

## CITY OF LIBBY

952 E. SPRUCE | POST OFFICE BOX 1428

PHONE 406-293-2731 | FAX 406-293-4090 | WEBSITE: [www.cityoflibby.com](http://www.cityoflibby.com)

### REGULAR COUNCIL MEETING #1613

SEPTEMBER 19, 2022 @ 7:00PM  
COUNCIL CHAMBERS – CITY HALL

#### **CALL TO ORDER:**

- Pledge of Allegiance
- Prayer by Mark Smith
- Roll Call
- Welcome
- Approve Public Hearing (Cabinet Affordable Housing, LLC) and City Council #1609 Minutes dated July 18, 2022.

#### **ANNOUNCEMENTS:**

#### **COMMITTEE REPORTS:**

- City Administrators Report
- Fire
- Police
- Ordinances
- Lights/Streets/Sidewalks
- Building
- Water/Sewer
- Zoning Commission
- Cemetery/Parks
- Finance
- City-County Board of Health
- Park District Manager of Projects

**PUBLIC COMMENT ON NON-AGENDA ITEMS:** This is an opportunity for the public to offer comments related to issues that are not currently on the agenda that the council has jurisdiction over. Public comment is limited to 3 minutes.

**OLD BUSINESS:** Each previous agenda item will be introduced by the mayor with a description of the item and explanation for the recommended action to be taken. Following council discussion on each item there will be an opportunity for public comment. Public comment is limited to 3 minutes concerning the agenda item being discussed only.

**NEW BUSINESS:** The mayor will introduce each new agenda item with a description of the item and an explanation for the recommended action to be taken. Following council discussion on each item, there will be an opportunity for public comment. Public comment is limited to 3 minutes concerning the agenda item being discussed only.

1. Conflicting ordinances regarding corner lot set-backs/visibility triangle-introduction.
2. Rotary Peace Pole – George Gerard.
3. Approve all business licenses received to date.
  - a) Broden’s Precision Painting, 230 Tamarack Ln., Individual, Interior and Exterior Painting and Finishing.
  - b) Michelle Malyevac, 258 Treasure View Dr., Individual, House Cleaning for Card Pilot Program.

**UNFINISHED BUSINESS:** Each item will be introduced by the mayor (or assigned liaison) with a description of the item. Following council discussion on each item, there will be an opportunity for public comment. No action will be taken. Public comment is limited to 3 minutes concerning each item.

1. IP negotiations.

**GENERAL COMMENTS FROM COUNCIL:** Public comment will not be taken during this portion of the meeting.

**ADJOURNMENT:**

The manner of Addressing Council:

- Each person, not a Council member, shall address the Council at the time designated in the agenda or as directed by the Council, by stepping to the podium or microphone, giving that person’s name and address in an audible tone of voice for the record, unless further time is granted by the Council, shall limit the address to the Council to three minutes.
- All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff with no personal remarks allowed.
- No person, other than the Council and the person having the floor, shall be permitted to enter any discussion either directly or through a member of the Council, without the permission of the Presiding Officer.
- Any person making personal, impertinent, or slanderous remarks or who shall become boisterous or disruptive during the council meeting shall be forthwith barred from further presentation to the council by the presiding officer unless permission to continue is granted by a majority vote of the council.

**ATTENTION:**

To access this meeting electronically with **ZOOM**,  
Dial: 253-215-8782  
Meeting ID: **4042719951**  
Password: **151041**  
Posted: 9/15/22

## **UNAPPROVED MINUTES**

Libby City Council held a public hearing Monday, July 18, 2022, at 6:15pm in Council Chambers at City Hall to solicit public comment on a low-income housing project proposed on Commerce Way.

### **CALL TO ORDER:**

Mayor Williams called the meeting to order at 6:15 pm.

The Pledge of Allegiance was completed and Roll Call commenced. Present were Mayor Williams, Councilors Gary Beach, Melissa Berke, Zach McNew, Hugh Taylor, and Brian Zimmerman, Administrator Samuel Sikes, City Clerk-Treasurer Leann Monigold, and (via Zoom) Councilor Kristin Smith.

Mayor Williams explained the Public Hearing was to solicit public comment on whether a proposed qualifying low-income rental housing property meets community housing needs. The proposed housing complex to be located on Commerce Way in Libby, Montana. Cabinet Affordable Housing, LLC will provide information and answer questions from Council and public prior to the allocation of low-income housing credits.

Cassidy Kipp, 214 Main St., Kalispell, explained Cabinet Affordable Housing has a proposed housing complex on a 4-acre plot of land located off of Commerce Way. The plot of land was donated to Community Action with the stipulation of single-story low-income affordable housing. A partnership has formed with American Covenant Senior Housing Foundation to assist getting the project off the ground, both are representing nonprofit organizations on the basis of the low-income housing credit.

Plans for 12 duplexes have been created for this project. The duplexes will be 1 or 2 bedrooms arranged on the 4 acres with parking in the center. A community building will be added providing a laundry facility, community space to hold classes or other functions, and access to a computer and printer. Action Community will have an office on site with a 4-person staff serving 52% of the households in the Libby community with services including low-income heating, employment training programs, numerous housing programs, and trying to establish homeownership programs.

Each unit would be a 1 or 2-bed unit with a porch on the front and a patio out back and will be rented out to households that are 50-60% of area medium income, which is lower than section 8 housing income limits. There would be a maximum income that could be earned at the time of moving in, but if income increased, there would be no penalties or loss of housing. The units will be considered for multifamily use to allow anyone, regardless of family size, to move in.

There will be restrictive covenants with a 50-year use of the property. Rent will be below market rent, no one will be misplaced if rent increases. The housing is strictly regulated to keep everything maintained and clean. The goal is to give people in the community an opportunity to not be house poor along with the other services available to keep the cost affordable. The exterior space will include a front porch, back patio, green space, and covered parking spaces.

The number of households in Libby on the waiting list for affordable housing has increased by 45% in the last year with an increase in the number of people applying for low-income services.

Councilor Beach asked if the rent was based on income. Ms. Kipp responded that individuals are qualified at a certain income level, which determines the cost of rent for that space that is appropriate to keep it around 30% of household income for affordable housing. If household income increased and assets were acquired, there would not be displacement. Annually, household incomes are reviewed, and adjustments may be made to keep rent within 30% of income. The goal of all of the services provided is to see households progress from tenant to home ownership.

Councilor Smith inquired if the meeting was for reapplying or the next step in the process. Ms. Kipp responded that following last year's public hearing, questions and feedback about the community's need for affordable housing came up during the final process. This year is to identify the housing shortage and if there is a need in the community for affordable housing. The preliminary screening process has been completed, and the final application is being submitted, with notification expected on October 17th.

**PUBLIC COMMENT:** None

**ADJOURNMENT:**

Mayor Williams adjourned the meeting at 6:31 pm.

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Mayor, Peggy Williams

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Clerk-Treasurer, Leann Monigold

## **UNAPPROVED MINUTES**

The City Council held Council Meeting # 1609 on Monday, July 18, 2022, in the Council Chambers at City Hall.

### **Call to Order:**

The meeting was called to order at 7:00 pm by Mayor Peggy Williams.

The Pledge of Allegiance was completed, prayer was by Tom Cole, and roll call commenced. Present were Mayor Williams, Councilors Gary Beach, Melissa Berke, Zach McNew, Hugh Taylor, and Brian Zimmerman, Administrator Samuel Sikes, City Clerk-Treasurer Leann Monigold, and (via Zoom) Councilor Kristin Smith and City Attorney Dean Chisholm.

Mayor Williams welcomed all present.

**Announcements:** None.

### **Committee Reports:**

**Administrator:** Administrator Sikes reported the Building Inspector sold 1 building permit in June for a small deck and roof - \$157. Total for FY22 54 building permits sold - \$47,681 compared to FY21 47 building permits sold - \$41,000 and FY21 54 building permits sold - \$27,500.

**Public Comment on Non-Agenda Items:** None

**Old Business:** None

### **New Business:**

Tonya Chilton-Radandt and Austin Wiesher, Wildlife Biologists with Fish, Wildlife, & Parks (FWP) presented a Chronic Wasting Disease (CWD) update with visual slides. CWD is a slow-moving, fatal neurological disease that affects deer, elk, moose, and caribou. Symptoms do not appear until the animal is terminal, including emaciation, excessive salivation, lack of muscle control, staggering, droopiness of the head, and lack of fear of humans. The infection can take up to two years to become terminal, 14-16 months on average.

In Libby area, samples had been submitted since 2015. In 2019, positive CWD cases were first detected in the Libby area, making it the first time cases had been detected in an urban area. City Council adopted resolution 1939 to authorize FWP to trap and dispatch deer in town for testing. In 2019, 45 deer were tested with zero cases. 2020–2021 100 deer tested, 7 positive cases, 89 sent to the food bank, 2021–2022 99 deer tested, 5 positive cases, 92 sent to the food bank.

Councilor Taylor inquired why out of state tags were allowed to be purchased if FWP does not want the carcasses out of the area they were taken. Ms. Chilton and Neil Anderson explained it is highly recommended to not transport carcasses, by law, tags must be available to everyone not just residents. In 2021, 2678 over the counter tags were sold, 13.6% went to non residents. 2022, 2142 tags sold, 7.9% to non residents. This hunting season 2000 licenses will be available for drawing.

Councilor Beach inquired how the estimate determined 2000 licenses be available and if all were filled what is the estimated population that would be taken. Mr. Anderson said 2000 licenses are bases on surveys taken and if 100% successful it would be approximately ¼ of the deer population. A true average is 30-50% of tags are filled.

Tom Cole asked if a fawn from a diseased doe could have the disease. It was explained that no detection has been found ye, if a fawn has been born with CWD it can be transmitted.

**Approve letter of commitment for Flathead Electric's level III charging station at Fireman's Park.**

Councilor Zimmerman **MADE A MOTION** to approve **letter of commitment for Flathead Electric's level III charging station at Fireman's Park**, and Councilor Beach **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

**Approve all business license applications received to date:**

Brandy's Bakery & Deli, Dawn Goe, and Drake Construction.

Councilor Zimmerman **MADE A MOTION** to approve **all business license applications received to date**, and Councilor Beach **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

**Unfinished Business:**

**IP negotiations:** Mayor Williams announced the meeting is still planned for August 15<sup>th</sup>.

**Public Comments: None**

**General Comments from the Council:** Councilor Beach stated several neighbors have complained about a permanent yard sale. 17.04.150 MCA defines a yard. 8-008-010 MCA defines rubble and unsightly condition on a property. So moving forward would like to see what can be done to address those residents concerns.

**Adjournment:**

Councilor McNew **MADE A MOTION** to **Adjourn**, and Councilor Zimmerman **SECONDED**.

Councilors Beach, Berke, McNew, Smith, Taylor, and Zimmerman voted **FOR**.

**MOTION PASSED.**

Mayor Williams adjourned the meeting at 8:15 PM.

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Mayor Peggy Williams

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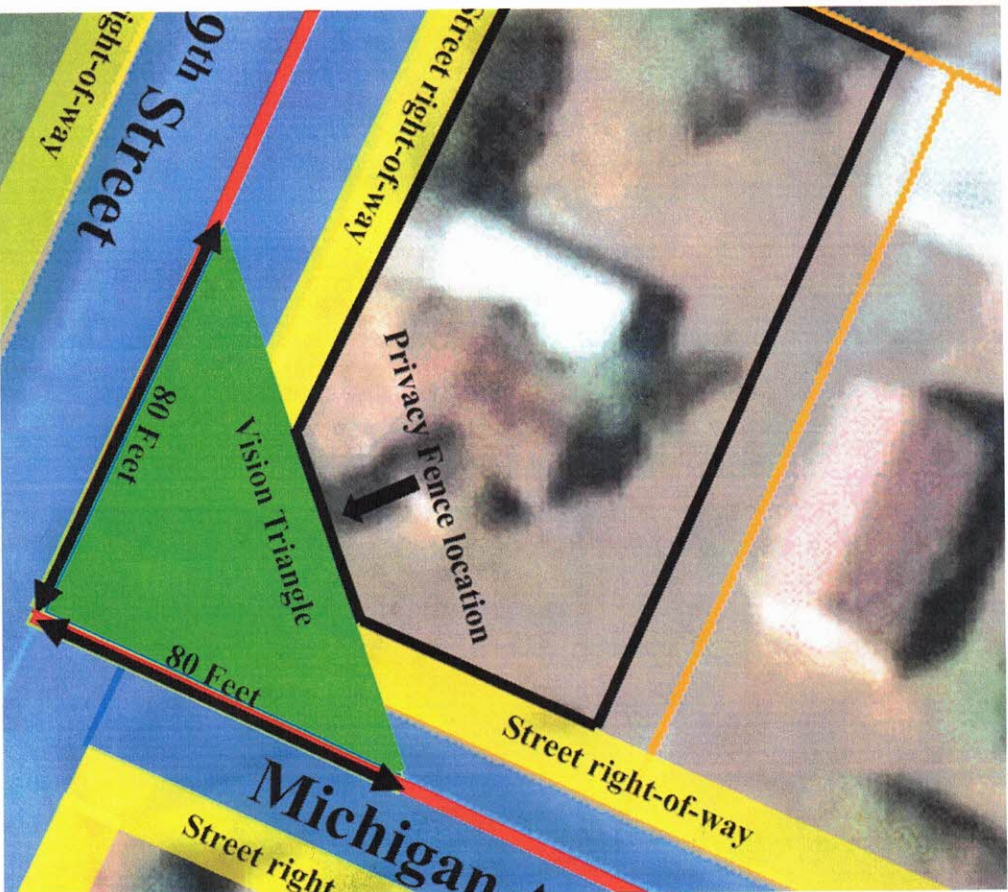
Clerk-Treasurer Leann Monigold

# Conflicting Ordinances

Chapter 12 - STREETS AND SIDEWALKS

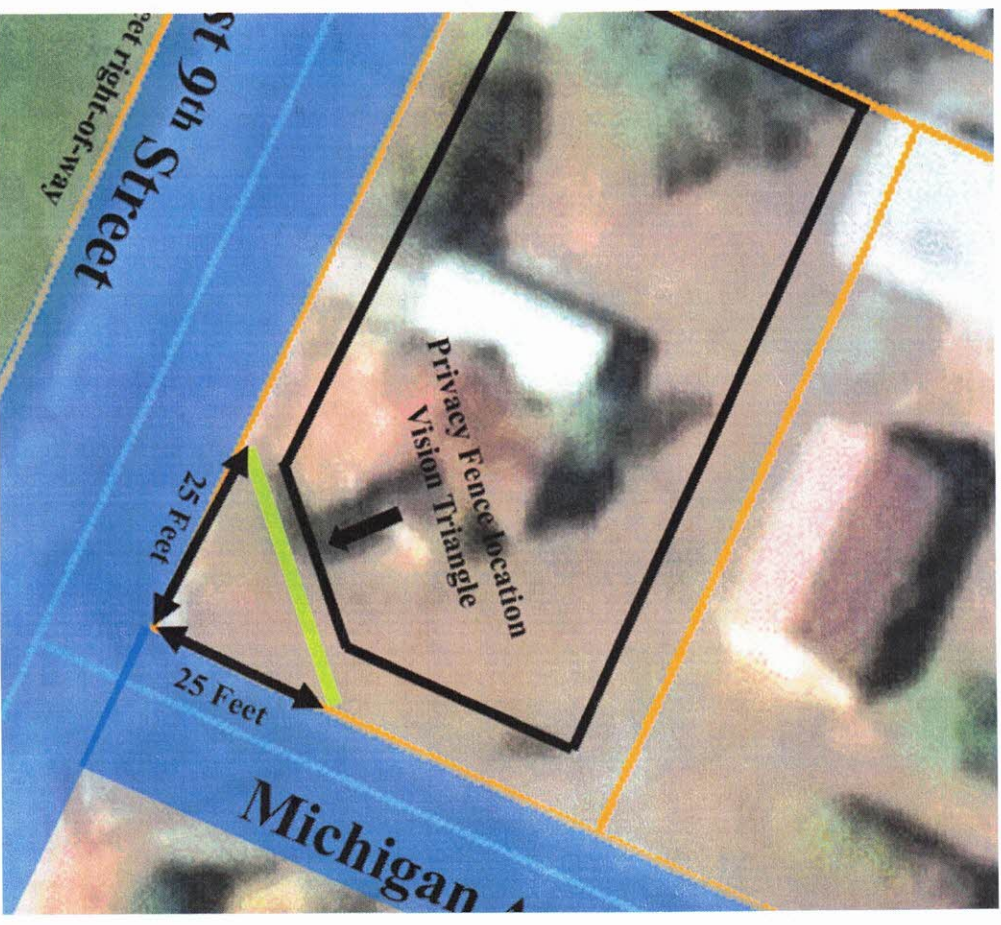
12.40.060 - Traffic hazards within vision triangle

—Trimming—City action.



Chapter 17 - ZONING (Permitted uses)

17.32.030 - Fence or wall—Distance from intersection.





# Conflicting Ordinances

## 12.40.060 - Traffic hazards within vision triangle—Trimming—City action.

- A. The owners of property shall be allowed a wire mesh fence within the vision triangle of not more than six feet in height, or open rail fence not more than four feet in height, providing that the rails do not constitute more than one-third of the fence area.
- B. Any hedge, shrubbery, fence, wall, or other sight obstruction of any nature except buildings and tree boles with limbs trimmed between thirty inches and eight feet in height from the existing centerline road elevation, existing, growing, placed, or installed within a vision triangle, the boundaries of the vision triangle being formed by measuring from the intersection of the centerline of the street right-of-way eighty feet along the centerlines of the street right-of-way and then connecting the two points with a straight line, is deemed to be a traffic hazard and is prohibited.
- C. It is unlawful for either the owner or the person in possession of any premise to permit such traffic hazard to exist. Any owner of any property failing to trim any trees, shrubs, or bushes in conformity with this chapter shall be notified by the city to do so and such notice shall require trimming in conformity with this chapter within fifteen days after the date of such notice. Upon the expiration of such period, the city may cause the trimming to be done and the cost thereof may be collected from the owner of said property in the manner as other costs are assessed against the property owner.

(Ord. 878 (part), 1975)

## 17.32.030 - Fence or wall—Distance from intersection.

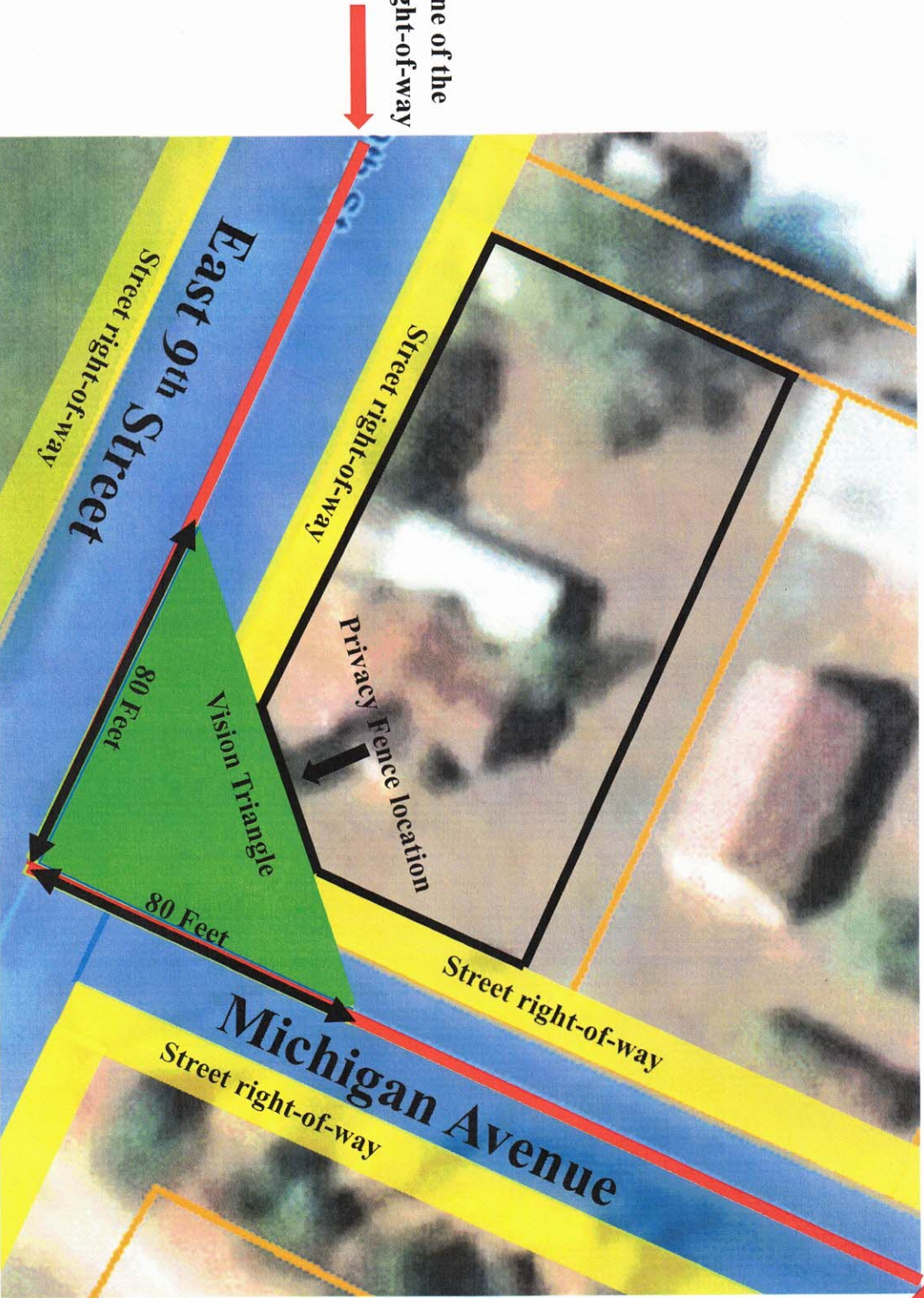
Fences or walls not more than six (6) feet high may be erected in any residence district, but no fence, wall, or shrubbery shall be maintained within twenty-five (25) feet of any street intersection so as to interfere with traffic visibility around the corner.

(Ord. 1359, 1987)

# Corner Lot – Vision Triangle

Chapter 12 – STREETS AND SIDEWALKS 12.40.060

Centerline of the street right-of-way

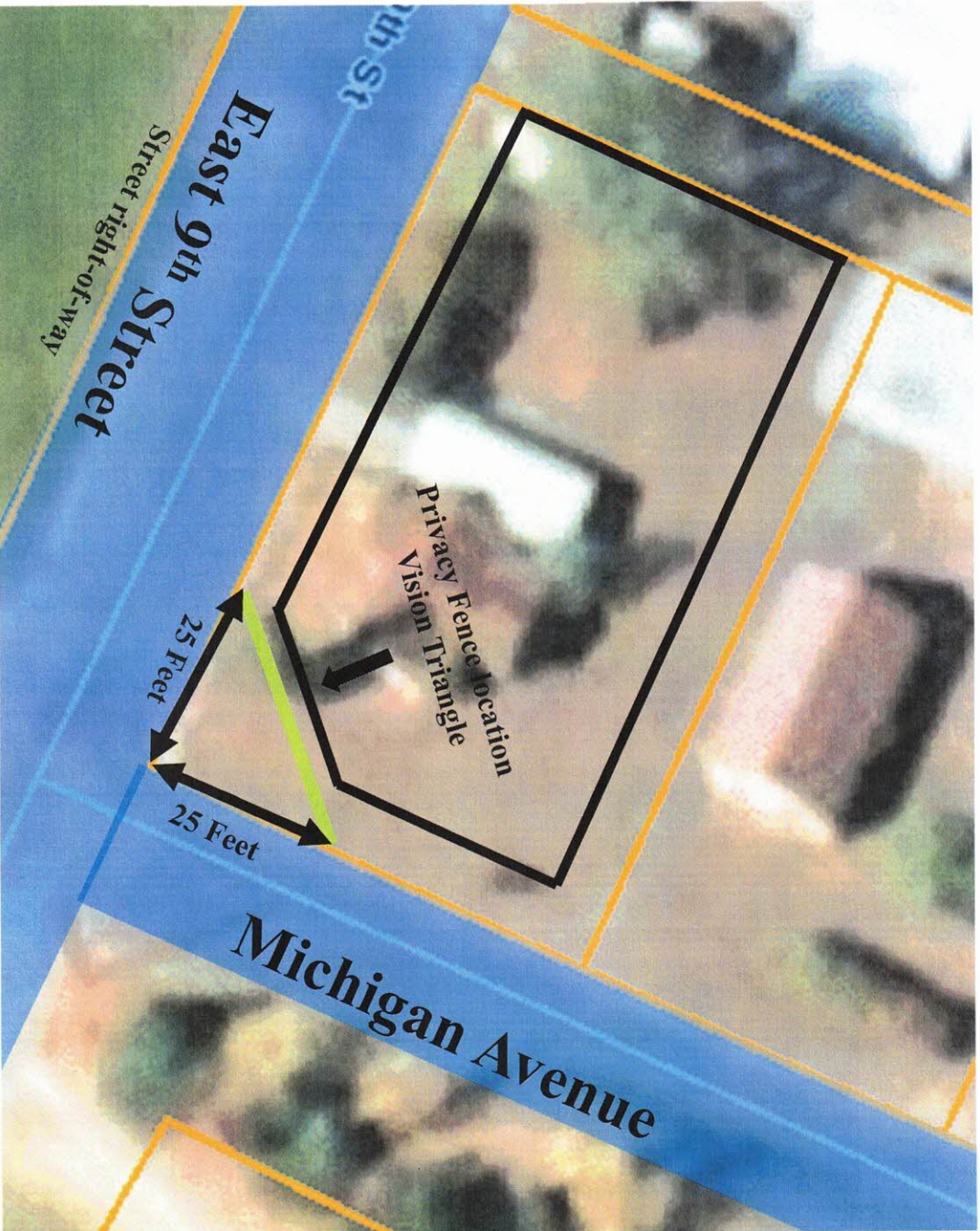


Centerline of the street right-of-way

Intersection of the centerline of the street right-of-ways

# Corner Lot – Distance from intersection

Chapter 17 – ZONING (Permitted uses)



# Conflicting Ordinances Recommendations

## 12.40.060 - Traffic hazards within vision triangle—Trimming—City action. (STREETS AND SIDEWALKS)

- A. The owners of property shall be allowed a wire mesh fence within the vision triangle of not more than six feet in height, or open rail fence not more than four feet in height, providing that the rails do not constitute more than one-third of the fence area.
- B. Any hedge, shrubbery, fence, wall, or other sight obstruction of any nature except buildings and tree boles with limbs trimmed between thirty inches and eight feet in height from the existing centerline road elevation, existing, growing, placed, or installed within a vision triangle, the boundaries of the vision triangle being formed by measuring from the intersection of the centerline of the street right-of-way eighty feet along the centerlines of the street right-of-way and then connecting the two points with a straight line, is deemed to be a traffic hazard and is prohibited.
- C. It is unlawful for either the owner or the person in possession of any premise to permit such traffic hazard to exist. Any owner of any property failing to trim any trees, shrubs, or bushes in conformity with this chapter shall be notified by the city to do so and such notice shall require trimming in conformity with this chapter within fifteen days after the date of such notice. Upon the expiration of such period, the city may cause the trimming to be done and the cost thereof may be collected from the owner of said property in the manner as other costs are assessed against the property owner.  
(Ord. 878 (part), 1975)

## 17.32.030 - Fence or wall—Distance from intersection. (MISCELLANEOUS PROVISIONS)

*Reference to (Ord. 878 (part), 1975) Libby Municipal Code 12.40.060 for vision triangle obstructions.*

Fences or walls not more than six (6) feet high may be erected in any residence district, but no fence, wall, or shrubbery shall be maintained within twenty-five (25) feet of any street intersection so as to interfere with traffic visibility around the corner.

(Ord. 1359, 1987) *(Ord. ???? , 2022)*

# Conflicting Ordinances Recommendations

## **17.12.050 - Corner lot. (RESIDENCE A DISTRICT)**

In the case of a corner lot, no wall of any accessory building shall be nearer to a side street line than the side line of the main building and it shall also be as far from the side street line as the setback line fixed by this chapter for buildings on the side street lots or as near thereto as the width of the lot permits, provided that it can be not less than fifteen (15) feet from the side line. *Reference to (Ord. 878 (part), 1975) Libby Municipal Code 12.40.060 for vision triangle obstructions.*

(Ord. 1359, 1987) *(Ord. ????, 2022)*

## **17.16.050 - Corner lot. (RESIDENCE B DISTRICT)**

In the case of a corner lot, no wall of any accessory building shall be nearer to a side street line than the side line of the main building, and it shall also be as far from the side street line as the setback line fixed by this chapter for buildings on the side street lots or as near thereto as the width of the lot will permits, provided that it can be not less than fifteen (15) feet from the side line. *Reference to (Ord. 878 (part), 1975) Libby Municipal Code 12.40.060 for vision triangle obstructions.*

(Ord. 1359, 1987) *(Ord. ????, 2022)*

## **17.17.050 - Corner lot. (RESIDENCE C DISTRICT)**

In the case of a corner lot, no wall of any accessory building shall be nearer to a side street line than the side line of the primary structure and it shall also be as far from the side street line as the setback line fixed by this chapter for buildings on the side street lots; or as near thereto as the width of the lot permits, provided that it can be not less than fifteen (15) feet from the side line. *Reference to (Ord. 878 (part), 1975) Libby Municipal Code 12.40.060 for vision triangle obstructions.*

(Ord. No. 1819, 9-17-2012) *(Ord. ????, 2022)*

## **17.18.040 - Corner lot. (MEDICAL COMMUNITY DISTRICT)**

In the case of a corner lot, no wall of any accessory building shall be nearer to a side street line than the side line of the main building and it shall also be as far from the side street line as the setback line fixed by this chapter for buildings on the side street lots or as near thereto as the width of the lot permits; provided that it be not less than fifteen (15) feet from the side line. *Reference to (Ord. 878 (part), 1975) Libby Municipal Code 12.40.060 for vision triangle obstructions.*

(Ord. 1359, 1987) *(Ord. ????, 2022)*

# Sample Letters to Residents



CITY OF LIBBY  
952 E. SPRUCE | POST OFFICE BOX 1428  
PHONE 406-293-2731 | FAX 406-293-4090 | WEBSITE: [www.cityoflibby.com](http://www.cityoflibby.com)

To: Names from MT Cadastral

Street Address  
Libby, MT 59923

19 Sept 2022

From: Samuel Sikes, City Administrator

Subject: VISION TRIANGLE TRIMMING VIOLATION

It has been brought to the attention of the City of Libby that there is an obstruction within the vision triangle on your property that is in violation of Libby City Municipal Code 12.40.060.

Your property lies within the area zoned as Residential and is located on a corner lot. Section 12.40.060 sets forth the standards for shrubbery/tree trimming that is permissible within the vision triangle on a corner lot for traffic safety. Your shrubbery/bushes/trees fall outside normal standards and has been deemed a traffic hazard.

Section 12.40.060 provides that the city may cause the required trimming to be done and assess the cost to the property owner if the trimming is not done within 15 days of providing notice. Also, please note the penalty provisions set forth in section 1.28.010. It provides for a civil penalty of up to \$300 for the first day of violation, and up to \$500 for each and every day thereafter that the property remains in violation.

Please have the shrubbery/trees property trimmed immediately. The City will refrain from initiating legal or other proceedings for fifteen days to allow you to come into compliance.

Please email any questions or concerns to [city.admin@cityoflibby.com](mailto:city.admin@cityoflibby.com) or call (406) 293-2731 extension 4. The city appreciates your compliance in this matter.

Samuel Sikes  
City Administrator

Encl: Article 12.40.060, Libby Municipal Code  
Vision Triangle Map

CC:  
Mayor Williams  
Attorney Dean Chisholm  
Fire Chief Lauer  
Police Chief Kessel



CITY OF LIBBY  
952 E. SPRUCE | POST OFFICE BOX 1428  
PHONE 406-293-2731 | FAX 406-293-4090 | WEBSITE: [www.cityoflibby.com](http://www.cityoflibby.com)

To: Names from MT Cadastral

Street Address  
Libby, MT 59923

19 Sept 2022

From: Samuel Sikes, City Administrator

Subject: VISION TRIANGLE FENCE VIOLATION

It has been brought to the attention of the City of Libby that there is a fence obstruction within the vision triangle on your property that is in violation of Libby City Municipal Code 12.40.060.

Your property lies within the area zoned as Residential and is located on a corner lot. Section 12.40.060 sets forth the standards for fencing that is permissible within the vision triangle on a corner lot for traffic safety. Your fence falls outside normal standards has been deemed a traffic hazard.

Also, please note the penalty provisions set forth in section 1.28.010. It provides for a civil penalty of up to \$300 for the first day of violation, and up to \$500 for each and every day thereafter that the property remains in violation.

Please have the fence removed or altered to standards immediately. The City will refrain from initiating legal proceedings and for two weeks to allow you to come into compliance.

Please email any questions or concerns to [city.admin@cityoflibby.com](mailto:city.admin@cityoflibby.com) or call (406) 293-2731 extension 4. The city appreciates your compliance in this matter.

Samuel Sikes  
City Administrator

Encl: Article 12.40.060, Libby Municipal Code  
Vision Triangle Map

CC:  
Mayor Williams  
Attorney Dean Chisholm  
Fire Chief Lauer  
Police Chief Kessel