



PLANNING COMMISSION

MONDAY, SEPTEMBER 28, 2026

WORK SESSION

3. Chapter 4 Code Enforcement (Guile-Hinman)(45 Minutes)



**PLANNING COMMISSION MEETING
STAFF REPORT**

Meeting Date: September 28, 2026		Subject: Public Safety Project Update – Updating Wilsonville Code Enforcement Provisions	
		Staff Member: Amanda Guile-Hinman, City Attorney	
		Department: Legal	
Action Required		Advisory Board/Commission Recommendation	
☐ Motion ☐ Public Hearing Date: ☐ Ordinance 1 st Reading Date: ☐ Ordinance 2 nd Reading Date: ☐ Resolution ☒ Information or Direction ☐ Information Only ☐ Council Direction ☐ Consent Agenda		☐ Approval ☐ Denial ☐ None Forwarded ☒ Not Applicable	
		Comments: N/A	
Staff Recommendation: N/A			
Recommended Language for Motion: N/A			
Project / Issue Relates To:			
☒ Council Goals/Priorities: 2025-27 Council Goal No. 2: Public Safety; Strategy 2.2	☐ Adopted Master Plan(s):	☐ Not Applicable	

ISSUE BEFORE PLANNING COMMISSION:

Discussion and input on draft updates to Wilsonville Code Chapter 4 to conform to proposed new administrative process for enforcing most of the Wilsonville Code.

EXECUTIVE SUMMARY:

As part of its 2025-27 Council Goals, the City Council adopted Goal 2: Public Safety. The first outcome identified in Goal 2 is to “streamline response to code enforcement challenges.” To achieve this outcome, Strategies 2.2 calls for the City to “update Chapter 1 code enforcement process and penalties” and to “investigate the potential implementation of an administrative process.” At the August 12, 2026 Planning Commission work session, staff provided an introductory overview of the code enforcement update project and the role of the Planning Commission in making recommendations of updates to Chapter 4 as part of the larger proposed new code enforcement process. At the August 17, 2026 City Council work session, staff provided an overview of each of the steps to the proposed new administrative code enforcement process and proposed exemptions to this process. At the September 10, 2026 City Council work session, the City Council reviewed details of the structure of the proposed new administrative code enforcement process that would be adopted into Chapter 1 of the Wilsonville Code and the list of provisions in the Wilsonville Code that are proposed to be exempted from that process.

This staff report reviews the details of the structure of the proposed new administrative code enforcement process that would be adopted into Chapter 1 of the Wilsonville Code and the corresponding draft updates to Chapter 4 to conform to Chapter 1 updates.

I. ADMINISTRATIVE CODE ENFORCEMENT PROCESS

Attached to this staff report as **Attachment 1** provides the draft revisions to Chapter 1. **Attachment 2** is a clean version of the draft revisions of Chapter 1 for easier reading. **Attachment 3** provides the proposed revisions to various provisions within Wilsonville Code Chapter 4 to conform to the proposed changes in Chapter 1.

A. Summary of Proposed Administrative Process – Chapter 1 Updates

The steps of the proposed administrative code enforcement process, as outlined in Attachment 1 and Attachment 2 are:

1. Purpose and applicability:
 - Generally applies to civil (non-criminal or traffic) code violations; applies to “responsible persons,” not just a property owner. Certain code provisions are recommended to be exempted from the administrative process.
2. Investigation of possible violation:
 - Upon a complaint or proactive observation, the Compliance Officer may investigate violations and collect evidence.
 - May inspect public areas, may enter private areas only if: (1) consent; (2) administrative warrant; or (3) exigent circumstances necessitating immediate entry.
3. Notice of code violation:
 - If a violation is confirmed, the Compliance Officer issues a Notice of Violation by posting and mailing (or in-person delivery).

4. Corrective action by responsible person:
 - Correct violation within deadline stated in Notice of Violation.
 - Enter into a voluntary compliance agreement within the deadline stated in the Notice of Violation.
5. Corrective action by City:
 - If responsible person fails to act or violates voluntary compliance agreement, City may undertake corrective action.
 - An administrative warrant is required for entry unless the violation poses an immediate threat to health or safety.
 - Notice and collection of corrective action costs:
 - All responsible persons are jointly and severally liable for all costs incurred by the City.
 - City prepares Notice of Corrective Action Costs, posts on premises and mail (or in-person delivery).
 - Deadline for payment or else costs are recorded as a city lien on the property with interest.
6. Remedies and penalties:
 - Corrective action cost recovery is remedial, and thus in addition to penalty(ies) for code violation(s).
 - If violation fully corrected within deadline stated in Notice of Violation or voluntary compliance agreement, then civil penalty may be waived.
 - If not fully corrected within deadline, the City may impose a civil penalty by issuing a Notice of Civil Penalty.
 - Notice of Civil Penalty is posted and mailed (or in-person delivery).
 - Each uncorrected day is a separate violation.
 - Assessment of penalties:
 - Range from \$25 to \$5,000 depending on several factors:
 - Prior violations;
 - Gravity and magnitude of violation;
 - Whether violation was repeated or continuous;
 - Whether the cause was an unavoidable accident, negligence, or an intentional act;
 - Violator's cooperativeness and efforts to correct the violation; and
 - Any other relevant rules or regulations of the City of Wilsonville.
 - If not paid, the civil penalty is recorded as a lien against the property.
7. Protests and appeals:
 - Protest to City Manager within 10 days with reasoning and evidence.
 - City Manager issues a final order to uphold, amend, or dismiss the Notice of Violation, Notice of Corrective Action Costs, or Notice of Civil Penalty.

- Appeal to City Council within 10 days of City Manager’s final order, with reasoning and evidence.
- A responsible party may seek review of the City Council decision by writ of review under ORS Chapter 34.

B. Summary of Proposed Updates to Chapter 4

Several provisions in Chapter 4 either provide for or reference enforcement processes, and so necessitate updates to conform to the proposed updates to Chapter 1. The proposed updates are provided in **Attachment 3** to the staff report. Staff seeks feedback from Planning Commission regarding the proposed approach to updating the City’s general code enforcement process as it relates to enforcement of violations of Chapter 4. Below is a chart summarizing the proposed updates to provisions in Chapter 4.

Section	Summary of Proposed Revision
4.004 – Development Permit Required	Clarifies that the Planning Director, who is responsible for administering and enforcing Chapter 4 under WC 4.025, may enforce Chapter 4, along with the building official’s obligation to withhold issuing building permits for developments that do not have a development permit.
4.025 – Enforcement and Administration	Clarifies that compliance with and enforcement of Chapter 4 will be conducted pursuant to the provisions in Chapter 1.
4026 – Enforcement Procedures and Penalties	Enforcement of Chapter 4 is conducted pursuant to Chapter 1, rather than Chapter 4 having its own processes. Also clarifies that applications submitted by a person who is currently in noncompliance will not be reviewed by the City until requirements are met.
4.137.3 – Solar Access Permit Standards	Violations of solar access permit will be subject to the administrative process in Chapter 1, in addition to other laws and regulations available to the City.
4.156.11 – Sign Enforcement	Violations of the sign code provisions will be subject to the administrative process in Chapter 1, in addition to other laws and regulations available to the City.
4.290 – Penalties (Land Divisions)	Violations of the land division code provisions will be subject to the administrative process in Chapter 1, in addition to other laws and regulations available to the City.
4.630.10, 4.640.00, 4.640.10, 4.640.20 – Tree Code enforcement provisions	Violations of the tree code provisions will be subject to the administrative process in Chapter 1, in addition to other laws and regulations available to the City. Retains mitigation requirements provided in 4.640.00. Recommend deleting WC 4.640.10, as relevant provisions have been incorporated into proposed Chapter 1.
4.808 – Inspections (Wireless Communication Facilities)	Clarifies that inspections may occur on private property by: (1) consent; (2) consent through a permit, agreement, license, etc.; or (3) administrative warrant.
4.813 – Mandatory Permit Conditions for 6409(a) WCFs	Clarifies that inspections may occur on private property by: (1) consent; (2) consent through a permit, agreement, license, etc.; or (3) administrative warrant.

Upon receiving feedback from Planning Commission and the City Council, staff anticipates a public hearing before the Planning Commission related to the updates to Chapter 4 in October and then a public hearing and second reading before City Council of all the proposed revisions in November. The proposed effective date for any changes is January 1, 2027.

STAFF RECOMMENDATION:

Staff recommends that Chapter 1 is updated to include an overarching code enforcement administrative process, including references to each Chapter that falls under its purview. Additionally, staff recommends that other references in Wilsonville Code are updated to reflect any new Chapter 1 processes and that Chapter 1 includes language that specifies which Chapters of the Code it does not apply to.

EXPECTED RESULTS:

Streamlined, efficient, and clear code enforcement procedures for any violations of Wilsonville Code provisions.

TIMELINE:

Proposed public hearing before Planning Commission in October and before City Council in November, with an effective date of January 1, 2027.

CURRENT YEAR BUDGET IMPACTS:

Staff does not anticipate current year budget impacts. This project is currently being managed in-house by City staff.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

Council's Public Safety Goal aims to ensure that City staff and community members have the tools necessary to address different public safety and livability concerns. An administrative code enforcement process to streamline responses to code violations within the City and ensuring that there is fair and equal application of penalties to violators overall will ensure that any future issues are clearly resolved to benefit the overall community.

ATTACHMENTS:

- 1 – Proposed revisions to Chapter 1
- 2 – Clean version of proposed revisions to Chapter 1
- 3 – Proposed revisions to Chapter 4

PART II - CODE OF ORDINANCES
Chapter 1 GENERAL

Chapter 1 GENERAL

1.005. Code Designated.

All ordinances included in this and the following chapters shall constitute and be designated "The Wilsonville Code, 1981" and will hereafter be referred to as "Code." When referring to specific sections of the Wilsonville Code, the letters "WC" should precede the numerical designation.

CIVIL ENFORCEMENT OF CODE VIOLATIONS

1.007. Purpose and Applicability

- (1) The purpose of the civil enforcement provisions in this Chapter is to establish civil procedures for the enforcement of certain provisions of the Wilsonville Code.
- (2) The procedures for the administrative enforcement established herein are for the purposes of providing an efficient, convenient, and practical forum for the hearing and determination of cases of violations of the Wilsonville Code.
- (3) The civil enforcement of Wilsonville Code violations are intended to be used for all violations of the Wilsonville Code, as well as to all plans, permits, and licenses adopted or issued pursuant to said provisions, except as follows:
 - (a) Chapter 5 Vehicles and Traffic;
 - (b) WC 8.300-8.318 Stormwater;
 - (c) WC 8.500-8.502 Enforcement of Industrial Wastewater Regulations;
 - (d) WC 8.600-8.608 Industrial Pretreatment Program Enforcement Response Plan;
 - (e) Chapter 9 Building Code;
 - (f) WC 10.000-10.530 Oregon Criminal Code, Providing for Welfare of Minors, Animals, Miscellaneous, and General violations;
 - (g) WC 10.540 Civil Exclusion; and
 - (h) WC 10.600-10.680 Transit Rider Rules.
- (4) Violations of Chapter 4 may include mitigation requirements in addition to enforcement pursued under this Chapter.
- (5) Acts or omissions to act which are designated as a violation in the Wilsonville Code do not require a culpable mental state as an element of the violation.

1.010. Definitions and Rules of Construction.

- (1) The following definitions and rules of construction shall be observed, unless inconsistent with the intent of the Council or the context clearly requires otherwise:

City. Wilsonville, Oregon.

City Manager. The City Manager or any other employee designated by the City Manager.

Compliance Officer. Any person designated by the City Manager, or by another person having explicit authority under the Wilsonville Code, as responsible for enforcing provisions of the Wilsonville Code.

Computation of Time. The time within which an act is to be done, including the giving of advance notice of a general or special election of the City, is computed by excluding the first day and including the last, unless the last falls on a legal holiday as defined in ORS 187.010 or 187.020 or on Saturday, in which case the last day is also excluded.

Council. City Council of the City.

County. Clackamas or Washington County, Oregon.

Day. The period of time between any midnight and the midnight following.

Daytime; Nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Department, board, commission, office, offices or employee. A department, board commission, office, offices or employee of the City.

Gender. The masculine gender includes the feminine and neuter.

In the City. All territory over which the City now has or shall hereafter acquire jurisdiction for the exercise of its regulatory powers.

Joint authority. All words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Minor. A person under the age of 18 years, unless otherwise stated.

Number. The singular number includes the plural, and the plural the singular.

Oath. "Oath" includes affirmation.

Official time. Whenever certain hours are named herein, they shall mean the standard of time as set out in ORS 187.110.

Or, and. "Or" may be read "and" and "and" may be read "or," if the sense requires it.

Owner. A part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of the building or land, or vendee in possession under a land sales contract.

Peace officer. A City police officer or other officer specified in ORS 133.170.

Person. Individuals, corporations, associations, firms, partnerships and joint stock companies.

Personal property. Every species of property, except real property, as herein defined.

Process. A writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Property. Both real and personal property.

Real property. Lands, tenements and hereditaments.

Responsible party. At least one of the following: (a) an owner; (b) a person acting as an agent of the Owner by agreement that has the authority over the property, is responsible for the property's maintenance or management, or is responsible for curing or abating a violation; (c) any person occupying the property, including, but not limited to, a lessee, tenant, or other having possession; or (d) the person who is alleged to have caused a violation of the Wilsonville Code or who has the authority to direct and control the person causing the violation.

Shall, may. "Shall" is mandatory and "may" is permissive.

Signature or subscription by mark. "Signature" or "subscription" includes mark when the signer or subscriber cannot write, the signer's or subscriber's name being written near the mark by a witness who writes his/her own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

State. Oregon.

Tenant or occupant. A person holding a written or an oral lease of or who occupies, the whole or a part of the building or land, either alone or with others.

Tenses. The present tense includes the past and future tenses, and the future includes the present.

To. "To" means "to and including" when used in reference to a series of sections of this Code or when reference is made to the Oregon Revised Statutes.

Week. Seven consecutive days.

Writing. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise.

Year. A calendar year, except where otherwise provided.

1.011. Identification and Investigation of Code Violation

- (1) Upon receipt of a complaint, or upon the proactive observance of any City employee, a Compliance Officer is authorized to investigate and determine whether a Code violation exists by gathering and documenting evidence, as appropriate to the nature of the alleged violation.
- (2) When entry on private property is necessary or desirable for the identification or investigation of a Code violation, a Compliance Officer is authorized as follows:
 - (a) A Compliance Officer may enter onto a public or private property that is open to the public at reasonable times to determine whether a Code violation exists.
 - (b) A Compliance Officer may enter onto a private property that is not open to the public at reasonable times to determine whether a Code violation exists when the Compliance Officer:
 - (i) Has received permission from any person in charge of the property;
 - (ii) Has an administrative warrant issued pursuant to the provisions of this Chapter authorizing entry for inspection of the property; or
 - (iii) Determines that an emergency or other exigent circumstance exists requiring immediate entry.
- (3) An administrative warrant may be issued by the Municipal Judge pursuant to the procedures provided in this Chapter.
- (4) A person must not interfere with or attempt to prevent a Compliance Officer from entering onto any property when such entry is authorized by the provisions of this Section.

1.012. Notice of Code Violation

- (1) If the Compliance Officer is satisfied that a Code Violation exists, the Compliance Officer will cause a Notice of Code Violation to be posted on the property, or at the site of the Code violation, directing the responsible party to correct the Code violation.
- (2) On the same day of the posting, the Compliance Officer must also cause a copy of the Notice of Code Violation to be mailed by certified mail to the owner of the property (or registered agent), and, as applicable, to any person in charge of the property and to the responsible party, at the last known address of such person(s) as shown on the tax rolls of Washington or Clackamas County. If the mailed Notice of Code Violation is returned as undeliverable or is unclaimed, it will not preclude the City from taking enforcement or corrective actions as described in this Chapter.
- (3) The Notice of Code Violation must contain:
 - (a) A description of the real property, by street address or otherwise, on which the Code violation exists;
 - (b) A description of the Code violation found to exist by the Compliance Officer;
 - (c) A determination of whether the Code violation presents an immediate threat to the public health, welfare or safety;
 - (d) A direction to correct the Code violation within 30 days from the date of notice, or a shorter duration if the Compliance Officer determines a shorter duration is necessary and appropriate;
 - (e) A statement that failure to correct a Code violation may warrant imposition of a civil penalty upon all persons responsible for the Code violation;
 - (f) Instructions describing the process of submitting a voluntary compliance plan as outlined in this Chapter; and
 - (g) A statement that the owner or any responsible party may protest the Notice of Code Violation by giving written notice as described in WC 1.019 to the City Manager not later than 14 days after the date of the notice.
- (4) Upon completion of the posting and mailing of the Notice of Code Violation, the Compliance Officer must execute and place on file with the City Manager a certificate stating the date and place of the mailing and posting.
- (5) If the Compliance Officer meets all requirements for posting and mailing the Notice of Code Violation set forth in this Section, then the failure of any person to receive actual notice will not void any Code enforcement process set forth in this Chapter. An error in the name of the property owner or responsible party shall not render void a Notice of Code Violation.
- (6) If the owner or other responsible party fails to timely appeal the Notice of Code Violation in compliance with the procedures set forth in this Chapter, then the violation will be deemed proven, and no further appeal of the Notice of Code Violation will be allowed.

1.013. Corrective Action by Responsible Party

- (1) All responsible parties must correct all violations described in the Notice of Code Violation not later than the date set forth in the notice, or the date set forth in any final order or decision issued on appeal.
- (2) The complete correction of a Code violation within the time prescribed in the Notice of Code Violation or the final order issued upon any appeal of the notice, will relieve a responsible party from the imposition of any civil penalty under this Chapter.

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- (3) If a responsible party admits responsibility for the violation, they may submit a voluntary compliance plan for correcting the violation to the Compliance Officer within the time prescribed in the Notice of Code Violation. The compliance plan must contain the following:
- (a) The responsible party's name, mailing address, telephone number and email address;
 - (b) A detailed plan for correction of the violation(s) over a reasonable period of time;
 - (c) Written consent for the Compliance Officer or their designee to enter the property for the purpose of:
 - (i) Verifying compliance with the terms of the compliance plan; or
 - (ii) Taking actions to correct the violation upon determining that the terms of the compliance plan have not been met;
 - (d) An agreement to pay the costs related to City plan review, meetings, inspections, and other City-incurred costs to review and ensure completion of the voluntary compliance plan.
- (4) The City Manager will review the voluntary compliance plan and may approve the plan as presented, approve a modified plan, or reject the plan, at their discretion. The decision of the City Manager regarding whether to accept, reject, or modify a voluntary compliance plan is final and not subject to appeal. If the responsible party does not agree with the City-approved compliance plan, the City may proceed to enforce the violation that gave rise to the voluntary compliance plan, including, but not limited to, engaging in City-led corrective action and/or assessing a civil penalty.
- (5) If the voluntary compliance plan is accepted, the City shall suspend further processing of the alleged violation during the time allowed in the voluntary compliance plan for completion of the necessary corrective action. The City shall take no further action concerning the alleged violation if all terms of the voluntary compliance plan are satisfied, other than steps necessary to terminate the enforcement action.
- (6) Failure to comply with any term of a voluntary compliance plan constitutes an additional and separate violation which shall be penalized in accordance with the procedures established by this Chapter. After the voluntary compliance plan has been signed, the City may issue a civil penalty, and may proceed to enforce the violation that gave rise to the voluntary compliance plan.

1.014. Corrective Action by City

- (1) The City may enter a property as provided in this Section and may take all necessary actions to correct a Code violation, whenever a responsible party or owner fails to take corrective action, or upon the determination by a Compliance Officer that a person has failed to comply with the terms of a voluntary compliance plan. Except when the Compliance Officer has received consent from a responsible party or owner or as provided in subsection (3) of this Section, an administrative warrant is required before a Compliance Officer may enter the property.
- (2) If the City determines that the violation for which a Notice of Code Violation has been issued is an immediate threat to the public health, welfare or safety, or that any continuance of the violation would allow the responsible party or owner to profit from the violation or would otherwise be offensive to the public at large, the City Manager or designee may require immediate remedial action as provided in subsection (3) of this Section.
- (3) In the case of an immediate danger to the public health, safety or welfare determined under subsection (2) of this Section, the City may abate the violation and charge the abatement cost back, and an additional charge of 20 percent for administrative overhead, to the responsible party or owner, after obtaining an administrative warrant to enter the property and abate the violation. If the immediate danger constitutes an emergency threatening immediate death or physical injury to persons, the City may abate the violation

without obtaining an administrative warrant if the delay associated with obtaining the administrative warrant would result in increased risk of death or injury, and may charge the abatement costs back to the responsible party or owner.

1.015. Notice and Collection of Corrective Action Costs

- (1) The owner, all persons in charge of the property, and all other responsible parties are jointly and severally liable for all costs associated with corrective actions taken by the City, including administrative costs, warrant costs, and attorney fees.
- (2) The City Manager must keep an accurate record of the expense incurred by the City for all corrective actions.
- (3) After the Code violations have been determined by the City to be corrected, the City Manager must cause a Notice of Corrective Action Costs to be posted on the property, or at the site of the Code violation.
- (4) On the same day of the posting, the City Manager must also cause a copy of the Notice of Corrective Action Costs to be forwarded by certified mail to the owner of the property (or registered agent), and, as applicable, to any person in charge of the property and to the responsible party, at the last known address of such person(s) as shown on the tax rolls of Washington or Clackamas County.
- (5) The Notice of Corrective Action Costs must contain:
 - (a) A copy of the Notice of Code Violation and any final orders issued in the matter;
 - (b) The total costs of corrective actions, and an additional charge of 20 percent for administrative overhead, due and payable within 30 days of the notice of corrective action costs;
 - (c) Notification that the costs of corrective actions may be assessed on the municipal utility bill associated with the property and may become a lien against the property if not paid when due; and
 - (d) Notification that if any owner or other responsible party objects to the Notice of Corrective Action Costs, a written protest must be filed with the City Manager within 14 days from the date of the notice.
- (6) Collection and Abatement Costs.
 - (a) The costs listed in the Notice of Corrective Action Costs will become delinquent if not paid within 30 days of the date of the notice or within 14 days of the date set forth in any final order or judgment issued on appeal of the notice, whichever comes later.
 - (b) Assessment of the delinquent corrective action costs must be made by City Council resolution to be entered in the docket of City liens or recorded in the Official Records of Clackamas or Washington County. When the entry is made, it will constitute a lien on all real property on which the corrective action occurred.
 - (c) The lien will be enforced in accordance with the Wilsonville Code and Oregon law.
- (7) If the Compliance Officer meets all requirements for posting and mailing the Notice of Corrective Action Costs set forth in this Section, then the failure of any person to receive actual notice will not void the assessment of any corrective action costs.
- (8) If the owner or other responsible party fails to appeal the Notice of Corrective Action Costs in compliance with the procedures set forth in this Chapter, then the cost assessment shall be deemed proven and no further appeal of the Notice of Corrective Action Costs will be allowed.

1.016. Imposition of Civil Penalty

- (1) Upon a determination by the Compliance Officer that a person engaged in a Code violation, the Compliance Officer may impose upon the violator and/or any other responsible person an administrative civil penalty of no less than \$25 and not greater than \$5,000, per violation per day the violation is occurring and per tax lot upon which the violation is occurring, as provided by this Section.
- (2) Prior to imposing a civil penalty, the Compliance Officer must pursue reasonable attempts to secure voluntary correction as provided by this Chapter.
- (3) In imposing a penalty authorized by this Section, the Compliance Officer will consider:
 - (a) The responsible party's past history in taking all feasible steps necessary or appropriate to correct the violation;
 - (b) Any prior violations of statutes, rules, orders, and permits on the property or by the responsible party;
 - (c) The gravity and magnitude of the violation;
 - (d) Whether the violation was repeated or continuous;
 - (e) Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
 - (f) The responsible party's cooperativeness and efforts to correct the violation; and
 - (g) Any relevant rule of the Wilsonville Code.
- (4) Notwithstanding the foregoing, if a responsible party has gained money or property through the commission of a violation enforceable under this Chapter, then, in lieu of imposing a civil penalty, may fine the responsible party double the amount of the gain from the commission of the violation.
- (5) The City Manager and Compliance Officer are also authorized to take other enforcement actions including, but not limited to, issuing stop-work orders, including the civil penalty on a property owner's municipal utility bill, recording a lien against the property of the assessed civil penalty, and/or revoking or withholding permits, certificates of occupancy, plat approvals, and any other City approval, license, permit, or certificate sought by the property owner or responsible party.

1.017. Notice of Civil Penalty

- (1) Upon finding that a Code violation exists and has not been voluntarily corrected within the time specified in the Notice of Code Violation or the final order issued upon appeal of the notice, the City Manager may impose a civil penalty.
- (2) Each day that a Code violation continues to exist will constitute a separate violation and a new civil penalty may be assessed for each consecutive day the violation continues without correction.
- (3) The Compliance Officer shall cause a Notice of Civil Penalty to be posted on the property and forwarded by certified mail, postage prepaid, to any person in charge of the property and the owner of the property (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Washington or Clackamas County.
- (4) If the certified Notice of Civil Penalty is returned as undeliverable or is unclaimed by any person, it will not preclude the City from imposing a civil penalty as described in this Chapter.
- (5) The Notice of Civil Penalty must contain the following:
 - (a) A description of the real property, by street address or otherwise, on which the Code violation exists;

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- (b) A description of the Code violation found to exist by the Compliance Officer;
 - (c) A copy of the Notice of Code Violation and any final orders issued in the matter;
 - (d) A statement indicating whether the Code violation has been corrected or is considered a continuing violation subject to the imposition of a daily civil penalty;
 - (e) A calculation of the total amount of the civil penalty or, or in the case of a continuing violation, the amount of civil penalty that has accrued as of the date of the notice;
 - (f) A statement that the amount of the civil penalty may become a lien on the property if not paid in full within 30 days of invoicing;
 - (g) A statement that the owner or any responsible party may protest the Notice of Civil Penalty by giving written notice to the City Manager within 14 days from the date of the notice, together with a written statement as to why the civil penalty should be modified or not assessed.
- (6) If the Compliance Officer meets all requirements for posting and mailing the Notice of Civil Penalty set forth in this Section, then the failure of any person to receive actual notice will not void the assessment of any civil penalty.
- (7) If the owner or other responsible person fails to appeal the Notice of Civil Penalty in compliance with the procedures set forth in this Chapter, the amount of the civil penalty shall be deemed final and no further appeal of the Notice of Civil Penalty will be allowed.

1.018. Civil Penalties Not Exclusive

- (1) The imposition of a civil penalty does not relieve a responsible party of the duty to correct a Code violation or pay all corrective action costs assessed by the City.
- (2) The procedures described by this Chapter shall be the exclusive procedures for imposing civil penalties; however, this Chapter shall not be read to prohibit in any way alternative remedies set out in the Wilsonville Code which are intended to abate or alleviate Code violations, nor shall the City be prevented from recovering, in any manner prescribed by law, any costs incurred by it in abating or removing Code violations pursuant to any Code provision.
- (3) The remedies and procedures for abatement of civil violations provided in this Chapter are in addition to all other remedies and procedures provided by law. Nothing in this Chapter shall limit or restrict in any way the City's right to obtain abatement by means of a judicial action, an administrative enforcement action, a criminal action, a civil lawsuit or any other form of procedure to obtain abatement.

1.019. Protests and Appeals

- (1) Protest to the City Manager.
- (a) An owner or other responsible party of a property may protest a Notice of Code Violation issued pursuant to Section 1.012, a Notice of Corrective Action Costs issued pursuant to Section 1.015, or a Notice of Civil Penalty issued pursuant to Section 1.017 by submitting a written protest to the City Manager within 14 days of the date of the relevant notice.
 - (b) The written protest must, at a minimum, contain the following information:
 - (I) The name, mailing address, telephone number and email address of the person submitting the protest;
 - (II) A description of the real property, by street address or otherwise, on which the Code violation is alleged to exist;

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- (III) A written statement, and all supporting evidence, specifying the basis for the protest.
 - (c) The City Manager will review the notice and the protest, together with all supporting evidence in the record, and will issue a final order that either upholds, amends, or dismisses the findings and determination set forth in the notice.
 - (d) If the City Manager issues a final order that upholds or amends the notice, the owner or responsible party must comply with the terms of the order within 30 days from the date of the order, or a shorter duration if the City Manager determines a shorter duration is necessary and appropriate.
 - (2) Appeal to City Council.
 - (a) An owner or other responsible party of a property may dispute a final order issued by the City Manager pursuant to subsection (1) of this Section by submitting a written appeal to the City Recorder within 14 days of the date of the City Manager's final order. The appeal hearing will take place at a meeting of the City Council and shall be decided by the City Council.
 - (b) The written appeal must, at a minimum, contain the following information:
 - (I) The name, mailing address, telephone number and email address of the person submitting the protest;
 - (II) A description of the real property, by street address or otherwise, on which the Code violation is alleged to exist;
 - (III) A written statement, and all supporting evidence, specifying the basis for appealing the City Manager's final order.
 - (c) Subject to the requirements of this Section, the City Council may adopt additional procedures for the conduct of any hearings before them, but at a minimum, must allow each party to introduce evidence, including rebuttal evidence, that is relevant to prove or refute any matter raised in the underlying notice or City Manager's final order.
 - (d) Following the closing of the record, the City Council will issue a decision that either upholds, amends, or dismisses the City Manager's final order.
 - (e) If the City Council decision upholds or amends the City Manager's final order, then the City Council's final order must include:
 - (I) A brief statement of the findings of fact;
 - (II) The amount of any assessed corrective action costs, civil penalties, and associated administrative costs;
 - (III) The date by which any costs and assessments must be paid; and
 - (IV) An order directing the responsible party to correct the Code violation, pay the assessed corrective action costs, and/or pay the assessed civil penalty, as appropriate to the nature of the appeal.
 - (f) If the City Council's decision dismisses the City Manager's final order, then the City Council's final order must include an order that all costs of the abatement will be dismissed or refunded.
 - (3) Appeal of the City Council's Final Order.
 - (a) Any party to the appeal may obtain review of the City Council's final order by writ of review pursuant to ORS Chapter 34.

~~1.011. Fines and Prison Terms for Misdemeanors.~~

- ~~(1) Any person convicted of a misdemeanor shall be punished by a fine or by imprisonment or by both such fine and imprisonment subject to the limitations in sub-paragraphs (2) and (3) below:~~
- ~~(2) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding:~~
- ~~(a) \$2,500.00 for a Class A Misdemeanor;~~
 - ~~(b) \$1,000.00 for a Class B Misdemeanor;~~
 - ~~(c) \$500.00 for a Class C Misdemeanor;~~
- ~~(3) A sentence for a misdemeanor shall be for a definite term. The Court shall fix the term of imprisonment within the following maximum limitations:~~
- ~~(a) One year for a Class A Misdemeanor;~~
 - ~~(b) Six months for a Class B Misdemeanor;~~
 - ~~(c) Thirty days for a Class C Misdemeanor.~~

~~(Ord. No. 253, 2-21-1984)~~

~~1.012. Fines for Violation.~~

- ~~(1) Any person sentenced to pay a fine for a violation, unless provision is otherwise made herein, shall upon conviction thereof, be punished by a fine, fixed by the Court, not exceeding \$500.00. However, no greater penalty shall be imposed than the penalty prescribed by the Oregon statute for the same act or omission. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and may be punished accordingly.~~

~~(Ord. No. 630, 6-4-2007)~~

~~1.013. Violation Enforcement.~~

- ~~(1) Violations shall be enforced pursuant to the provisions of ORS 153.005 to 153.800.~~

~~(Ord. No. 694, 5-2-2011)~~

~~1.014. Misdemeanor Enforcement.~~

- ~~(1) Misdemeanors shall be enforced pursuant to the applicable sections of ORS Chapter 133.~~

~~(Ord. No. 253, 2-21-1984)~~

~~1.015. Requirements of Culpability.~~

- ~~(1) The minimal requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is capable of performing.~~

~~(2) Except as provided in Subsection (3), a person is not guilty of an offense unless he acts with a culpable mental state as defined by ORS 161.085 with respect to each material element of the offense that necessarily requires a culpable mental state.~~

~~(3) Notwithstanding Subsections (1) and (2), a culpable mental state is not required if the offense constitutes a violation as defined by Section 1.012, unless a culpable mental state is expressly included in the definition of the offense.~~

~~(Ord. No. 253, 2-21-1984)~~

1.02016. Definitions.

- (1) The definitions contained in the Oregon Criminal Code, as defined by ORS 161.005, as now or hereafter constituted, are adopted by reference and made a part of the Wilsonville Code. Except where the context clearly indicates a different meaning, the general definitions appearing in the definitional and other sections of particular articles of the Oregon Criminal Code shall be applicable throughout the Wilsonville Code.

(Ord. No. 253, 2-21-1984)

1.02117. Continuation of Existing Ordinances.

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

(Ord. No. 253, 2-21-1984)

1.0220. Effect of Repeal of Ordinances.

The repeal of an ordinance shall not revive an ordinance in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

1.025. Severability of Parts of Code.

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

1.030. Catchlines of Sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed as a part of the section, nor, unless expressly so provided, shall they be so deemed when sections, including the catchline, are amended or re-enacted.

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Chapter 1 GENERAL

1.005. Code Designated.

All ordinances included in this and the following chapters shall constitute and be designated "The Wilsonville Code, 1981" and will hereafter be referred to as "Code." When referring to specific sections of the Wilsonville Code, the letters "WC" should precede the numerical designation.

CIVIL ENFORCEMENT OF CODE VIOLATIONS

1.007. Purpose and Applicability

- (1) The purpose of the civil enforcement provisions in this Chapter is to establish civil procedures for the enforcement of certain provisions of the Wilsonville Code.
- (2) The procedures for the administrative enforcement established herein are for the purposes of providing an efficient, convenient, and practical forum for the hearing and determination of cases of violations of the Wilsonville Code.
- (3) The civil enforcement of Wilsonville Code violations are intended to be used for all violations of the Wilsonville Code, as well as to all plans, permits, and licenses adopted or issued pursuant to said provisions, except as follows:
 - (a) Chapter 5 Vehicles and Traffic;
 - (b) WC 8.300-8.318 Stormwater;
 - (c) WC 8.500-8.502 Enforcement of Industrial Wastewater Regulations;
 - (d) WC 8.600-8.608 Industrial Pretreatment Program Enforcement Response Plan;
 - (e) Chapter 9 Building Code;
 - (f) WC 10.000-10.530 Oregon Criminal Code, Providing for Welfare of Minors, Animals, Miscellaneous, and General violations;
 - (g) WC 10.540 Civil Exclusion; and
 - (h) WC 10.600-10.680 Transit Rider Rules.
- (4) Violations of Chapter 4 may include mitigation requirements in addition to enforcement pursued under this Chapter.
- (5) Acts or omissions to act which are designated as a violation in the Wilsonville Code do not require a culpable mental state as an element of the violation.

1.010. Definitions and Rules of Construction.

- (1) The following definitions and rules of construction shall be observed, unless inconsistent with the intent of the Council or the context clearly requires otherwise:

City. Wilsonville, Oregon.

City Manager. The City Manager or any other employee designated by the City Manager.

Compliance Officer. Any person designated by the City Manager, or by another person having explicit authority under the Wilsonville Code, as responsible for enforcing provisions of the Wilsonville Code.

Computation of Time. The time within which an act is to be done, including the giving of advance notice of a general or special election of the City, is computed by excluding the first day and including the last, unless the last falls on a legal holiday as defined in ORS 187.010 or 187.020 or on Saturday, in which case the last day is also excluded.

Council. City Council of the City.

County. Clackamas or Washington County, Oregon.

Day. The period of time between any midnight and the midnight following.

Daytime; Nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Department, board, commission, office, offices or employee. A department, board commission, office, offices or employee of the City.

Gender. The masculine gender includes the feminine and neuter.

In the City. All territory over which the City now has or shall hereafter acquire jurisdiction for the exercise of its regulatory powers.

Joint authority. All words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Minor. A person under the age of 18 years, unless otherwise stated.

Number. The singular number includes the plural, and the plural the singular.

Oath. "Oath" includes affirmation.

Official time. Whenever certain hours are named herein, they shall mean the standard of time as set out in ORS 187.110.

Or, and. "Or" may be read "and" and "and" may be read "or," if the sense requires it.

Owner. A part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of a part of the building or land, or vendee in possession under a land sales contract.

Peace officer. A City police officer or other officer specified in ORS 133.170.

Person. Individuals, corporations, associations, firms, partnerships and joint stock companies.

Personal property. Every species of property, except real property, as herein defined.

Process. A writ or summons issued in the course of judicial proceedings of either a civil or criminal nature.

Property. Both real and personal property.

Real property. Lands, tenements and hereditaments.

Responsible party. At least one of the following: (a) an owner; (b) a person acting as an agent of the Owner by agreement that has the authority over the property, is responsible for the property's maintenance or management, or is responsible for curing or abating a violation; (c) any person occupying the property, including, but not limited to, a lessee, tenant, or other having possession; or (d) the person who is alleged to have caused a violation of the Wilsonville Code or who has the authority to direct and control the person causing the violation.

Shall, may. "Shall" is mandatory and "may" is permissive.

Signature or subscription by mark. "Signature" or "subscription" includes mark when the signer or subscriber cannot write, the signer's or subscriber's name being written near the mark by a witness who writes his/her own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

State. Oregon.

Tenant or occupant. A person holding a written or an oral lease of or who occupies, the whole or a part of the building or land, either alone or with others.

Tenses. The present tense includes the past and future tenses, and the future includes the present.

To. "To" means "to and including" when used in reference to a series of sections of this Code or when reference is made to the Oregon Revised Statutes.

Week. Seven consecutive days.

Writing. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing in the English language unless it is expressly provided otherwise.

Year. A calendar year, except where otherwise provided.

1.011. Identification and Investigation of Code Violation

- (1) Upon receipt of a complaint, or upon the proactive observance of any City employee, a Compliance Officer is authorized to investigate and determine whether a Code violation exists by gathering and documenting evidence, as appropriate to the nature of the alleged violation.
- (2) When entry on private property is necessary or desirable for the identification or investigation of a Code violation, a Compliance Officer is authorized as follows:
 - (a) A Compliance Officer may enter onto a public or private property that is open to the public at reasonable times to determine whether a Code violation exists.
 - (b) A Compliance Officer may enter onto a private property that is not open to the public at reasonable times to determine whether a Code violation exists when the Compliance Officer:
 - (i) Has received permission from any person in charge of the property;
 - (ii) Has an administrative warrant issued pursuant to the provisions of this Chapter authorizing entry for inspection of the property; or
 - (iii) Determines that an emergency or other exigent circumstance exists requiring immediate entry.
- (3) An administrative warrant may be issued by the Municipal Judge pursuant to the procedures provided in this Chapter.
- (4) A person must not interfere with or attempt to prevent a Compliance Officer from entering onto any property when such entry is authorized by the provisions of this Section.

1.012. Notice of Code Violation

- (1) If the Compliance Officer is satisfied that a Code Violation exists, the Compliance Officer will cause a Notice of Code Violation to be posted on the property, or at the site of the Code violation, directing the responsible party to correct the Code violation.
- (2) On the same day of the posting, the Compliance Officer must also cause a copy of the Notice of Code Violation to be mailed by certified mail to the owner of the property (or registered agent), and, as applicable, to any person in charge of the property and to the responsible party, at the last known address of such person(s) as shown on the tax rolls of Washington or Clackamas County. If the mailed Notice of Code Violation is returned as undeliverable or is unclaimed, it will not preclude the City from taking enforcement or corrective actions as described in this Chapter.
- (3) The Notice of Code Violation must contain:
 - (a) A description of the real property, by street address or otherwise, on which the Code violation exists;
 - (b) A description of the Code violation found to exist by the Compliance Officer;
 - (c) A determination of whether the Code violation presents an immediate threat to the public health, welfare or safety;
 - (d) A direction to correct the Code violation within 30 days from the date of notice, or a shorter duration if the Compliance Officer determines a shorter duration is necessary and appropriate;
 - (e) A statement that failure to correct a Code violation may warrant imposition of a civil penalty upon all persons responsible for the Code violation;
 - (f) Instructions describing the process of submitting a voluntary compliance plan as outlined in this Chapter; and
 - (g) A statement that the owner or any responsible party may protest the Notice of Code Violation by giving written notice as described in WC 1.019 to the City Manager not later than 14 days after the date of the notice.
- (4) Upon completion of the posting and mailing of the Notice of Code Violation, the Compliance Officer must execute and place on file with the City Manager a certificate stating the date and place of the mailing and posting.
- (5) If the Compliance Officer meets all requirements for posting and mailing the Notice of Code Violation set forth in this Section, then the failure of any person to receive actual notice will not void any Code enforcement process set forth in this Chapter. An error in the name of the property owner or responsible party shall not render void a Notice of Code Violation.
- (6) If the owner or other responsible party fails to timely appeal the Notice of Code Violation in compliance with the procedures set forth in this Chapter, then the violation will be deemed proven, and no further appeal of the Notice of Code Violation will be allowed.

1.013. Corrective Action by Responsible Party

- (1) All responsible parties must correct all violations described in the Notice of Code Violation not later than the date set forth in the notice, or the date set forth in any final order or decision issued on appeal.
- (2) The complete correction of a Code violation within the time prescribed in the Notice of Code Violation or the final order issued upon any appeal of the notice, will relieve a responsible party from the imposition of any civil penalty under this Chapter.

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- (3) If a responsible party admits responsibility for the violation, they may submit a voluntary compliance plan for correcting the violation to the Compliance Officer within the time prescribed in the Notice of Code Violation. The compliance plan must contain the following:
 - (a) The responsible party's name, mailing address, telephone number and email address;
 - (b) A detailed plan for correction of the violation(s) over a reasonable period of time;
 - (c) Written consent for the Compliance Officer or their designee to enter the property for the purpose of:
 - (i) Verifying compliance with the terms of the compliance plan; or
 - (ii) Taking actions to correct the violation upon determining that the terms of the compliance plan have not been met;
 - (d) An agreement to pay the costs related to City plan review, meetings, inspections, and other City-incurred costs to review and ensure completion of the voluntary compliance plan.
 - (4) The City Manager will review the voluntary compliance plan and may approve the plan as presented, approve a modified plan, or reject the plan, at their discretion. The decision of the City Manager regarding whether to accept, reject, or modify a voluntary compliance plan is final and not subject to appeal. If the responsible party does not agree with the City-approved compliance plan, the City may proceed to enforce the violation that gave rise to the voluntary compliance plan, including, but not limited to, engaging in City-led corrective action and/or assessing a civil penalty.
 - (5) If the voluntary compliance plan is accepted, the City shall suspend further processing of the alleged violation during the time allowed in the voluntary compliance plan for completion of the necessary corrective action. The City shall take no further action concerning the alleged violation if all terms of the voluntary compliance plan are satisfied, other than steps necessary to terminate the enforcement action.
 - (6) Failure to comply with any term of a voluntary compliance plan constitutes an additional and separate violation which shall be penalized in accordance with the procedures established by this Chapter. After the voluntary compliance plan has been signed, the City may issue a civil penalty, and may proceed to enforce the violation that gave rise to the voluntary compliance plan.

1.014. Corrective Action by City

- (1) The City may enter a property as provided in this Section and may take all necessary actions to correct a Code violation, whenever a responsible party or owner fails to take corrective action, or upon the determination by a Compliance Officer that a person has failed to comply with the terms of a voluntary compliance plan. Except when the Compliance Officer has received consent from a responsible party or owner or as provided in subsection (3) of this Section, an administrative warrant is required before a Compliance Officer may enter the property.
- (2) If the City determines that the violation for which a Notice of Code Violation has been issued is an immediate threat to the public health, welfare or safety, or that any continuance of the violation would allow the responsible party or owner to profit from the violation or would otherwise be offensive to the public at large, the City Manager or designee may require immediate remedial action as provided in subsection (3) of this Section.
- (3) In the case of an immediate danger to the public health, safety or welfare determined under subsection (2) of this Section, the City may abate the violation and charge the abatement cost back, and an additional charge of 20 percent for administrative overhead, to the responsible party or owner, after obtaining an administrative warrant to enter the property and abate the violation. If the immediate danger constitutes an emergency threatening immediate death or physical injury to persons, the City may abate the violation without obtaining an administrative warrant if the delay associated with obtaining the administrative

warrant would result in increased risk of death or injury, and may charge the abatement costs back to the responsible party or owner.

1.015. Notice and Collection of Corrective Action Costs

- (1) The owner, all persons in charge of the property, and all other responsible parties are jointly and severally liable for all costs associated with corrective actions taken by the City, including administrative costs, warrant costs, and attorney fees.
- (2) The City Manager must keep an accurate record of the expense incurred by the City for all corrective actions.
- (3) After the Code violations have been determined by the City to be corrected, the City Manager must cause a Notice of Corrective Action Costs to be posted on the property, or at the site of the Code violation.
- (4) On the same day of the posting, the City Manager must also cause a copy of the Notice of Corrective Action Costs to be forwarded by certified mail to the owner of the property (or registered agent), and, as applicable, to any person in charge of the property and to the responsible party, at the last known address of such person(s) as shown on the tax rolls of Washington or Clackamas County.
- (5) The Notice of Corrective Action Costs must contain:
 - (a) A copy of the Notice of Code Violation and any final orders issued in the matter;
 - (b) The total costs of corrective actions, and an additional charge of 20 percent for administrative overhead, due and payable within 30 days of the notice of corrective action costs;
 - (c) Notification that the costs of corrective actions may be assessed on the municipal utility bill associated with the property and may become a lien against the property if not paid when due; and
 - (d) Notification that if any owner or other responsible party objects to the Notice of Corrective Action Costs, a written protest must be filed with the City Manager within 14 days from the date of the notice.
- (6) Collection and Abatement Costs.
 - (a) The costs listed in the Notice of Corrective Action Costs will become delinquent if not paid within 30 days of the date of the notice or within 14 days of the date set forth in any final order or judgment issued on appeal of the notice, whichever comes later.
 - (b) Assessment of the delinquent corrective action costs must be made by City Council resolution to be entered in the docket of City liens or recorded in the Official Records of Clackamas or Washington County. When the entry is made, it will constitute a lien on all real property on which the corrective action occurred.
 - (c) The lien will be enforced in accordance with the Wilsonville Code and Oregon law.
- (7) If the Compliance Officer meets all requirements for posting and mailing the Notice of Corrective Action Costs set forth in this Section, then the failure of any person to receive actual notice will not void the assessment of any corrective action costs.
- (8) If the owner or other responsible party fails to appeal the Notice of Corrective Action Costs in compliance with the procedures set forth in this Chapter, then the cost assessment shall be deemed proven and no further appeal of the Notice of Corrective Action Costs will be allowed.

1.016. Imposition of Civil Penalty

- (1) Upon a determination by the Compliance Officer that a person engaged in a Code violation, the Compliance Officer may impose upon the violator and/or any other responsible person an administrative civil penalty of no less than \$25 and not greater than \$5,000, per violation per day the violation is occurring and per tax lot upon which the violation is occurring, as provided by this Section.
- (2) Prior to imposing a civil penalty, the Compliance Officer must pursue reasonable attempts to secure voluntary correction as provided by this Chapter.
- (3) In imposing a penalty authorized by this Section, the Compliance Officer will consider:
 - (a) The responsible party's past history in taking all feasible steps necessary or appropriate to correct the violation;
 - (b) Any prior violations of statutes, rules, orders, and permits on the property or by the responsible party;
 - (c) The gravity and magnitude of the violation;
 - (d) Whether the violation was repeated or continuous;
 - (e) Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
 - (f) The responsible party's cooperativeness and efforts to correct the violation; and
 - (g) Any relevant rule of the Wilsonville Code.
- (4) Notwithstanding the foregoing, if a responsible party has gained money or property through the commission of a violation enforceable under this Chapter, then, in lieu of imposing a civil penalty, may fine the responsible party double the amount of the gain from the commission of the violation.
- (5) The City Manager and Compliance Officer are also authorized to take other enforcement actions including, but not limited to, issuing stop-work orders, including the civil penalty on a property owner's municipal utility bill, recording a lien against the property of the assessed civil penalty, and/or revoking or withholding permits, certificates of occupancy, plat approvals, and any other City approval, license, permit, or certificate sought by the property owner or responsible party.

1.017. Notice of Civil Penalty

- (1) Upon finding that a Code violation exists and has not been voluntarily corrected within the time specified in the Notice of Code Violation or the final order issued upon appeal of the notice, the City Manager may impose a civil penalty.
- (2) Each day that a Code violation continues to exist will constitute a separate violation and a new civil penalty may be assessed for each consecutive day the violation continues without correction.
- (3) The Compliance Officer shall cause a Notice of Civil Penalty to be posted on the property and forwarded by certified mail, postage prepaid, to any person in charge of the property and the owner of the property (or registered agent) at the last known address of such person(s) as shown on the tax rolls of Washington or Clackamas County.
- (4) If the certified Notice of Civil Penalty is returned as undeliverable or is unclaimed by any person, it will not preclude the City from imposing a civil penalty as described in this Chapter.
- (5) The Notice of Civil Penalty must contain the following:
 - (a) A description of the real property, by street address or otherwise, on which the Code violation exists;

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- (b) A description of the Code violation found to exist by the Compliance Officer;
 - (c) A copy of the Notice of Code Violation and any final orders issued in the matter;
 - (d) A statement indicating whether the Code violation has been corrected or is considered a continuing violation subject to the imposition of a daily civil penalty;
 - (e) A calculation of the total amount of the civil penalty or, or in the case of a continuing violation, the amount of civil penalty that has accrued as of the date of the notice;
 - (f) A statement that the amount of the civil penalty may become a lien on the property if not paid in full within 30 days of invoicing;
 - (g) A statement that the owner or any responsible party may protest the Notice of Civil Penalty by giving written notice to the City Manager within 14 days from the date of the notice, together with a written statement as to why the civil penalty should be modified or not assessed.
- (6) If the Compliance Officer meets all requirements for posting and mailing the Notice of Civil Penalty set forth in this Section, then the failure of any person to receive actual notice will not void the assessment of any civil penalty.
 - (7) If the owner or other responsible person fails to appeal the Notice of Civil Penalty in compliance with the procedures set forth in this Chapter, the amount of the civil penalty shall be deemed final and no further appeal of the Notice of Civil Penalty will be allowed.

1.018. Civil Penalties Not Exclusive

- (1) The imposition of a civil penalty does not relieve a responsible party of the duty to correct a Code violation or pay all corrective action costs assessed by the City.
- (2) The procedures described by this Chapter shall be the exclusive procedures for imposing civil penalties; however, this Chapter shall not be read to prohibit in any way alternative remedies set out in the Wilsonville Code which are intended to abate or alleviate Code violations, nor shall the City be prevented from recovering, in any manner prescribed by law, any costs incurred by it in abating or removing Code violations pursuant to any Code provision.
- (3) The remedies and procedures for abatement of civil violations provided in this Chapter are in addition to all other remedies and procedures provided by law. Nothing in this Chapter shall limit or restrict in any way the City's right to obtain abatement by means of a judicial action, an administrative enforcement action, a criminal action, a civil lawsuit or any other form of procedure to obtain abatement.

1.019. Protests and Appeals

- (1) Protest to the City Manager.
 - (a) An owner or other responsible party of a property may protest a Notice of Code Violation issued pursuant to Section 1.012, a Notice of Corrective Action Costs issued pursuant to Section 1.015, or a Notice of Civil Penalty issued pursuant to Section 1.017 by submitting a written protest to the City Manager within 14 days of the date of the relevant notice.
 - (b) The written protest must, at a minimum, contain the following information:
 - (I) The name, mailing address, telephone number and email address of the person submitting the protest;
 - (II) A description of the real property, by street address or otherwise, on which the Code violation is alleged to exist;

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- (III) A written statement, and all supporting evidence, specifying the basis for the protest.
 - (c) The City Manager will review the notice and the protest, together with all supporting evidence in the record, and will issue a final order that either upholds, amends, or dismisses the findings and determination set forth in the notice.
 - (d) If the City Manager issues a final order that upholds or amends the notice, the owner or responsible party must comply with the terms of the order within 30 days from the date of the order, or a shorter duration if the City Manager determines a shorter duration is necessary and appropriate.
- (2) Appeal to City Council.
- (a) An owner or other responsible party of a property may dispute a final order issued by the City Manager pursuant to subsection (1) of this Section by submitting a written appeal to the City Recorder within 14 days of the date of the City Manager's final order. The appeal hearing will take place at a meeting of the City Council and shall be decided by the City Council.
 - (b) The written appeal must, at a minimum, contain the following information:
 - (I) The name, mailing address, telephone number and email address of the person submitting the protest;
 - (II) A description of the real property, by street address or otherwise, on which the Code violation is alleged to exist;
 - (III) A written statement, and all supporting evidence, specifying the basis for appealing the City Manager's final order.
 - (c) Subject to the requirements of this Section, the City Council may adopt additional procedures for the conduct of any hearings before them, but at a minimum, must allow each party to introduce evidence, including rebuttal evidence, that is relevant to prove or refute any matter raised in the underlying notice or City Manager's final order.
 - (d) Following the closing of the record, the City Council will issue a decision that either upholds, amends, or dismisses the City Manager's final order.
 - (e) If the City Council decision upholds or amends the City Manager's final order, then the City Council's final order must include:
 - (I) A brief statement of the findings of fact;
 - (II) The amount of any assessed corrective action costs, civil penalties, and associated administrative costs;
 - (III) The date by which any costs and assessments must be paid; and
 - (IV) An order directing the responsible party to correct the Code violation, pay the assessed corrective action costs, and/or pay the assessed civil penalty, as appropriate to the nature of the appeal.
 - (f) If the City Council's decision dismisses the City Manager's final order, then the City Council's final order must include an order that all costs of the abatement will be dismissed or refunded.
- (3) Appeal of the City Council's Final Order.
- (a) Any party to the appeal may obtain review of the City Council's final order by writ of review pursuant to ORS Chapter 34.

1.020. Definitions.

- (1) The definitions contained in the Oregon Criminal Code, as defined by ORS 161.005, as now or hereafter constituted, are adopted by reference and made a part of the Wilsonville Code. Except where the context clearly indicates a different meaning, the general definitions appearing in the definitional and other sections of particular articles of the Oregon Criminal Code shall be applicable throughout the Wilsonville Code.

(Ord. No. 253, 2-21-1984)

1.021. Continuation of Existing Ordinances.

The provisions appearing in this Code, so far as they are the same as those of ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

(Ord. No. 253, 2-21-1984)

1.022. Effect of Repeal of Ordinances.

The repeal of an ordinance shall not revive an ordinance in force before or at the time the ordinance repealed took effect. The repeal of an ordinance shall not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution or proceeding pending at the time of the repeal, for an offense committed under the ordinance repealed.

1.025. Severability of Parts of Code.

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

1.030. Catchlines of Sections.

The catchlines of the several sections of this Code are intended as mere catchwords to indicate the contents of the section and shall not be deemed as a part of the section, nor, unless expressly so provided, shall they be so deemed when sections, including the catchline, are amended or re-enacted.

....

Section 4.004. Development Permit Required.

- (.01) Except as excluded by Section 4.005, no person shall directly or indirectly engage in or cause to occur a development for which a development permit has not been issued. The Planning Director may enforce this Chapter pursuant to Chapter 1 of the Wilsonville Code. The ~~B~~uilding ~~e~~Official shall not issue a permit for the construction, reconstruction or alteration of a structure or a part of a structure for which a development permit has not been issued.
- (.02) A development permit shall be issued by the Planning Director in accordance with the provisions set forth in Sections 4.035 of this Code. The Director shall not issue a development permit for the improvement or use of land that has been previously divided or otherwise developed in violation of this Code, regardless of whether the permit applicant or its predecessor created the violation, unless the violation can be rectified as part of the development.
- (.03) Unless appealed, as provided in Section 4.022, a decision on a development permit shall be final upon expiration of the period provided for filing an appeal or, if appealed, upon rendering of the decision by the reviewing body.

Section 4.025. Enforcement and Administration.

- (.01) It shall be the duty of the Planning Director, to administer and enforce the provisions of Chapter 4 of this Code in a manner to assure rapid and effective compliance, pursuant to Chapter 1 of the Wilsonville Code.
- (.02) The records of zoning actions and all amendments shall be officially held within the office of the City Recorder. All amendments to the Planning and Land Development Ordinance and/or Official Zoning Map shall be approved or rejected by the City Council and acknowledged by the Mayor and attested by the City Recorder. Each action that changes a zoning district boundary shall be included on a new Official Zoning Map and approved by the Mayor and attested by the City Recorder and filed in the office of the City Recorder.
- (.03) The Commission or Board by a majority vote may instruct the Planning Director to enforce any provision of this Ordinance.
- (.04) When it appears to the City Council that there is a failure or refusal by any person, firm or corporation to comply with a final decision of the Board or Planning Commission, or of the Council in cases of appeal, or that there is a continuing violation otherwise of this Ordinance, the City Council may authorize enforcement actions pursuant to Chapter 1 of the Wilsonville Code and may authorize the City Attorney to institute an appropriate legal action in the name of the City to seek appropriate relief for such violation.

Section 4.026. Enforcement Procedures and Penalties.

- (.01) On new construction, and prior to occupancy, the Planning Director shall assure that the development has occurred in substantial conformance with the approved Site Development Plans. If substantial inconsistencies occur, the Director may withhold authorization for connection of domestic water service, or may authorize the disconnection of water service, if water service has already been established. The Director also has the authority to withhold temporary or permanent certificates of occupancy for all or part of a development and to refuse to review further applications from a non-compliant applicant until all applicable requirements are met.
- (.02) When a violation occurs, the Planning Director shall enforce the provisions of this Code pursuant to Chapter 1 of the Wilsonville Code, in addition to, and not in lieu of, other federal, state, and local laws and regulations available to the City. ~~notify in writing the property owner and or known agent of the property owner of the violation. The notice shall set forth the nature of the violation and the necessary corrective action and shall specify the penalty for non-compliance and a reasonable date of compliance not to exceed 30 days from the date of notice. An error in the name of the owner or use of a name other than the true owner or agent of such property shall not render void such notice. In such case the posted notice shall be deemed sufficient.~~
- (.03) If the violation has not been corrected, or a reasonable effort made to correct the violation within the time set forth in the notice, the Planning Director may cause the domestic water service to the property to be shut off as set by the Water Rates Ordinance, and may pursue any other remedy pursuant to Chapter 1 of this Code.
- (.04) A violation of any provision of this Chapter is ~~punishable-enforced, upon a first conviction,~~ as a violation pursuant to Chapter 1 ~~Section 1.012~~ of the Wilsonville Code, ~~and upon a subsequent conviction, as a Class C Misdemeanor pursuant to Section 1.011.~~ In the case of a continuing offense, each day of any violation constitutes a separate offense.
- (.05) Pursuant to Chapter 1 of this Code, ~~t~~The City Attorney, at the request of the City Council, shall institute any necessary legal proceedings to enforce the provisions of this Chapter.

(Ord. No. 253, 2-21-1984)

Section 4.137.3. Solar Access Permit Standards.

- (.01) *Purpose.* The purpose of these standards is to protect solar access to solar features on lots designated or used for a single-family detached dwelling under some circumstances. It authorizes owners of such lots to apply for a permit that, if granted, prohibits solar features from being shaded by certain future vegetation on and off the permittee's site.
- (.02) *Applicability.* An owner or contract purchaser of property may apply for and/or be subject to a solar access permit for a solar feature if that property is in any residential zone that is or will be developed with a single-family dwelling. The City's decision whether or not to grant a solar access permit is intended to be ministerial.
- (.03) *Approval standards for a solar access permit.* The Planning Director shall approve an application for a solar access permit if the record shows:
- A. The application is complete;
 - B. The information it contains is accurate;
 - C. Vegetation on the applicant's property does not shade the solar feature;
 - D. No objection has been raised by an affected property owner;
 - E. That the permit, if issued, does not conflict with other sections of the Wilsonville Code; and
 - F. That the permit, if issued, would not restrict any lot which has an average slope of 15 percent in the northerly direction.
- (.04) *Duties created by solar access permit.*
- A. A party to whom the City grants a solar access permit shall:
 - 1. Record the permit, legal descriptions of the properties affected by the permit, the solar access height limit, and the site plan required in Section 4.137.3(.05)(C) with such modifications as required by the responsible official in the office of the county recorder with the deeds to the properties affected by it, indexed by the names of the owners of the affected properties, and pay the fees for such filing;
 - 2. Install the solar feature in a timely manner as provided in Section 4.137.3(.08); and
 - 3. Maintain vegetation on the site so it does not shade the solar feature.
 - B. An owner of property burdened by a solar access permit shall be responsible and pay all costs for keeping vegetation from exceeding the solar access height limit. However, vegetation identified as exempt on the site plan required in Section 4.137.3(.05)(C), vegetation an owner shows was in the ground on the date an application for a solar access permit is filed, and solar friendly vegetation are exempt from the solar access permit.
- (.05) *Application contents.* In addition to the application requirements pursuant to Section 4.035(.05), an application for a solar access permit shall contain the following information:
- A. A legal description of the applicant's lot and legal description, owners' names, and owners' addresses for lots all or a portion of which are within 250 feet of the applicant's lot and 54 degrees east and west of true south measured from the east and west corners of the applicant's south lot line. The services of a title company shall be used to determine who owns property for purposes of an application. The failure of a property owner to receive notice shall not invalidate the action if a good faith attempt was made to notify all persons who may be affected.
 - B. A scaled plan of the applicant's property showing:

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1. Vegetation in the ground [as] of the date of the application, if when mature, that vegetation could shade the solar feature.
 2. The approximate height above the grade of the solar feature, its location, and its orientation relative to true south.
- C. A scaled plan of the properties on the list required in subsection A, above, showing:
1. Their approximate dimensions; and
 2. The approximate location of all existing vegetation on each property that could shade the solar feature(s) on the applicant's property.
- D. For each affected lot, the requested solar access height limit. The solar access height limit is a series of contour lines establishing the maximum permitted height for vegetation on lots affected by a Solar Access Permit (see Figure 12: Solar Access Height Limit). The contour lines begin at the bottom edge of a solar feature for which a permit is requested and rise in five foot increments at an angle to the south not less than 21.3 degrees from the horizon and extend not more [than] 54 degrees east and west of true south. Notwithstanding the preceding, the solar access height limit at the northern lot line of any lot burdened by a solar access permit shall allow vegetation on that lot whose height causes not more shade on the benefited property than could be caused by a structure that complies with Section 4.137.2 for existing lots.
- E. A fee, as required for Class II Administrative Review.
- F. If available, a statement signed by the owner(s) of some or all of the property(ies) to which the permit will apply if granted verifying that the vegetation shown on the plan submitted pursuant to Section 4.137.3(.05)(C) above accurately represents vegetation in the ground on the date of the application. The signed statements provided for herein are permitted but not required for a complete application.
- (.06) *Application review process.* Application for a solar access permit shall be reviewed under Section 4.035 Class II - Administrative Review.
- A. A Pre-Application Conference may be held in accordance with Section 4.010(.02).
- B. After the pre-application meeting is held or waived, the applicant may file an application containing the information required in Section 4.137.3(.05) above.
- C. After filing the application in accordance with Section 4.011(.01) the Planning Director or his or her designate shall determine whether the application is complete in accordance with Section 4.011(.02).
- D. Upon receiving a complete application, the Planning Director shall mail notice of the proposed application, pursuant to Section 4.035(.03)A.
1. The notice shall include the plot plans required in Sections 4.137.3(.05)(B) and (C) above, the proposed solar access height limits, and duties created by the permit.
 2. The notice shall request recipients to verify that the plot plan shows all vegetation on the recipient's property, and to send the Planning Director comments in writing within 14 calendar days after the notice is mailed if the recipient believes the applicant's plot plan is inaccurate.
- E. After the final response date, the Planning Director shall consider responses received from affected parties and/or an inspection of the site, modify the plot plan and the permit to be consistent with the accurate information, and make a final decision pursuant to Section 4.035(.03)(C.)
1. If the final decision is to deny the permit, the Planning Director shall mail a copy of the decision to the applicant.

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2. If the final decision is to approve the permit, and the owners of all affected properties did verify the accuracy of the plot plan as permitted under Section 4.137.3(.05)(F), the Planning Director shall mail a copy of the decision to the applicant and affected parties. The notice to affected parties shall include information that the solar access permit exists and that it may affect the ability of the property owner to grow vegetation, and that it imposes certain obligations the property owner to trim vegetation.
 3. If the final decision is to approve the permit, and the owners of all affected properties did not verify the accuracy of the plot plan as permitted under Section 4.137.3(.05)(F), the Planning Director shall send a copy of the final decision to the applicant and to the owners of affected properties (including those who did not sign the verification statement pursuant to Section 4.137.3(.05)(F)). The notice to affected parties shall include information that the solar access permit exists and that it may affect the ability of the property owner to grow vegetation, and that it imposes certain obligations the property owner to trim vegetation.
- F. If the application is approved, the permit is not effective until the applicant records the permit, associated solar access height limits, legal descriptions for the affected properties (including the property where the solar feature is to be located), any special exceptions or exemptions from the usual affects of a solar access permit, and the site plan required in section 4.137.3(.05)(C) (with such modifications as required by the responsible official in the office of the county recorder) with the deeds to the properties affected by the permit.

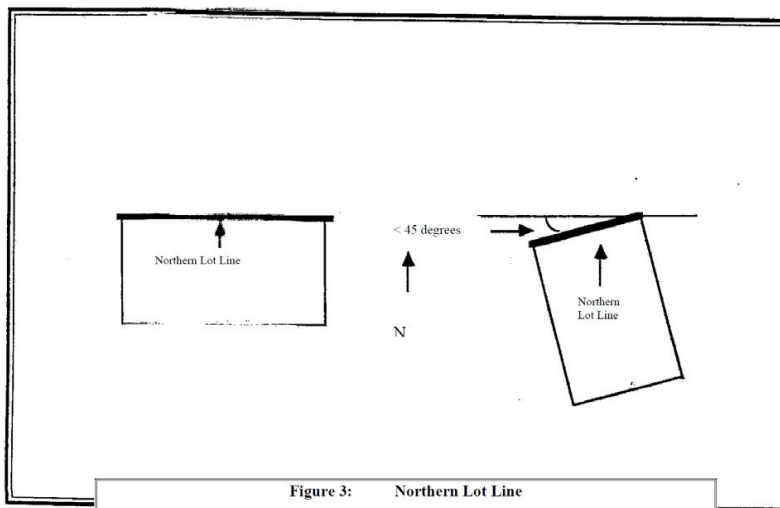
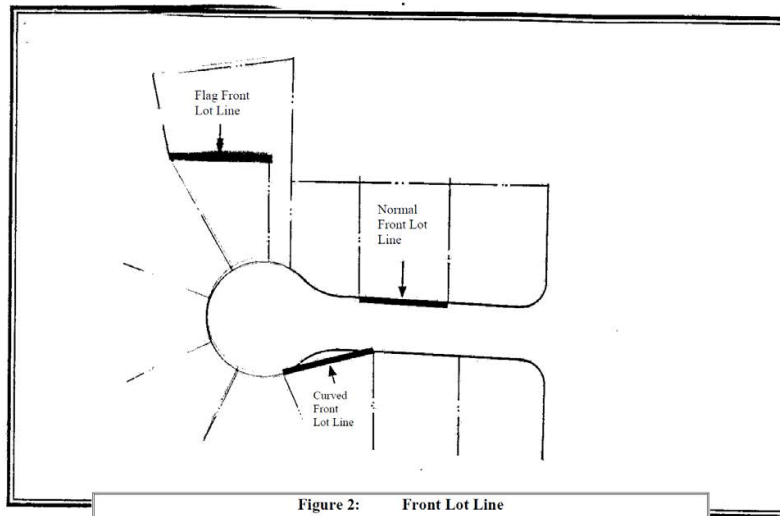
(.07) *Permit enforcement process:*

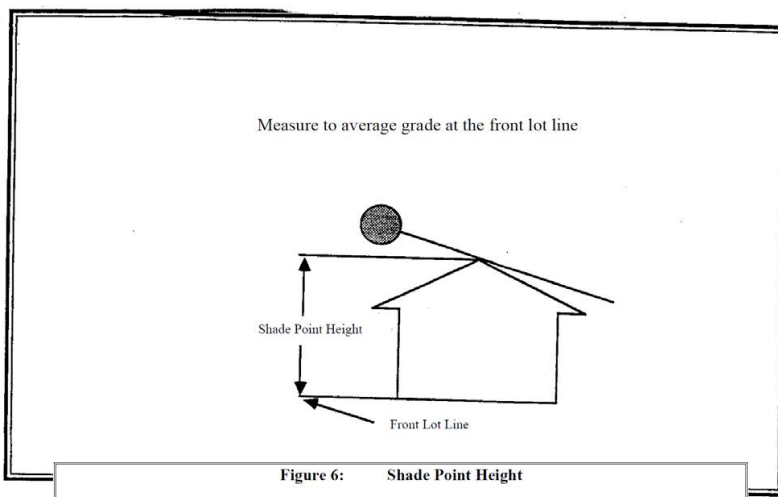
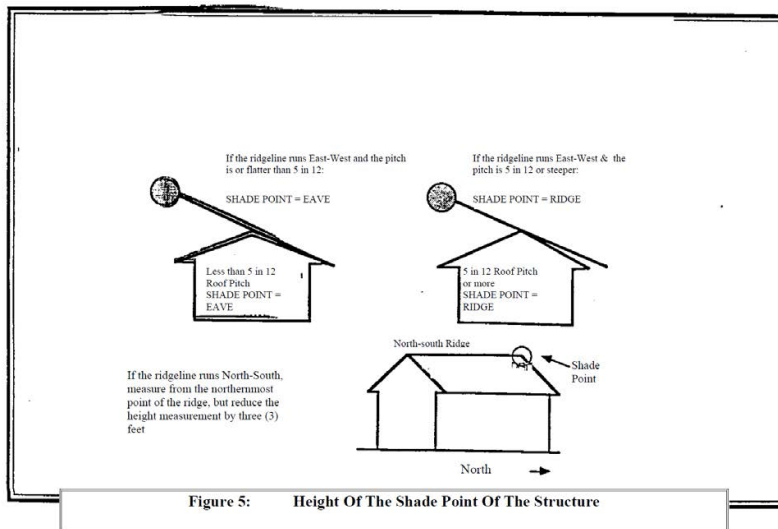
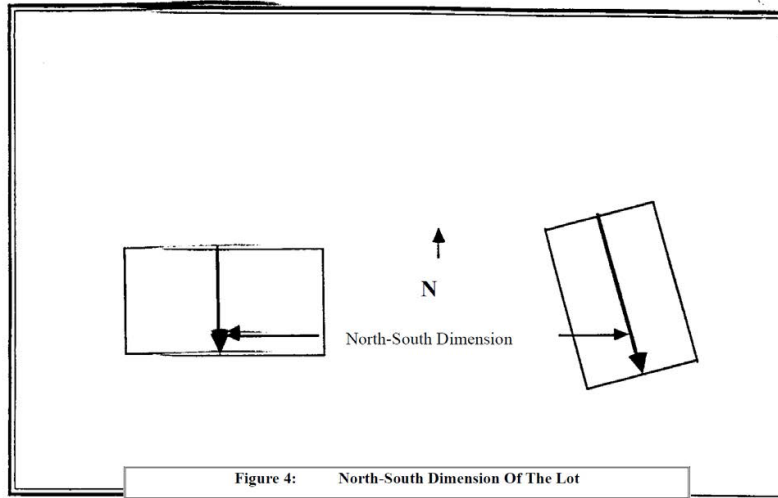
- A. *Enforcement request.* A solar access permittee may request the City to enforce the solar access permit by providing the following information to the Planning Director:
1. A copy of the solar access permit and the plot plans submitted with the permit; and
 2. The legal description of the lot(s) on which alleged vegetation is situated, the address of the owner(s) of that property, and a scaled site plan of the lot(s) showing the vegetation; and
 3. Evidence the vegetation violates the solar access permit, such as sunchart photograph, shadow pattern, and/or photographs.
- B. *Enforcement process.* If the Planning Director determines the request for enforcement is complete, he or she shall initiate an enforcement action pursuant to the procedures set forth in Chapter 1 of the Wilsonville Code, in addition to, and not in lieu of, other federal, state, and local laws and regulations available to the City. to WC section 4.025 and 4.026. Provided the Planning Director shall not enforce the permit against vegetation the owner of which shows was in the ground on the date the permit application was filed with the City.

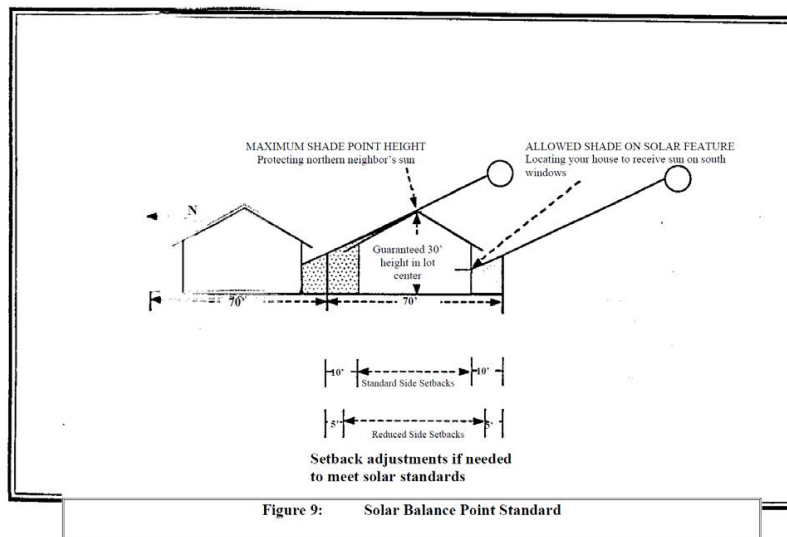
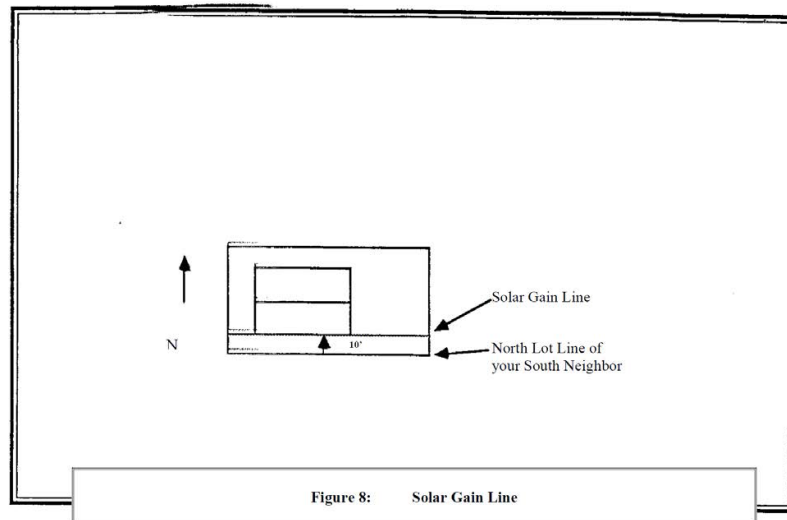
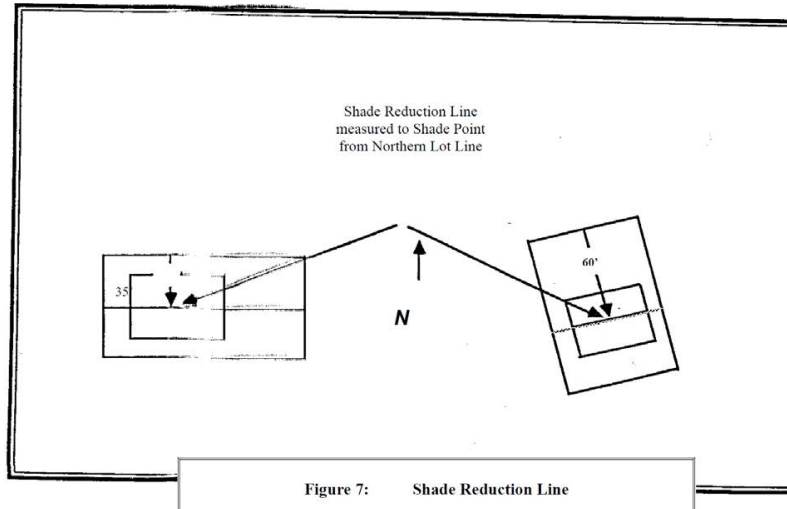
(.08) *Expiration and extension of a solar access permit:*

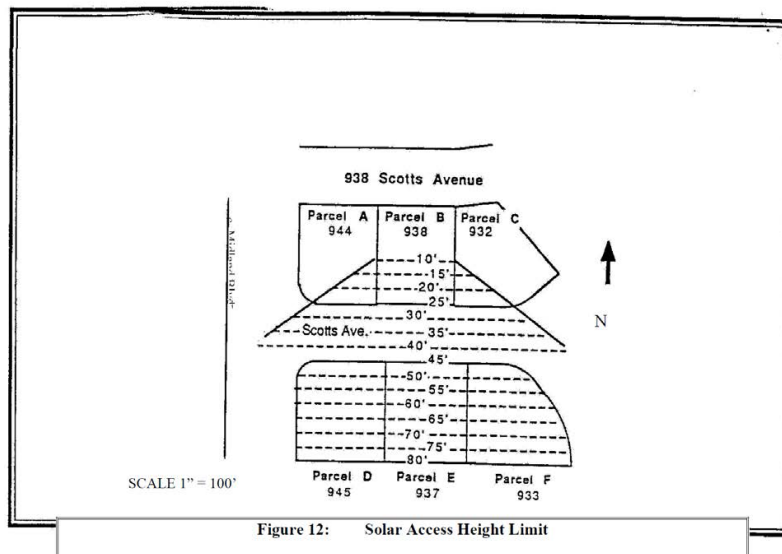
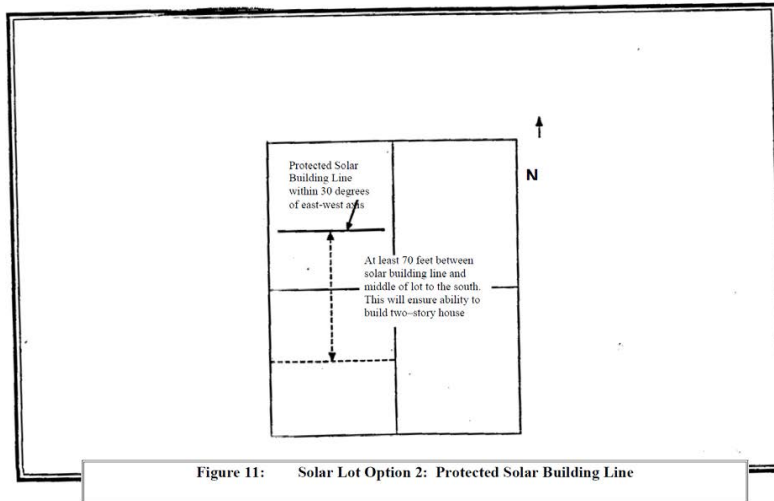
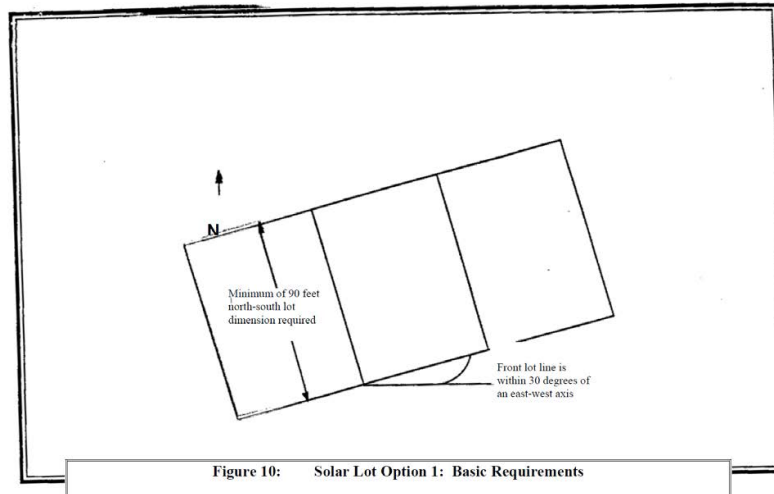
- A. *Expiration.* Every permit issued by the Planning Director under the provisions of this section shall expire if the construction of the solar feature protected by such permit is not commenced within 180 days from the date of such permit; if the construction of the solar feature protected by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days; or the use of the solar feature is discontinued for more than twelve consecutive months. The applicant may reapply for a solar access permit in accordance with Section 4.137.3. The fee shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year. If the permittee does not show construction of the solar feature will be started within 180 days of the date of the permit or the extension, or if the solar feature is removed, the Planning Director shall terminate the permit by recording a notice of expiration in the office of the county recorder with the deeds to the affected properties.

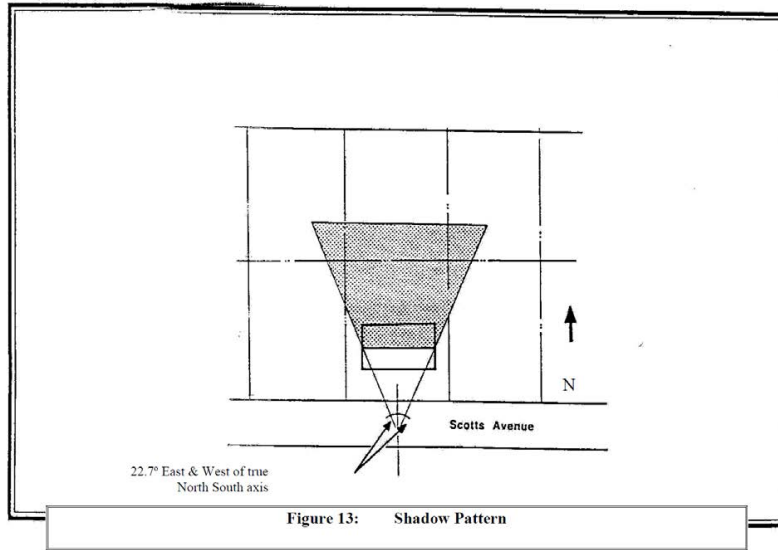
- B. *Extensions.* Any permittee holding an unexpired permit may apply for an extension of the time within which he or she may commence work under that permit when he or she is unable to commence work within the time required by this section for good and satisfactory reasons. The Planning Director may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. No permit shall be extended more than once.











Section 4.156.11. Sign Enforcement.

- (.01) *General.* Any person who places a sign that requires a permit under this section, and who fails to obtain a permit before installing the sign, shall be subject to penalties as established in Chapter 1 of the Wilsonville Code and fines as established in Wilsonville Code 4.025.
- (.02) *Removal of Signs.* Any sign placed on public property in violation of the provisions of this Code shall be immediately removed by the City. As soon thereafter as reasonable, the City shall notify the owner or the owner's representative that the sign has been removed, and that if the sign is not claimed within ten days, the sign will be deemed abandoned and subject to disposal by the City. The City shall have no responsibility to contact the owner of the sign if the owner's name, address, and telephone number are not clearly indicated on the sign and shall dispose of the sign ten days after its removal by the City. The City Council may establish fees to be collected at the time of releasing impounded signs in order to cover the City's costs in collecting, storing, and returning these signs and administering the sign removal program.
- (.03) *Civil Enforcement.* Any violation of any provisions of this section shall be enforced pursuant to Chapter 1 of this Code, in addition to, and not in lieu of, other federal, state, and local laws and regulations available to the City. Any sign which is intentionally placed in violation of the provisions of this Code after the owner of the sign has been notified of the initial sign removal and reason for its removal, shall subject the owner to a civil violation pursuant to Chapter 1 not to exceed \$100.00 as and for a A civil fine penalty may be assessed for each day that a violation continues to exist.
- (.04) *Additional enforcement.* The remedies described herein are not exclusive and may be used in addition to those prescribed elsewhere in the Wilsonville Code, including Sections 1.012 and 1.013, Violations, and 6.200 through 6.620, Nuisances. The City Attorney may use any enforcement process available at law or equity, including but not limited to, seeking injunctive relief, equitable relief, damages, or fines for violations.

<u>Sign Location Description</u>		<u>Lawn Signs</u> [see WC 4.156.05 (.02) I.]	<u>Rigid Signs</u> [see WC 4.156.05 (.02) J.]	<u>Maximum Combined Lawn and Rigid Signs</u>
Part 1. General Allowances for Lawn and Rigid Signs				
Residential or Agriculture zoned lots. ¹	Area per sign face	6 sq. ft.	6 sq. ft.	
	Exempt at one time	3 signs per lot	1 sign per lot	<i>3 signs per lot</i>
Commercial, Industrial, or Public Facility zoned lots. ²	Area per sign face	6 sq. ft.	32 sq. ft.	
	Exempt at one time	3 signs per lot	1 sign per lot, plus 1 additional sign if the lot is more than 3 acres in area or has multiple street frontages	<i>3 signs per lot, plus 1 additional rigid sign if the lot is more than 3 acres in area or has multiple street frontages.</i>
Part 2. Additional Special Allowances for Rigid Signs³				
Lots with active commercial, industrial, public facility, or multi-family construction projects. ⁴	Area per sign face		64 sq. ft.	
	Exempt at one time		1 sign per lot	
Residential or Agriculture tracts of land in excess of 5 acres or recorded residential subdivisions with more than 25% of the lots remaining unsold and undeveloped.	Area per sign face		32 sq. ft.	
	Exempt at one time		1 sign per qualifying tract or subdivision	
¹ Residential and Agriculture zones include all PDR (Planned Development Residential) zones, along with the R (Residential), RA-H (Residential Agriculture-Holding) zone, and any county-zoned land within Wilsonville City limits. In addition, lots not zoned Residential, but designated exclusively for residential use in an approved Master Plan, shall be considered				

residentially-zoned for the purposes of this table. This includes residential lots and in the Village Zone.

² Commercial, Industrial, Public Facility zones include all PDC (Planned Development Commercial), PDI (Planned Development Industrial), and PF (Public Facility) zones. In addition, lots zoned Village, but designated for commercial, mixed-use, or publicly-owned use in an approved Master Plan, shall fall under this description category for the purposes of this table.

³ Sign allowances in Part 2 are in addition to the allowances and maximums in Part 1.

⁴ An active construction project means a construction project for which any required building permits have been obtained and for which the City Building Official has not approved building occupancy. When the Building Official issues a temporary Certificate of Occupancy, the construction project shall be considered active until a permanent Certificate of Occupancy is issued. Active construction projects involving churches, private schools, or other non-single-family uses are included in this description.

Table S-1: Exempt Lawn and Rigid Sign Allowances

(Ord. No. 675, 3-1-2010; Ord. No. 704, 6-18-2012)

Section 4.290. Penalties.

Any person who violates or fails to comply with any provisions of this Code shall be subject to penalties and other remedies pursuant to Chapter 1 of this Code, in addition to, and not in lieu of, other federal, state, and local laws and regulations available to the City.~~the provisions of Section 4.026 (Enforcement).~~

Section 4.630.10. Display of Permit; Inspection.

The Tree Removal Permit grantee shall conspicuously display the permit on-site. The permit grantee shall display the permit continuously while trees are being removed or replaced or while activities authorized under the permit are performed. The permit grantee shall allow City representatives to enter and inspect the premises at any reasonable time, and failure to allow inspection shall constitute a violation subject to the enforcement procedures set forth in Chapter 1 of the Wilsonville Code, in addition to, and not in lieu of, other federal, state, and local laws and regulations available to the City.~~of this subchapter.~~

Section 4.640.00. Violation; Enforcement.

- (.01) The cutting, damaging, or removal of any individual tree without a permit as required by this ordinance constitutes a violation punishable as a separate infraction under Chapter 1 of the Wilsonville Code, in addition to, and not in lieu of, other federal, state, and local laws and regulations available to the City.~~WC 1.013.~~ In addition, each violation of a condition or a violation of any requirement of this Chapter shall constitute a separate infraction.
- (.02) *Retroactive Permit.* A person who removes a tree without obtaining a Type A or Type B permit may apply retroactively for a permit. In addition to all application requirements of this Chapter, the person must be able to demonstrate compliance with all requirements of this subchapter, in addition to paying a triple permit fee and a penalty per tree in an amount established by resolution of City Council. Mitigation requirements of this subchapter apply to all retroactive permits.
- (.03) *Nuisance Abatement.* Removal of a tree in violation of this Chapter is a nuisance and may be abated as provided in Sections 6.230 to 6.244, 6.250, and 6.260~~Chapter 1~~ of the Wilsonville Code.
- (.04) *Withholding Certificate of Occupancy.* The City ~~Building Official~~Manager or designee has the authority to issue a stop-work order, withhold approval of a final plat, or withhold issuance of a certificate of occupancy, permits or inspections until the provisions of this Chapter, including any conditions attached to a Tree Removal Permit, have been fully met.
- (.05) *Fines.* Fines for a violation shall be imposed according to Chapter 1 of this Code and may, at the City's discretion, be deposited into the City's Tree Fund.~~WC 1.012.~~
- (.06) *Mitigation.* The City shall require the property owner to replace illegally removed or damaged trees. The City may also require a combination of payment and tree replacement.
- A. The City shall notify the property owner in writing that a violation has occurred and mitigation is required pursuant to Chapter 1 of this Code. Within 30 days of the date of mailing of the notice, the property owner shall provide a mitigation plan to the City. The plan shall provide for replacement of a tree of similar species and size taking into account the suitability of the site and nursery stock availability.
- B. Replacement will be on an inch-for-inch basis computed by adding the total diameter measured at d.b.h. in inches of the illegally removed or damaged trees. The City may use any reasonable means to estimate the tree loss if destruction of the illegally removed or damaged trees prevents exact measurement. All replaced trees must be a minimum two-inch caliper. If the mitigation requirements cannot be completed on the property, the City may require completion at another approved location. Alternatively, the City may require payment into the City Tree Fund of the value of the removed tree as established by the Planning Department.

~~Section 4.640.10. Alternative Enforcement.~~

~~(.01) In the event that a person commits more than one violation of WC 4.600.30 to WC 4.630.00, the following alternative sentence may be imposed:~~

- ~~A. — If a person has gained money or property through the commission of an offense under this section, then upon conviction thereof, the court, in lieu of imposing a fine, may sentence the person to pay an amount, fixed by the court, not to exceed double the amount of the gain from the commission of the offense.~~
- ~~B. — "Gain" is defined as the amount of money or value of property derived from the commission of the violation, less the amount of money or value of property seized by or surrendered to the City. "Value" shall be the greater of the market value or replacement cost as determined by a licensed professional in the tree, nursery, or landscape field.~~
- ~~C. — Any fines collected by the City under this section shall accrue to the City Tree Fund.~~

Section 4.640.20. Responsibility for Enforcement.

Compliance with this Chapter shall be enforced by ~~the City Attorney, the City Attorney's designee, and Clackamas County or Washington County law enforcement officers, and~~ any person designated as a Compliance Officer pursuant to Chapter 1.

Section 4.808. Inspections.

- (.01) The City or its agents shall have authority, either through consent of the property owner or other responsible party, as defined in Chapter 1; through consent from an applicable permit, agreement, license, or similar document; or after the issuance of an administrative warrant pursuant to Chapter 1 of this Code, to enter onto the property upon which a WCF is located to inspect the facility for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City and Federal and State law.
- (.02) As a condition of approval and prior to final inspection of the WCF, the applicant shall submit evidence, such as photos, to the satisfaction of the City, sufficient to prove that the WCF is in substantial conformance with photo simulations provided with the application. Nonconformance shall require modification to compliance within 30 days or the WCF, or nonconforming components, must be removed.
- (.03) The City reserves the right to conduct ~~such~~ inspections consistent with the consent of the property owner or other responsible party, as defined in Chapter 1; through consent from an applicable permit, agreement, license, or similar document; or after the issuance of an administrative warrant pursuant to Chapter 1 of this Code, at any time, upon reasonable notice to the WCF owner. In the event such inspection results in a determination that violation of applicable construction and maintenance standards set forth by the City has occurred, remedy of the violation may include cost recovery for all costs incurred in conforming and processing the violation.

(Ord. No. 831, 1-24-2019; Ord. No. 882, § 2(Exh. A), 10-2-2023)

Editor's note(s)—See the editor's note at § 4.805.

Section 4.813. Mandatory and Automatic Permit Conditions of Approval for Section 6409(a).

Any Section 6409(a) Co-Location/Modification Permit approved or deemed-granted by the operation of federal law shall be automatically subject to the conditions of approval described in this Section.

- (.01) *Permit Duration.* The City's grant or grant by operation of law of a Section 6409(a) Co-Location/Modification Permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. The City's grant or grant by operation of law of a Section 6409(a) Co-Location/Modification Permit will not extend the permit term for any conditional use permit, land use permit or other underlying regulatory approval and its term shall be coterminous with the underlying permit or other regulatory approval for the subject tower or base station.
- (.02) *Accelerated Permit Terms Due to Invalidation.* In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any Section 6409(a) Co-Location/Modification Permit(s), such permit(s) shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved Section 6409(a) Co-Location/Modification Permits. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409(a) Co-Location/Modification Permit when it has submitted an application for either a Conditional Wireless Facilities Permit or an Administrative Wireless Facilities Permit for those improvements before the one (1) year period ends. The Planning Director may extend the expiration date on the accelerated permit upon a written request from the permittee that shows good cause for an extension.
- (.03) *No Waiver of Standing.* The City's grant or grant by operation of law of a Section 6409(a) Co-Location/Modification Permit does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any Section 6409(a) Co-Location/Modification Permit.
- (.04) *Compliance with All Applicable Laws.* Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinance or other rules.
- (.05) *Inspections; Emergencies.* The City or its designee may enter onto the facility area to inspect the facility pursuant to the consent of the property owner or other responsible party, as defined in Chapter 1; through consent from an applicable permit, agreement, license, or similar document; or after the issuance of an administrative warrant pursuant to Chapter 1 of this Code upon reasonable notice to the permittee. The permittee shall cooperate with all inspections. The City reserves the right to enter or direct its designee to enter the facility and support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
- (.06) *Contact Information for Responsible Parties.* Permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Planning Director upon permittee's receipt of the Planning Director's written request.
- (.07) *Indemnities.* The permittee and, if applicable, the non-government owner of the private property upon which the tower/and or base station is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials and employees (i) from any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs of mandamus and other actions or proceedings brought against the City or its agents, officers, officials or employees to challenge, attack, seek to modify, set aside, void or annul the City's approval of the permit, and (ii) from any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands, law suits or

causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors or independent contractors. The permittee shall be responsible for costs of determining the source of the interference, all costs associated with eliminating the interference, and all costs arising from third party claims against the City attributable to the interference. In the event the City becomes aware of any such actions or claims the City shall promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or permittee (as applicable) shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.

(.08) *Adverse Impacts on Adjacent Properties.* Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification and removal of the facility.

(.09) *General Maintenance.* Permittee must comply with Section 4.805 at all times.

(Ord. No. 831, 1-24-2019; Ord. No. 882, § 2(Exh. A), 10-2-2023)

Editor's note(s)—See the editor's note at § 4.805.