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CHAPTER 90: ANIMALS

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ANIMAL CONTROL**90.01 DEFINITIONS.**

ALLOW. To neglect to restrain, or permit.

ATTEMPTS TO BITE. The overt actions of a dog which constitute a substantial step towards the actual biting of one or more persons.

CONTINUOUS ANNOYANCE. Permit any animal to cause annoyance, alarm or disturbance for more than 15 continuous minutes at any time of the day or night, be it repeated barking, whining, screeching, howling, braying or other like sounds which can be heard beyond the boundary of the owner's property or create offensive odors which can be noticed beyond the boundary of the owner's property.

DANGEROUS ANIMAL. Any animal which has the propensity to bite or attack any person or animal without provocation and the capacity to inflict serious harm on such person or animal. Additionally, any animal that has injured a human being or animal without provocation is a dangerous animal.

KEEPER. Any person, firm, association, entity or corporation who is the licensed keeper of, or who keeps, or who harbors, or who possesses, or who maintains, or who has custody of, or who exercised control over any animal (including but not limited to any barking dog, dangerous animal, dog, exotic animal, farm animal, fowl, livestock, vicious dog, watchdog or wildlife) or who knowingly permits any such animal to remain on any premises occupied by him or her. Keeper does not include licensed veterinarians or commercial kennel operators temporarily maintaining on their premises, for a period of not more than 30 days, dogs kept by other persons. Any person, except a licensed veterinarian or commercial kennel operator who resides where any animal is kept, harbored, or cared for, shall be presumed to be the keeper. This presumption may be rebutted by proof that the person has no right in the animal, is not the licensed keeper, and is neither harboring nor caring for the animal.

LEASH. Any humane device constructed of rope, leather strap, chain or other sturdy material not exceeding six feet in length, being held in the hand of a person capable of controlling the animal to which it is attached.

MUZZLE. A device constructed of strong, soft material or metal. The muzzle must be made in a manner that will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

OWN OR OWNING. Having a right of property in a dog, caring for or acting as the custodian for a dog, or knowingly permitting a dog to remain on or about premises occupied by that person.

OWNER. Any person having a right of property in a dog or who harbors a dog or who has it in his care, or acts as its custodian, or who knowingly permits a dog to remain on or about the "owner's" property.

RUNNING AT LARGE. Off or outside the premises belonging to the person having the care, custody or possession of the dog while the dog is not under the complete control of such person by means of an adequate leash, or is within a vehicle of such person.

SECURE ENCLOSURE. A structure in which an animal is confined such that the animal does not have access to humans or other animals. The structure will not be less than eight feet long, four feet

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wide and five feet tall. If the floor is not concrete, the outside walls must extend into the ground not less than one foot to prohibit the digging out of the animal. The top of the structure must be covered.

VICIOUS DOG. Any dog that has the propensity to bite, attack, lunge at, chase or knock down a person or animal without provocation and the capacity to inflict serious harm upon, or cause serious harm to, the person or animal shall be regarded as vicious. Additionally if any dog that has bitten a person or animal without provocation is a vicious dog.

(Ord. 1276, passed 7-15-2013)

90.02 LICENSING.

(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 for one 365 day year, the period being March 1st to February 28 and are renewable on March 1st of each year, with renewal notice sent out February 1. A penalty set by resolution shall be collected for each dog not licensed by March 15th with further penalty set after March 30th.

(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 thirty (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 that license was issued to, at all times. 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) Issuance of License. Licenses shall be issued through the Tillamook City Police Department during regular business hours. All accounting and records shall be the responsibility of that department.

(G) License Fees. 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 ordinance, shall be set by resolution.

(H) No license fee shall be required for any service dog. A license shall be issued for such dog upon proper proof of rabies vaccination.

(Ord. 1276, passed 7-15-2013)

90.03 DOGS AT LARGE PROHIBITED.

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.

(Ord. 1276, passed 7-15-2013)

‘ **90.04 BARKING DOGS PROHIBITED.**

No person who is the owner of a dog shall allow the dog to bark loudly or with such frequency as to unreasonably deprive a person of peace and quiet. 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 and that person complaining agrees to appear in court and testify.

(Ord. 1276, passed 7-15-2013)

‘ **90.05 WASTE MATTER.**

It shall be unlawful for an animal owner to allow the animal to be an annoyance by depositing solid waste matter on any improved property other than that of the animal owner. It shall be a defense to this section if the animal owner immediately removes the solid waste.

‘ **90.06 POISONING OF ANIMALS.**

No person shall put out or place or allow to be placed any poison or other harmful chemical or product which is likely to harm any dog, farm animal or other animal.

‘ **90.07 REMOVAL OF CARCASSES.**

No person shall permit an animal carcass owned or controlled by him to remain upon public property, or to be exposed on private property, for a period of time longer than is reasonably necessary to remove or dispose of the carcass.

‘ **90.08 ANIMALS AT LARGE.**

No owner or person in charge of an animal shall permit the animal to be at large. Animals at large may be taken into custody by the city and disposed of in accordance with the procedures provided by ordinance for the impoundment of dogs.

‘ **90.09 ANIMALS.**

When any livestock, poultry, or domestic animals bellow, neigh, bark, bray, bleat, crow or make any other noise and thereby annoy, molest or disturb any person, the keeping and maintaining of the poultry, livestock and domestic animals is declared to be a nuisance. For the purposes of this section, the owner, the person in charge of, or in whose custody said poultry, livestock or domestic animals, or either of them are kept, shall be deemed and conclusively presumed to be maintaining a nuisance.

90.10 CONTINUOUS ANNOYANCE.

No animal owner shall permit any animal to cause continuous annoyance.

90.11 ANIMAL CONFINEMENT.

It shall be unlawful for any person to allow or permit any animal to be confined within or on a motor vehicle, or at any location, under such conditions as may endanger the health or well being of the animal, including but not limited to dangerous temperature, lack of food, water or attention, or confinement with a dangerous animal. No enforcement officer shall be held criminally or civilly liable for action pursuant to this section, provided the officer acts in good faith, or probable cause and without malice.

90.12 PARENT RESPONSIBILITY.

It shall be no defense of any violation of this Ordinance when the true or registered owner of a dog is of such minor age as to prohibit appearing to answer such charge(s) in court, and upon such occurrence, the parent or guardian of such minor owner shall be required to appear instead and assume the full responsibility of the actions of their minor owner.

90.13 DOGS AS PUBLIC NUISANCE.

A dog is a public nuisance if it:

- (A) Bites a person.
- (B) Chases vehicles or persons.
- (C) Damages or destroys property of persons other than the owner of the dog.
- (D) Scatters garbage.
- (E) Trespasses on private property of persons other than the owner of the dog.
- (F) Disturbs any person by frequent or prolonged noises.
- (G) Makes unprovoked attacks on other animals.

90.14 EXCEPTION TO DOG AS PUBLIC NUISANCE.

A dog shall not be considered a public nuisance if the dog bites:

(A) A person assaulting the dog's owner or the owner's spouse or children or persons legally residing with the owner, or.

(B) A person wrongfully assaulting the dog, or

(C) A person trespassing upon premises owned, leased, or rented by the dog's owner or the owner's spouse or children, or

(D) A person entering a fully fenced area, regardless of where located, if that area is conspicuously posted with signs warning of the presence of the dog within the fenced area.

90.15 VICIOUS DOG.

(A) No person shall own a vicious dog that is located within the city limits.

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

(C) A vicious dog running at large that because of its disposition or diseased condition is too hazardous to apprehend, may be destroyed by a peace officer, animal control officer, or by a person acting in defense of the person, the person's family, another person, or another dog or animal.

90.16 REPORTING OF BITING DOGS OR OTHER ANIMALS.

1. The keeper of a dog or other animal that bites a human being shall immediately notify law enforcement of such bite, the time and circumstances of the bite and name and address of the person bitten, if known.
2. Any person who is bitten by a dog or other animal shall immediately notify the law enforcement of such bite giving the description of the dog or other animal, the time and circumstances of the bite and the name and address of the keeper, if known.
3. When a doctor, veterinarian, hospital employee, or other person has information that a person has been bitten by a dog or other animal, such person shall immediately notify law enforcement.
4. It is sufficient to report as required in this section, to any law enforcement agency having jurisdiction for the location the bite occurred.

90.17 BITING AND RABID DOGS AND OTHER ANIMALS—QUARANTINE.

When either the animal control authority or the appropriate county or state public health agency has grounds to suspect that a dog or other animal is infected with the disease of rabies, there shall be delivered to the keeper of the dog or other animal, a written notice. The biting of any person by a dog

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or other animal shall constitute adequate grounds for suspecting the dog or other animal to be so infected. The keeper shall thereupon be required to quarantine the dog or other animal for 10 days. The delivery of the notice to a member of the keeper's family 14 years of age or older at the premises where the dog or other animal is kept or at the keeper's usual place of residence shall be considered a delivery of the notice to the keeper. Any dog or other animal required to be quarantined shall be confined as follows:

1. Inside the keeper's home or garage. Pet can be exercised within a fenced yard under adult supervision or walked on a leash within keeper's yard under the control of a responsible adult.
 - a. Pet is to be kept away from other animals and people. This does not include other pets within the home or family members.
 - b. Pet must not be removed from the residence for any reason during the quarantine period. This includes rides in the car or walks off keeper's property.
 - c. If the keeper's pet has been vaccinated for rabies the keeper will need to Provide proof of the vaccine or the name and telephone number of the keeper's veterinarian.
 - d. If the keeper's pet has not been vaccinated for rabies the keeper will have to wait until the pet is released from quarantine before the keeper's veterinarian can give the vaccination at the owner's expense, in a veterinary clinic.
 - 1) Any animal that has been bitten by a dog or other animal proved to be rabid shall be destroyed.
 - 2) If a dog or other animal 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.

90.18 IMPOUNDMENT OF DOGS.

1. Any peace officer or animal control officer may impound a dog that is in violation of this code.
2. Any person whose property has been trespassed upon by any dog or other animal in violation of this code may apprehend that dog and contact the police department.
3. If an animal control officer or a peace officer has probable cause to believe that any animal that is in an unoccupied motor vehicle may be in danger, the officer may enter the motor vehicle and impound the animal and leave a notice in the vehicle where the animal may be reclaimed.
4. Any peace officer or animal control officer may impound a dog for safekeeping if the owner is being transported to jail or the hospital until a family member or friend can claim the dog and pay all associated fees.

90.19 IMPOUNDING REGULATIONS AND DISPOSITION OF IMPOUNDED DOGS.

The animal control authority shall keep any dog impounded for the period of time hereinafter specified. The animal control authority shall dispose of such dogs in accordance with the following provisions.

An unlicensed dog or a dog that the keeper is unknown which has not been redeemed within three days after impoundment may be adopted out or destroyed.

A licensed dog for which the keeper is known which has not been redeemed within five days of notification of the owner by telephone or leaving a notice of impoundment on the keeper's property in plain view may be adopted out or destroyed.

90.20 COST PAID BY RESPONSIBLE PERSON.

Any reasonable costs incurred by the Police Department in seizing, impounding or confining any dangerous or vicious animal shall be charged against the owner, keeper or harbinger of such animal. Such charge shall be in addition to any fine or penalty provided for violating this ordinance.

90.21 INTERFERENCE WITH OFFICER.

It shall be unlawful for any person to interfere in any way with, any police officer or dog control officer of the City of Tillamook engaged in seizing or impounding any dog under authority of this ordinance.

90.22 ENTRY ONTO PRIVATE LAND.

Any dog control officer or any peace officer shall have the privilege of entering onto private land in the course of the officer's duties in enforcing the provisions of this ordinance, but such officer shall not enter into any building or dwelling without legal authorization or permission of the owner or occupant of the premises.

90.98 PENALTIES.

A violation of any section of this ordinance is to be set by resolution.

90.99 SEPARATE VIOLATIONS.

Each day's violation of a provision of this Ordinance constitutes a separate violation.

The abatement of a nuisance is not a penalty for violating this ordinance, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.

A citation or other charging instrument filed in court shall include all violations from the date of any written warning, (a.k.a. abatement) notice as cited in the charging instrument.

There is no requirement for any violation of this ordinance, that a written notice must first be

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delivered, to abate or cite, the violation. For determining the number of days the violation has occurred or has continued it shall be from the day the violation is first identified by the City, not the date a warning, written or verbal, is provided or received.

(Ordinance 1276, Adopted 7-15-2013)

CHAPTER 91: STREETS AND SIDEWALKS

Section

General Provisions

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- 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
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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.

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

(B) *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.

(C) *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.

(D) *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.

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(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* (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.*

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(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.

(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.

(Ord. 1301, passed 4-20-2015)

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 that has not been consigned to third party control. Notwithstanding the above sentence, dogs are permitted in Carnahan Park, where dogs shall remain on leash at all times except within the boundaries of an identified, fenced-in, off-leash dog area. While in the off-leash identified fenced-in area, dogs shall remain under voice control at all

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times by the accompanying owner, possessor or keeper of the dog. Owners, possessors, or keepers of any dog are subject to the Animal Code as set forth in Title IX, Chapter 90 of the CCT.

Notwithstanding the above, dogs may also be allowed in city-owned wayside(s) as approved by the City. City wayside(s) not approved shall be signed appropriately to indicate no dogs allowed. Dogs in approved city wayside(s) shall always be on a leash except when secured in a vehicle.

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. *Notwithstanding the above, service animals are exempt from this subsection when accompanied by their handler.*

1. *Fencing.* The designated dog-friendly area shall be fenced-in with a double-gated entrance for safety of owners and dogs, as recommended by the City's insurer.
2. *Guidelines for use of dog-friendly area.* Guidelines regarding the use of the dog-friendly area are adopted as set forth in Appendix A, and shall be posted at the entrance of the gated area. Guidelines may be amended by a Resolution of the City Council.

(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

APPENDIX A: OFF-LEASH DOG PARK GUIDELINES

DOG PARK GUIDELINES

The following guidelines shall be posted at the entrance/exits of the dog-friendly area of the park to inform the patrons of the expectations for using the park.

CITY CODE

- The park will be open from 4:00 a.m. to 10:00 p.m., daily.
- Dogs may not harass humans or other animals.
- Park users who fail to comply with rules of the park and the City Code may be asked to leave, and may result in fines.

DOGS

- Dogs must wear a visible and current license.
- Dogs must be spayed and/or neutered or they will not be allowed in the park.
- Dogs must not be contagious and must be current on their immunizations for the protection of your dogs and the dogs of other patrons of the park.
- Dogs that are aggressive, likely to bully other dogs, or start fights are not welcome in the park.
- Dogs showing any signs of aggression must leave the park immediately.
- Puppies who have not received all of their vaccinations should not be allowed in the park due to the risk of them contracting the Parvo virus. If you do allow your puppy to play in the park prior to receiving their vaccinations, you are doing so at your own risk.

OWNERS

- You are legally responsible for your dog's behavior, and any injuries or damages he/she causes.
- Never leave your dog(s) unattended or allow them out of sight.
- Never leave the area without your dog(s). Unattended dogs may be impounded by the animal control officer.
- Owners are required to have voice control over their dog(s) at all times.
- Always clean up after your dog. Remove and dispose of waste in the bins provided.
- Always carry a leash and leash dog(s) when entering/leaving park.

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- For safety reasons, please remove pinch, spike or choke collars and halters prior to entering the area.
- Gates, where present, must be kept closed at all times.
- Be prepared to encounter children in the off leash dog park. If your dog is not comfortable around children, please try to alert the parents and keep distance between the two.
- No pet grooming is allowed in the park.
- Dog handlers must be at least 12 years old.
- There is no smoking, alcohol, or food allowed in the dog park.

PARENTS

- This is an off leash dog park. Toddlers and small children do not belong in the dog area and are at risk of potential harm.
- Some dogs are not used to being around children and may react negatively
- If you do choose to bring your children into the off leash dog park, we strongly encourage you to keep your child within arm's reach at all times, do not allow toddlers to run at will.
- No running. This can trigger a prey and chase response and may lead to injury.

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.

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(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 AStreet 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

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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.	

(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

<i>Common Name</i>	<i>Scientific Name</i>
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
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

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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.

(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 'Almira'
Globe Norway Maple	Acer Platanoides 'Globe'
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.

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(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)


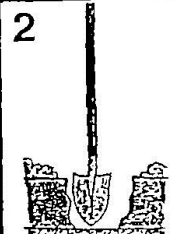
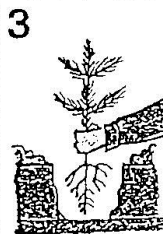


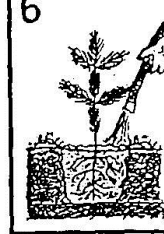
' 93.99 PENALTY.

(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.

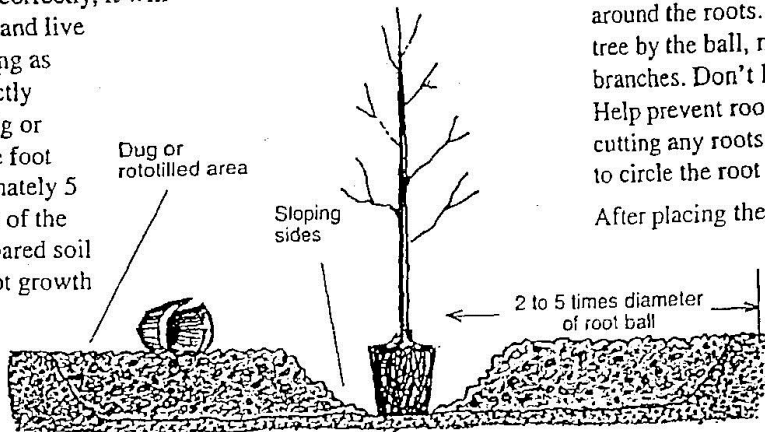
(1977 Code, ' 8-10) (Ord. 1266, passed 4-16-2012)

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 95: EXCLUSION FROM CITY PROPERTY

Section

- 95.01 Definitions
- 95.02 Purpose of exclusion
- 95.03 Exclusion from City property
- 95.04 Telephone contact
- 95.05 Appeal
- 95.06 Hearing by City Council
- 95.07 Authority of Municipal Court to hear exclusion appeals

94.01 DEFINITIONS.

CITY MANAGER. City Manager of the City of Tillamook or the City Manager’s designee.

CITY BUILDING. A building owned or leased by the City of Tillamook.

CITY PROPERTY. Real property owned or leased by the City of Tillamook, including city buildings and parks. “City Property” does not include city rights-of-way.

MUNICIPAL COURT. The Tillamook County Justice Court, or any other court designated by the Tillamook City Council to act as the municipal court for the City of Tillamook.

NECESSARY OFFICIAL BUSINESS. A prearranged and verifiable meeting with a city employee or official on City Property.

PROHIBITED CONDUCT. Any of the following types of conduct:

- a. Behavior that constitutes a crime;
- b. Behavior that constitutes a violation of the Code of the City of Tillamook or any city ordinances;
- c. Disorderly conduct;
- d. Riotous or violent or threatening behavior;
- e. Unreasonably loud or disruptive behavior;
- f. Disorderly or riotous assemblies;
- g. Disruption of lawful meetings, events or work;
- h. Obstruction of access to government services;
- i. Abusive language or conduct;

- j. Visible intoxication;
- k. Violation of City policies intended to maintain a safe, orderly and efficient work environment in public buildings, including the Violence in the Workplace Policy and the Anti-Harassment Policy; or
- l. Conduct that is otherwise disruptive to the efficient functioning of government affairs.

95.02 PURPOSE OF EXCLUSION.

In furtherance of maintaining a safe environment for public employees and citizens, and pursuant to the powers and authority of the Tillamook City Council, this ordinance addresses 1) exclusion from city property, and 2) prohibition on telephoning the City.

95.03 EXCLUSION FROM CITY PROPERTY.

(A) An individual is subject to immediate exclusion from City Property if that individual is observed to be engaged in Prohibited Conduct.

(B) An individual who engages in Prohibited Conduct on City Property in violation of this policy may be excluded from the particular City Property on which the individual engaged in Prohibited Conduct for a period of up to 6 months (Exclusion Period).

(C) During the Exclusion Period, the individual who has been excluded may, with prior notice to and approval from the City Manager, enter onto the City Property from which the individual has been excluded, to conduct Necessary Official Business.

(D) All exclusion notices shall be in writing, shall state the Prohibited Conduct that is the basis for the exclusion notice, shall state the Exclusion Period, and shall include appeal information. The exclusion notice shall be personally served on the individual or mailed to the individual by certified mail if a mailing address is available. Service of an exclusion notice is deemed to have occurred on the date of personal service or the date of acceptance of a certified mailing.

(E) The exclusion notice will be kept on file by the City Manager.

(F) The exclusion will remain in effect for the period of time specified in the notice unless modified or rescinded due to an appeal.

(G) Except as provided in paragraph (3) of this section, if an individual who receives a notice of exclusion remains in or returns to the City Property from which he or she has been excluded, the individual is subject to immediate arrest for criminal trespass.

95.04 TELEPHONE CONTACT.

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(A) The City Manager has the authority to forbid individuals from calling city telephone numbers for up to 6 months, if the individual has previously engaged in conduct that would violate ORS 166.090, Telephonic Harassment when calling city telephone numbers.

(B) All notices forbidding an individual from calling city telephone numbers must be in writing, and either personally served or mailed to the individual by certified mail if a mailing address is available. Service of a notice forbidding an individual from calling city telephone numbers is deemed to have occurred on the date of personal service or the date of acceptance of a certified mailing.

(C) Notices forbidding an individual from calling a city telephone number must state the conduct that is the basis for the notice, must state the period during which the individual may not call the city telephone number, and must include appeal information.

' 95.05. APPEAL.

(A) Any exclusion from City Property and any prohibition against calling city telephones may be appealed by filing a written appeal with Municipal Court within five (5) business days after service of notice of exclusion or notice forbidding telephone contact.

(B) The exclusion or prohibition against calling city telephones shall remain in effect during the appeal period.

(C) If an appeal is not timely filed with the Municipal Court, no appeal hearing will be held and the exclusion notice or notice forbidding telephone contact shall become the final decision of the City.

(D) The Municipal Court Judge shall hold a hearing on the appeal within seven (7) business days of the date of filing of the appeal, unless the appellant and the City agree to a different date.

(E) The appeal hearing shall be conducted by the Municipal Court Judge. No jury shall be empaneled for a hearing pursuant to this section.

(F) The Municipal Court Judge will review the written appeal and may consider any testimony, evidence, and other argument presented by the City and by the person who is the subject of the notice, as well as any other testimony, evidence, and other argument that the Municipal Court Judge considers relevant to whether the exclusion or prohibition is lawful and consistent with this ordinance, ORS 166.090, or any other applicable law.

(G) The Municipal Court Judge shall issue a written decision on the appeal within five (5) business days of the date of the appeal hearing.

(H) The Municipal Court Judge may uphold, amend, or rescind the exclusion or telephone prohibition. The decision of the Municipal Court Judge is the final decision of the City.

' 95.06 AUTHORITY OF MUNICIPAL COURT TO HEAR EXCLUSION APPEALS.

The Municipal Court of the City of Tillamook is hereby authorized to hear, consider, and render a decision upon appeals of exclusions from City Property and prohibitions on calling city telephone numbers, following the appeal process described in this ordinance.