

TITLE VII

PERMITS, STREETS AND PUBLIC WAYS

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76.005. Definitions. 76.005. Definitions. Unless the context otherwise specifically requires, for purposes of this Chapter the following words shall mean:

- (a) Alley: a public right-of-way not more than twenty feet in width, open, used, or intended to be used, by vehicular traffic.
- (b) Controlled intersection: an intersection where any intersecting street is controlled by a stop sign or signal traffic control device.
- (c) Driveway: any private thoroughfare or private or commercial service driveway intersecting with a street, and constructed, installed, or maintained for the purpose of ingress and egress of vehicles from the street to the abutting property.
- (d) Downstream corner: the corner located in the direction of traffic flow of the street.
- (eg) Interested person: the owner of the property whereon a vision clearance area is located, person officially representing the neighborhood association for the area within which the property is located, and any person affected by a decision regarding the vision clearance area.
- (f) Owner: the owner of property upon which a vision clearance area is located.
- (g) Public Works Director: the Director of the Department of Public Works or the Director's designee.
- (h) Street: any public right-of-way, highway, thoroughfare, parkway, throughway, road, avenue, or other place that is open, used, or intended to be used, by vehicular traffic, but excluding alleys and driveways.
- (i) Uncontrolled intersection: an intersection where no intersecting street is controlled by a stop sign or traffic signal control device.
- (j) Vision clearance area: the publicly and privately owned area adjacent to an intersection within the legs of the triangle as determined according to the regulations provided by this chapter which

must be sufficiently free of obstructions to provide safe visibility for vehicular, bicycle, and pedestrian traffic. The legs of the triangle shall be measured along the property line. (Ord No. 57-2000; Ord No. 60-2002; Ord No. 57-05; Ord No. 44-09)

76.010. Obstructions.

(a) Except as provided in subsection (c), it shall be unlawful for any person to place, park, leave, deposit, or maintain any structure, barricade or other obstruction such as building material or merchandise, other than lawfully parking vehicles, on any arterial or collector street, or in the travel lanes of local streets, or on sidewalks, without first notifying the director of public works and obtaining written permission.

(b) The director may impose such reasonable conditions as hours of use, duration of use, barricading, provision of temporary sidewalks and bike lanes, lighting, or other marking which is deemed necessary to protect the safety of persons and property in the vicinity, and to provide for the expeditious movement of vehicular and pedestrian traffic around the obstruction.

(c) No permission shall be required to place building material in the parking lanes of local streets provided appropriate barricading and lighting are placed to protect the safety of persons and property in the vicinity. Materials shall be placed consistent with the provisions of SRC Chapter 75.090 and the street cleaned after removal. In no event shall the material extend more than eight feet from the curbline. The director may grant extensions of time upon request. (Ord No. 3390; Ord No. 67-79; Ord No. 91-99; Ord No. 72-2002)

76.015. Removal of Debris.

(a) It shall be unlawful for any person to deposit or cause to be deposited mud, dirt, sand, gravel, leaves, or other debris on any street, including bicycle lanes, and sidewalks, when such debris constitutes a traffic or pedestrian hazard as determined by any police officer, building inspector or the director of public works.

(b) In lieu of removal of the debris as required by subsection (a) of this section, when such deposit is unavoidable during active operations and as approved by the director of public works, the person in charge may allow such debris to remain and post lighted barricades or flagmen to warn motorists of the hazard.

(c) It shall be unlawful for any person in charge of any building construction, landfill, or excavation operation to permit mud, dirt, sand, gravel, leaves, or other debris deposited on any street as a consequence of such operation to remain on such street, including bicycle lanes and sidewalks, after the close of the construction day, when such debris constitutes a public nuisance in the opinion of the director of public works or the building official. (Ord No. 67-79; Ord No. 72-2002)

76.020. Certain Activities on Street Prohibited; Exceptions. It shall be unlawful for any person to have or maintain on any street or sidewalk a stand of any kind, a mobile device or other such vehicle used for the sale of merchandise of any character or for the conduct of any private business or calling of any character. Nothing in this section shall be construed to prevent peddlers or street vendors from the use of the public streets and sidewalks with mobile devices or pushcarts, when provided with proper licenses, or those persons using public streets pursuant to a current street encroachment permit or a permit issued pursuant to SRC Chapter 42 and SRC Chapter 62. (Ord No. 3390; Ord No. 2-78; Ord No. 52-84; Ord No. 40-2003)

76.040. Barbed Wire Prohibited along Streets and Alleys. Except as provided in SRC 131.120, it shall be unlawful for any person to erect or maintain within one foot of any street, sidewalk, or alley line or in or across any street, sidewalk, landscape strip, or alley any barbed wire or barbed wire fencing, either independent of or in connection with any fencing material. (Ord No. 3390; Ord No. 124-86; Ord No. 72-2002))

76.050. Removal of Lights and Barricades. It shall be unlawful for any person to remove, break, take down, carry away, destroy or render ineffective in any manner whatsoever any light, fence, barricade, or other device intended as a warning against danger in any street alley, or sidewalk during the time such street sidewalk or alley shall be out of repair or dangerous to travel or in the process of improvement. (Ord No. 3390; Ord No. 72-2002)

76.060. Removal of Boundary Stakes. It shall be unlawful for any person to remove, destroy, deface, mutilate, or change any survey grade, sidewalk or boundary stake or marker. (Ord No. 3390)

76.070. Deposit of Glass on Streets, Alleys, or Sidewalks. It shall be unlawful for any person to deposit or leave any broken glass on any street alley or sidewalk of the city. (Ord No. 3597; Ord No. 72-2002)

76.080. Damaging or Removing Curbs and Sidewalks. It shall be unlawful for any person to remove or damage in any way any portion of any street curb or sidewalk without first obtaining written permission from the director of public works. (Ord No. 3401; Ord No. 72-2002)

76.090. Moving Heavy Equipment over Curbs and Sidewalks. Any person wishing to move any heavy thing such as a building, excavating machine or well-drilling equipment over or upon a street curb or sidewalk shall first obtain a written permit from the director of public works and shall be held responsible for any and all damage to same. (Ord No. 3401; Ord No. 72-2002)

76.110. Mains to Be Laid Before Street Improved. All mains used for conveying water or gas or for other purposes along streets which are permanently improved or are to be permanently improved shall, immediately before such improvement is made, be laid in such streets in a permanent manner. (Ord No. 3364)

76.115. Temporary Closure of Streets and Sidewalks.

(a) The Public Works Director may issue permits for the temporary closure of any street, sidewalk, or other public way to vehicular or pedestrian traffic to persons making street or sidewalk improvements or pursuing other construction in public right-of-way.

(b) In granting permits under subsections (a) of this section, the Public Works Director shall prescribe the time allowed for the closure and may require the placement and maintenance of signs and barricades and impose any other conditions deemed necessary for the safety and protection of the public. The permittee shall, at the person's sole cost and expense, cause to be placed and maintained during such temporary closure the barricades and signs required by the Public Works Director.

(c) A fee in an amount prescribed by resolution of City Council shall be charged for an application to temporarily close any street, sidewalk or other public way to vehicular or pedestrian traffic. (Ord No. 100-73; Ord No. 107-84; Ord No. 51-91; Ord No. 51-96; Ord No. 38-99; Ord No. 72-2002; Ord No. 57-05; Ord No. 44-09)

76.117. Appeal. Any person aggrieved by the administrative action taken under section 76.115 may appeal the action to the council. The council shall hear the appeal promptly and affirm, modify, or repeal the administrative action of the director of public works. (Ord No. 100-73)

76.120. Method of Laying Mains. All mains and service pipes for conveying water or gas for other purposes laid in the permanently improved streets or alleys of the city shall be laid not less than 18 inches below the established grade of the street or alley and shall be so laid as not to interfere with the grading or improvement of any such street or alley. (Ord No. 3364)

76.130. Petition for Vacation of Public Property, Deposit Required.

(a) Whenever a petition for the vacation of any street, alley, avenue, boulevard, easement, plat, or other public place, or any part thereof, is presented to the city recorder for filing and consideration by the council, the person presenting such petition shall deposit with the recorder the sum as prescribed by resolution of the council from which the recorder shall deduct the cost of publishing and posting notices of the proposed vacation and such other expenses as are incurred. In case the actual cost exceeds the amount of the deposit, an additional sum, sufficient to cover such deficiency, shall be collected by the recorder before the vacation is completed. In case the actual costs are less than the amount deposited, any excess or balance shall be refunded.

(b) The petition and appendages shall contain such information as is required by ORS 271.080 together with:

(1) A title report verifying ownership of the property abutting the area proposed to be vacated and in the affected area; and

(2) A tax map showing the area proposed to be vacated and the area encompassing the affected area.

(c) Upon acceptance of the petition by the city recorder, it shall be forwarded to the department of public works for verification of the petition requirements.

(d) If the petition meets all legal requirements, the city recorder shall deposit the required fee with the department of finance and forward the petition to the council for the setting of a public hearing. The recorder shall notify petitioner(s) by mail of the time and date of the hearing.

(e) Where the city is the owner of property abutting the area proposed to be vacated the city manager shall have the authority to give consent or withhold consent of initiating the vacation.

(Ord No. 3889; Ord No. 25-72; Ord No. 196-79; Ord No. 139-82; Ord No. 55-90; Ord No. 51-91; Ord No. 51-96)

76.132. Notice; Hearing.

(a) Upon order of the council the city recorder shall set the petition for vacation for hearing before the council and shall give notice of such hearing as provided by ORS 271.110.

(b) The city recorder shall also immediately forward a copy of the petition and any appendages to the planning commission and notify the public works department of the council action. (Ord No. 55-90; Ord No. 51-96)

76.134. Notification of Public Utilities. Upon receipt of a copy of a petition for vacation, the public works department shall notify all affected public utility companies of such petition. Responses from the utility companies shall be included in the public works director's recommendation to council. (Ord No. 55-90)

76.140. Grant or Denial; Assessments.

(a) The council upon hearing a petition for the vacation of a street, alley, plat, or other public place, or any part thereof, may grant the same in whole or in part, or may deny the same in whole or in part, or may grant the same with such conditions or reservations as would appear to be for the public interest, including reservations pertaining to the maintenance and use of underground public utilities in the portion vacated, and may make an assessment and provide for the payment to the city of such sum of money as the council may find to be just and equitable as an assessment of special benefit upon the real property abutting upon the vacated area, and the costs of curbs, drainage, paving, sewer or other local improvement already completed or to be constructed upon the area vacated. The assessments, together with all costs shall not exceed the amount of special benefit resulting or inuring to the abutting property by reason of such vacation. In lieu of paying the assessment, the owner may make application to pay the sum of money due in installments, as provided in the Bancroft Bonding Act in the same manner as other assessment liens in the city. In such case the council shall include in the vacation ordinance the amount of the assessment and direct the director of finance to enter such assessment in the docket of city liens.

(b) Notice of proposed assessments for benefits shall be given to the owners of the property to be assessed at least three days before the council meeting at which the assessments are to be considered or made, which notice the recorder shall cause to be given upon such property owners by mail addressed to the said at their last known address.

(c) In the event any such petition is wholly denied, only the cost of publishing and posting occasioned by the petition shall be retained. Any moneys retained, and any sum assessed and collected as benefits, shall be paid into the finance department.

(d) The council's action in granting a petition for vacation shall be by ordinance. The council's action denying a petition shall be by resolution. Any action taken shall conform with the Salem Comprehensive Plan. (Ord No. 3889; Ord No. 31-90; Ord No. 55-90)

76.142. Satisfaction of Conditions Attached to Vacation.

(a) Where conditions have been attached by council to the vacation approval, petitioners shall, prior to council's consideration of the vacation ordinance, file with the Recorder a document accepting the terms and conditions of the approval.

(b) Satisfaction of a condition may be delayed if:

(1) The petitioner posts a performance bond in the amount of the project cost as estimated by the director of public works;

(2) It is agreed in writing that the work will be completed within one year; and

(3) The petitioner grants to the city a right of access to the property and a right to complete the improvement in the form of covenants which shall be recorded with the county. (Ord No. 55-90)

76.144. Recordation of Ordinance.

(a) A certified copy of the ordinance vacating any street, alley, plat, or other public place and any map, plat or other record in regard thereto which may be required or provided by law, shall be filed for record with the county clerk by the city recorder. The recorder shall also file a certified copy of any such ordinance with the county assessor, county surveyor and each affected public utility.

(b) No vacation shall be effective until the ordinance vacating the property is recorded by the city recorder with the county clerk, assessor and surveyor.

(c) No vacation shall be recorded until:

(1) All assessments have been paid or an application to pay said assessments has been properly filed;

(2) All required legal documents have been signed and filed; and

(3) The petitioners have complied with all of the applicable conditions attached to the vacation approval as provided pursuant to SRC 76.142. (Ord No. 55-90)

76.150. Ditches, Waterways, along Streets.

(a) It shall be the duty of any person having, maintaining, or operating in the city any ditch, race, or other waterway to construct and maintain a bridge over such ditch, race, or waterway wherever the same crosses or runs along any street or alley, of sufficient width to cover such ditch, race, or waterway as far as it may extend across or along such street or alley. Any ditch, race, or waterway maintained or operated or permitted to exist or remain in violation or contrary to the provisions of this subsection is hereby declared a nuisance, and the same shall be subject to abatement.

(b) It shall be the duty of any person having, maintaining, or operating in the city any ditch, race, or waterway to confine the same to a width not to exceed 12 feet and to maintain a substantial covering over such ditch, race, or waterway or to fence the same with woven wire fencing, the same to be fastened to posts, set not to exceed ten feet apart, along the edges of any such ditch, race, or waterway, between all streets and alleys that any such ditch, race, or waterway may cross. Any ditch, race, or waterway maintained or operated or permitted to exist or remain in violation or

contrary to the provisions of this subsection is hereby declared a nuisance and the same shall be subject to abatement. (Ord No. 591; Ord No. 592)

76.160. Encroachments into Public Right-of-Way.

(a) The director of public works is authorized to issue a permit to encroach into public right-of-way at the property owner's risk and subject to the following conditions:

(1) Proper plans and specifications for the proposed encroachment are submitted to the public works department.

(2) The encroachment complies with the applicable Codes of the city with regard to structural safety, traffic, sanitation, and fire safety requirements.

(3) The request be evaluated by the director of public works in regard to any adverse effect on adjoining property.

(4) There be no interference with the use of the public street for roadway, sidewalk, existing or proposed utilities, and other authorized uses.

(5) The encroachment will be maintained in good order.

(6) The permit shall be revocable and when requested to do so by the council or other public authority having jurisdiction, the owner will remove the encroachment at his expense.

(7) The owner will hold the City of Salem and all its officers harmless on account of the encroachment.

(8) The form of the permit shall be approved by the city attorney.

(9) A fee for the permit shall be charged as prescribed by resolution of the council. (Ord No. 22-74; Ord No. 51-91; Ord No. 51-96; Ord No. 72-2002)

76.170. Vision Clearance Areas. In order to provide visibility for vehicular, bicycle, and pedestrian traffic, the following regulations shall apply to all intersections of streets, alleys, and private driveways, other than those located in the Central Business (CB) district, as illustrated in Figure 76-A:

(a) Except as provided in subsection (c) of this section, there shall be a vision clearance area at all intersecting streets. At uncontrolled intersections, the vision clearance area shall have 30-foot legs along each street intersection. At controlled intersections, the vision clearance area shall have 10-foot by 50-foot legs, with the shorter leg along the controlled street and the longer leg along the uncontrolled street. No vision clearance area is required on the downstream corners of one-way streets.

(b) Except as provided in subsection (c) of this section, there shall be a vision clearance area on each side of any driveway or alley intersecting a street or alley. For driveways serving single family and duplex dwellings, the vision clearance area shall have 10-foot legs along the driveways and along intersecting streets or alleys. For driveways serving all other development, the vision clearance area shall have 10-foot legs along the driveway and 50-foot legs along the street. Alleys shall have 10-foot legs along both sides of the alley and both sides of the intersecting street.

(c) Where the director of public works determines vision clearance areas cannot be met due to grade; irregular lot shape; identifiable characteristics specific to a property; the presence of an embankment; presence of a wall, building or similar structure; or circumstances related to historic neighborhood characteristics, the director may prescribe the dimensions and conditions which will comply with the intent of the vision clearance area described in this section, according to recognized traffic engineering standards. For the purposes of this subsection, historic refers to neighborhoods with established plantings or mature trees and structures generally constructed prior to 1950.

(d) A vision clearance area shall not contain temporary or permanent obstructions to vision exceeding 30 inches in height above the curb level or street shoulder where there is no curb, except a supporting pillar, post, or tree not greater than 12 inches in diameter as defined in Chapter 68.020(t), or a rectangular pillar or post with a diagonal cross section measurement not greater

than 12 inches; and further excepting utility poles and those posts, poles, or supporting members of street signs, street lights, and traffic control signs or devices installed as directed by the department of public works or any other public agency having jurisdiction. Some, or all, of the excepted appurtenances shall be removed by the owner when in combination they obstruct vision at the intersection.

(e) Notwithstanding the requirements of subsection (d), trees with a trunk diameter, as defined in Chapter 68.020(t), of between 12 and 30 inches within the vision clearance area shall be removed by the owner when they obstruct safe visibility at an intersection unless they are a species that is rare or endangered, historically significant, or a highly valued native. Trees with trunk diameters greater than 24 inches shall not be removed from the vision clearance area.

(f) Vision clearance requirements of subsection (d) may include areas in which vehicles may be parked which are adjacent to the area of the vision triangle on a public street, where, in the opinion of the director of public works, these vehicles obstruct clear vision at street intersections. The vision clearance requirements of subsection (d) shall not extend to vehicles parked on the street intersecting private single family and duplex driveways.

(g) Vision clearance shall not be required at a height 8½ feet or more above the curb level or the shoulder of a street that does not have a curb.

(h) The vision clearance provisions of this section shall not be construed as waiving or altering any yard, landscaping, or setback requirements that may be required by this or any other code or ordinance.

(i) Should any person neglect, refuse, or fail to comply with a final decision by the director of public works, the director may cause the work to be performed, and the costs of such work shall be a lien upon the property.

(j) Any interested person aggrieved by the decision of the director of public works under SRC 76.170 shall have the right to appeal that decision to the Citizen's Advisory Traffic Commission by filing a written notice of appeal as provided in SRC 5.030. The Citizen's Advisory Traffic Commission shall schedule, notify and hold a public hearing in its customary manner. (Ord No. 44-2001; Ord No. 60-2002; Ord No. 60-2002)

76.990. Violations. Violation of any of the provisions of SRC 76.010 to 76.100 is an infraction. (Ord No. 193-79)

