



## City of Mill City

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### MILL CITY PLANNING COMMISSION AGENDA

#### Regular Meeting

**Tuesday, February 19, 2019 6:30 p.m.**

*City Hall – 444 S. First Avenue*

*MILL CITY, OREGON 97360*

1. **Call to Order and Flag Salute – 6:30 p.m.** Chair Ann Carey
2. **Approval of Minutes:** January 15, 2018
3. **Public Comment:**

*We welcome you to today's special meeting of the Mill City Planning Commission. This is an open meeting of the Commission and you are invited to observe the meeting.*

*If you wish to speak to the Planning Commission regarding an issue which is not on the agenda, the Commission provides time at the beginning of each meeting to listen to public comments. The chairperson will ask for public comment. When you are recognized, please state your name, address and briefly explain the issue you wish to discuss. Depending on the nature of the issue, the Planning Commission may address the issue during this meeting, table the issue to a future meeting or may request that you speak with the City Recorder or Planning Consultant outside the meeting.*

4. **Public Hearings:** **None scheduled**
5. **Presentations:** **None scheduled**
6. **Old Business**
  - a. File 2017-02 Baughman-Lucas Annexation 2<sup>nd</sup> Reading Scheduled by CC 2-12-2019
  - b. File 2018-09 – Trio Tavern ZC to Commercial. Adopted by Council 1-28-2019
  - c. Nuisance Ordinance Amendments 2<sup>nd</sup> Reading Scheduled by CC 2-12-2019
  - d. Nuisance Ordinance – Draft Noise Amendments Discussion and Recommendation
  - e. Landlord/Tenant Code Amendments & Enforcement Discussion
  - f. Other

## 7. New Business

- a. File 2019-03 Kyle Plotts Property Line Adjustment Ratify City Planner's Decision  
Location: 300 block SE Grove Street.  
Assessor's Map 9S 3E 32BB, Tax Lots 2100 & 2200  
Proposal: Combine two tax lots into one 10,000 sf parcel
- b. 2019 Work Program Discussion
- c. Special Meeting in March 2019  
Set Date for City of Mill City Site Plan Review Applications
  - i. File 2019-xx: Pacific Power Charging Station & Parking Area – Mill City Falls Park
  - ii. File 2019-xx: Public Works Shop Building Site Plan - 4<sup>th</sup> & Kingwood Well Site
- d. Other

## 8. Informational Items

- a. City Recorder Report
- b. Planning Consultant Time Report
- c. TIGER Grant Agreement Status
  - i. Transfer of Jurisdiction – 1<sup>st</sup> Avenue & N. Santiam River Bridge
  - ii. TIGER Grant Agreement Conference Call Report
- d. Skate Park Design Plans – 90% drawings submitted to City for skate park area.  
Comments returned to Dreamland. Designers must complete site plan for north portion of site and ROW areas on SW 2<sup>nd</sup> & SW Cedar Street before presenting to the PC and City Council.
- e. Current Applications:
  - i. 2019-01 Minor Partition/Replat – 230 & 272 SW Ivy Street
  - ii. 2019-02 Site Plan Review – Duplexes on SW Ivy Street
- f. Prospective Application:
  - i. 2019-xx Sportsman Center – Site Plan Review (future gas station)
  - ii. 2019-xx City of Mill City – Pacific Power Charging Station (Mill City Falls Park)
  - iii. 2019-xx City of Mill City – Public Works Shop (4<sup>th</sup> & Kingwood Well Site)
- g. Future Workshop Agenda items

## 9. Other Business

## 10. Adjournment

### Upcoming Planning Commission Meetings (All meetings at City Hall)

Tuesday, March 19, 2019	4:00 PM	Site Visit – 230 & 272 SW Ivy Street
	6:30 PM	Public Hearings – SW Ivy Street proposals
		Regular Meeting

**MILL CITY PLANNING COMMISSION  
Meeting of January 15, 2019**

**The Planning Commission began the meeting with a site visit at 4:30 p.m. to the SE Fairview property being considered for action during tonight's public hearing.**

Planning Commission members present: Chair Ann Carey, Marge Henning, Woody Koenig, David Leach and Grant Peterson.

Staff in attendance: Planning Advisor David Kinney and City Recorder Stacie Cook.

City Council Representatives: None.

Agency Representatives: None.

Citizens: Scott Baughman.

The meeting was called to order at 6:30 p.m. Chair Ann Carey led the pledge of allegiance.

**APPROVAL OF MINUTES:** *Grant Peterson moved, seconded by Woody Koenig to approve the minutes of December 18, 2018. The motion carried, (5:0).*

**PUBLIC COMMENT:** None.

**PUBLIC HEARINGS:** File No. 2018-12/2018-13  
Applicant: Scott Baughman  
Proposal: Minor Partition (SE Fairview) & Land Use Action on the N. Santiam River  
Location: 100-200 Block SE Fairview Street (east of City Hall)

Chair Carey read through the quasi-judicial public hearing requirements and opened the public hearing at 6:34 p.m.

Chair Carey called for any potential conflicts of interest, bias or ex parte contact. Being none, Chair Carey turned the hearing over to Planner Dave Kinney.

**APPLICANT'S TESTIMONY:** Scott Baughman, applicant, said that the storm line sits between lots 1 and 2. Center of pipe will be the lot line with a ten foot setback on both sides for maintenance to the storm line. The first house does have room to push back toward the river if it is preferable to the City. The next partition is planned for next year for one more house and the final lot possibly a commercial office space. Each house is roughly 1600 sq ft; 3 bed, 2 bath. Mr. Baughman said that he is trying to create space beside each home for parking.

**STAFF REPORT:** Mr. Kinney said that the Planning Commission did a site visit at 4:30 p.m. today. There are a few minor changes to the staff report the biggest being that the easement has been changed to between lots 1 and 2 instead of lots 2 and 3 as shown in the staff report.

The water line needs to be bored under the existing roadway and minimal cuts need to be in the road. There is a storm sewer line that crosses the parcels, which requires a 20' wide easement for maintenance.

Staff recommendation is to approve both applications. If the Planning Commission approves the applications they will need to be done with two separate motions.

The site plan approval will allow for a building permit to be applied for right now for parcel three but no other permit can be issued until the plat is recorded.

The large lot at the end can be partitioned in the year 2020 as there can only be one partition application to a property in a single year.

The setback to the garage on parcel two will be a minimum of 22'.

Conditions of approval are recommended as follows:

File No. 2018-12 – Minor Partition

1. Partition approval expires February 1, 2020.
2. The partition survey must be recorded with Linn County no later than January 31, 2020. Plat must show parcels 1, 2 and 3 as shown on approved partition map; sewerage system easement and reference to recorded sewer easement on final plat; provide 20' wide storm drainage easement granted to City of Mill City centered on the boundary between Parcel 1 and 2 and; provide 30' wide riparian easement on final plat.
3. All public improvement requirements must be complied with prior to City sign off on the plat including; Type B Public Works Construction Permit, Restoration and replacement of all pavement curbs and sidewalks, as needed – no street cuts permit for water service line crossings; Install individual water services to each parcel prior to or concurrently with building permit for each parcel.

File No. 2019-13 – Site Plan Approval (2 Single-Family Homes)

1. Site plan for single-family home on proposed Parcel 2 modified to have a setback of 18' to the front of the house 25' to the front of the garage. Parcel 3 approved as shown on attached site plan map.
2. City may issue one SFR building permit prior to recording of partition plat. No other building permits issued until partition plat has been filed and recorded with Linn County Surveyor.
3. Site Plan approval will expire on February 1, 2020 at 4:00 p.m. if no application for building permits for new homes on Parcel 2 and Parcel 3 filed.
4. All public works requirements must be met including: install new water services with bores under street; record sewer easement for each parcel prior to issuance of building permit; obtain permits and install individual sewer interceptor tanks; replace any sidewalk panels and curbs removed for installation of driveways or utilities; storm drainage must be

detained or retained on site using low impact storm water management or roof gutters directed to a curb outlet – no drainage may run over sidewalk; ROW construction permit and PWDS complied with.

5. Riparian easement must be maintained including no removal of existing trees or native plants or riparian vegetation and no construction or maintenance of man-made structure, fence, deck, or facility within the riparian easement.

**PROPONENT’S TESTIMONY:** None.

**OPPONENT’S TESTIMONY:** None.

**GENERAL TESTIMONY:** None.

**QUESTIONS OF CLARIFICATION FROM PLANNING COMMISSION:** None.

**APPLICANT’S REBUTTAL:** Mr. Baughman asked about the recommended riparian of 40’-50’. Mr. Kinney said that it depends on how you measure as to what the riparian setback would be. As we begin looking at the land further east of this area it will be a different situation and likely will require a new study.

**STAFF SUMMARY:** None.

**CLOSE OF HEARING:** Chair Carey closed the public hearing at 7:08 p.m. and called for Planning Commission deliberation.

**PLANNING COMMISSION DELIBERATION:**

*Woody Koenig moved, seconded by Dave Leach to approve the minor partition application of Scott Baughman and to direct the staff to modify the findings of fact and conclusions to reflect the Planning Commission’s deliberations and adopt the conditions of approval for File No. 2018-12. The motion carried, (5:0).*

*Woody Koenig moved, seconded by Marge Henning to approve the site plans for Scott Baughman, SBC Construction Inc., to construct two new single-family dwellings on Parcels 2 and 3 of the proposed Minor Partition (TL 804) in the 100-200 block of SE Fairview Street, to direct the staff to modify the findings of fact and conclusions to reflect the Planning Commission’s deliberations and adopt the conditions of approval for File No. 2018-13. The motion carried, (5:0).*

**PRESENTATIONS:** None.

**OLD BUSINESS:**

File No. 2017-02 Baughman-Lucas Annexation – Ordinance w/Legals & Map to DOR: Mr. Kinney said that a draft ordinance for the annexation of the Baughman-Lucas Annexation was sent to Boatwright for review. If there are no issues then the Council will be asked to do the first reading

at the January 22, 2019 meeting. A final reading will be done at the February 12, 2019 meeting.

The next step is a subdivision proposal in order to do any development on the lots. There will be a need to submit information on the sewer system and how it will be affected by the development.

Nuisance Ordinance Amendments - City Council Action Scheduled January 22, 2019: Mr. Kinney said that the City Attorney reviewed the nuisance code changes and made a recommendation for minor changes with one larger; addition of language to be able to cite a chronic offender into municipal or circuit court.

Mr. Kinney said that the noise ordinance will be looked at by the sub-committee next for possible change to the City's code.

Landlord/Tenant Code Amendments & Enforcement Discussion: Discussion in February.

**NEW BUSINESS:**

2018 Annual Report – Review DRAFT: Consensus to forward the 2018 Annual Report to the City Council. This will be on the February 12, 2019 agenda.

2019 Work Program – Discussion: This will be reviewed briefly at the February meeting before forwarding to the City Council.

**INFORMATIONAL ITEMS:**

City Recorder Report: City Recorder Stacie Cook provided a report on the following:

1. Public Works Building
2. Public Works Staff
3. Budget Committee Vacancies

Tiger Grant Agreement: The jurisdictional transfer agreement for the bridge is still being worked on. The Tiger Grant Agreement is on hold until the federal shutdown is over. This has the potential to put the design significantly behind schedule.

Current Applications:

File No 2017-02 – Baughman-Lucas Annexation

File No. 2018-09 – Trio Tavern Zone Change to Commercial. Council Approved January 8, 2019

Prospective Applications:

Santiam Sports Center – Site Plan Review (future gas station)

**BUSINESS FROM THE PLANNING COMMISSION:** None.

**OTHER BUSINESS:** None.

The meeting was adjourned at 7:43 p.m.

Prepared by:

Stacie Cook, MMC City Recorder



DRAFT







**MODEL**

**LEAGUE OF OREGON CITIES**

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# **Model Noise Ordinance for Oregon Cities**

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**NOVEMBER 2017**



## FOREWORD

A city's model noise ordinance regulates the adverse impacts of noise by applying a "reasonable person standard." Using that standard allows cities to avoid spending public funds on purchasing and maintaining noise measurement equipment. The standard also allows enforcement officers to make subjective determinations on what noise is unreasonably loud or raucous under the circumstances. This method of enforcement is simple and cost-effective.

Free speech implications arise when the noise at issue is also a form of speech protected under the Oregon or United States Constitutions. Protected speech is any expression of beliefs through oral speech or expressive conduct that is sufficiently imbued with the elements of communication to implicate the First Amendment to the United States Constitution or Article I, section 8, of the Oregon Constitution. All regulation of protected speech must be content neutral, narrowly tailored, serve a significant governmental interest, and leave open ample alternative channels for communication.

Entrusting enforcement officials with discretion to decide when noise is unreasonable also requires a city to properly train enforcement officials to know when speech is constitutionally protected. If the regulated noise happens to be protected speech, then enforcement is constitutional only if the enforcement is not directed toward the speech's content. Enforcement must be directed towards the speech's noncommunicative elements—such as time, place and manner. Enforcement officers may regulate speech based on the volume, duration, location and timing of the noise, if the basis for the regulation is wholly unrelated to the content or message expressed by the noise.

The League of Oregon Cities' Legal Research Department first drafted this model ordinance in 2006. Minor updates have been made this year to reflect pertinent changes in the law. Any model document provided by the League is intended to be used as a starting point in an individual city's development of its own documents. Each city is unique, and any adopted document or policy should be individually tailored to meet a city's unique needs.

## DISCLAIMER

This model is not intended as a substitute for legal advice. Cities should consult with their city attorney before adopting a noise ordinance to ensure that the ordinance submitted complies with all aspects of federal, state and local law.



## MODEL NOISE ORDINANCE

### SECTION

1. Purpose
2. Findings
3. Scope
4. Definitions
5. General Prohibition
6. Noises Prohibited
7. Exemptions
8. Enforcement
9. Penalties
10. Appeal
11. Severability
12. Savings Clause
13. Effective Date

*(Insert your City's Ordaining Clause, e.g., "The People of the City of \_\_\_\_\_ ordain as follows")*

**Section 1. Purpose.** This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of [City] through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety; or causes public inconvenience, annoyance or alarm to reasonable persons of ordinary sensitivity.

**Section 2. Findings.** The City Council of [City] finds:

- A. Loud and raucous noise degrades the environment of the City to a degree that:
  - 1) Is harmful to the health, welfare and safety of its inhabitants and visitors;
  - 2) Interferes with the comfortable enjoyment of life and property;
  - 3) Interferes with the wellbeing, tranquility and privacy of the home; or
  - 4) Causes and aggravates health problems.
- B. Both the effective control and the elimination of loud and raucous noise are essential to the health and welfare of the City's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work and communication.
- C. The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace and freedom of inhabitants of, and visitors to, the City.
- D. Certain short-term easing of noise reductions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the City.

- E. The obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression guaranteed by Article I, section 8, of the Oregon Constitution and the First Amendment to the United States Constitution. This ordinance enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights.

**Section 3. Scope.** This ordinance applies to the control of all sound originating within the jurisdictional limits of the City.

**Section 4. Definitions.**

- A. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.
- B. “Emergency work” means any work performed to prevent or alleviate physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.
- C. “City” means City of [Insert City Name].
- D. “City Administrator/Manager” means the City Administrator/Manager of the City or the City Administrator/Manager’s designee.
- E. “Noise Enforcement Officer” means the person appointed by the City Council to enforce the provisions of this ordinance or that officer’s designee.
- F. “Noise Sensitive Area” includes, but is not limited to, real property normally used for sleeping or normally used as a school, church, hospital, or public library.
- G. “Person” means any individual, firm, association, partnership, joint venture, or corporation.
- H. “Plainly audible” means any sound that can be detected by a reasonable person of ordinary sensitivities using his or her unaided hearing faculties.
- I. “Public right of way” means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.
- J. “Public space” means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.
- K. “Residential area” means any real property that contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City’s zoning ordinance.

- L. “Utility Service” means the normal operation of utilities within the City, whether provided by the City or by another entity, including but not limited to water, wastewater, electricity, natural gas, telecommunications and garbage hauling.

**Section 5. General Prohibition.**

- A. No person shall make or continue to make:
- 1) Any unreasonably loud or raucous noise;
  - 2) Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity; or
  - 3) Any noise that is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the vicinity of the location from which that noise emanates, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.
- B. Factors for determining whether a sound is unreasonably loud or raucous include, but are not limited to:
- 1) The proximity of the sound to sleeping facilities, whether residential or commercial;
  - 2) The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
  - 3) The time of day or night the sound occurs;
  - 4) The duration of the sound; and
  - 5) Whether the sound is recurrent, intermittent, or constant.

**Section 6. Noises Prohibited.** The following acts are declared to be per se violations of this ordinance. This enumeration does not constitute an exclusive list:

- A. Unreasonable Noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous, or unusual noise, disturbance, commotion, or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.
- B. Vehicle Horns, Signaling Devices, and Similar Devices: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle or other vehicle

on any right of way or in any public space of the City, for more than ten consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.

- C. Non-Emergency Signaling Devices: Sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten consecutive seconds in any hourly period.
- D. Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle or similar emergency signaling device, except in an emergency or except as provided in the following:
- 1) The testing of any emergency signaling device shall occur between 7 a.m. and 7 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
  - 2) Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within 15 minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this ordinance.
- E. Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices: The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device, including but not limited to computers, mp3 players, and cellular phones, that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.
- F. Loudspeakers, Amplifiers, Public Address Systems and Similar Devices: The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system or other device for producing or reproducing sound between the hours of 10 p.m. and 7 a.m. on weekdays, and 10 p.m. and 10 a.m. on weekends and recognized city holidays in the following areas:
- 1) Within or adjacent to residential or noise sensitive areas; or
  - 2) Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.

This provision shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the City or for which the City is hosting.

- G. Yelling, Shouting and Similar Activities: Yelling, shouting, hooting, whistling or singing in residential or noise sensitive areas or in public places, between the hours of 10 p.m. and 7 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing, or other factors not based on content.
- H. Animals and Birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, or otherwise cares for the animal or bird.
- I. Loading or Unloading Merchandise, Materials, Equipment: The creation of unreasonably loud, raucous and excessive noise relating to the loading or unloading of any vehicle at a place of business or residence.
- J. Construction or Repair of Buildings, Excavation of Streets and Highways: The construction, demolition, alteration, or repair of any building or the excavation of streets and highways other than between the hours of 7 a.m. and 7 p.m. on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the City Administrator/Manager may issue a permit, upon application, if the City Administrator/Manager determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7 p.m. and 7 a.m. will not be impaired, and if the City Administrator/Manager further determines that loss or inconvenience would otherwise result. The permit shall grant permission in non-emergency cases for a period of not more than thirty days. The permit may be renewed once for a period of thirty days or less.
- K. Noise Sensitive Areas (Schools, Courts, Churches, Hospitals and Similar Institutions): The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.<sup>1</sup>
- L. Blowers, and Similar Devices: In residential or noise sensitive areas, between the hours of 7 p.m. and 7 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.

<sup>1</sup> If a city includes Section 6(K) in its noise ordinance, the city should double-check their sign code to be sure that the signs mentioned in Section 6(K) are permitted under the sign code. If not, the city should consider making an exemption in the sign code to allow signs under Section 6(K).



- M. Commercial Establishments Adjacent to Residential Property: Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under control of the establishment, between the hours of 10 p.m. and 7 a.m. that is plainly audible at a distance of five feet from any residential property. [Cities with mixed-use buildings that include both commercial and residential establishments may consider an exemption from this prohibition or a separate prohibition that applies to those buildings.]

**Section 7. Exemptions.** Sounds caused by the following are exempt from the prohibitions set out in Section 6 and are in addition to the exemptions specifically set forth in Section 6:

- A. Motor vehicles on traffic ways of the City, provided that the prohibitions of Section 6(B) and (D)(2) continue to apply.
- B. Repairs of utility structures that pose a clear and immediate danger to life, health, or significant loss or property.
- C. Sirens, whistles or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in Section 6(D) continues to apply.
- D. The emission of sound to alert persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- E. Repairs or excavations of bridges, streets or highways by or on behalf of the City, the State or the federal government, between the hours of 7 p.m. and 7 a.m., when the public welfare and convenience renders it impractical to perform the work between 7 a.m. and 7 p.m.
- F. Reasonable activities conducted on public playgrounds and public or private school grounds that are conducted in accordance with the way such spaces are generally used, including but not limited to school athletic and school entertainment events.
- G. Outdoor gatherings, public dances, shows, sporting events and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority or is being sponsored by the City.
- H. Noise emanating from the combustion, detonation, or concussion caused by using fireworks or other similar devices, from July 1 until July 5 of each year.
- I. [If the City hosts an event unique to the City, such as an air show or parade, the City may want to consider creating another exemption specific to that event.]

**Section 8. Enforcement.** The City Administrator/Manager, Police Chief, Noise Enforcement Officer, or any designee(s) thereof will have primary responsibility for the enforcement of the noise regulations contained in this ordinance. Nothing in this ordinance shall prevent the City Administrator/Manager, Police Chief or Noise Enforcement Officer from obtaining voluntary compliance by way of warning, notice, or education.

**Section 9. Penalties.**

- A. A person who violates a provision of this ordinance is guilty of an infraction, which is punishable by a fine not to exceed \$500.00.
- B. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate infraction, and may be punished separately.

**Section 10. Appeals.** Any person found to have violated any provision of this ordinance under Section 8 and assessed a penalty under Section 9 has the right to appeal that determination to the City Council. Notice of an appeal under this Section must be filed within 30 days of a finding under Section 8 or the assessment of a penalty under Section 9, whichever is later.

- A. Every person taking an appeal under this Section has the right to appear before the City Council, to have the allegations explained, and to be heard on the matter. The City Council has the authority to set rules of procedure to govern a hearing under this Section.
- B. In any appeal under this Section, the City Council must consider the facts *de novo* and render a decision independently of any prior finding under Section 8.

**Section 11. Severability Clause.** A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

**Section 12. Savings Clause.** A prosecution that is pending on the effective date of this ordinance and arose from a violation of an ordinance repealed by this ordinance, or a prosecution started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determine exactly as if the ordinance had not been repealed.

**Section 13. Effective Date.** This ordinance is effective on \_\_\_\_\_.

## MISCELLANEOUS NOTES & COMMENTS CONCERNING NOISE ORDINANCES

**Reasonable Person Standard vs. Objective Standard:** Several Oregon cities have noise ordinances based on decibel standards. While these ordinances are more objective than ordinances using the reasonable person standard, they present unique problems. The cost of purchasing sound level meters, testing and calibrating equipment and training staff can be prohibitive. Meters capable of being certified for prosecutions can cost several times the amount of a generic meter.

The reasonable person standard regulates noise that is either “unreasonably loud” or “plainly audible.” The “unreasonably loud” and “plainly audible” standards used in the model ordinance avoid the need for expensive decibel testing equipment. The plainly audible standard prohibits noise from being generated that is detectable by the human ear of normal sensitivity in certain locations at certain times. The unreasonable noise standard has been the subject of litigation in Oregon. Oregon courts have interpreted the term “unreasonable” as meaning “not conformable to reason, irrational, not governed or influenced by reason, immoderate, excessive, exorbitant, foolish, unwise, absurd, silly, preposterous, senseless and stupid.” *State v. Marker*, 21 Or App 671 (1975). The word “noise” is interpreted as meaning “a sound; loud, confused, or senseless shouting; any sound that is undesired or that interferes with something to which one is listening; an displeasing sound; a sound that lacks agreeable music quality or is noticeably loud, harsh or discordant, inarticulated and confused sound.” *Id.*

**Definitions:** The model ordinance’s definitions are listed in alphabetical order. Definitions set forth in the model ordinance should be compared to definitions existing in the city charter or other ordinances to minimize conflicts between definitions.

**Noise Enforcement Officers:** Cities should ensure that every Noise Enforcement Officer (or any individual tasked with enforcing the noise ordinance) has reviewed the appropriate materials to assist in enforcement of the ordinance. Noise Enforcement Officers should have a strong understanding of the general constitutional problems that may be encountered when they respond to a noise complaint.

# ORDINANCE NO. 39X

## AN ORDINANCE AMENDING TITLE 8 HEALTH AND SAFETY OF THE MILL CITY MUNICIPAL CODE

WHEREAS, the Planning Commission recommends to the City Council that Title 8 “Nuisances” of the Mill City Municipal Code be amended to simplify the enforcement of nuisance violations within the City of Mill City; and

WHEREAS, the City Council concurs with the Planning Commission recommendations;

**NOW, THEREFORE, the City Council of the City of Mill City hereby ordains as follows:**

**SECTION 1:** Section 8.04.260 “Unnecessary Noise” is hereby repealed.

**SECTION 2:** Title 8, Chapter 8.12, attached hereto as Exhibit “A” and incorporated herein by reference, is hereby added to the Mill City Municipal Code.

This Ordinance read by title only for the first time on this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2019.

This Ordinance read by title only for the second time on this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2019.

This Ordinance passed on the \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2019 by the City Council and executed by the Mayor this \_\_\_\_\_<sup>th</sup> day of \_\_\_\_\_ 2019.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
TIM KIRSCH, Mayor

Date: \_\_\_\_\_

Attest: \_\_\_\_\_  
STACIE COOK, MMC, City Recorder

APPROVED AS TO FORM

Date: \_\_\_\_\_

By: \_\_\_\_\_  
JAMES L. McGEHEE, City Attorney

AMENDMENTS TO THE MILL CITY MUNICIPAL CODE

TITLE 8 HEALTH AND SAFETY

CHAPTER 8.12 - NOISE

**Title 8 HEALTH AND SAFETY**

**Chapters:**

Chapter 8.04 - NUISANCES

Chapter 8.08 - ANTI-GRAFFITI CODE

Chapter 8.12 - NOISE

## **Chapter 8.12 NOISE**

### **Articles:**

#### **Article I. General Provisions**

- 8.12.010 Purpose
- 8.12.020 Findings
- 8.12.030 Scope
- 8.12.040 Definitions

#### **Article II. Noise**

- 8.12.110 General Prohibition
- 8.12.120 Noises Prohibited
- 8.12.130 Exemptions

#### **Article III. Enforcement – Abatement Procedure – Violation - Penalty**

- 8.12.210 Enforcement
- 8.12.220 Penalties
- 8.12.230 Appeal
- 8.12.240 Severability
- 8.12.250 Savings Clause
- 8.12.260 Effective Date

## **Article I. General Provisions**

### [8.12.010 Purpose](#)

### [8.12.020 Findings](#)

### [8.12.030 Scope](#)

### [8.12.040 Definitions.](#)

#### **8.12.010 Purpose.**

This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, peace, and quiet of the citizens of [City] through the reduction, control, and prevention of loud and raucous noise, or any noise which unreasonably disturbs, injures or endangers the comfort, repose, health, peace or safety; or causes public inconvenience, annoyance or alarm to reasonable persons of ordinary sensitivity.

#### **8.12.020 Findings.**

The City Council of [City] finds:

- A. Loud and raucous noise degrades the environment of the City to a degree that:
  - 1. Is harmful to the health, welfare and safety of its inhabitants and visitors;
  - 2. Interferes with the comfortable enjoyment of life and property;
  - 3. Interferes with the wellbeing, tranquility and privacy of the home; or
  - 4. Causes and aggravates health problems.
- B. Both the effective control and the elimination of loud and raucous noise are essential to the health and welfare of the City's inhabitants and visitors, and to the conduct of the normal pursuits of life, including recreation, work and communication.
- C. The use of sound amplification equipment creates loud and raucous noise that may, in a particular manner and at a particular time and place, substantially and unreasonably invade the privacy, peace and freedom of inhabitants of, and visitors to, the City.
- D. Certain short-term easing of noise reductions is essential to allow the construction and maintenance of structures, infrastructure, and other elements necessary for the physical and commercial vitality of the City.
- E. The obligation to draft regulations that affect speech in a content-neutral fashion is of paramount importance to protect the freedom of expression guaranteed by Article I, section 8, of the Oregon Constitution and the First Amendment to the United States Constitution. This ordinance enacts narrowly drawn, content-neutral regulations that are to be interpreted as such so as not to infringe upon constitutionally protected rights.

#### **8.12.030 Scope.**

This ordinance applies to the control of all sound originating within the jurisdictional limits of the City.

## 8.12.040 Definitions.

As used in this chapter:

*“Emergency”* means any occurrence or set of circumstances involving actual or imminent physical trauma or property damage demanding immediate attention.

*“Emergency work”* means any work performed to prevent or alleviate physical trauma or property damage, whether actually caused or threatened by an emergency, or work by private or public utilities when restoring utility service.

*“City”* means City of Mill City.

*“City Recorder”* means the City Recorder of the City or the City Recorder’s designee.

*“Noise Enforcement Officer”* means the person appointed by the City Council to enforce the provisions of this ordinance or that officer’s designee.

*“Noise Sensitive Area”* includes, but is not limited to, real property normally used for sleeping or normally used as a school, church, hospital, or public library.

*“Plainly audible”* means any sound that can be detected by a reasonable person of ordinary sensitivities using his or her unaided hearing faculties.

*“Public right of way”* means any street, avenue, boulevard, highway, sidewalk, alley, or similar place normally accessible to the public which is owned or controlled by a government entity.

*“Public space”* means any real property or structures on real property, owned by a government entity and normally accessible to the public, including but not limited to parks and other recreational areas.

*“Residential area”* means any real property that contains a structure or building in which one or more persons reside, provided that the structure or building is properly zoned, or is legally nonconforming, for residential use in accordance with the terms and maps of the City’s zoning ordinance.

*“Utility Service”* means the normal operation of utilities within the City, whether provided by the City or by another entity, including but not limited to water, wastewater, electricity, natural gas, telecommunications and garbage hauling.

## Article II. Noise

### [8.12.110 General Prohibition](#)

### [8.12.120 Noises Prohibited](#)

### [8.12.130 Exemptions](#)

## 8.12.110 General Prohibition.

- A. No person shall make or continue to make:
1. Any unreasonably loud or raucous noise;
  2. Any noise which unreasonably disturbs, injures, or endangers the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity; or
  3. Any noise that is so harsh, prolonged, unnatural, or unusual in time or place as to occasion unreasonable discomfort to any persons within the vicinity of the location from which that noise emanates, or as to unreasonably interfere with the peace and comfort of neighbors or their guests, or operators or customers in places of business, or as to detrimentally or adversely affect such residences or places of business.



- B. Factors for determining whether a sound is unreasonably loud or raucous include, but are not limited to:
1. The proximity of the sound to sleeping facilities, whether residential or commercial;
  2. The land use, nature, and zoning of the area from which the sound emanates and the area where it is received or perceived;
  3. The time of day or night the sound occurs;
  4. The duration of the sound; and
  5. Whether the sound is recurrent, intermittent, or constant.

### **8.12.120 Noises Prohibited.**

The following acts are declared to be per se violations of this ordinance. This enumeration does not constitute an exclusive list:

- A. Unreasonable Noises: The unreasonable making of, or knowingly and unreasonably permitting to be made, any unreasonably loud, boisterous, or unusual noise, disturbance, commotion, or vibration in any boarding facility, dwelling, place of business or other structure, or upon any public street, park or other place or building. The ordinary and usual sounds, noises, commotion or vibration incidental to the operation of these places when conducted in accordance with the usual standards of practice and in a manner which will not unreasonably disturb the peace and comfort of adjacent residences or which will not detrimentally affect the operators of adjacent places of business are exempted from this provision.
- B. Vehicle Horns, Signaling Devices, and Similar Devices: The sounding of any horn, signaling device, or other similar device, on any automobile, motorcycle or other vehicle on any right of way or in any public space of the City, for more than ten consecutive seconds. The sounding of any horn, signaling device, or other similar device, as a danger warning is exempt from this prohibition.
- C. Non-Emergency Signaling Devices: Sounding any amplified signal from any bell, chime, siren, whistle or similar device, intended primarily for non-emergency purposes, from any place for more than ten consecutive seconds in any hourly period.
- D. Emergency Signaling Devices: The intentional sounding or permitting the sounding outdoors of any emergency signaling device including fire, burglar, civil defense alarm, siren, whistle or similar emergency signaling device, except in an emergency or except as provided in the following:
1. The testing of any emergency signaling device shall occur between 7 a.m. and 7 p.m. Any testing shall use only the minimum cycle test time. In no case shall such test time exceed five minutes. Testing of the emergency signaling system shall not occur more than once in each calendar month.
  2. Sounding or permitting the sounding of any exterior burglar or fire alarm or any motor vehicle burglar alarm, shall terminate within 15 minutes of activation unless an emergency exists. If a false or accidental activation of an alarm occurs more than twice in a calendar month, the owner or person responsible for the alarm shall be in violation of this ordinance.
- E. Radios, Televisions, Boomboxes, Phonographs, Stereos, Musical Instruments and Similar Devices: The use or operation of a radio, television, boombox, stereo, musical instrument, or similar device, including but not limited to computers, mp3 players, and cellular phones, that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and which unreasonably disturbs the peace, quiet, and comfort of neighbors and passers-by, or is plainly audible at a distance of 50 feet from any person in a commercial, industrial area, or public space. The use or operation of a radio, television, boombox, stereo, musical instrument or similar device that produces or reproduces sound in a manner that is plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and

unreasonably disturbs the peace, quiet and comfort of neighbors in residential or noise sensitive areas, including multi-family or single-family dwellings.

- F. Loudspeakers, Amplifiers, Public Address Systems and Similar Devices: The unreasonably loud and raucous use or operation of a loudspeaker, amplifier, public address system or other device for producing or reproducing sound between the hours of 10 p.m. and 7 a.m. on weekdays, and 10 p.m. and 10 a.m. on weekends and recognized city holidays in the following areas:
1. Within or adjacent to residential or noise sensitive areas; or
  2. Within public space if the sound is plainly audible across the real property line of the public space from which the sound emanates, and is unreasonably loud and raucous.
- This provision shall not apply to any public performance, gathering, or parade for which a permit has been obtained from the City or for which the City is hosting.
- G. Yelling, Shouting and Similar Activities: Yelling, shouting, hooting, whistling or singing in residential or noise sensitive areas or in public places, between the hours of 10 p.m. and 7 a.m., or at any time or place so as to unreasonably disturb the quiet, comfort, or repose of reasonable persons of ordinary sensitivities. This section is to be applied only to those situations where the disturbance is not a result of the content of the communication but due to the volume, duration, location, timing, or other factors not based on content.
- H. Animals and Birds: Unreasonably loud and raucous noise emitted by an animal or bird for which a person is responsible. A person is responsible for an animal if the person owns, controls, or otherwise cares for the animal or bird.
- I. Loading or Unloading Merchandise, Materials, Equipment: The creation of unreasonably loud, raucous and excessive noise relating to the loading or unloading of any vehicle at a place of business or residence.
- J. Construction or Repair of Buildings, Excavation of Streets and Highways: The construction, demolition, alteration, or repair of any building or the excavation of streets and highways other than between the hours of 7 a.m. and 7 p.m. on weekdays. In cases of emergency, construction or repair noises are exempt from this provision. In non-emergency situations, the City Administrator/Manager may issue a permit, upon application, if the City Administrator/Manager determines that the public health and safety, as affected by loud and raucous noise caused by construction or repair of buildings or excavation of streets and highways between the hours of 7 p.m. and 7 a.m. will not be impaired, and if the City Administrator/Manager further determines that loss or inconvenience would otherwise result. The permit shall grant permission in non-emergency cases for a period of not more than thirty days. The permit may be renewed once for a period of thirty days or less.
- K. Noise Sensitive Areas (Schools, Courts, Churches, Hospitals and Similar Institutions): The creation of any unreasonably loud and raucous noise adjacent to any noise sensitive area while it is in use, which unreasonably interferes with the workings of the institution or which disturbs the persons in these institutions; provided that conspicuous signs delineating the boundaries of the noise sensitive area are displayed in the streets surrounding the noise sensitive area.<sup>1</sup>
- L. Blowers, and Similar Devices: In residential or noise sensitive areas, between the hours of 7 p.m. and 7 a.m., the operation of any noise-creating blower, power fan, or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, provided that the noise is unreasonably loud and raucous and can be heard across the property line of the property from which it emanates.
- M. Commercial Establishments Adjacent to Residential Property: Unreasonably loud and raucous noise from the premises of any commercial establishment, including any outdoor area which is part of or under control of the establishment, between the hours of 10 p.m. and 7 a.m. that is plainly audible at a distance of five feet from any residential property. [Cities with mixed-use buildings that include both commercial and residential establishments may consider an exemption from this prohibition or a separate prohibition that applies to those buildings.]

**8.12.130 Exemptions.**

Sounds caused by the following are exempt from the prohibitions set out in Section 6 and are in addition to the exemptions specifically set forth in Section 6:

- A. Motor vehicles on traffic ways of the City, provided that the prohibitions of Section 6(B) and (D)(2) continue to apply.
- B. Repairs of utility structures that pose a clear and immediate danger to life, health, or significant loss or property.
- C. Sirens, whistles or bells lawfully used by emergency vehicles, or other alarm systems used in case of fire, collision, civil defense, police activity, or imminent danger, provided that the prohibition contained in Section 6(D) continues to apply.
- D. The emission of sound to alert persons to the existence of an emergency or the emission of sound in the performance of emergency work.
- E. Repairs or excavations of bridges, streets or highways by or on behalf of the City, the State or the federal government, between the hours of 7 p.m. and 7 a.m., when the public welfare and convenience renders it impractical to perform the work between 7 a.m. and 7 p.m.
- F. Reasonable activities conducted on public playgrounds and public or private school grounds that are conducted in accordance with the way such spaces are generally used, including but not limited to school athletic and school entertainment events.
- G. Outdoor gatherings, public dances, shows, sporting events and other similar outdoor events, provided that a permit has been obtained from the appropriate permitting authority or is being sponsored by the City.
- H. Noise emanating from the combustion, detonation, or concussion caused by using fireworks or other similar devices, from July 1 until July 5 of each year.
- I. [If the City hosts an event unique to the City, such as an air show or parade, the City may want to consider creating another exemption specific to that event.]

**Article III. Enforcement – Abatement Procedure – Violation - Penalty**

[8.12.210 Enforcement.](#)

[8.12.220 Penalties](#)

[8.12.230 Appeal](#)

[8.12.240 Severability](#)

[8.12.250 Savings Clause](#)

[8.12.260 Effective Date](#)

**8.12.210 Enforcement.**

The City Recorder, Linn County Sheriff, Noise Enforcement Officer, or any designee(s) thereof will have primary responsibility for the enforcement of the noise regulations contained in this ordinance. Nothing in this ordinance shall prevent the City Recorder, Linn County Sheriff or Noise Enforcement Officer from obtaining voluntary compliance by way of warning, notice, or education.

**8.12.220 Penalties.**

- A. A person who violates a provision of this ordinance is guilty of an infraction, which is punishable by a fine not to exceed \$500.00.
- B. Each occurrence of a violation, or, in the case of continuous violations, each day a violation occurs or continues, constitutes a separate infraction, and may be punished separately.

**8.12.230 Appeals.**

Any person found to have violated any provision of this ordinance under Section 8 and assessed a penalty under Section 9 has the right to appeal that determination to the City Council. Notice of an appeal under this Section must be filed within 30 days of a finding under Section 8 or the assessment of a penalty under Section 9, whichever is later.

- A. Every person taking an appeal under this Section has the right to appear before the City Council, to have the allegations explained, and to be heard on the matter. The City Council has the authority to set rules of procedure to govern a hearing under this Section.
- B. In any appeal under this Section, the City Council must consider the facts *de novo* and render a decision independently of any prior finding under Section 8.

**8.12.240 Severability Clause.**

A determination of invalidity or unconstitutionality by a court of competent jurisdiction of any clause, sentence, paragraph, section or part of this ordinance shall not affect the validity of the remaining parts to this ordinance.

**8.12.250 Savings Clause.**

A prosecution that is pending on the effective date of this ordinance and arose from a violation of an ordinance repealed by this ordinance, or a prosecution started within one year after the effective date of this ordinance arising from a violation of an ordinance repealed by this ordinance, shall be tried and determine exactly as if the ordinance had not been repealed.

**8.12.260 Effective Date.**

Chapter 8.12 is effective on \_\_\_\_\_, 2019.

Translate this page:

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## Rights and Duties of Tenants

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*Community Alliance*  
*M-W-F-S 1PM-5PM*  
*T 6PM-8PM*  
*www.orgcat.com*

**It is important to realize that changes may occur in this area of law. This information is not intended to be legal advice regarding your particular problem, and it is not intended to replace the work of an attorney.**

When you rent a house or an apartment, you enter into a legal contract with someone. With this contract begins what is known as a landlord-tenant relationship. As a tenant, you have certain rights and responsibilities. First of all, you have the right of exclusive possession, which means that even though the landlord owns the property, you generally have the right to your privacy. No one may invade your "home" without legal authority. As such, your landlord must give you at least 24 hours notice before entering the property unless there is an emergency, unless you have requested repairs or maintenance (without designating certain dates and times), or unless the contract permits the landlord to enter the grounds (but not the dwelling unit) for yard maintenance.

Your landlord may enter the property after advance notice in order to make inspections, make necessary repairs, supply necessary services, or to show the property to prospective buyers or work people. If reasonable, you may deny your landlord permission to enter; however, you must act reasonably. Just as the landlord cannot abuse the right of access to harass you or enter at unreasonable times, you cannot withhold your permission to enter to hinder or interfere with the landlord's exercise of his or her rights and responsibilities.

Second, you have the right to a "habitable" home. This means that the property must be safe and sanitary. The space must be free of pests when you move in, and there must be proper wiring, plumbing, heating and weatherproofing. The landlord must maintain these conditions throughout your rental period. Absent very specific conditions, the landlord may not charge you for utilities for other apartments or rental units. If repairs are needed for safety or sanitation, your landlord must make such repairs without charging you for them. If you have caused the problem, the landlord still is obliged to make the repair if you don't do it, but you are responsible for the reasonable cost. You are also responsible for the cost of replacing batteries in smoke alarms in the rental unit as needed and for checking the alarms every six months to ensure they work.

If a landlord refuses to provide certain kinds of services, and if you did not cause the problem, you may correct the problem if you first give written notice to the landlord. In the written notice, be sure to define the problem and give the landlord a reasonable amount of time to make the repairs. In some circumstances, you may then deduct the cost of the repairs from your rent, after submitting the receipts to the landlord. The law limits the time you have to wait, the kinds of problems you are allowed to fix, and the amount of money you are allowed to spend.

Before taking any kind of action concerning repairs, you also should check with a lawyer or your local legal aid office.

Along with your rights, you have specific responsibilities as a tenant. You and the occupants of the rental unit are to use the property only as a home. You must pay your rent on time, and you must keep the property reasonably clean. You may not tamper with the smoke alarms or damage the property. You have an obligation to behave in a manner that will not disturb your neighbors. Then, at the end of the rental arrangement, you must return the property to your landlord in the same condition in which you received it except for reasonable wear and tear.

If you have a month-to-month rental agreement, either you or your landlord can end the agreement with a 30-day written notice. In the city of Portland, however, tenants are entitled to a 90-day notice for no-cause evictions. The landlord does not have to tell you the reason for the 30-day—or in Portland, 90-day—notice, but the reason must be a lawful one. For instance, the landlord can't issue a no-cause eviction notice to retaliate against you for complaining in good faith about conditions to the landlord or a public agency or for joining or organizing a tenant organization. If your tenancy began more than one year ago outside of Portland city limits, your landlord must give you a 60-day notice. If you have a rental agreement for a specific time period, you may not be evicted before the end of that term without a good reason. If your rent is more than 7 days overdue, your landlord may give you written notice telling you to either pay the rent within 72 hours or leave. In the alternative, the landlord can give you a 144-hour notice when the rent is 5 days overdue. Your landlord may charge certain fees for late rate rent.

If you have caused serious harm to your landlord or to his or her property or to other people on the rental property, or you have committed outrageous acts there, your landlord is permitted to give you a 24-hour written notice to leave. This notice must tell you why you are being evicted. As in all cases, the landlord cannot evict you for illegal and/or discriminatory reasons.

If the landlord has properly served you with a notice and you do not comply with it, the landlord can seek a court order to have you evicted. You have the right to appear at the court hearing to challenge the landlord's request for an eviction order. Until the landlord has obtained a court order to evict you, he or she may not try to force you to leave by removing your belongings, locking you out of the unit, or shutting off your utilities. However, if you don't defend yourself successfully in the legal proceedings to evict you, the landlord may ultimately have the sheriff remove you from the unit, and you may be required to pay the landlord's court costs and legal fees.

If you pay a deposit when you rent a house or apartment, the landlord must account for the deposit within 31 days after the termination of the tenancy and the return of possession to the landlord. The landlord may keep only the part of the deposit that is needed to pay for any damage directly caused by you, absent normal wear and tear, unless your rental agreement says something different.

Some of these rights and responsibilities cannot be bargained away or even changed by a written agreement. If you or the landlord wants to change your rental agreement, you should both agree to the changes in writing.

*Legal editor: Ed Johnson, December 2015*

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## Rights and Duties of Landlords

[Landlord and Tenant Law Index](#)   [View All Legal Topic Index Documents](#)

**It is important to realize that changes may occur in this area of law. This information is not intended to be legal advice regarding your particular problem, and it is not intended to replace the work of an attorney.**

When you rent a house or apartment to another person, you enter into a legal contract known as a landlord-tenant relationship. This contract has certain basic conditions set by law that you should understand before you enter into this type of agreement.

As a landlord, you have the right to receive rent for the use of your property. You also have the right to have your property returned to you undamaged at the end of the rental agreement. It should be returned in the same condition it was received, except for normal wear and tear. In exchange for these rights, it is your responsibility to provide a home that is habitable and to make repairs when needed. You must also equip the residence with a properly working smoke detector and provide the initial set of batteries if it is battery operated.

It is your duty as a landlord to respect your tenant's rights. These rights include the right of peaceful possession. By renting your property to the tenant, you give that tenant the possession and use of your property free from interference. That means that you may not enter frequently, at odd hours, without a legitimate reason, or without notice. You typically have the right to protect your property through reasonable inspection to make repairs and to show the property to possible buyers. You must give at least 24 hours notice of your intent to enter unless the tenant has asked in writing for repairs within the last seven days or there is an emergency.

As a landlord, you are responsible for observing federal, state and local laws when it comes to the use and condition of the property.

When you rent your property to someone, you must give him or her your name and address or the name and address of your authorized manager. You cannot discriminate against a tenant for having children, for being disabled, or for any other illegal reason. Some of the additional reasons include: a tenant's successful defense against the grounds for a past landlord's attempt to evict him or her; the tenant's having been the victim of a domestic violence or sexual assault or stalking crime; the tenant's religion, or race or ethnic background. In some locations, it is unlawful to treat differently people who are aged or who are not heterosexual.

You may not retaliate against a tenant by raising the rent, shutting off utilities, or trying to evict the tenant because he or she complained to you or a public agency about habitability conditions, discrimination or other violations of the law, or because the tenant joined or organized a tenants' union or organization. You cannot lock a tenant out. The only exception to this prohibition occurs when a tenant who can demonstrate she or he has been the victim of domestic violence, stalking, or sexual assault asks to have the perpetrator tenant locked out of the unit where the victim of the crime continues to live.

To end a month-to-month tenancy, you must give your tenant a 30-day written notice, unless the rental unit is in the city of Portland, where 90 days notice is required for no-cause evictions. If your tenant has lived in the dwelling for more than a year, you must give 60-days written notice, except, again, in the city of Portland where 90 days notice is required. The tenant may also terminate the tenancy with a 30-day written notice. A week-to-week rental period requires a 10-day notice. A fixed term tenancy will end automatically on the last day of the term specified in the rental agreement. You cannot end a fixed term tenancy early unless you have "cause" to end it, such as a violation of the lease by the tenant.

When rent is more than 7 days overdue, you may give the tenant a written notice stating your intent to try to evict him or her if the rent is not paid within 72 hours. You can give a similar notice, for 144 hours, on the 5th day the rent is overdue if you prefer. If a tenant (or someone in the tenant's control) harms you or your property, harms other people on the property, or commits an act that is outrageous in the extreme, you may give the tenant a 24-hour notice to leave. The notice must be in writing in a special legal form. It needs to explain the reason for termination, and it must be delivered personally to the tenant or mailed to the tenant by first class mail only. If a notice is mailed, you must add three days to the notice time. The legal form of the notice must be correct in all

If the tenant ignores most of your notices and you want the tenant to move out, you must file an eviction complaint in court. The tenant will be properly served with a summons and complaint. There will be a hearing and possibly a trial where you can ask that the tenant be evicted. If the judge or jury agrees, you will be granted a judgment entitling you to possession of the property. If the tenant still does not move, you must pay the sheriff to come to the property to remove the tenant, and you must be responsible for temporarily storing any of the tenant's remaining property until you make reasonable efforts to give the belongings back and they become legally "abandoned". Rights regarding such situations are complicated, and getting legal advice is a good idea. Read "When Tenants Leave Belongings Behind" in this series for more information.

If the tenant moves out before the end of the rental term, you may try to collect the unpaid rent for the rest of the time in the agreement. Before you can collect the unpaid rent, you must first make a reasonable effort to rent the house or apartment again. You must take these steps even if the tenant has a written lease. In a month-to-month or week-to-week tenancy, your right to collect rent is limited to the usual length of the rental period.

As a landlord, you have the duty of accounting for or refunding to the tenant any refundable deposits upon termination of the tenancy. In order to keep all or part of the deposit, you must give the tenant, within 31 days after termination, a written accounting that states specifically why you kept a portion or all of the deposit. If you do not comply with this requirement, the tenant can sue you for twice the amount of the deposit.

The basic rights and duties covered in this information apply whether the contract you have with the tenant is written or oral. A written agreement is best because it serves as a record of terms and conditions you may wish to include, such as whether or not pets are allowed and special requirements for serving notices. If you wish to arrange terms for more than one year, the agreement must be in writing to be enforceable.

*Legal editor: Ed Johnson, December 2015*





**City of Mill City**

**David W. Kinney**  
*Planning Consultant for the City of Mill City*  
 791 E. Hollister St., Stayton, OR 97383  
 Office: (503) 769-2020 Cell: (503) 551-0899  
 Email: [dwkinney@wvi.com](mailto:dwkinney@wvi.com)

February 8, 2019

Kyle Plotts  
 2911 158<sup>th</sup> Terrace E  
 Parrish, FL 34219  
[plottsk@hotmail.com](mailto:plottsk@hotmail.com)

**RE: Notice of Decision – Approval of Property Line Adjustment**  
 09 3E 32BB, Tax Lots 2100 and 2200  
 File No. 2019-03

Dear Kyle:

The property line adjustment application to adjust the boundary for tax lots 02100 and 02200 as shown on Map 1 has been **approved** subject to the listed conditions of approval.

In accordance with MCMC Section 16.36.050 the Mill City Planning Commission will review the staff decision regarding the property line adjustment at their Tuesday, February 15, 2019 regular meeting at 6:30 p.m. at City Hall. The Planning Commission may concur with the staff recommendation to approve the property line adjustment or may call for a public hearing to consider the proposal.

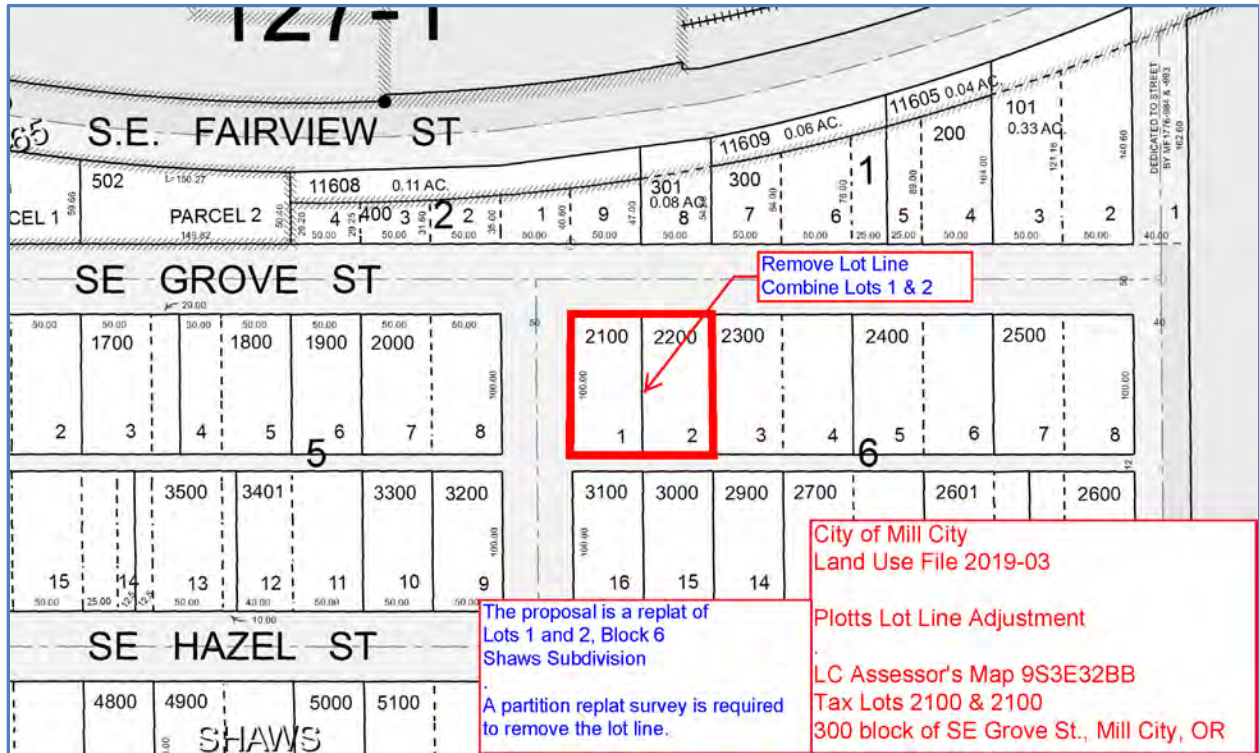
**A. Proposal:**

Kyle Plotts is the owner of the two vacant parcels at the corner of SE Third Street and SE Grove Street in Mill City, Oregon. He proposes to combine Lots 1 and 2, Block 6, in the Shaw’s Subdivision into one parcel..

Mr. Plotts plans to build a new single-family home on the consolidated parcel. Under current law, he cannot build a home across property lines; the lots must be legally combined. No new lots will be created.

Owner	Existing Tax Lot #	Existing Use	Existing Lot Size (sf)	Increase or Decrease in Lot Size	Proposed Lot Size (sf)
Kyle Plotts	09 3E 32BB 02100	300 block SE Grove Vacant corner lot	5,000 sf	+ 5,000 sf	10,000 sf
Kyle Plotts	09 3E 32BB 02200	300 block SE Grove Vacant interior lot	5,000 sf	-5,000 sf	-0-

Map 1  
 Proposed Property Line Adjustment – Kyle Plotts



**B. Findings and Conclusions:**

The applicant has complied with the application requirements and decision criteria for a property line adjustment set forth in Mill City Municipal Code Chapter 16.36.

*Criteria 1: The proposed lots meet minimum size, lot width and frontage requirements of the zone.*

Findings: The minimum lot size in the R-2 zone is 5,000 sq. ft. with a minimum width of 50'. The two existing parcels meet the minimum 5,000 sf and 50' frontage requirements. The proposed lot will be 10,000 sf and will have 100' frontage on both SE Grove and SE Third Avenue.

**Conclusion: The proposal complies with Criteria 1.**

*Criteria 2. If, prior to the application, the lot did not meet lot size, width, or frontage standards, the property line adjustment shall not result in greater nonconformity with the applicable standards;*

Findings: As noted under Criteria 1, the parcels met the minimum requirements, prior to the submittal of the property line adjustment application. The new parcels meet the lot size, dimension and width requirements. This criterion does not apply.

**Conclusion: The proposal complies with Criteria 2.**

**Criteria 3.** *The amended lot lines do not encroach on the location of sewage disposal or water supply lines or easements. There is sufficient area and adequate location on both lots to meet sewage disposal requirements;*

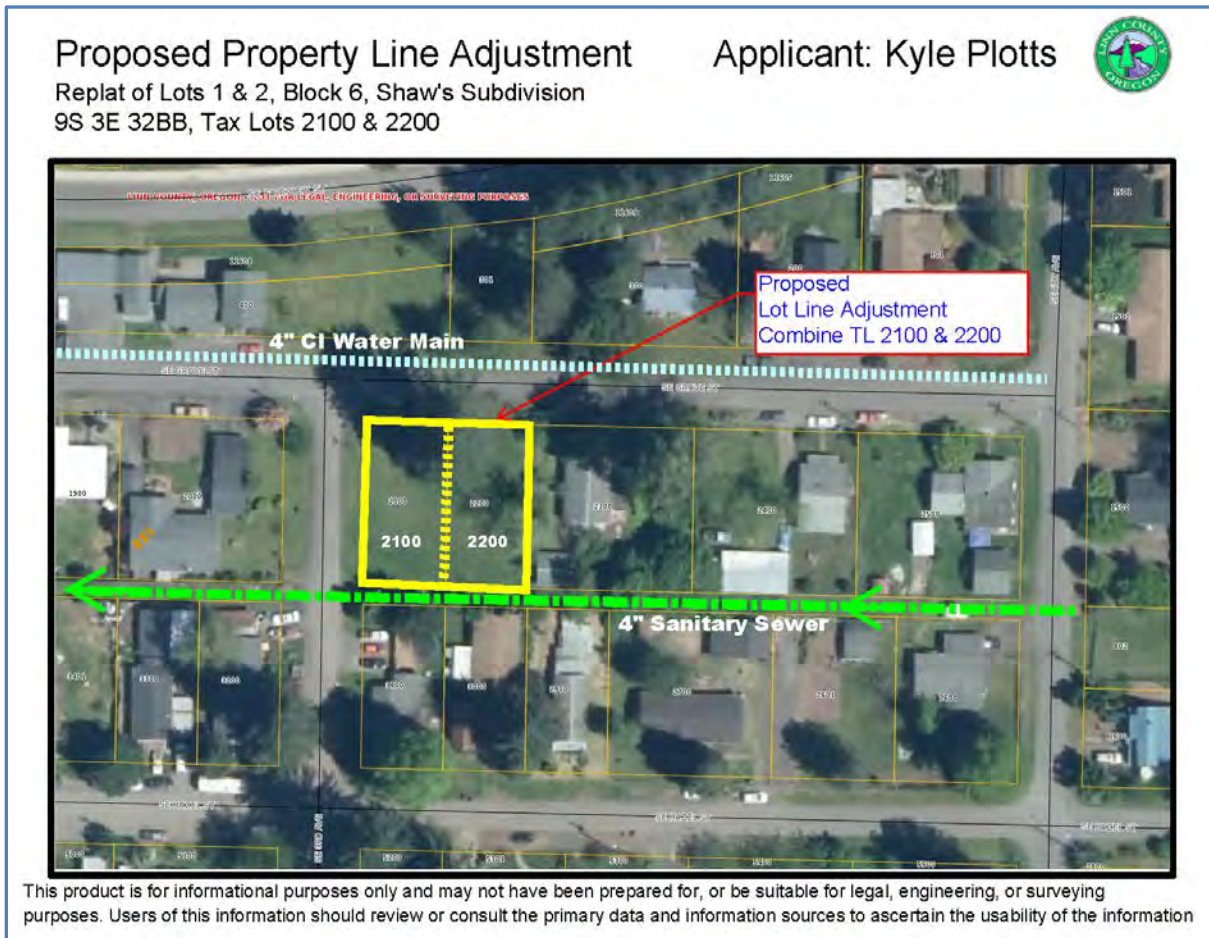
**Findings:** There are no utilities and no utility easements on the property. There is an alley on the south side of the property.

**Water:** There is a 4" Cast Iron (CI) water main on the north side of SE Grove Street.

**Sewer:** There is a sewer stub in the alley at the south end of the parcel. See Mill City Sewer As-builts, Sheet 14 of 54.

**Conclusion:** *The proposal complies with Criteria 3.*

Map 2  
Existing Utilities and Surrounding Uses



**Criteria 4:** *The property line adjustment does not create any additional parcels.*

**Findings:** No new parcels are created. One parcel will be eliminated.

**Conclusion:** *The proposal complies with Criteria 4.*

*Criteria 5: The property line adjustment does not create any building encroachments into any specified setback area. In situations where there is an existing building encroachment, the adjustment will not result in a greater setback encroachment.*

Findings: The parcels are vacant. There are no buildings encroachments. The property line adjustment will not cause any building encroachments.

**Conclusion:** *The proposal complies with Criteria 5.*

*Criteria 6: The property line adjustment does not eliminate vehicular access for any of the parcels and the new lots shall conform to the city's public works design standards and access management requirements.*

Findings: Driveway and vehicle access is available to the new lot from either SE Grove Street or SE Third Avenue. With a property line adjustment, no street improvements are required; therefore public works standards do not apply. Improvements will be required at the time a building permit is issued.

**Conclusion:** *The proposal does not eliminate vehicular access to any site and public works design standards do not apply; therefore, the proposal complies with Criteria 6.*

*Criteria 7: Verification of ownership for each property must be presented to the city recorder.*

Findings: The Linn County Assessor's records show the two parcels (TL 2100 and TL 2200) are owned by Kyle Plotts. A copy of the Deed and the County Assessor's records are included in the file.

## **CONCLUSION:**

Based upon the above stated findings, the City Planning Consultant determines the applicant's proposal for a property line adjustment complies with all applicable requirements and decision criteria of the City of Mill City, Oregon and is hereby **approved, subject to compliance with the following conditions of approval.**

## **Conditions of Approval:**

**All conditions of approval must be completed by February 15, 2020.** If conditions are not completed by that date, the approval is null and void unless a written extension is granted by the City.

1. Survey. Prepare and record a property line adjustment survey or replat survey with the Linn County Surveyor that complies with ORS 92 requirements and the requirements of the County Surveyor.
2. Provide Final Plat to the City of Mill City: A copy of the fully executed as recorded in the Linn County Surveyor's Book of Plats shall be provided to the City.
3. Building Permits. No building permits will be issued by the City until the property line adjustment survey is completed.

**Right of Appeal:** Any person aggrieved by this decision may file an appeal with the City Council within twenty-one days of the effective date of this decision. If you have any questions regarding this decision, you may contact me at City Hall at 897-2302.

Sincerely,

A handwritten signature in red ink that reads "David W. Kinney". The signature is written in a cursive style with a large, stylized 'D' and 'K'.

David W. Kinney  
Planning Consultant

cc: Mill City Planning Commission  
Linn County Surveyor



# Mill City Planning Commission 2018 - 2019 Work Program

January 2018 through December 2019  
(Submitted to the City Council – March 2018)  
**Updated – February 2019**

## 1. General Planning Services

- a. Planning Commission will handle routine planning activities
- b. Process land use applications
- c. Work w/ city staff on day-to-day planning items or small special projects.

Notes: The review and processing of land use applications is the top priority of the Planning Commission. When an application is filed, the City must make a final decision within 120 days for most applications.

## 2. TMDL 5-Year Update (Required by DEQ)

- a. Complete report on actions taken in past year to comply with Mill City's TMDL plan
- b. Update action items for new 5-year plan (2019 to 2023)
- c. Review by Planning Commission and City Council
- d. File w/ DEQ by July 1, 2018 (??).

Notes: Every five years DEQ requires each City to update its adopted Total Maximum Daily Load (TMDL) plan. The *Mill City TMDL Plan* is a list of actions the City will take to reduce water quality degradation in the North Santiam River and its tributaries. The City must adopt and implement action steps to reduce the impact and pollution from bacteria, mercury and temperature increases. The City submits an annual report to DEQ that identifies what steps it has taken to implement the action plan. The Planning Commission will review the TMDL with the city staff in March 2018. **Completed**

## 3. Land Use Fees Review and Update

Land Use Fees Resolution 632 was adopted in 2014. The City Recorder and Finance Clerk report current fees do not cover the city's costs for processing land use applications and zoning reviews. Fees should cover the city's costs for pre-application meetings, zoning reviews for building permits and processing land use applications. City expenses include costs for public hearing notices, mailings, copies, staff time, planning consultant, engineering and legal costs.

Notes: The Planning Commission will survey land use fees charged by other small cities and review actual costs incurred by the City for processing land use applications over the past 3-5 years. The Commission will recommend an updated land use fees resolution to the City Council by July 2018. The Planning Commission will review the fees in April 2018 and make a recommendation to update fees effective July 1, 2018. **Completed – Took effect on September 1, 2018.**

#### 4. **Dangerous and Derelict Building Code Revisions**

The City Recorder reports the staff and City Attorney have found a few problems with implementing the dangerous and derelict building code. They recommend the City amend the code to simplify the enforcement process, make sure derelict building standards are clear and what constitutes a violation is easily understood by the staff and property owner.

Notes: The staff proposes to work with the derelict building committee and Planning Commission to update the ordinance. City Recorder Stacie Cook would like to see this review completed and a recommendation given to the City Council by June 2018. **No action taken by Staff or Planning Commission.**

#### 5. **GIS Mapping**

- a. Update Address Map at City Hall **(Review w/ Fire Dept. – No changes made as of Jan 2019)**
- b. Reprint Zoning and Comp Plan Maps and post at City Hall. **(DWK to request from GIS as soon as the Trio Tavern and Lucas/Baughman Annexation Ordinances Adopted)**
- c. Update Water System Map **(Westech Engineering has agreed to update by July 1, 2019.)**

Notes: Linn County's GIS provides mapping services to Linn County's small cities at no cost to the cities. Current maps are outdated and need to be replaced. The City's address map (2011) needs to be reviewed with the Fire District to see if any addresses need to be corrected. The Oregon Business Development (IFA) Grant for the water rates study includes funds for water system mapping. Linn GIS staff has agreed to enter Mill City Water System data into Linn County's GIS system and prepare system maps for use by Public Works, Planning and City Hall. The water system mapping must be completed by the IFA Grant deadline. **(July 2019)**

#### 6. **Zoning Code Amendments: Public Works Improvement Standards (DLCD Model Code)**

The Planning Commission proposes to amend the Zoning & Subdivision Codes to adopt updated public facility improvement standards that will apply to all new development in Mill City.

Notes: The existing Zoning and Subdivision codes have public facility improvement requirements.

- Mill City Subdivision Code (MCMC Chapter 16): The Subdivision Code includes public improvement requirements for streets, water, sewer, storm drainage and private utilities. The standards apply to any new subdivision or partition.
- Mill City Zoning Code (MCMC Chapter 17): The existing Zoning Code includes Section 17.64.150 that states new developments must comply with the City's public improvement standards. The lack of clarity creates some problems when the city staff and planning commission review building permits or site plans for new buildings, conditional use permits, duplexes and multi-family housing projects.

In 2015, the Oregon Department of Land Conservation and Development (DLCD) and Oregon Department of Transportation (ODOT) worked with the League of Oregon Cities to update a *Model Development Code for Small Cities*. Chapter 3.6 – "Public Facilities Standards" was written to enable small cities in Oregon to provide clear public improvement standards for new development.

The Planning Commission proposes to update the City's standards to provide clarity for property owners, developers and the City public works staff, city hall staff and planning commission. An update of the public



facility standard sections in the zoning and subdivision ordinances will have several benefits:

1. Address state law changes over the past 15 years.
2. Address Dolan & Nollen U. S. Supreme Court decisions that limit a city's ability to impose public facility requirements on a new development. City facility improvement requirements must be related to the project and must be roughly proportional to the impact the development will have on those facilities.
3. Modify street improvement requirements to address small lot developments on existing turnpike streets.
4. Modify street improvement standards to state when and where the City will require full street improvements with AC pavement, curb, gutter and sidewalks.
5. Provide clear standards the City can share with developers and property owners.
6. Provide a standard review form and process to enable the city's public works and city hall staff to set public improvement requirements prior to issuance of a building permit.

**Postponed – No action taken to update PW requirements. Discuss w/ Mayor and Council before proceeding.**

#### **7. West Broadway - Street Improvement Project**

With the approval of the TIGER grant, Linn County will reconstruct W. Broadway Street (1<sup>st</sup> to 8<sup>th</sup>) in 2019 or 2020. The LC Roads Department will design the project in 2018-2019. The City Council asked that the Planning Commission participate in the review of the street design, sidewalk and streetscape improvements and make recommendations to the designers & City Council.

**Postponed – Will be on 2019 PC Work Program. Waiting for ODOT – FHWA to complete TIGER grant agreement before engineering design can be started by Linn County Roads design engineers. Project includes the W. Broadway Street design, streetscape and the review of the pedestrian trails to/from the RR Bridge.**

#### **8. FEMA – Flood Plain Ordinance Revisions to comply with FEMA/NMFS - Willamette Basin Biological Opinion to Protect Endangered Salmon/Steelhead**

The City will need to amend the Flood Plain Ordinance to comply with a U.S. Federal Court decision to protect endangered salmon and steelhead in the Upper Willamette River Basin, including the North Santiam River and its tributaries.

Notes: The Oregon Department of Land Conservation and Development (DLCD) is working with FEMA and the National Marine Fisheries Service (NMFS) to draft new rules and sample ordinances for cities in Oregon. When the new rules are issued, the City will have 3-6 months to adopt new flood plain regulations and zoning code amendments to protect the riparian zone adjacent to the river. DLCD notified cities that it expects to provide sample flood regulations by July 2018.

**Postponed – Indefinite hold until FEMA/DLCD Flood Plain Program provide clear direction to all Oregon cities.**

## 9. Zoning Code Revisions: (As needed)

- a. Informational handouts on zoning code requirements: Prepare handouts for:
  - RV Parking / Storage. Drawing showing where they may be parked and stored.
  - Clear vision area and fence location drawings
  - House elevation drawing showing architectural design features
  - Sample building site plan showing utilities, setbacks and property lines
  - Building permit packets for each type of application
- b. Zoning Code revisions
  - Minor code amendments to address staff and planning commission issues.
  - Tiny Homes – Review code to see if city needs to add a definition, lot size, site review standards, etc. to clarify where tiny homes may be permitted in the R-2 zone.

Notes: The City staff would like to have informational handouts to graphically explain some of the city's zoning code requirements for RV Parking, clear vision areas, fence locations, architectural design standards and sample building site plans.

The Planning Commission periodically updates the zoning code to address questions that come up, modify standards, state law changes and legal issues. As of February 2018, there are no pressing issues that need to be addressed. As issues arise, the Planning Commission will propose amendments.

**Nothing accomplished in 2018. Ann Carey recommends the Planning Commission discuss the use of homes in the CC/CH zones for business use. Discuss when change of use requirements and parking requirements apply to the new use.**

## 10. Training

Hold at least two training session for PC members annually.

Notes: Possible training sessions include:

- North Santiam Watershed Council (NSWC) – update on current projects in the Mill City area
- NSWC, Marion SWCD and City Recorder coordination on TMDL Plan
- GROW EDC – discussion w/ Allison McKenzie on current projects
- Overview of Public Works Master Plans (Water, Sewer, Storm Drainage & Parks, etc.)
- Land Use Decision Process – legal requirements, ethics and conflicts of interest (Refresher)
- LUBA decisions that may affect Mill City land use proposals.

**Suggestions or requests for 2019. It would be good to set up at least one or two training sessions.**

## 11. Comprehensive Plan Update

The *Mill City Comprehensive Plan* is the adopted land use plan for the City. Each city in Oregon is required to have a land use plan that guides development for the next 20 years. The *Mill City Comprehensive Plan* was originally adopted in 1980, updated in 1992 and partially updated in 2016. Completion of the *Mill City Comprehensive Plan* update has been identified by the Planning Commission as a high priority project.

Part 2 of the Comp Plan update will include:

- Chapter 7: Historic and Cultural Resources - volunteer Frances Thomas completed a DRAFT in March 2016. Final pictures to be added to complete the chapter.
- Chapter 8: Parks and Open Space – The *Mill City Parks Master Plan* was adopted in 2014. Chapter 8 will provide a brief summary of the Parks Plan and adopt the goals and policies in the Parks Plan.
- Chapter 10: Housing – DRAFT completed in November 2015.
- Chapter 11: Public Facilities – Not started.
- Chapter 12: Transportation – Not started.
- Chapter 13: Energy Conservation – DRAFT Chapter completed in August 2015.
- Chapter 14: Urbanization – DRAFT 75% completed in December 2015. An updated UGB land analysis was completed as part of the Baughman/Lucas UGB swap application in 2017.

Notes: With no grant funding available the City Council directed the planning commission to stop working on Part 2 of the comprehensive plan update in January 2016. The Planning Commission proposes to keep this project in its work program, search for grant funding and reactivate the project if funding is secured. DLCDC is accepting grant applications for projects prior to June 30, 2018 for projects in 2018-2019.

## **12. Linn County Building Department - Building Inspection Services (New Work Item)**

**LC Planning & Building is updating the building inspection services contract with all Linn County cities. A work group of small city representatives has been meeting with Linn County staff to discuss problems with the existing permit system and what the cities want to see from the new system. T**

**Linn County will begin an E-Permitting system w/ online submittal and tracking of all building permits. Should be implemented in all cities by January 2020.**

**The new program includes a module for city tracking of all permits within the City. Each City will be able to insert zoning and public works requirements for each permit and verify work is completed before final inspections and certificates of occupancy are issued.**

Work Program approved by the Mill City Planning Commission on March 16, 2018. **[Updated February 2019].**

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Ann Carey, Chairperson

on behalf of Frances Villwock, Vice-Chair, and Planning Commissioners Dennis Chamberlin, Marge Henning, David Leach, Grant Peterson and Woody Koenig.

Cc: Mayor Kirsch & City Councilors

Notes Updated March 2018 **February 2019**



*David W. Kinney*  
 Community Development Consultant  
 791 E. Hollister St.  
 Stayton, OR 97383-1334  
 Phone: 503-769-2020 \* Cell: 503-551-0899  
 E-mail: dwkinney@wvi.com

## INVOICE

Client: **City of Mill City**  
 P.O. Box 256  
 Mill City, OR 97360

Project: Planning & Administrative Services Job #: 1025

Billing Date: January 29, 2019

Professional Services rendered to the City of Mill City for the planning and administrative services during the period from January 1 to 29, 2019.

**Planning and Administrative Services:**

General

- 11.30 hours **Administrative Support:** Nuisance Ordinance Review and Updates; Prepare Memo to City Council; Attend Council Mtg on 1-08-2019; Participate in Public Works Building Design/Contractor Interviews; Review potential Capital Improvement Projects w/ Mayor and Stacie Cook; Prepare grant ideas memo for Senator Girod; Review Draft IGA for Sewer District Committee; Attend City Council meeting on 1-28-2019.
- 16.50 hours **Admin & Public Works Staffing:** Review 6-month Budget Revenue & Expenditure Reports for Staffing Workshop; Develop staffing options for February Council Workshop;
- 0.50 hours **SKATE:** Review SKATE design plans. Email plan set to Stacie Cook with comments for Dreamland. Dreamland needs to review comments, revise plans and resubmit them to the City. Comments sent to Dreamland & SKATE;
- 1.35 hours **SOB – RR Bridge Project.** Attend January 9, 2019 SOB Meeting. Waiting for grant agreement. On hold until USDOT-FHWA (Grant Agreement) and ODOT (Bridge Transfer Agreement) are finalized and provided to the City. Contacts w/ Chuck Knoll, LC Roads.
- 5.25 hours **General Planning Services:** Respond to land use questions from Stacie Cook and Vicki re: various items; Site visits to check land use questions at individual properties; Prep PC packets; Prepare 2018 Annual Report; Attend Planning Commission meeting; various emails to City, surveyors. Review current planning projects with Stacie.

**34.90 hours @ 75/hr ..... \$ 2,617.50**

Planning – Land Use Applications

- 7.85 hours **2017-02. Baughman/Lucas Annexation.** Prepare and Emails w/ Boatwright Engineering, LC Surveyor, Oregon Dept. of Revenue, Stacie re: annexation legal description and mapping. Prepare Annexation Ordinance and Exhibits for Council Adoption. Final Annexation followup letters to Secy of State, DOR, Linn County, Marion County and Utilities and applicants.
- 0.35 hours **2018-08. Ward Minor Partition.** Final Plat/Survey review and approval.
- 1.65 hours **2018-09 Kelley CP/ZC.** Prepare PC recommendation and memo to City Council. Prepare CC Notices of Public Hearing.
- 9.25 hours **2018-12 and 2018-13 Baughman LLA & Minor Partition.** Prepare Public Hearing Notices – Email to Stacie Cook.

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**19.10 hours @ 75/hr ..... \$ 1,432.50**

**Subtotal – General Planning & Admin Personal Services ..... \$ 4,050.00**

**No Charge**

- 4.50 hours General Planning and Administrative items

**Expenses**

Mileage Charges @ .55 per mile		
1-08 City Council Hearings – Kelley 38 miles .....	\$	20.90
1-09 SOB Planning Mtgs 38 miles .....	\$	20.90
1-11 PW Building Interviews 38 miles .....	\$	20.90
1-15 Planning Commission Site Visit & Hearing 38 miles .....	\$	20.90
1-22 Budget/Staff Analysis 38 miles .....	\$	20.90
1-28 City Council Meeting 38 miles .....	\$	20.90
<b>Subtotal of Expenses .....</b>	<b>\$</b>	<b><u>125.40</u></b>

**Total Due: \$ 4,175.40**

Remit to:

**David W. Kinney**  
*Community Development Consultant*  
 791 E. Hollister St.  
 Stayton, Oregon 97383

Client: City of Mill City

Month: January 2019

Date	Start Time	End Time	Total	Admin	SKATE	SCA Grants	TIGER-- SOB RR Bridge	Planning General	2017-02 Lucas-Bghmn Annex	2018-08 Ward MP	2018-09 Kelley Trio Tavn CP/ZC	2018-12 & 2018-013 Baughman MP & LUA Fairview	No Charge	Total	Work Activities	Miles
1/4/2019	12:00	1:15	1.25					1.25						1.25	Prepare PC Agenda for 1-15-2019 & 2018 Annual Rpt; Email Ann C	
1/8/2018	5:00	5:25	0.35								0.35			0.35	Final Plat Review; Email response to Jim Hepler, Azimuth Surveying	
1/8/2018	5:25	5:50	0.35							0.35				0.35	Final Plat Review; Email response to Jim Hepler, Azimuth Surveying	
1/8/2018	5:50	6:05	0.25	0.25										0.25	Review PW Interview Questions; Edit and Email to Stacie	
1/8/2018	6:10	6:30	0.35	0.35										0.35	Review City Attorney comments on nuisance ordinance	
1/8/2018	6:30	7:45	1.25	0.75							0.50			1.25	2018-09 Kelley (Trio Tavern) - City Council hearing -	
1/8/2019	7:45	8:30	0.75	0.75										0.75	CC Meeting - Nuisance Ordinance discussion	38
1/9/2019	9:45	11:00	1.25				1.25							1.25	SOB Meeting	38
1/9/2019	11:00	12:00	1.00	1.00										1.00	Review Project Lists with Stacie; Potential CIP projects for funding	
1/9/2019	12:00	3:30	3.25	0.50				2.75						3.25	PC Packet - PC followup items; Review Project List with Stacie Cook	
1/9/2019	5:45	6:30	0.75	0.75										0.75	Nuisance Ordinance Revisions per City Attorney comments. Email to Stacie Cook.	
1/10/2019	8:55	9:10	0.25	0.25										0.25	NSWW Feasibility - DRAFT IGA for Sewer District Formation	
1/10/2019	9:30	11:30	2.00										2.00	2.00	Building Permits Mtg - Millersburg	
1/10/2019	1:30	4:00	2.50						2.00				0.50	2.50	2017-02 Annexation Ordinance; Email to Ann Carey for review; Email to Jeanne Boatwright for review.	
1/10/2019	4:00	4:25	0.40								0.40			0.40	Kelley Notice of Decision; Email to Stacie Cook to mail to Mr. Kelley	
1/11/2019	8:30	11:30	3.00	3.00										3.00	PW Interviews	38
1/11/2019	12:00	1:00	1.00					1.00						1.00	DeGarma Site Visit - LUA NS River	
1/14/2019	10:00	3:00	5.00									4.00	1.00	5.00	2018-12 Baughman Staff Report; Email to PC Members	
1/15/2019	9:30	10:30	1.00									1.00		1.00	2018-12 Baughman - Hearing Guide and ORS 197.763 statement	
1/15/2019	4:00	5:15	1.25									1.25		1.25	2018-12 Baughman - Site Visit w/ PC members	
1/15/2019	5:15	6:00	0.75									0.75		0.75	2018-12 & 13 Baughman - Notices of Decision	
1/15/2019	6:30	8:00	1.50	0.25					0.25			1.00		1.50	2018-12 & 13 Baughman - Public Hearing; Annex Ord; PC Mtg	38
1/16/2019	9:45	11:15	1.25									1.25		1.25	2018-12 & 13 Baughman - Lot 2 final map; Email Notice of Decision to Stacie Cook & Scott Baughman; Edit Staff Rpt w/ final findings; Email final maps and documents to Stacie Cook.	
1/16/2019	10:15	10:20	0.10						0.10					0.10	Email PC Annual Report; Kelley Ordinance to Stacie Cook	
1/16/2019	12:30	1:45	1.00						1.00					1.00	2017-02 Incorporate Jeanne Boatwright edits into Annexation Ordinance; Email to DOR and LC Surveyor's office for review.	
1/16/2019	1:15	1:30	0.25						0.25					0.25	Respond to Steve Barnett & LC Clerk's office questions re: TL 202 and 204 at east end of SE Fairview. Prepare map and email map and copies of Ord 393 and 394 to correct city boundaries and taxing district issues.	
1/16/2019	1:30	2:30	1.00						1.00					1.00	Memo to City Council re: Lucas-Baughman Annexation Ordinance; Email documents to Stacie Cook for inclusion in CC Packets	
1/17/2019	9:40	9:50	0.15	0.15										0.15	Review Nuisance Ordinance Amendments from City Attorney; Email back to Stacie Cook.	
1/17/2019	12:00	12:30	0.50		0.50									0.50	Review and email 90% plans to Stacie Cook w/ notes.	

Client: City of Mill City Month: January 2019

Date	Start Time	End Time	Total	Admin	SKATE	SCA Grants	TIGER--SOB RR Bridge	Planning General	2017-02 Lucas-Bghmn Annex	2018-08 Ward MP	2018-09 Kelley Trio Tavn CP/ZC	2018-12 & 2018-013 Baughman MP & LUA Fairview	No Charge	Total	Work Activities	Miles
1/17/2019	12:45	2:00	1.25	1.25										1.25	Grant Ideas Memo for Senator Girod; Call Stacie Cook to discuss; Email to Mayor, Stacie & Russ	
1/18/2019	varied	1:00	0.50	0.40			0.10							0.50	Call w/ Stacie Cook re: SRTS App; Research SRTS Rankings; Email to Stacie, Todd & John Ashley re: rankings; Call w/ Stacie re: CC Agenda and Mtg on January 28th; Emails w/ Chuck Knoll re: JT Agt with ODOT/LC Roads and City of Mill City;	
1/18/2019	1:00	2:45	1.75	1.25									0.50	1.75	Budget Projections for FY 2018-19; Data to Excel Projection	
1/21/2019	9:30	3:45	6.00	4.50									1.50	6.00	Budget Projections for FY 2018-19; Data to Excel Projection	
1/22/2019	9:00	4:30	6.25	6.25										6.25	Budget Projections for FY 2018-19; Data to Excel Projection; Review staffing issues w/ Stacie Cook; Review 6-month financials w/ Vicki; Begin staffing projections worksheets	38
1/22/2019	1:45	2:00	0.25					0.25						0.25	Pre-App Discussion w/ Scott Baughman re: SW Ivy Street lots	
1/23/2019	9:10	12:40	3.50	3.00									0.50	3.50	Budget Projections: All Funds, Options 3 & 4 Staffing	
1/23/2019	3:00	3:10	0.15	0.15										0.15	Review City Council Packet for January 28, 2019 CC meeting	
1/24/2019	9:10	9:30	0.35						0.35					0.35	2017-02 Lucas-Baughman Annexation. Correct Ordinance to address errors noted by LC Surveyor's office. Add DOR Prelim Approval date. Email to Boatwright, Baughman and Stacie Cook.	
1/28/2019	6:00	7:15	1.25	1.00					0.15		0.10			1.25	City Council Meeting - Allocated	38
1/29/2019	9:15	9:35	0.30								0.30			0.30	2018-09 Kelley (Trio Tavern) - Email Ltr advising him of City Council adoption of the ordinance; Email to Stacie Cook	
1/29/2019	9:45	11:15	1.50	1.50										1.50	Nuisance Ordinance - Prepare final adoption ordinance and Exhibit "A", a clean version for adoption by the City Council. Email to Stacie Cook and Kim Johnson.	
1/29/2019	11:25	12:10	0.75						0.75					0.75	Call w/ Jim McGehee re: billing to Baughman-Lucas; DRAFT letter for final billing and adoption of annexation ordinance; Emails with Vicki Emery re: billings	
1/29/2019	12:10	12:40	0.50	0.50										0.50	Email to Andy Medcalf & AC+CO Architects; Prepare TO DO list and email to Stacie Cook - Followup from Council meeting.	
February									2.00					2.00	Final Annexation Followup - Secy of State; LC Agencies; MC Agencies; Utilities and Oregon Dept. of Revenue; Notice of Adoption to Lucas-Baughman; etc.	
			58.00	27.80	0.50	-	1.35	5.25	7.85	0.35	1.65	9.25	6.00	60.00		228

	Rate	Total
Hours	54.00	4,050.00
Mileage	228.00	125.40
		4,175.40



Client: City of Mill City Month: January 2019

Date	Start Time	End Time	Total	Admin	SKATE	SCA Grants	TIGER--SOB RR Bridge	Planning General	2017-02 Lucas-Bghmn Annex	2018-08 Ward MP	2018-09 Kelley Trio Tavr CP/ZC	2018-12 & 2018-013 Baughman MP & LUA Fairview	No Charge	Total	Work Activities	Miles
				Admin	SKATE	SCA Grants	TIGER--SOB RR Bridge	Planning General	2017-02 Lucas-Bghmn Annex	2018-08 Ward MP	2018-09 Kelley Trio Tavr CP/ZC	2018-12 & 2018-013 Baughman MP & LUA Fairview	No Charge	Total		
Hours				2,085.00	37.50	-	101.25	393.75	588.75	26.25	123.75	693.75		4,050.00		
Expenses				83.60			20.90		-			20.90		125.40		
<b>Total</b>				<b>2,168.60</b>	<b>37.50</b>	<b>-</b>	<b>122.15</b>	<b>393.75</b>	<b>588.75</b>	<b>26.25</b>	<b>123.75</b>	<b>714.65</b>		<b>4,175.40</b>		