:

(1) The recognition of the special significance of heritage and distinctive trees, and value the contribution which these trees make to the beauty and quality of life in the city;

(2) The recognition that because of the known benefits of trees, trees on development properties should be preserved so that they may be considered for incorporation into development plans; and

(3) The intent is not to prohibit the removal of trees but to stop the thoughtless destruction of that vegetation, which has a beneficial effect on the value of property and on the city in general.

(1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012)

' **93.03 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BUSH/SHRUB. All other woody vegetation not considered trees. Plants commonly planted as **SHRUBS** include but are not limited to English laurel, photinia, arborvitae, poison oak, English holly and English ivy.

CITY. The City of Tillamook.

DBH. Diameter of a tree at breast height.

FELL. To remove or sever a tree or to use any procedure which is to cause the death or other substantial destruction of the tree. **FELL** does not in any context include normal trimming or pruning.

ILLEGALLY REMOVED TREE. A tree removed without first obtaining City Street Tree Committee approval and a city permit.

IMMEDIATE DANGER OF COLLAPSE OF A TREE. A tree may already be leaning with the surrounding soil heaving, and/or there is a significant likelihood that the tree will topple or otherwise fail and cause damage to the surroundings. **IMMEDIATE DANGER OF COLLAPSE** does not include hazardous conditions that can be alleviated by pruning or treatment.

PARKING STRIP, PLANTER STRIP or TREE LAWN. The area between the street curb and sidewalk in the public right-of-way, utilized for landscaping and street tree planting.

POLLARD. A tree cut back to the trunk to promote the growth of a dense head of foliage.

STREET. Includes land within the dedicated public right-of-way, including easements, sidewalks, tree lawn or tree well, and roadway.

TREE. Any woody plant having a trunk six caliper inches or larger in diameter at breast height (DBH). If a tree splits into multiple trunks above ground, but below four and one-half feet, the trunk is measured at its most narrow point beneath the split, and is considered one tree if greater than six inches DBH. Plants commonly planted as shrubs, including but not limited to English laurel, photinia, arborvitae, poison oak, English holly and English ivy shall not be considered a **TREE**. Trees specifically planted and maintained as a hedge shall additionally not be considered a **TREE**. Different classifications of **TREES** include the following:

(1) **DEAD TREE.** A tree is lifeless. Evidence of lifelessness may include unseasonable lack of foliage, brittle dry branches or lack of any growth during the growing season.

(2) **HERITAGE TREE.** A tree listed on the Official City Heritage Tree List adopted by the City Planning Commission.

(3) **PARK TREE.** A tree located in a public park or other area owned by the city having an individual name, and all other areas owned by the city, or to which the public has free access as a park.

(4) **PRIVATE TREE.** A tree located on private property other than a dedicated right-of-way or city utility easement or public parks and grounds.

(5) **SIGNIFICANT TREE.** A tree having a trunk 18 caliper inches DBH or larger in diameter.

(6) **STREET TREE.** A tree on land lying within a dedicated right-of-way along either side of a street, avenue or other way within a dedicated utility easement of the city.

(7) **TREE CUTOUT or TREE WELL.** The area between the street and a sidewalk in the public right-of-way, for street tree planting.

TREE REMOVAL. To cut down a tree, or remove 50% or more of the crown, trunk or root system of a tree; or to damage a tree so as to cause the tree to decline and/or die. **REMOVAL** includes topping. **REMOVAL** includes but is not limited to damage inflicted upon a root system by application of toxic substances, operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or unapproved alteration of natural physical conditions. **REMOVAL** does not include normal trimming or pruning of trees.

TREE TOPPING. The severe cutting back of a tree=s limbs to stubs three inches or larger in diameter within the tree=s crown to such a degree so as to remove the natural canopy and disfigure the tree. **TOPPING** does not include the practice of pollarding when conducted in accordance with the standards established by the International Society of Arboriculture.

(1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012)

' 93.04 DELEGATION OF CITY TREE COMMITTEE FUNCTIONS.

(A) *Designation.* The authority of the Tree Committee is hereby delegated to the standing Beautification Committee for the city.

(B) *Duties and responsibilities of the City Tree Committee.*

(1) The City Tree Committee shall study, investigate and develop, and/or update annually, and administer the ordinance for the care, preservation, pruning, replanting, removal or disposition of street trees and park trees. This chapter shall be presented when required to the City Council and upon their acceptance and approval, shall constitute the official comprehensive city tree program of the city.

(2) The City Tree Committee, when requested by the City Planning Commission or City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work. Such report, with or without recommendations, shall be presented first to the City Planning Commission and then to the City Council for their review and final consideration and action if needed.

(3) This chapter provides full power and authority to the City Tree Committee to make recommendations to the City Council which has final authority over all trees, plants and shrubs located within street rights-of-ways, parks and public places of the city, and to trees, plants and shrubs located on private property that constitute a hazard or threat as described herein.

(1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012)

' 93.05 PERMIT PROCEDURES, TREE PLANTING AND TYPES OF TREES TO BE PLANTED, BY ABUTTING PROPERTY OWNERS.

(A) *Permit procedures.* Property owners abutting the public right-of-way may be granted permission to plant street trees administratively upon review by the assigned City Planner or designee if street tree(s) are proposed on an existing tree lawn and an established road right-of-way with curb. The following information must be provided to the city:

(1) A request in writing is provided in the form of a city public works permit application;

(2) A plot plan of area referencing water and sewer lines, power lines, driveways and intersecting streets is provided;

(3) Approval, if granted by the city, shall be required in the form of an approved city public works permit prior to planting of the tree or trees. Fees for the permit shall be paid prior to approval by the abutting property owner; and

(4) A permit fee for the planting or removal of a street tree shall be established by resolution and incorporated into the land use fee schedule.

(B) *Diagrams.* The diagrams contained in Appendix A to this chapter display general instructions

on how to plant a bare-root tree and a containerized tree.

(C) *Tree species to be planted and minimum tree planting dimensions.* The Official City Street Tree List of acceptable species of trees, shrubs, bushes and other woody plant material, as modified below in the listings under minimum planting dimensions, shall be compiled by the Committee, reviewed and adopted by the City Council in a resolution and made available to the public.

(1) No person, without the written permission of the city, through a city public works permit shall plant a street tree of a species other than those included on the list.

(2) Street tree plantings shall be restricted to the following guidelines unless division (C)(2)(k) applies:

(a) The following small street trees are allowed in a minimum three-foot wide parking strip, or a minimum three-foot by three-foot tree well in the Commercial Districts, with the exception of the Town Center Commercial District, with a minimum 20-foot spacing between trees:

| <i>Common Name</i> | <i>Scientific Name</i> |
|--|----------------------------|
| Almira Norway Maple | Acer Platanoides AAlmira@ |
| English Hedge Maple | Acer Camestre |
| Globe Desert Ash | Fraxinus Velotina |
| Globe European Ash | Fraxinus Excelsior AGlobe@ |
| Globe Norway Maple | Acer Platanoides AGlobe@ |
| Golden Rain Tree | Koelreuteria |
| Green Leaf Maple | Acer Palmatum |
| Kwanzan Cherry | Prunus AKwanza@ |
| LaValle Hawthorne | Crataegus Lavellei |
| Profusion Crab Apple | Malus ASargent@ |
| Red Leaf Maple | Atropurpuraum |
| Thundercloud Plum | Prunus AThundercloud@ |
| White Dogwood | Cornus Florida |
| Wintergold Crab Apple | Malus AWinter Gold@ |
| These trees will grow from 18-30 feet in height. | |

Tillamook - General Regulations

(b) The following small street trees are allowed in a minimum four-foot wide parking strip, no closer than two feet from any curb, curb-line or sidewalk, with a minimum 30-foot spacing between trees:

| <i>Common Name</i> | <i>Scientific Name</i> |
|--|------------------------------|
| Chanticleer Pear | Prunus |
| Gerling Red Maple | Acer Rubrum AGerling@ |
| Pyramidal European Hornbeam | Carpinus Betulus APyramidal@ |
| Pyramidal Sycamore Maple | Acer Pseudo Plantanus |
| Rancho Callery Pear | Prunus |
| Rancho Little Leaf Linden | Tilia Cordata |
| Schlesinger Red Maple | Acer Rubrum ASchlesinger@ |
| Tilford Red Maple | Acer Rubrum ATilford@ |
| Trinity Pear | Prunus |
| These trees will grow from 20-35 feet in height. | |

(c) The following medium street trees are allowed in a minimum six-foot wide parking strip, no closer than three feet from any curb, curb-line or sidewalk, with a minimum 40-foot spacing between trees:

| <i>Common Name</i> | <i>Scientific Name</i> |
|--------------------------|--------------------------------------|
| Cavalier Norway Maple | Acer Platanoides |
| Cleveland Norway Maple | Acer Platanoides |
| Crimean Linden | Tilia Echlora |
| Flame Ash | Fraxinus Pennsylvania AAtropurpurea@ |
| Ginkgo | Ginkgo biloba |
| Mongolian Linden | Tilia |
| Purple European Hornbeam | Carpinus |
| Royal Crimson Maple | Acer Platanoides ARoyal Crimson@ |
| Ruby Red Horse Chestnut | Aesculus Carnea |

| <i>Common Name</i> | <i>Scientific Name</i> |
|---|----------------------------------|
| Shade King Red Maple | Acer Rubrum AShade King@ |
| Vineleaf Sycamore Maple | Acer Pseudo Plantanus AVineleaf@ |
| These trees will grow 35-40 feet in height. | |

(d) The following large trees are allowed in a minimum eight-foot wide parking strip, no closer than four feet from any curb, curblin e or sidewalk, with a minimum 50-foot spacing between trees:

| <i>Common Name</i> | <i>Scientific Name</i> |
|--|------------------------|
| Blue Ash | Fraxinus Quadrangulata |
| Celtis Species | Celtis |
| Linden Species | Tilia |
| Norway Maple Cultivars | Acer Platanoides |
| Oriental Plaintree | Plantanus Orientalis |
| Pin Oak | Quercus Palustris |
| Red Maple | Acer Rubrum |
| River Birch | Betula Nigra |
| Sugar Maple | Acer Saccharinum |
| Tupelo | Nyssa Sylvatica |
| These trees will grow 60-120 feet in height. | |

(e) The diagram contained in Appendix B to this chapter is an example of planting the right trees in the right place.

(f) Street trees shall not be allowed closer than 30 feet from the tangent point at street intersections as described in the vision clearance areas specified in ' ' 153.216 and 153.314.

(g) Small tree species within the list in division (C)(2)(a) above of acceptable species may be planted under overhead utilities.

(h) No trees shall be allowed within five lateral feet of underground utilities, sewer and water lines.

Tillamook - General Regulations

(i) In new subdivisions or when the development of commercial property occurs, the City Planner and Public Works Director shall review landscaping plans and may require street trees to be planted in any of the streets, parking lots, parks and other public places abutting land henceforth developed and/or subdivided, prior to division (C)(2)(k) below.

(j) No person, without the written permission of the City Street Tree Committee, shall plant a street tree of a species other than those included on the list.

(k) The following trees are illegal and may not be planted in dedicated street rights-of-way or utility easements:

| <i>Common Name</i> | <i>Scientific Name</i> |
|--|------------------------|
| Box Elder | Acer Negundo |
| Catalpas | Catalpa Species |
| Elms | Ulmus |
| Hickory | Carya Species |
| Holly | Ilex Species |
| Horse Chestnut | Aescules Hippocastanum |
| Lilac Species | Syringa Species |
| Locust Species | Robinia Species |
| Pines | Pinus Species |
| Poplar Species | Populus Species |
| Silver Maple | Acer Saccharinum |
| Spruces | Picea Species |
| Tree of Heaven | Ailanthus Altissima |
| Walnuts | Juglans Species |
| Willow Species | Salix Species |
| In general, no conifers or fruit-bearing trees may be planted in the right-of-way. | |

(D) *Landscaping credit for street tree planting.*

(1) The retention of trees shall be considered in the design of partitions, site plans, subdivisions or planned developments; the placement of roads and utilities shall preserve trees wherever feasible.

(2) The preservation of trees shall provide a basis for consideration of a landscaping credit, which can reduce the landscaping requirements described in ' ' 153.095 through 153.105.

(3) The planting of trees in the public right-of-way shall provide a basis for consideration of a landscaping credit, which can reduce the landscaping requirements described in ' ' 153.095 through 153.105.

(E) *Tree Technical Manual.* The Tree Committee may adopt a Tree Technical Manual, and revise its contents from time to time. The Tree Technical Manual shall contain specialized, arboricultural reference materials; establish procedures and design standards required for installation, planting, grating, pruning, thinning, removal and maintenance of trees; and establish or preserve the tree and root protection zone. Any person who is required under this code or pursuant to a condition of approval of a development permit to undertake those activities or to comply with the tree and root protection zone shall comply with the requirements and procedures set forth in the Tree Technical Manual.

(1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012)

' 93.06 SPECIAL TREE DISTRICTS WITHIN THE CITY.

The following district(s) shall be considered special tree district(s), and shall have detailed descriptions contained in Attachment C to Ordinance 1230, which attachment is hereby adopted by reference, for the planned location of street trees and other amenities.

(A) *Town Center (TC) District Streetscape Design Plan.* This district shall include three-foot by three-foot tree wells located approximately 30 feet apart from one another with an historic streetlight centered between each tree (see adopted attachment). Street trees shall be required on all streets in the Town Center District, except Main and Pacific Avenues, between First and Fourth Streets. A reduction to the number of street trees may be granted when the development preserves healthy, mature trees adjacent to the sidewalk. Under this design plan, there is no requirement to remove existing trees on Main Avenue, but the planting of new trees on Main Avenue between First and Fourth Streets is discouraged.

(B) *Allowed trees.* The following small street trees are allowed in the Town Center Commercial District:

| <i>Common Name</i> | <i>Scientific Name</i> |
|---------------------|---------------------------|
| Almira Norway Maple | Acer Platanoides AAlmira@ |
| Globe Norway Maple | Acer Platanoides AGlobe@ |
| Green Leaf Maple | Acer Palmatum |

(Ord. 1266, passed 4-16-2012)

' 93.07 TREE MAINTENANCE, CARE, PRUNING, CORNER CLEARANCE AND REMOVAL OF DANGEROUS OR NUISANCE TREES.*(A) Tree maintenance, care, pruning and corner clearance.*

(1) *Standards.* All public trees must be pruned to *National Arborist Association Pruning Standards for Shade Trees*. These standards shall be adopted as part of the City Tree Program.

(2) *Adjacent property owners to maintain private and street trees.* Every adjacent property owner of any tree overhanging any right-of-way within the city shall prune the branches so that the branches shall not obstruct the light from a street lamp, or obstruct the view of any street intersection. The owner of a tree which is encroaching on or adjacent to electric wires is required to notify the city People=s Utility District (PUD) prior to removal of hazardous limbs or branches. It is PUD=s responsibility to remove, prune or trim tree from electric wires. The owner shall maintain a clear space of 14 feet over the street, and eight feet above the sidewalk. The owner of a tree at or within 30 feet of a street intersection shall follow the criteria for the vision clearance areas as described in ' ' 153.216 and 153.314. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to public safety.

(3) *Adjacent property owners liable.* The owner of property abutting trees on a right-of-way shall be liable for injury, damage or loss to persons or property caused by the property owner=s negligent failure to comply with division (A)(2) of this section.

(4) *Notification.* The Public Works Director or designee may serve notice on the adjoining property owner to prune, remove or otherwise treat any tree on a right-of-way as conditions may require. Neither the duty of the adjoining property owner to maintain trees located on a right-of-way, nor the liability for the property owner=s failure to do so, is dependent upon any notice from the city.

(5) *Debris removal.* The owner of property abutting trees on a right-of-way, or public area shall be required to remove all debris from the right-of-way by sunset of the same day, unless specifically authorized to do otherwise by the Public Works Director or designee. The acceptable standard shall be a broom clean finish or better.

(6) *City tree maintenance.* The city shall have the right to plant, prune, maintain and remove trees located within the public right-of-way as may be necessary to preserve or enhance the symmetry and beauty of the areas. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of the tree is in accordance with ' 93.05.

(7) *City held harmless.* The city shall not be liable for injury, damage or loss to person or property caused in whole or part by the defective or dangerous condition of any tree located in or upon a right-of-way. The property owner shall defend and hold harmless the city from all claims for loss and damage arising from the owner=s negligent failure to comply with this chapter.

(8) *Permit.* A city public works permit is not required for the pruning of a street tree.

(B) *Removal of dangerous or nuisance trees.*

(1) The city may prune or cause to have pruned a private tree when it interferes with the proper spread of light along the street from a streetlight, or interferes with the visibility of any traffic control device or sign.

(2) The city may cause the removal of all, or part of any dead, dangerous or diseased park or street tree when the tree constitutes a hazard to life, property or harbors insects or disease that constitutes a potential threat to other trees within the city.

(3) The city may remove, or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electrical power lines, natural gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

(4) Prior to the filing of an application for a city public works permit, abutting property owners may be granted permission by the Tree Committee for the removal of dangerous or nuisance trees if the tree is considered to be dead, dangerous or diseased, or when the tree constitutes a hazard to life or property, or harbors insects or disease that constitutes a potential threat to other trees within the city.

(5) Upon approval by the Tree Committee, the applicant shall provide for a one-for-one replacement with a minimum of 2" DBH tree in a public space acceptable to public works.

(6) Notice to prune or remove dangerous or nuisance trees. If any property owner fails to maintain adjacent trees as per this chapter, the Public Works Director or designee, shall order the person or persons, within 30 days of mailing of the notice, to so prune or remove the tree(s).

(C) *Existing trees.* All trees existing prior to the approval of this chapter or amendments thereto shall be considered pre-existing and allowed to remain unless they are considered a nuisance to, dead, diseased or dangerous to the general public by the City Street Tree Committee.

(1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012) Penalty, see ' 93.99

' 93.08 ABUSE, MUTILATION OR INDISCRIMINATE TOPPING OF TREES.

(A) No person shall abuse, destroy or mutilate any street tree, in a dedicated public right-of-way or any other public place; attach or place any rope or wire (other than one used to support the tree itself), sign, poster, handbill or other thing to or on any tree growing in a public place; cause or permit any wire charged with electricity to come into contact with any tree; or to allow any gaseous, liquid or solid substance which is harmful to trees to come into contact with their roots or leaves.

(B) Except as provided by this section, it shall be unlawful as a normal practice of any person, firm or city department to top any street tree, park tree or other tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or obstructions where other pruning practices are impractical may be exempted from this chapter by the determination of the city. (1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012) Penalty, see ' 93.99

' 93.09 INTERFERENCE WITH THE CITY.

No person shall prevent, delay or interfere with the city or any of its agents, while engaging in the planting, cultivating, mulching, pruning, spraying or removal of any street trees, park trees or private trees as authorized by this chapter. (1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012) Penalty, see ' 93.99

' 93.10 ADMINISTRATION OF THIS CHAPTER.

The interpretation and administration of this chapter is the responsibility of the City Manager or persons designated by the City Manager. (1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012)

' 93.99 PENALTY.

(A) *Nuisance.* Any person, firm or corporation violating any provisions of this chapter shall be deemed to be causing a nuisance and be considered in violation of Chapter 130.

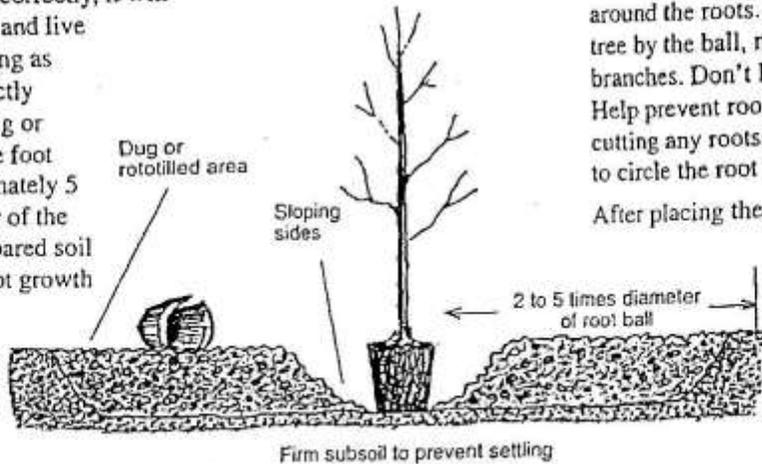
(B) *Failure to comply.* When a person to whom a notice is directed shall fail to comply within the specified time, the violation shall be considered a nuisance and it shall be lawful for the city to cause the tree(s) in question to be pruned and/or removed; and the exact cost thereof shall be assessed to the property owner as provided by law in the case of public nuisance abatements. (1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012)

APPENDIX A: PLANTING INSTRUCTIONS

| | | | | | |
|--|---|--|---|--|---|
|  |  |  |  |  |  |
| <p>1 Unpack tree and soak in water 3 to 6 hours. Do not plant with packing materials attached to roots, and do not allow roots to dry out.</p> | <p>2 Dig a hole, wider than seems necessary, so the roots can spread without crowding. Remove any grass within a three-foot circular area. To aid root growth, turn soil in an area up to 3 feet in diameter.</p> | <p>3 Plant the tree at the same depth it stood in the nursery, without crowding the roots. Partially fill the hole, firming the soil around the lower roots. Do not add soil amendments.</p> | <p>4 Shovel in the remaining soil. It should be firmly but not tightly packed with your heel. Construct a water-holding basin around the tree. Give the tree plenty of water.</p> | <p>5 After the water has soaked in, place a 2-inch deep protective mulch in an area 3 feet in diameter around the base of the tree (but not touching the trunk).</p> | <p>6 During dry weather, water the tree generously every week or 10 days during the first year.</p> |

How To Plant A Containerized Tree

If a tree is planted correctly, it will grow twice as fast and live at least twice as long as one that is incorrectly planted. Ideally, dig or rototill an area one foot deep and approximately 5 times the diameter of the root ball. The prepared soil will encourage root growth beyond the root ball and results in a healthier tree.



In transplanting, be sure to keep soil around the roots. Always handle your tree by the ball, not by the trunk or branches. Don't let the root ball dry out. Help prevent root girdling by vertically cutting any roots that show tendencies to circle the root ball.

After placing the tree, pack soil firmly but not tightly around the root ball. Water the soil and place a protective 3-foot circle of mulch around the tree.

APPENDIX B: LOCATING TREES ON PROPERTY

(Ord. 1266, passed 4-16-2012)

CHAPTER 94: DISCARDED VEHICLES

Section

- 94.01 Definitions
- 94.02 Declaration of public nuisance
- 94.03 Prohibited action
- 94.04 Police duty
- 94.05 Entry upon private property
- 94.06 Hearing by City Council
- 94.07 Abatement by city and appraisal
- 94.08 Low value vehicle
- 94.09 Public sale notice
- 94.10 Public sale
- 94.11 Redemption before sale
- 94.12 Assessment of costs

Cross-reference:

Abandoned vehicles, see Chapter 73

Inoperable motor vehicles, see ' 130.39

' 94.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CHIEF OF POLICE. Includes any authorized law enforcement officer of the city.

COSTS. The expense of removing, storing or selling a junked vehicle.

DISCARDED.

(1) Any vehicle which does not have lawfully affixed thereto an unexpired license plate and is in one or more of the following conditions:

- (a) Inoperative;
- (b) Wrecked;
- (c) Dismantled;

Tillamook - General Regulations

- (d) Partially dismantled;
- (e) Abandoned; or
- (f) Junked.

(2) **DISCARDED VEHICLES** may be deemed to include major parts thereof, including but not limited to bodies, engines, transmissions and rear ends.

PERSON IN CHARGE OF PROPERTY. Any agent, occupant, lessee, contract purchaser, owner or person having possession, control or title of property where a vehicle is located.

VEHICLE. Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

VEHICLE OWNER. Any individual, firm, corporation or unincorporated association with a claim, either individually or jointly, of ownership or any interest, legal or equitable, in a vehicle. (1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)

' 94.02 DECLARATION OF PUBLIC NUISANCE.

The open accumulation and storage of a discarded vehicle is hereby found to create a condition tending to reduce the value of private property, to promote blight, deterioration and unsightliness, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of a discarded vehicle on private or public property is hereby declared to constitute a public nuisance which may be abated in accordance with the provisions of this chapter.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)

' 94.03 PROHIBITED ACTION.

It shall be unlawful to store or permit the storing of a discarded vehicle upon any private property within the city unless the vehicle is completely enclosed within a building or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the city.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977) Penalty, see ' 10.99

' 94.04 POLICE DUTY.

(A) It shall be the duty of the Chief of Police, whenever a discarded vehicle is found upon private property, to:

(1) Make an investigation to discover the owner of the vehicle and the person in charge of the property upon which the vehicle is located and give written notice to them by personal service or by registered or certified mail that the vehicle is in violation of this chapter; and

(2) If the owner of the vehicle is not found, to place a notice upon the windshield or some other part of the vehicle where it can be easily seen.

(B) The notice shall state that a certain discarded vehicle is in violation of this chapter and that within ten days of the day of the sending or posting of the notice:

(1) The vehicle must be removed from the city or to the storage yard of a business enterprise dealing in junked vehicles lawfully conducted within the city; or

(2) Completely enclosed within a building.

(C) The notice shall also state that the alternative to compliance with division (B) of this section is to petition the City Recorder and request appearance in writing before the City Council within five days of sending or posting of the notice and show cause why the vehicle should not be immediately abated as provided in this chapter.

(D) The notice shall also state that failure to comply with this chapter authorizes the city to remove the vehicle and charge the cost.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)

' 94.05 ENTRY UPON PRIVATE PROPERTY.

(A) The Chief of Police is authorized at all reasonable times to enter upon private property and examine any vehicle for the purpose of determining whether or not it is in a discarded condition. However, before entering upon private property, the Chief shall obtain the consent of an occupant thereof or a warrant of the Municipal Court authorizing his or her entry for the purpose of inspection, except when an emergency exists.

(B) No search warrant shall be issued under the terms of this chapter until an affidavit has been filed with the Municipal Court, showing probable cause for the inspection by stating the purpose and extent of the proposed inspection, citing this chapter as the basis for the inspection, whether it is an inspection instituted by complaint or other specific or general information concerning the vehicle in question or the property on which it is situated.

(C) It is unlawful for any person to interfere with or attempt to prevent the Chief of Police from entering upon private premises and inspecting any vehicle when an emergency exists or the Chief exhibits a warrant authorizing entry.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977) Penalty, see ' 10.99

' 94.06 HEARING BY CITY COUNCIL.

Pursuant to a request, the City Council shall fix a time for a hearing to show cause why a vehicle should not be immediately abated. It shall receive the evidence and testimony of the Chief of Police and other interested persons concerning the existence, location and condition of the vehicle. After the hearing, the Council may authorize and order the vehicle removed by the city in accordance with the provisions of this chapter. The Council shall make its order in the form of a resolution which declares the vehicle to be a public nuisance. The resolution may order the removal of more than one vehicle and may consolidate the hearings and orders relating to more than one vehicle. The persons receiving the notice specified in ' 94.04 shall be sent copies of the resolution of the Council. In addition, the Council may impose conditions and take any other action as it deems appropriate under the circumstances in order to carry out the purposes of this chapter. It may delay the time for removal of the vehicle where, in its opinion, the circumstances justify it. It shall refuse to order the removal of the vehicle where the vehicle, in the opinion of the Council, is not subject to the provisions of this chapter. The Council shall not be bound by the technical rules of evidence in the conduct of the hearing.
(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)

' 94.07 ABATEMENT BY CITY AND APPRAISAL.

(A) Ten days after the giving of notice required in ' 94.04, or five days after adoption of a resolution declaring a vehicle to be a public nuisance as set forth in ' 94.06, the city shall be deemed to have acquired jurisdiction to abate the nuisance and may remove the vehicle by use of city employees or duly authorized independent contractors. It shall be unlawful for any person to interfere with, hinder or refuse to allow the persons to enter upon private property for the purpose of removing a vehicle under the provisions of this chapter.

(B) After removing the vehicle, the city shall cause it to be appraised.
(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977) Penalty, see ' 10.99

' 94.08 LOW VALUE VEHICLE.

(A) If the vehicle is appraised at \$300 or less, the Chief of Police shall file with the Motor Vehicles Division an affidavit describing the vehicle, including the license plates, if any, stating the location and appraised value of the vehicle and stating that the vehicle will be junked or dismantled. The Chief of Police may, without notice and public auction, dispose of the vehicle and execute a certificate of sale.

(B) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. _____ entitled AAn Ordinance for the Impounding and Disposition of Discarded Vehicles,@ I did on the _____ day of _____, 20_____, sell to for the sum of \$_____ cash, the following-described personal property:

[brief description of the property]

and in consideration of the payment of the said sum of \$_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this _____ day of _____, 20_____

Note: The city of assumes no responsibility as to the condition of title of the above-described property. In case this sale shall for any reason be invalid, the liability of the city is limited to the return of the purchase price.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)

' 94.09 PUBLIC SALE NOTICE.

(A) If the vehicle is appraised over \$300, the Chief of Police shall cause to be published in a newspaper of general circulation within the city a notice of sale. The notice of sale shall state:

- (1) Whether the sale is of discarded property in possession of the city;
- (2) A description of the vehicle, including the type, make, license number, I.D. number and any other information which will aid in accurately identifying the vehicle;
- (3) The terms of the sale; and
- (4) The date, time and place of the sale.

(B) The notice of sale shall be published two times. The first publication shall be made not less than five days prior to the date of the proposed sale, and the second shall be made not less than 15 days prior to the date of the proposed sale.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)

Tillamook - General Regulations

' 94.10 PUBLIC SALE.

(A) If a vehicle is appraised over \$300, the Chief of Police shall hold a sale at the time and place appointed within view of the vehicle to be sold.

(B) The vehicle shall be sold to the highest and best bidder; providing that if no bids are entered, or those bids which are entered are less than the costs incurred by the city, the Chief of Police may enter a bid on behalf of the city in an amount equal to the costs.

(C) At the time of payment of the purchase price, the Chief of Police shall execute a certificate of sale, in duplicate, the original of which shall be delivered to the purchaser, and the copy thereof filed with the City Recorder of the city.

(D) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. _____ entitled "An Ordinance for the Impounding and Disposition of Discarded Vehicles" and pursuant to due notice of the time and place of sale, I did on the _____ day of _____, 20_____, sell at public auction to for the sum of \$_____ cash, he or she being the highest and best bidder, and that being the highest and best sum bid therefor, the following-described personal property:

[brief description of the property]

And in consideration of the payment of the said sum of \$_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this _____ day of _____, 20_____.

Note: The city assumes no responsibility as to the condition of title of the above described property. In case this sale shall for any reason be invalid, the liability of the city is limited to the return of the purchase price.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)

' 94.11 REDEMPTION BEFORE SALE.

(A) A vehicle impounded under the provisions of this chapter may be redeemed by its owner or by the person in charge of the property from which the vehicle was removed, before a sale or disposition has taken place, by applying to the Police Department, whereupon he or she shall:

(1) Submit evidence of his or her ownership or interest in the vehicle, satisfactory to the Chief

of Police, that the claim is rightful;

- (2) Pay the costs due and owing at the time the application to redeem is made; and
- (3) Give evidence that the nuisance character of the vehicle will not be allowed to be resumed.

(B) Upon compliance with division (A) of this section, the Chief of Police shall execute a receipt and cause the vehicle to be returned.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)

' 94.12 ASSESSMENT OF COSTS.

(A) After disposing of the discarded vehicle and deducting the money, if any, received from any sale of the vehicle from the costs, the City Recorder shall give notice as specified in ' 94.04 to the person in charge of the property from which the vehicle was removed:

- (1) Of the unpaid costs of abatement;
- (2) That the cost as indicated will be assessed to and become a lien against the real property unless paid within 30 days from the date of the notice; and
- (3) That, if the person in charge of the property objects to the cost of the abatement indicated, he or she may file a written notice of objection with the City Recorder within 20 days from the date of the notice.

(B) Within 40 days after the date of the notice, objections to the proposed assessment shall be heard and determined by the Council.

(C) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs shall be made by resolution of the City Council and shall be entered in the docket of city liens, and upon the entry being made shall constitute a lien upon the real property from which the nuisance was removed or abated.

(D) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of 6% per annum. This interest shall accrue from date of the entry of the lien in the lien docket.

(E) An error in the name of the person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property.

(1977 Code, ' 4-10) (Ord. 882, passed 4-25-1977)