

ORDINANCE 2937

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL CLARIFYING, REVISING, AND UPDATING LOC 10.02.050 (SEVERABILITY), LOC 38.16.170 (UTILITY CODE - DISCONTINUATION OF SERVICE), LOC 38.18.305 (UTILITY CODE - CONNECTION REQUIRED), LOC 39.06.081 (SYSTEM DEVELOPMENT CHARGE COLLECTION), LOC 42.03.130 (ACCESS SPACING AND SIGHT DISTANCE FOR ROADWAY INTERSECTIONS), LOC 42.03.131 (CLEAR SIGHT TRIANGLE), AND LOC 42.08.410 (SIDEWALKS); AND ADDING NEW LOC 38.18.308 (SEWER LATERALS) AND 38.18.320 (SEWER LINE INSPECTION).

WHEREAS, through the application of the Lake Oswego Code, staff of the City Attorney's Office, City Manager's Office, Planning Department and Fire Department have found that some sections of the Lake Oswego Code could be improved by removing ambiguous and conflicting language, correcting provisions, and adding to or repealing certain articles of the Lake Oswego Code;

The City of Lake Oswego ordains as follows:

**Section 1.** The Lake Oswego Code is hereby amended by adding the section and text shown in **bold, double-underlined** type and deleting the text shown in ~~striketrough~~ type as set forth on Exhibit A. (Section or subsections within the Lake Oswego Code that are not marked for deletion or addition are neither amended nor deleted by this Ordinance.)

**Section 2. Severability.** The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

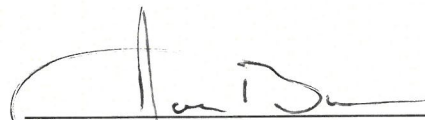
Enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 21<sup>st</sup> day of November, 2023.

AYES: Mayor Buck, Wendland, Mboup, Rapf, Afghan, Corrigan

NOES: None

ABSTAIN: None

EXCUSED: Verdick

  
\_\_\_\_\_  
Joseph M. Buck, Mayor

ATTEST:

  
\_\_\_\_\_  
Kari Linder, City Recorder

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Ellen Osoinach", written over a horizontal line.

Ellen Osoinach, City Attorney

## Ord. 2937 -- 2023 Non-CDC Code Amendments with Staff Commentary

**LOC CHAPTER 10 DEFINITIONS AND CONSTRUCTION****Article 10.02 In General****10.02.050 Severability of parts of Code.**

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of the court of competent jurisdiction or is preempted by state or federal law, such unconstitutionality or preemption shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

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**LOC CHAPTER 38 UTILITY CODE****Article 38.16 Service****38.16.170 Discontinuance of Service by the City.**

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2. The City shall notify the customer and the occupant if different from the customer ~~30~~10 days prior to termination pursuant to subsection (1) of this section to provide an opportunity to correct the situation giving rise to the potential discontinuance of service.

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**38.18.305 Connection Required if Sewer Available; Exception.**

1. ~~a. Single-Family Dwelling.~~ A structure or building normally used or inhabited by persons ~~single-family dwelling~~ located within ~~300 feet~~200 ft. shall connect to an existing City sewer line or main unless (i) exempt under subsection (2) of this section; or (ii) the City sewer line is not legally and physically available (as defined in OAR 340-071-0160(4)(f)(A) or other DEQ rules promulgated under ORS 454.655(4)), in which case the ~~single-family dwelling-structure or building~~ may connect to an alternative system pursuant to LOC 38.20.315. (For land divisions, see LOC 50.06.008.3).

~~b.—Land Divisions. All land divisions for structures or buildings normally used or inhabited by persons shall connect to an existing City sewer line or main.~~

~~c.—All Other Structures. All other structures or buildings normally used or inhabited by persons shall connect to an existing City sewer line or main unless the City sewer line is not legally and physically available (as defined in OAR 340-071-0160(4)(f)(A)), in which case the structure or building may connect to an alternative system pursuant to LOC 38.20.315.~~

The distance to the City sewer line or main shall be measured by the length of the proposed sewer line from the subject property to its point of connection to an existing sewer line or main.

2. ~~A property~~The owner of a single-family dwelling may apply in writing for an exemption from subsection (1)~~(a)~~ of this section and provide such information as the City Engineer may require to determine compliance with this subsection. In order to obtain an exemption, the owner must demonstrate to the satisfaction of the City that:

- a. The lot that the existing structure is located upon is a legally existing lot; this subsection (2) does not apply to existing structures on lots or parcels being created by land divisions;
- b. The structure is a residential structure containing only one dwelling unit and is served by an existing alternative sewage disposal system of the type permitted by LOC [38.20.315](#). ("Residential structure" does not include a mixed residential and commercial use structure or a live/work dwelling); and
- c. The alternative sewage disposal system is in good working order and is not creating or in danger of creating pollution or a health hazard.

3. The City Engineer shall grant the request for exemption from connection if the criteria in subsection (2) of this section are met. The owner may appeal the decision to the City Engineer.

4. A customer shall be required to hook up to the City sewer system if the septic system or other alternative system is failing or the sewer system lacks capacity for new additions to the dwelling, and City sewer is ~~is~~:

~~a. Single-family dwelling: within 300 feet and is legally and physically available~~ the distance established per subsection (1)(a) above.

~~b. All other structures: legally and physically available.~~

Otherwise, the customer may use a type of alternative system per LOC [38.20.315](#). The failing septic system shall be abandoned in a manner approved by the City Engineer.

### **38.18.308 Installation and Maintenance of Sewer Lateral Clean-Out at Lot Line / Right-of-way.**

The owner shall install and maintain an operational clean-out on the sewer lateral at the lot line / right-of-way line (or at such other location as approved by the City Engineer, with right of access for City personnel) when:

1. A new sewer lateral is installed on the property and connected to the public sewer main;
2. Any part of an existing sewer lateral between the structure and its point of connection to the public sewer main is repaired, reconstructed or replaced.
3. The structure served by the lateral is demolished and a new dwelling is connected to the lateral.
4. Any new connection is being made to the lateral.

Prior to installation or replacement of the clean-out, the owner shall notify the Public Works Department and/or Engineering Department of the work and obtain such permits as needed from the City, e.g., street opening permit, plumbing permit.

### **38.18.320 Inspection of Sewer Lines**

An owner or resident of property shall be required to inspect the property's private sewer lateral (all sewer pipes on the property) to the connection point with the public sewer main, and report the results of the inspection to:

(1) The Public Works Director, upon written notice by the Public Works Director, that:

a. The Public Works Director has evidence of a sewage discharge on the property (including any public utility easement) or on the abutting public right-of-way. Notice shall be given in such manner as the Public Works Director directs, e.g., personal delivery or first-class mail, given the urgency of the circumstances and the threat to public health and safety, including that of the occupants of the property.

b. At such periods or events established by the Public Works Director following installation of the sewer lateral, to assure that there are no undetected breaks in the sewer line and that the line would be expected to be in good working condition until not less than the next periodic inspection. Notice shall be given by first-class mail to the names and mailing addresses of the property owners as shown by the most recent property tax assessment roll; or

(The time period for completion of the inspection and filing of the report shall be stated in the notice.)

(2) The Public Works Director when applying for a building permit for a new structure or plumbing fixture that will be connected to the sewer lateral, from the point of connection to the sewer main.

## **LOC CHAPTER 39 SYSTEM DEVELOPMENT CHARGES**

### **LOC Article 39.06 Collection**

#### **39.06.081 Collection of Charge.**

1. The system development charge is payable upon issuance of (a) a building permit; (b) a permit to connect to the water system; ~~or~~ (c) a permit to connect to the sewer system; or (d) if the charge is due to a land division, prior to recording of the final plat of the land division.

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3. The City Public Works Director shall collect the applicable system development charge when a permit that allows the building or development of a parcel is issued, ~~or~~ when a connection to the water or sewer system of the city is made, or prior to the issuance of the City's approval for recording a land division final plat.

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# LOC CHAPTER 42 STREETS, SIDEWALKS, PUBLIC RIGHTS-OF-WAY AND PUBLIC EASEMENTS

## Article 42.03 Street Design Standards

### 42.03.130 Access Spacing and Sight Distance ~~at for~~ Roadway Intersections, Private Streets Driveway Approaches, and Driveways Accesses.

1. Purpose. The City Council finds that to protect the health, safety, property, and welfare of the traveling public and to provide the neat, clean, orderly and attractive appearance of the community, it is necessary to regulate the design, construction, location, and maintenance of all roadway intersections, ~~private drives, and~~ driveway approaches, and ~~s-~~ accesses that impact the public rights-of-way open to public travel by all modes.
2. AASHTO Procedures. Sight distance shall be determined and approved generally in accordance with the procedures as stated in the current AASHTO guidelines using "A Policy on Geometric Design of Highways and Streets" or "Guidelines for Geometric Design of Low-Volume Roads."
3. Definitions.
  - a. AASHTO – American Association of State Highway Transportation Officials.
  - ~~b. ADT – Average Daily Traffic.~~
  - eb. Clear Sight Triangle – That area enclosed by the lines formed by the intersection approach legs of roadway(s), ~~private street(s) and~~ driveways approaches, and accesses and a straight line drawn diagonally across the corner, connecting those lines at the various distances per AASHTO guidelines.
  - dc. DBH – Diameter at breast height (4.5 feet).
4. Standards.
  - a. All new or modified roadway intersections, driveway approaches, and accesses shall follow access spacing as shown in Table 42.03.130-1, Access Spacing. Where not practicable (as term is defined in LOC 50.10.003.2), the City Engineer may authorize a lesser minimum spacing when a lesser spacing does not create a traffic operational or safety conflict.

TABLE 42.03.130-1: ACCESS SPACING	
Functional Classification	Minimum Spacing (ft.)
<u>Major Arterial</u>	<u>300</u>
<u>Minor Arterial</u>	<u>200</u>
<u>Major Collector</u>	<u>150</u>
<u>Neighborhood Collector</u>	<u>100</u>
<u>Local Residential Street</u>	<u>50</u>

TABLE 42.03.130-1: ACCESS SPACING	
Functional Classification	Minimum Spacing (ft.)
Local Commercial/Industrial Street	50
Alley	30

**[Code Drafters Note:** Yellow highlighting in table is only for readability of this Track Changes format.]

- ~~ab.~~ Sight distance requirements shall apply at all roadway intersections, and driveway approaches, and accesses ~~intersections as modified as follows with the following:-~~
- i. ~~Adequate~~ i intersection sight distance (ISD) per AASHTO shall be provided at all intersections.
    - ~~A.—If adequate~~ ISD cannot feasibly be achieved, lesser sight distance may be acceptable upon review and approval of the City Engineer, as long as subsection (4)(a)(iii) of this section is achieved.
    - ~~B.—Any adjustments made to the calculations per AASHTO guidelines shall be subject to review and approval by the City Engineer. A written document submitted by a licensed engineer for sight distance certification shall accompany the application.~~
  - ii. ~~Driveways that serve one residence along local roadways shall maintain a 10-foot by 10-foot clear vision triangle, measured along the near edge of pavement of the travel surfaces.~~
  - iii. ~~Adequate~~ s Stopping sight distance (SSD), based on the design speed or eighty-fifth percentile speed of the ~~facility~~ roadway, shall be provided along all public roadways.
  - iv. ~~Existing lots of record, not subject to land use permit conditions, shall maximize ISD and safety when establishing driveway location.~~
  - ~~v.~~ v. New construction of an intersection (roadway(s), driveway approaches, and accesses) or a modification to an existing intersection must comply ~~with land use conditions of approval, building permit and/or~~ street opening permit requirements.
  - ~~v.~~ v. A written ~~document~~ report submitted by a licensed engineer for sight distance certification shall accompany the application.
  - ~~v.~~ v. Driveways that serve one residence along alleys shall maintain at least 80 feet of visibility when viewing down the alley from 10 feet behind the nearest edge of the traveled way at a height of 42 inches above the surface. This area shall remain clear of any items prohibited by subsection (4)(b) below.
- ~~bc.~~ Prohibited Items in Clear Sight Triangle. Within the clear sight triangle, it shall be unlawful to install, set out or maintain, or to allow the installation, setting out or maintenance of, any ~~utility cabinet,~~ sign, fence, hedge, shrubbery, natural growth or other obstruction to the view, higher than 30 inches above the level of the centerline of the adjacent pavement.
- ~~ed.~~ Exceptions. The requirements of subsection (4) of this section do not apply to:

- vi. Utility poles and guy anchors;
- vii. Fire hydrants;
- viii. Individual tree trimmed (to the trunk) from the ground to a line at least eight feet above the level of the ~~pavement~~traveled way with a maximum DBH of 36 inches;
- ix. Roadway warning signs, sign supports or signal equipment owned and maintained by the City of Lake Oswego or other road authority jurisdiction;
- x. Signs mounted nine feet or more above the ground and supported by a single support with a maximum cross-section of 12 inches;
- xi. Earth-formed obstructions, including retaining walls, at intersections ~~which~~that were existing on January 1, 2009;
- xii. ~~Temporarily parked~~Vehicles ~~parked~~; compliant with LOC Article 32.06;
- xiii. Mailbox supports with a maximum cross-section of 12 inches in any horizontal dimension;
- xiv. Open-style pedestrian handrails or fences approved ~~, subject to~~ by the City Engineer's ~~review and approval~~; and
- xv. Items authorized within clear sight triangle ~~by the City Engineer~~, by an encroachment permit pursuant to LOC Article 42.18 when the item is within a public right-of-way, or by written approval of the City Engineer when the item is on private property.

#### **42.03.131 Clear Sight Triangle to Be Kept in Repair and Clean by Owner.**

It shall be the duty of owners of property abutting or lying adjacent to an intersection of roadway(s), driveway approaches~~private street(s)~~, and driveways~~accesses~~ to keep such areas in good repair and free from obstruction or matter which may impede or render hazardous the use of the intersection.

#### **LOC Article 42.08 Sidewalks**

#### **42.08.410 Sidewalks to be kept in repair and clean by owner.**

1. It shall be the duty of owners of property:
  - a. Abutting or lying adjacent to sidewalks constructed upon the public streets to keep such sidewalks, and the property lying between such sidewalks and the adjacent and abutting property; or
  - b. When a public sidewalk or pathway is within a public easement on the property, to keep such sidewalks and pathways;

in good repair and free from obstruction and to keep the same clean of debris, leaves and any growing material and ice and snow, and free of any other object or matter which may impede or render hazardous the use of the sidewalk/pathway and, if applicable, property lying between the same and abutting and adjoining property.

2. A property owner shall remove ice and snow from such sidewalks/pathways as hereinbefore required within four hours after daylight when the same shall have accumulated during the night hours or within two hours after the end of a snowfall occurring during daylight hours.



3. A violation of this section is a civil violation and shall be enforced pursuant to the provisions of LOC 34.04.101 through 34.04.145.

4. Liability; Indemnification:

a. The owner of the land adjoining any street in the City shall be liable to any person suffering injury by reason of the owner's negligent failure to comply with this subsections 1 or 2.

b. The City shall not be liable for injury, damage or loss to any person or property caused in whole or in part by the defective or dangerous condition of any sidewalk, or driveway approach, or the City's failure to provide notice as provided in LOC 42.08.420.

c. If the City is required to pay damages or incurs attorneys' fees and costs for an alleged injury to any person by failure of an owner to maintain a sidewalk in good repair or safe condition free of hazards, the owner shall reimburse the City for the amount of damages paid, and for the attorney fees and costs of defending against the claim for damages.