

ORDINANCE NO. 2617

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL CLARIFYING, REVISING, AND UPDATING ARTICLES 10.04 (BENCHMARKS), 15.06 (FIRE CODE), 34.10 (NUISANCE), 42.03 (STREET DESIGN STANDARDS), 42.04 (CONSTRUCTION PERMITS), 42.19 (SIDEWALK CAFES), AND CHAPTER 47 (SIGN CODE); AND ADDING SIDEWALK DISPLAY REGULATIONS TO ARTICLE 42.19.

WHEREAS, through the application of the Lake Oswego Code, the Fire, Planning, and Engineering Departments staff have found that some sections of the Lake Oswego Code could be improved by removing ambiguous and conflicting language, correcting provisions, and updating the certain chapters of the Lake Oswego Code; and

WHEREAS, the Council desires to permit sidewalk display of merchandise and other items from retail businesses in the NC, GC, EC, or FMU zones, under certain terms and limitations;

The City of Lake Oswego ordains as follows:

Section 1. The Lake Oswego Code is hereby amended by deleting the text shown by ~~strikethrough~~ type and adding new next show in double underline type as set forth on Exhibit 1. (Sections 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. Clarification of Repeal of LOC 50.06.011 (Vision Clearance Triangle) by enactment of LOC 42.03.130. Ordinance 2525, Section 12 (effective December 1, 2011), repealed the then numbered LOC 50.21.005 (Vision Clearance Triangle) effective upon the enactment of LOC 42.03.130. LOC Chapter 50 was reorganized by Ordinance 2579 (effective April 19, 2012), changing the Vision Clearance Triangle provisions in Chapter 50 from LOC 50.21.005 to LOC 50.06.011. This ordinance now enacts the Vision Clearance Triangle provisions in LOC 42.03.130, as envisioned in Ordinance 2525, Section 12. Therefore, LOC 50.06.011 (Vision Clearance Triangle) is now repealed by the enactment of LOC 42.03.130.

Section 3. 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.

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Enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 4th day of June, 2013.

AYES: Mayor Studebaker, Bowerman, Gudman, Gustafson, Kehoe, O'Neill

NOES: None

ABSTAIN: None

EXCUSED: Jordan



Kent Studebaker, Mayor

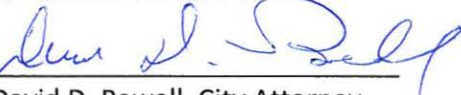
Dated: 6/6/2013

ATTEST:



Catherine Schneider, City Recorder

APPROVED AS TO FORM:



David D. Powell, City Attorney

ARTICLE 10.04 BENCH MARKS

10.04.220 Survey Datums to be calculated from the National Geodetic Vertical Datum of 1929.

All surveys required to be approved by the City that require determination of elevation shall be calculated from either the National Geodetic Vertical Datum of 1929 (NGVD 29), as established in LOC 10.04.210 or the North American Vertical Datum of 1988 (NAVD88).

ARTICLE 15.06 FIRE CODE

15.06.610 Oregon Fire Code Adopted

There is hereby adopted for the purpose of prescribing regulations governing conditions hazardous to life and property from fire and explosion the Oregon Fire Code (as enacted on October 1, 2004, or as thereafter amended by the Department of Oregon State Police, Office of State Fire Marshal). Such a code is enacted and adopted in whole by this reference as though set forth at length except such portions as are hereinafter deleted, modified or amended by this section.

1. The geographic limits referred to in certain sections of the Oregon Fire Code are hereby established for the City of Lake Oswego as follows:

- a. Section 3204.3.1.1: residential zones (including areas with split zones which include residential zones).
- b. Section 3404.2.9.5.1: residential zones (including areas with split zones which include residential zones).
- c. Section 3804.2: residential zones (including areas with split zones which include residential zones).

4. Section 503.2.1 is amended to read as follows:

Dimensions. Fire apparatus access roads shall have an unobstructed width and uniform surface of not less than 15 feet one way, 20 feet if two way and a vertical clearance of 13'6", unless an exception is approved by the City Engineer and Fire Chief. Private roads or public streets where landscaping islands are used shall be considered one way each direction at the island.

Exceptions – Single family dwellings on lots:

- a. Driveway serving one lot: a 12 ft. paved driveway surface, with a 1.5 ft. shoulder on each side, is permitted.
- b. Access lane serving 2 – 4 lots: a 12 ft. paved access lane surface, with a 4 ft. shoulder on each side, is permitted if the habitable structures on all lots provide an alternative suitable method of fire suppression, i.e., automatic fire sprinkler systems, approved by the Fire Marshal.
- c. Access lane serving 5 – 8 lots: a 16 ft. paved access lane surface, with a 2 ft. shoulder on each side, is permitted if the habitable structures on all lots provide an alternative suitable method of fire suppression, i.e. automatic fire sprinkler systems, approved by the Fire Marshal.

Note: No parking is permitted on fire apparatus access roads that have a width less than 26 feet wide.

ARTICLE 34.10 TYPES OF NUISANCE

34.10.520 Periodic Brush Cutting Required; Exceptions

1. Property owners, lessees, occupants, or persons in possession or control of property ~~and all such responsible persons shall:~~

a. ~~cut~~ Cut and ~~remove~~ Remove from their property:

i. ~~all weeds, thistles~~ Thistles and, noxious vegetation weeds,

ii. Vegetation of an inflammable condition or nature,

iii. ~~all dead bushes, dead trees~~ that are a hazard to use of public property or public right-of-way, and

iv. ~~stumps, and any growth of an inflammable nature and all~~ All grass or weeds more than ten (10) inches in height.

b. Any person in possession or control of real property shall further be responsible for ~~trimming~~ Trim away from any property line to a distance of ten (10) feet all blackberry vines or plant material which characteristically spreads under or around barriers intended to prevent intrusion.

2. A violation of this section is a civil violation and a public nuisance.

CHAPTER 42 - STREETS AND SIDEWALKS

Article 42.03 - Street Design Standards

42.03.020 "Street" Defined; New Development Street Improvements; Acceptance by City.

1. "Street" means the entire width between the right-of-way lines of a ~~public way~~ local street, collector, or arterial capable of providing the principal means of access to abutting property.

2. New development required by a development permit issued under Chapter 50 to make street and frontage improvements shall do so consistent with the standards of this Article.

3. Acceptance of public improvements including street and frontage improvements shall be signified in writing by the City Manager. Recordation of an instrument dedicating land for public use, or granting an easement for such use, shall not constitute acceptance of the public improvements within, upon, under or across such land.

42.03.035 Arterial Streets - General Standards

1. The width of any arterial street, both as to right-of-way and paved roadway, shall be ~~recommended to the appropriate decision-making body~~ determined by the City Engineer taking into account the following criteria:

- a. Need for protected turning lanes.
- b. Traffic ~~generation~~ volume based on ~~Comprehensive Plan~~ Transportation System Plan criteria.
- c. On-street parking requirements.
- d. Sidewalk and bikeway requirements.
- e. Placement of utilities.
- f. Street lighting.

- g. Slope and drainage management.
- 2. Arterials shall be designed and constructed with positive drainage control.
- 3. Arterials located within residential areas should include design elements to buffer sight and sound impacts on adjoining properties including, but not limited to, street trees, open spaces, and grade differentials.

42.03.040 New Collector Streets - General Standards

- 1. Collector streets shall be designed to carry through traffic to arterials.
- 2. Collector streets shall be designed to limit direct access to the greatest extent possible.
- 3. Collector streets shall be designed to keep through traffic off adjoining residential streets.
- 4. The width of collector streets, both right-of-way width and actual paved roadway width, shall be designed for future full development of surrounding land areas in accordance with the Comprehensive Plan.
- 5. ~~The City Engineer shall~~ in considering development activities, ~~the City Engineer will recommend to the decision-making bodies~~ when considering a system of adequate collector streets for the entire area.
- 6. Collector streets shall be designed for sidewalks on ~~at least one~~ both sides.
- 7. Collectors through residential areas shall be designed to buffer sight and sound through use of such elements as street trees, open spaces, and grade differentials.

42.03.045 Collector Streets - Specific Standards

- 1. The City Engineer shall ~~recommend to the decision-making bodies~~ determine the widths of collector streets after consideration of the following criteria:
 - a. The number of required lanes as set forth in the ~~Comprehensive Plan~~ Transportation System Plan
 - b. The requirement for protected turning movements.
 - c. On-street parking requirements.
 - d. Sidewalk and bikeway requirements.
 - e. Requirements for placement of utilities.
 - f. Street lighting.
 - g. Management of drainage and slope impacts.
- 2. Collector streets adjacent to or through developed areas, as defined in LOC 55.02.020, shall be designed and constructed to maximize retention of the character of the existing developed area, but without sacrificing drainage control, vehicular and pedestrian safety, and parking as necessary. ~~The final design of such a collector street shall be subject to the approval of the Planning Commission.~~

42.03.050 Local Residential Streets - General Standards

- 1. Local residential streets shall be designed and constructed with a minimum of paved roadway width and other structural elements necessary to provide proper functioning of the street as a transportation element. The City Council determines that it is in the public interest to depart from the existing street patterns and that new local residential streets should not be required to conform to the plats of subdivisions and maps of major partitions already approved for adjoining property. Such circumstances shall be considered in the design of local residential streets so as to permit an orderly transition from previous standards to the standards set forth in this Ordinance.

2. Local residential streets shall be designed to provide a minimum of disruption to neighborhood livability while providing adequate and safe circulation from residential lands to collector and arterial streets.

3. Streets are often utilized for the collection and transmission of surface water. It is the policy of the City that surface water shall be managed within the boundaries of a lot or parcel to the maximum extent feasible by discharging it into the ground water basin or into an existing watercourse before utilizing the street for such drainage. Drainage is not an assumed function of the street, but is an additional function to be imposed upon a street only after it has been demonstrated that alternative management methods for surface waters are not feasible.

4. Local residential streets will be designed with aesthetics of primary concern, subject only to considerations of function and public safety. The design standards for local residential streets shall be flexible so as to permit adaptation to the social and topographic features of particular neighborhoods while providing for the safety of pedestrians and bicycle riders.

5. Sidewalks shall be provided on at least one side of all ~~through streets, unless deferred or waived pursuant to LOC 42.08.400.~~

~~67.~~ Portions of existing streets contiguous to, but not included in, any new development shall, as part of the development and at the discretion of ~~the reviewing body~~ City Engineer, be improved to any appropriate standards of this ~~ordinance~~ Article.

42.03.055 Local Residential Streets - Specific Standards

1. The starting point for the design of local residential streets shall be two vehicular travel lanes, each ~~3 metres (10 feet)~~ in width with a graveled shoulder ~~1 metre (3 feet)~~ in width on each side. Increases in pavement width may be ~~recommended by the City Engineer~~ approved where justified.

~~2. In residential use districts, each lot or parcel shall provide for two parking spaces for automobiles in addition to the space available in the garage and carport. These spaces may be on the right of way or on the lot.~~

~~32.~~ A design maximum speed of ~~40 km/h (25 mph)~~ shall be utilized in computing vertical and horizontal curvatures of the paved surface.

~~43.~~ To permit evaluation of proposed residential street designs, the City Engineer may require developers to furnish information on soil conditions, topography, soil permeability, characteristics of natural drainage courses, property ownerships, location and characteristics of adjoining streets, grading plans, and landscaping plans.

~~54.~~ Rights-of-way required for local residential streets may vary and shall be ~~recommended~~ determined by the City Engineer taking into account the following criteria:

- a. The number and width of proposed travel lanes.
- b. The number and width of on-street parking lanes.
- c. Provision for sidewalks and bikeways.
- d. Requirements for utility placement.
- e. Street lighting.
- f. Drainage and slope management.
- g. Street trees.

~~65.~~ In determining the necessity of using the street for drainage of surface waters, a storm of 10 year frequency shall be utilized to calculate the storm water runoff to be dealt with by the drainage system.

To the maximum extent feasible, such surface water shall be retained and disposed of on the property on which it originates.

42.03.075 Miscellaneous Streets - Specific Standards

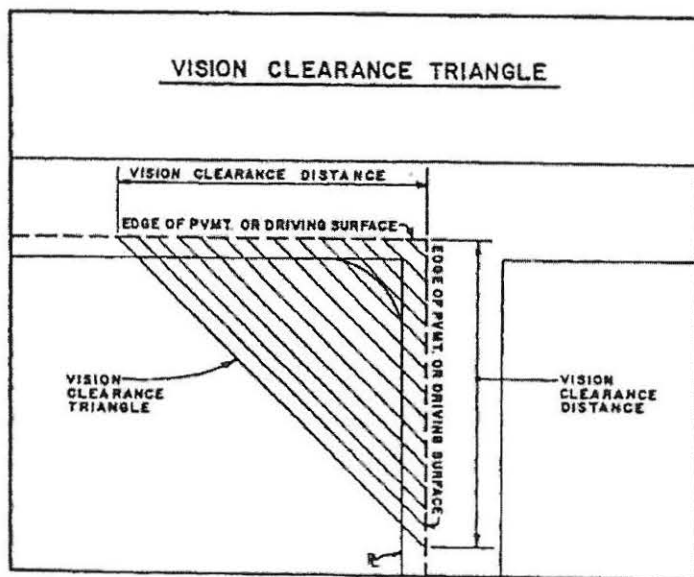
1. In industrial, commercial, high-density residential areas, the central business district, and other areas of high traffic volume, the right-of-way widths shall be determined in accordance with the standards for collector streets set forth in LOC 42.03.045. The width of pavement shall be ~~recommended~~ determined by the City Engineer based on the requirements for number and width of travel lanes, bicycle facilities number and width of on-street parking lanes, and the need for protected turning movements. Curbs, gutters and storm drain systems shall be required.
2. Loop streets shall be considered acceptable principally in residential areas only.
3. Alleys shall be located in a right-of-way of not less than ~~6 metres (20 feet)~~, with paved roadway widths to be approved by the City Engineer based on the function of the alley.
4. One-way local residential streets may be less than ~~6 metres (20 feet)~~ subject to approval of the reviewing ~~body~~ City Engineer.

42.03.130 Vision Clearance At Intersections, Including Private Streets and Driveways

1. VISION CLEARANCE TRIANGLE

The "vision clearance triangle" is that area enclosed by the lines formed by the outside edges of the intersecting pavements or driving surfaces and a straight line drawn diagonally across the corner, connecting those lines at the various distances specified below. The measured distance along the pavement is the "vision clearance distance." Measurement shall be from the point of intersection of the traveled surfaces. See Figure 42.03.130-A, Vision Clearance Triangle Graph.

Figure 42.03.130-A: Vision Clearance Triangle Graph



2. STANDARDS

a. Prohibited Items in Vision Clearance Triangle

Within the vision clearance triangle, it shall be unlawful to install, set out or maintain, or to allow the installation, setting out or maintenance of, any sign, fence, hedge, shrubbery, natural growth or other obstruction to the view, higher than 30 in. above the level of the centerline of the adjacent pavement.

b. Dimensions

The dimensions of the vision clearance triangle, as measured from the point of intersection of the traveled surfaces, shall be as follows:

i. At intersections governed by existing traffic control devices, or at locations where a major development accesses to an arterial or collector street and generates in excess of 100 ADT, the vision clearance triangle shall be determined by an engineering study using AASHTO Standards on file with the Engineering Department.

ii. At the noncontrolled intersection of two streets, the vision clearance distance along each traveled surface shall be a minimum of 60 ft.

iii. At an intersection of an alley and a street, the vision clearance distance shall be ten ft. along the alley and 60 ft. along the street.

iv. At an intersection of a driveway and a street, the vision clearance distance along each traveled surface shall be ten ft.

3. EXCEPTIONS

The requirements of LOC 42.03.130.2 do not apply to:

a. Public utility poles;

b. Vegetation trimmed (to the trunk) from the ground to a line at least eight ft. above the level of the pavement;

c. Official warning signs or signals;

d. Signs mounted nine ft. or more above the ground and supported by a single support with a maximum cross-section of 12 in.;

e. Earth-formed obstructions, including retaining walls, at intersections which were existing on January 1, 2009.

42.03.135 Method of Establishing Special Street Setback Reference Line

1. Establishment of Special Street Setback Reference Line.

a. The "special street setback reference line" shall be established for streets listed in LOC 50.04.002.3 by the City Engineer, pursuant to the procedures in (b) or (c) below, and the criteria in subsection 2.

b. Initiated by Property Owner, Including Development Permit Application.

i. A property owner may request the City Engineer's establishment of the special street setback reference line for a listed street that has not previously had a special street setback reference line established for the portion of the street fronting the owner's property, by submitting:

A. A written request to the City Engineer, or

B. A development permit application under Chapter 50.

ii. Notice to Affected Property Owners. Written notice of the request shall be given to property owner(s), including the requestor, of property fronting on the affected portion of the street in the manner provided by LOC 50.07.003.3.a.i(1). The notice may be included within the notice of the development permit application.

iii. Any person affected by the establishment of the special street setback reference line may submit written comments addressing the criteria in subsection 2 for the City Engineer's consideration within 10 days after the Notice is issued.

c. Initiated by City Engineer.

i. The City Engineer may initiate the establishment (or revision) of the special street setback reference line to a street, or any portion, listed in LOC 50.04.002.6.

ii. Written notice of the intended establishment of the special street setback reference line shall be given to property owners on either side of the proposed special street setback reference line in the same manner as provided in subsection 1.b.ii.

iii. Written comments may be submitted to the City Engineer in the time and manner provided in subsection 1.b.iii.

d. The City Engineer shall consider comments timely submitted and shall establish the special street setback reference line. The City Engineer's decision shall be final.

2. Method of Measurement.

a. The Special Street Setback Reference Line shall be the line equidistant between the boundary lines of the right-of-way, except as provided in subsection b.

b. An exception to the method in subsection 2.a may be used at the discretion of the City Engineer based on site-specific factors when an alternative method is reasonable for the continuous alignment of the centerline of the existing or anticipated future traveled surface of a street. Examples of such factors are, but are not limited to:

i. Anomalies in right-of-way lines that are inconsistent with the location of anticipated improvements or anomalies within the right-of-way;

ii. Existing improvements that are offset (not centered) in a right-of-way and future street expansion is anticipated to continue an offset alignment; or

iii. Extreme topographic or natural resource constraints where strict adherence to subsection 2.a would have an unreasonable adverse impact on natural resources.

ARTICLE 42.04 CONSTRUCTION PERMITS

42.04.110 Permit to construct, alter, etc. - Required.

It shall be unlawful for any person to break up, dig up, cut, excavate or fill in any street or public easement, or to construct any sidewalks, curbs, gutters, or to do any work in or upon any street or public easement, or to install sanitary sewers or water mains in any street or public easement, without first obtaining a permit therefor, as herein provided.

ARTICLE 42.19 SIDEWALK CAFES AND SIDEWALK DISPLAYS

42.19.010 Definitions.

1. ~~Adjacent~~butting Sidewalk Area. That portion of the public sidewalk between the curb line, or the lateral line of a roadway, and the property line of the ~~food or beverage sales business~~, delineated by extending the side building lines of the premises until they intersect with the curb or the lateral line of the roadway.

2. ~~Commercial Zone~~. Property that is designated ~~Neighborhood Commercial, General Commercial, Highway Commercial, East End General Commercial, Mixed Commerce, Office Commercial/Neighborhood Commercial, Campus Research and Development, Campus Institutional or Office Campus~~ on the Lake Oswego Zoning Map pursuant to LOC 50.01.004.2.

3. ~~Operate a~~Sidewalk café. A business that abuts a sidewalk and, provides tables, chairs, or other forms of seating in the abutting sidewalk area for customers to consume food or beverage sales items prepared or sold by the business.

~~Serving food or beverages from a food or beverage sales business to patrons seated at tables located within the sidewalk area.~~

3. Sidewalk display. A display of merchandise or other items from a retail business within the Abutting Sidewalk Area.

4. Activity Area. Area in the Abutting Sidewalk Area devoted to a sidewalk café or sidewalk display.

5. Sidewalk. Sidewalk includes all forms of public pedestrian right of way, i.e., sidewalk, public plaza, pathway.

42.19.020 Permit Required.

No person shall operate a sidewalk café or sidewalk display on any City sidewalk ~~or public pedestrian right of way~~ without first obtaining a permit from the City Manager ~~and paying an initial application fee and permit fee~~. It shall be unlawful for any person to operate a sidewalk café or sidewalk display on any City sidewalk ~~or public pedestrian right of way~~ within the City except as provided by this article.

42.19.030 Permit Fee.

The ~~initial application fee and permit~~ renewal fee shall be established and adjusted as necessary by resolution of the City Council.

42.19.040 Permit Application.

An application for a permit to operate a sidewalk café or sidewalk display shall be submitted in a form deemed appropriate by the City Manager. The application shall include, but not be limited to, the following information:

1. Name and address of the applicant.
2. Signature of the property owner, consenting to a sidewalk cafe or sidewalk display adjacent abutting to the property on which the food sales business or retail business is located.
3. The expiration date of the applicant's business license.
4. A drawing site plan drawn to scale, including dimensions, showing the width of the applicant's ~~food sales business~~ abutting ~~to~~ the sidewalk area requested to be used, the location of doorways, the width of the sidewalk (distance from curb to building face), and the location of trees, signs, bus shelters,

sidewalk benches, trash receptacles, or any other permanent or semi-permanent sidewalk obstructions. The ~~drawing site plan~~ shall also show the area to be occupied by display items, tables and chairs, the table locations, and the location and size of any features used to delineate the area, such as portable planters, and shall show the minimum width of the continuous pedestrian path required by LOC 42.19.050 (2).

5. Graphic information showing the design, materials and colors of chairs, tables, umbrellas, awnings, planters, lighting fixtures and all other items to be placed in the right-of-way.

42.19.050 General Provisions.

1. A sidewalk cafe may be located only in ~~a the following commercial zones: NC, GC, HC, EC, MC, WLG OC, CR&D, or FMU.~~ A sidewalk display may be located only in the following commercial zones: NC, GC, EC, or FMU.

~~2. Operation of the a sidewalk café is limited to the area shown on the drawing attached or made a part of the permit, subject to any modification or conditions of approval by the City Manager.~~

~~23. Tables, chairs and other accessories~~ Permitted items placed in the sidewalk shall be located so as to preserve a clear, continuous pedestrian path of not less than 45 feet in width outside the ~~sidewalk cafe~~ activity, provided that the City Manager may require a pedestrian path of more than 45 feet if necessary to protect public safety or convenience, or in areas of high pedestrian activity. The width of the pedestrian path shall be measured at the narrowest point of the sidewalk between the edge of the ~~sidewalk cafe seating activity area~~ and back of the curb, or any permanent or semi-permanent obstruction. The edge of any seating activity area shall not be closer than two feet from the curb.

~~4. When located at a street corner, the area of a sidewalk cafe shall remain at least 10 feet from the corner of the adjacent property.~~

~~35. No sidewalk cafe activity area shall be located:~~

a. ~~Within 10 feet of the entry to a driveway or alley used for vehicle access,~~

b. ~~Within 10 feet of a street corner, or~~

c. ~~Within 6 feet of a disabled parking space,~~

d. In areas abutting bus loading or unloading areas, or in any area that, in the City Manager's determination, obstructs free access to transit;

e. In any area determined by the City Manager to be necessary to provide appropriate vision clearance for vehicles.

~~6. No sidewalk café shall be in any area determined by the City Manager to be necessary to keep clear in order to provide appropriate vision clearance for vehicles.~~

~~47. A sidewalk cafe The activity area may only occupy the length of sidewalk abutting the permittee's operator's food sales business.~~

~~8. A sidewalk cafe may not be located in areas adjacent to bus loading or unloading areas, or in any area that, in the City Manager's determination, obstructs free access to transit.~~

~~59. The location and configuration of the sidewalk cafe activity area shall be as approved by the City Manager. The City Manager shall consider any public safety and convenience concerns applicable to the specific location requested. The City Manager shall also ensure that the use of the sidewalk for a sidewalk cafe or sidewalk display shall be compatible with the public interest in the use of the area as a public right-of-way.~~

~~6~~10. The floor of the ~~sidewalk cafe~~ activity area shall be maintained at the same level as the sidewalk, and no alterations to the sidewalk or coverings on the sidewalk shall be installed unless approved by the City Manager.

~~11~~. The sidewalk and all things placed thereon shall at all times be maintained in a clean and attractive condition.

~~7~~12. No amplified music or amplified entertainment shall occur in the ~~sidewalk cafe~~ activity area without a specific permit from the City Manager.

~~8~~13. A person operating a sidewalk cafe or sidewalk display shall ensure that patrons and employees do not disturb persons using the sidewalk, or those on adjacent properties, by loud, boisterous and unreasonable noise or disruptive behavior.

9. Sidewalk display items must be removed nightly and cannot extend above the height of the primary entrance of the operator's business.

10. Items that emit sound, flash, or that rely on electricity, batteries, motors or generators for movement are not permitted in the activity area.

~~11~~14. Upon suspension, revocation or termination of an ~~outdoor seating permit~~ sidewalk café or sidewalk display, all furniture, equipment and other items placed on the sidewalk pursuant to a ~~sidewalk cafe~~ the permit operation of the sidewalk café or sidewalk display shall immediately be removed and the sidewalk returned to its original condition.

~~12~~15. In the event that the person operating the sidewalk cafe or sidewalk display fails to comply with any provision of this Article, any other provision of the Lake Oswego Code, or the conditions of a permit, the City Manager may summarily abate the noncompliance and the person shall pay the City all costs incurred in relation to such abatement..

~~13~~16. In addition to the specific requirements of this Article, sidewalk cafes and sidewalk displays shall comply with all policies adopted by the City Manager relating to the location, appearance, configuration or operation of the sidewalk café or sidewalk display.

42.19.060 Liability and Insurance.

1. Prior to the issuance of the sidewalk café or sidewalk display permit, the permittee shall furnish a signed document, in a form acceptable to the City Manager, agreeing that the permittee shall defend, indemnify and hold harmless the City, its officers and employees, from any claims for damages to property or injury to persons that may occur in connection with any activity carried on pursuant the permit.

2. Prior to the issuance of the sidewalk café or sidewalk display permit, and at all times throughout the duration of the permit, the permittee shall furnish and maintain such public liability, food products liability and property damage insurance as will protect the permittee and the City from all claims for damage to property or bodily injury, including death, that may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than the amount of municipal tort liability under the Oregon Tort Claims Act. Such insurance shall be without prejudice to coverage otherwise existing, shall name the City, its officers and employees as additional insureds, and shall further provide that the policy shall not be terminated, canceled or materially modified prior to the expiration of the permit without 30 days written notice to the City.

42.19.070 Form and Conditions of Permit.

In addition to naming the permittee and other information deemed appropriate by the City Manager, the permit shall include the following conditions:

1. The permit shall expire one year from the date issued and can be renewed annually.
2. The permittee shall comply with this Article and all other provisions of the Lake Oswego Code.
3. The permit issued shall be personal to the permittee only and is not transferable in any manner.
4. The permit may be suspended, terminated or modified by the City Manager if the public interest requires use of the ~~right-of-way~~ sidewalk for a public event, construction, repair, installation of public art, or for any other purpose.
5. Any other conditions of approval that the City Manager deems appropriate to ensure compliance with the provisions of this Article and with any policies adopted pursuant to LOC 42.19.050 ~~(17)~~ (13).

42.19.080 Denial, Revocation or Suspension of Permit.

1. The City Manager may deny, revoke or suspend a permit for any sidewalk cafe or sidewalk display if it is found that:
 - a. Any provision of this Article, or any condition of approval, ~~will be or~~ has been violated.
 - b. Any necessary health or business permit has been suspended, revoked or canceled.
 - c. The permittee does not have insurance as required by LOC 42.19.060.
 - d. Such action is in the public interest for the reasons stated in LOC 42.19.070(4).
2. Upon denial, revocation or suspension, the City Manager shall give written notice of such action to the applicant or permittee, stating the action that has been taken and the reason for the action. The action shall be effective immediately. Within 10 calendar days after the written notice is issued, the applicant may make a written request for a hearing by the City Council. Upon hearing the matter, the City Council shall render a decision concerning the permit. The decision of the City Council shall be final.

42.19.090 Penalties.

Violation of any provision of this article shall be a civil violation as defined in LOC Article 34.04 of the Lake Oswego Code and shall be punishable by a fine as set forth in that Article.

42.19.100 Repeal or Amendment of Article; Termination or Modification of Sidewalk Cafes or Sidewalk Displays.

The City has the right to repeal or amend this Article at any time and thereby terminate or modify all sidewalk cafe and sidewalk display operations. No sidewalk café permittee or sidewalk display operator shall obtain any property right in the continued private commercial use of the public sidewalk by virtue of the provisions of this Article, or any permit issued hereunder.

SIGN CODE

47.03.015 Definitions

For the purpose of this chapter, certain terms and words are defined as follows: the words "used for" include "designed for" and vice-versa; words used in the present tense include the future, the singular tense include the plural and vice-versa; the word "shall" is always mandatory; the word "may" is discretionary; the masculine gender includes the feminine gender, except as otherwise provided. The definitions in LOC 50.10.003.2 apply to this chapter to the extent that they do not conflict. The following terms shall mean:

~~Blade Sign. A sign hung from a canopy or awning perpendicular to the direction of pedestrian movement.~~

....

~~Cornice. The horizontal element in the elevation of a building demarcating the difference between the pedestrian oriented level on the street (characterized by entrances, shops, service space, loading areas and lobbies) and the office/residential use on the levels above, or, for single story buildings, the area immediately below the roof line.~~

~~Overhanging Sign. A sign hung from a canopy or awning or attached to a building wall, which hangs over the public right-of-way or any private area subject to pedestrian travel, and is perpendicular to the direction of pedestrian movement, which is attached perpendicular to a building wall and hangs out over the public right-of-way or any private area subject to pedestrian travel.~~

...

~~Temporary Sign. Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other like materials, with or without frames, and any other type sign not permanently attached to the ground, or a structure, intended to be and is displayed for a short period of time only not exceeding 25 consecutive days in duration and no more than once in any 12 month period, except as otherwise allowed by LOC 47.08.300 or .305.~~

Section 47.03.035 Signs in Railroad Right-of-Way.

Except for public signs, utility signs, and signs used for railroad-related purposes, no other temporary, permanent, or incidental sign is permitted within a railroad right-of-way.

47.06.205 Permanent Signs Exempt From Permit and Fee.

The following signs shall comply with all provisions and regulations of this chapter; however, no fee, permit or application is required.

1. One sign not exceeding one square foot in area erected on any building within the City.

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10. Signs that identify an RP District, as required by LOC 50.05.010.6.c.iii(3).

47.08.300 Temporary Signs Exempt from Permit and Fee

The following signs shall comply with all provisions and regulations of this chapter; however, no fee, permit or application is required. Temporary signs are prohibited signs except as provided by this section.

1. Generally.

2. Allowed Signage.

b. In any commercial, public function, park or natural area, or industrial zones temporary signage shall be allowed for each and every lot. This signage shall not be restricted by content, but is usually and customarily used to advertise real estate signs, political or ideological positions, construction or remodeling, temporary activities within park or natural area, etc. The signage shall be allowed for each lot as follows:

i. Temporary signs not exceeding six square feet, provided the signs are erected not more than 90 days prior to an election and removed within five days following the election.

ii. Temporary sign not exceeding 32 square feet provided said signs are removed within fifteen days from the sale, lease or rental of the property or within seven days of completion of any construction or remodeling. An additional sign of the same size may be erected if the property borders a second street and the signs are not visible simultaneously.

iii. Temporary signs not exceeding 16 square feet in area erected in association with the temporary uses allowed by LOC 50.14.010, including Christmas tree sales, pushcart vendors, Saturday market on Saturday and/or Sunday, for up to 26 consecutive weeks, provided at least 3 days separate each period of consecutive days of Saturday market activity and sidewalk sales up to 7 consecutive days during each calendar quarter. These provisions shall also apply to fireworks sales authorized by LOC Chapter 15 (Fire Protection). The signage shall be allowed for the same duration as the temporary use.

iv. Temporary signs erected within a building which do not obstruct more than 25 percent of any individual window surface.

47.08.305 Temporary Signs Requiring Permit.

1. a. The City Manager may allow temporary signs larger than those allowed by 47.08.300 to be erected. This signage shall not be restricted by content, but is usually and customarily used to advertise special events and store openings on banners. The City Manager shall allow the erection of such signs only if the City Manager finds that the proposed sign will not materially impair the purposes of the Sign Code expressed in LOC 47.03.010. Seasonal decorations erected within the public right-of-way shall be considered to be such signs. These signs shall meet all applicable City Code provisions. Lighting of such signs will be reviewed as part of the application and may be allowed depending on impact to surrounding development.

b. In addition to subsection (a) above, the following temporary signs require a permit:

i. Residential Zones: Temporary signs permitted by LOC 47.08.300(2)(a)(ii) that are required to be removed following sale, lease or rental of property, when the residential use on the site is apartments for rental, unless the entire parcel is for sale.

ii. Commercial Zones and Industrial Zones: Temporary signs permitted by LOC 47.08.300(2)(b)(ii) that are required to be removed following sale, lease or rental of property, unless the entire parcel is for sale.

2. The following requirements shall be met, as applicable:

a. Written consent from the property owner where the sign will be located shall be provided. The consent shall identify any restrictions that the property owner requires of the permit holder. Banners hung from utility poles shall require written approval from Portland General Electric. Banners hung over a state highway will require written approval from the Oregon Department of Transportation.

b. Plans or a description showing the location of the sign; banner height above the right-of-way; support devices for the banner; and proposed dates shall be provided.

c. The display period shall not exceed 25 consecutive days in duration and no more than once in any 12 month period. All such signs shall be removed no later than one day following the event being advertised.

d. A copy of any liability and/or property damage insurance required by the property owner where the sign or banner will be located.

e. A signed rebate and indemnity agreement shall be provided if placing a banner over the public right-of-way.

f. Temporary signs required to obtain a permit under subsection (1)(b) shall comply with the provisions of LOC 47.06.200 (3) – (5)

3. The extent of signage allowed and the location of the signage is at the discretion of the City Manager.

47.10.410 Permanent Signage Requiring Permit Allowed in Commercial Zones (GC, NC, WLG RMU, WLG OC, and WLG RLW).

In addition to the temporary and permanent signage allowed without permit in the following commercial zones: GC, NC, WLG RMU, WLG OC and WLG RLW, the following signage is allowed subject to permit and fee.

2. Sign Attached To Buildings.

a. Allowable Area: The 32 square foot maximum allowed for freestanding signs may be transferred to allow signs attached to buildings as an alternative. Except in the OC/R-2.5, OC/NC and R-2.5/W zones, an additional sign or signs shall be allowed within a two foot high horizontal sign band. The sign band length ~~signs~~ may be 75 percent of the building or business frontage whichever is less.

b. Number: One 32 square foot sign shall be allowed on each street frontage. The maximum number of signs within the sign band on each street frontage shall equal the number of frontage businesses located on the ground floor.

c. Height:

i. The maximum 32 square foot sign shall not be placed higher than 18 feet on any structure.

ii. The sign band shall not exceed two feet in height and shall extend along one or more sides of a structure located between the windows and the parapet on a one story building with a flat roof and at or below the fascia on a one story building with a pitched roof. On a multi-story building it shall be located above the windows and below the second story line (retail cornice height).

d. Sign Types: Wall signs and sign bands are allowed.

3. Additional Signs Allowed.

c. Service stations and Any-any business which is required by law to post specific signs, ~~such as service stations,~~ shall be allowed up to an additional 22 square feet of signage to communicate the mandated message. The sign may be installed with the primary sign or installed as a separate 5-1/2 foot tall monument sign. No such signs shall be allowed in the WLG RMU, WLG OC and WLG RLW zones.

f. Blade Overhanging signs which hang from canopies or awnings over the right-of-way perpendicular to the direction of pedestrian movement shall be allowed, but shall come no closer than two feet from areas subject to vehicular travel. The signs shall be consistently eight inches in height and shall not exceed six feet in length. The bottom of the sign shall have 8-1/2 feet of clearance to the walkway or ground below. One sign shall be allowed for each ground floor tenant. No frontage is required. ~~A blade-~~An overhanging sign shall be allowed in the WLG RMU, WLG OC and WLG RLW zones only as an alternative to a monument or wall sign.

g. A single overhanging sign not hung from a canopy or awning may be substituted for the 32-square-foot maximum sign. The overhanging sign shall be allowed to overhang the right-of-way provided it is attached to the building, comes no closer than two feet from areas subject to vehicular travel, maintains 8-1/2 feet of clearance to the walkway or ground below and does not extend more than 14 feet above that sidewalk or ground surface. No such signs shall be allowed in the WLG RMU, WLG OC and WLG RLW zones.

47.10.412 Permanent Signage Requiring Permit Allowed in the EC Zone.

In addition to the permanent, temporary and exempt signs allowed pursuant to LOC 47.06.205, 47.08.300 and 47.08.305 the following signage is allowed in the EC zone subject to permit and fee.

1. Permitted Signs.

a. Blade Overhanging Signs.

Blade Overhanging signs may be ~~hung attached at or below the first floor cornice below roof overhangs, canopies or awnings~~ over public or private pedestrian ways. Such signs shall be uniform in size and placement in relationship to such signs on adjacent buildings and must have a minimum clearance of 8.5 feet above grade, but in no case shall they be larger than six square feet, 10 inches in height or six feet in length. Lettering shall not exceed six inches in height. Signs shall have a white sign board with dark green, black, dark brown or gold leaf lettering or may be of routed wood.

2. Lighting.

a. All signs except for Blade overhanging signs may be unlit, indirectly lit, or backlit. Awnings and canopy signs shall only backlight individual letters or graphics. The entire canopy shall not be backlit.

b. Blade Overhanging signs shall be unlighted or indirectly lighted.

47.10.415 Permanent Signage Requiring Permit Allowed in Commercial Zones (MC, HC, CR&D, and OC, PF, and CI)

In addition to the temporary and permanent signage allowed without permit in the commercial, public facility, and campus institutional zones the following signage is allowed in the MC, HC, CR&D, ~~and OC, PF, and CI~~ zones subject to permit and fee.

1. Free-Standing Signs.

a. Free-standing complex signs shall be allowed provided that:

(1) The sign is located at:

i. ~~The~~ The periphery of public street intersections of the complex area defined by Carman Drive, Kruse Way, Bangy Road and Ball Creek, and

ii. The Marylhurst Campus Institutional Area / Hwy 43 street intersection (two streets);
and

(2) The size shall not exceed 40 square feet, except that the maximum sign area may be increased in scale to a maximum of 60 square feet where appropriate for the scale of the complex and visual identity along Bangy Road, Kruse Way, or Carman Drive.

47.10.425 Institutional, Public Facilities or Open Space Land Uses Listed As Conditional Nonconforming Uses, and Signs in Park and Natural Area Zone.

If an institutional use, public facility or open space land use is located on a site which is in a zone which allows the use only as a conditional use, or if the use is a nonconforming use, or lot is located in the Park and Natural Area (PNA) Zone, then the following restrictions apply. These restrictions are in addition to the temporary and permanent signage allowed without permit in the zone in which the use is located.

1. Free-Standing Signs.

a. Allowable Area: Maximum 32 square feet.

b. Number: One sign shall be allowed for the primary frontage. Another sign shall be allowed on any secondary frontage that is 300 feet or more in length.

c. Height: Maximum 6 feet.

d. Sign Types: Monument signs only.

2. Signs Attached To Buildings.

a. Allowable Area: The 32 square foot maximum allowed for freestanding signs may be transferred to allow signs attached to buildings as an alternative.

b. Number: The sign shall be restricted identically to the freestanding sign.

c. Height: The sign shall not be placed higher than 18 feet on any structure.

d. Sign Types: Wall sign.

3. Additional Signs Allowed.

a. Non-illuminated 8 inch maximum signage shall be allowed on awnings or canopies.

4. Sign Features/Restrictions.

a. Except at otherwise indicated, signs may be indirectly or internally illuminated.

b. Changeable copy, manual or electronic, shall be allowed for up to 50 percent of any allowed sign.

c. Lighting which is within 200 feet of a residential zone and which is substantially visible from any residential unit or vacant residential lot shall be extinguished between 10:00 P.M. and 8:00 A.M