



CITY COUNCIL MEETING STAFF REPORT

Meeting Date: May 1, 2023		Subject: Prohibited Camping Code Update Project – Administrative Rules	
		Staff Members: Amanda Guile-Hinman, City Attorney	
		Department: Legal	
Action Required		Advisory Board/Commission Recommendation	
<input type="checkbox"/> Motion <input type="checkbox"/> Public Hearing Date: <input type="checkbox"/> Ordinance 1 st Reading Date: <input type="checkbox"/> Ordinance 2 nd Reading Date: <input type="checkbox"/> Resolution <input checked="" type="checkbox"/> Information or Direction <input type="checkbox"/> Information Only <input type="checkbox"/> Council Direction <input type="checkbox"/> Consent Agenda		<input type="checkbox"/> Approval <input type="checkbox"/> Denial <input type="checkbox"/> None Forwarded <input checked="" type="checkbox"/> Not Applicable	
		Comments: N/A	
Staff Recommendation: N/A			
Recommended Language for Motion: N/A			
Project / Issue Relates To:			
<input checked="" type="checkbox"/> Council Goals/Priorities: Housing Strategy 14 – adopt ordinances to bring the city into compliance with state and circuit court rules	<input type="checkbox"/> Adopted Master Plan(s):	<input type="checkbox"/> Not Applicable	

ISSUE BEFORE COUNCIL:

Review further draft of Administrative Rules (**Attachment 1**) and aerial map of proposed designated non-vehicle camping site (**Attachment 2**) for potential approval at the May 15, 2023 Council meeting.

EXECUTIVE SUMMARY:

This is the seventh work session wherein the City Council has considered provisions regarding camping on city property in response to new state laws and federal court cases. This is state-mandated work that every city in Oregon is, or will be in the process of, doing. The goal of the City's camping code update project is to do so in a way that is humane, and complies with state and federal law, by establishing clear rules about where, when, and how camping is allowed or not allowed on City property and rights-of-way.

Based on the state laws and federal case law, community members' and stakeholders' feedback, Council's policy direction from its February 23, March 6, March 20, April 3, and April 17, 2023 work sessions, staff has prepared an updated draft of Administrative Rules and aerial map regarding prohibited camping. Staff seeks feedback from the Council on the Administrative Rules and aerial map and, assuming consensus from Council, will bring back a proposed Resolution for consideration at the May 15, 2023 Council meeting.

For a comprehensive discussion of federal case law and state statutes that require the City to undertake this prohibited camping code update, see the Staff Report for Ordinance No. 879, which is being considered at the May 1, 2023 City Council meeting.

I. DRAFT ADMINISTRATIVE RULES

Attached as **Attachment 1** is a draft of Resolution No. 3058 approving administrative rules governing camping on public property. To accommodate the non-vehicle campsites in a relatively small area on the property to the north of the City Hall parking lot, staff recommends reducing the distance between non-vehicle campsites to 25 feet. See Section 3.2 in Administrative Rules (Exhibit A to Attachment 1). This will allow the current proposed area to accommodate eight (8) non-vehicle campsites, while also preserving an area for service vehicles (e.g., sanitation, maintenance, and emergency vehicles) to access the area.

II. AERIAL MAP OF NORTH PROPERTY

At the April 17, 2023 work session, Council agreed that siting non-vehicle camping on the property to the north of the City Hall parking lot was comparatively advantageous to siting non-vehicle camping on the City Hall parking lot.

Council expressed a desire to designate a smaller area of the property to the north for non-vehicle camping than the alternative map 3 shown at the April 17, 2023 work session. Council could not come to a consensus regarding an orientation at the western edge of the property, or a more easterly orientation from the point of the barrier near the crosswalk crossing SW Courtside Drive. Council directed staff to review the options and return with a recommendation for discussion at Council's May 1, 2023 work session.

The City team met and discussed the alternatives and recommends a more easterly orientation, approximately 56 feet across and 90 feet deep (approximately 5,040 square feet), with a recommended distance between campsites of 25 feet, which will allow for 8 overnight campsites. See **Attachment 2**. The City team identified several reasons for this orientation, summarized below:

- With the vegetative screening along the eastern edge of the proposed designated area, the closer the camping is to that screening, the better the screening will serve to minimize the view of the camping from residents to the east.
- If there is an emergency, the ideal location for emergency vehicle access is the driveway next to the crosswalk. The team identified a service access area as well (see Attachment 2), which the westerly portion would not be able to accommodate.
- Similarly, the ideal access for any sanitation servicing (cleaning port-a-potties, collecting trash receptacles) is the driveway next to the crosswalk. The service access area will similarly be accessible to such service providers.
- Since the easterly orientation allows for a rectangular area, as opposed to a triangular area, it balances confining the footprint of the non-vehicle camping area and congregation.
- With the easterly orientation, staff can be more intentional about the vegetative screening and the types of plantings that will best serve the area (see discussion below regarding proposed plantings).
- The easterly orientation will allow employees to continue to rough mow the areas outside of the designated area, further delineating where individuals can and cannot camp for survival at night.
- If a western orientation is implemented, the vegetative screening will need to be along the western edge near Town Center Park. Eastern vegetation will not screen the appearance of the campsites from the residents unless moved closer to the designated area, which will limit the ability to expand without either planting additional screening or removing and replanting new screening. Such implementation would be time consuming and costly.

With regard to implementation, an easterly orientation decreases the type of fencing that will be required. Along with the vegetative screening, the team proposes a fence along the northern property boundary and T-posts (demonstrative photo below) running along the northern and western perimeters with signs stating that camping is not allowed beyond those points. These T-posts can easily be moved if the area needs to be expanded.

Example of T-Post:



For vegetative screening, the City team proposes three different types of plants densely planted that will fill in quickly, provide beautiful blooms, and emit a pleasant scent in the area. They will also partially screen the sanitation area. Attached as **Attachment 3** is a demonstrative map of the plantings and photos of the proposed plants.

Based on the staff review and consideration of the proposed alternatives, a more easterly orientation for non-vehicle camping on the property to the north is staff's recommendation for inclusion in the proposed Administrative Rules.

EXPECTED RESULTS:

Council to consider approval of administrative rules planned for May 2023, with an effective date of July 1, 2023. If Council is supportive of the staff's recommendation, the City team has begun identifying vendors for the necessary fencing and vegetative screening.

TIMELINE:

Approximate timeline of expected upcoming events:

1. May 15, 2023 – Adopt Administrative Rules via Resolution
2. July 1, 2023 – New regulations become effective

CURRENT YEAR BUDGET IMPACTS:

Assuming Council directs staff to move forward with the recommended plan, a supplemental budget request of approximately \$100,000 is planned in June 2023 for one-time capital costs to contract for sanitation services, purchase and install fencing, and plant the needed vegetative screening. Ongoing operational and maintenance costs will be proposed in the next fiscal year budget.

COMMUNITY INVOLVEMENT PROCESS:

Public involvement is a focal point of the city camping code revision process to ensure a diverse group of community members and stakeholders can provide their priorities, interests, and concerns related to the potential code revisions. The City provided a community survey through Let's Talk, Wilsonville! and staff have met and are meeting with stakeholders, including City advisory boards, private service providers, business and community groups, Clackamas County, the School District, TVF&R, and other government agencies. Attached to the companion staff report on Ordinance No. 879 is a memorandum explaining the community outreach process.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:

While community members may feel uncertain about the implementation and impact of these new camping regulations, the Council and City project team have diligently worked over several months to ensure that new regulations and siting for camping for survival reflect the current need for overnight campsites for individuals experiencing homelessness, while ensuring that the regulations are not so complicated or onerous that they are difficult to understand or enforce. The City is committed, as reflected in the value statements accompanying Ordinance No. 879, to collaborating with its partners to connect individuals experiencing homelessness with available resources so that the City can one day achieve functional zero homelessness in the community.

ATTACHMENTS:

1. Attachment 1 – Draft Resolution No. 3058 with Exhibit
 - a. Exhibit A – Administrative Rules
2. Attachment 2 – Proposed Aerial Map for Property North of City Hall
3. Attachment 3 – Demonstrative Map and Photos of Proposed Plantings for Vegetative Screening

ATTACHMENT 1

Item C.

RESOLUTION NO. 3058

A RESOLUTION OF THE CITY OF WILSONVILLE ADOPTING ADMINISTRATIVE RULES RELATED TO REGULATION OF CAMPING FOR SURVIVAL ON PUBLIC PROPERTY.

WHEREAS, the purpose of these administrative rules is to ensure the humane treatment and appropriate response by the City to individuals experiencing homelessness when applying provisions within Sections 10.700 through 10.780 of Wilsonville Code, and other applicable provisions of Wilsonville Code, including but not limited to, Sections 3.000 and 5.200 through 5.210; and

WHEREAS, the City of Wilsonville seeks to create rules and procedures that provide flexibility and allow the City to nimbly, efficiently, and effectively comply with requirements of Oregon House Bill (HB) 3115 (2021) and HB 3124 (2021), as well as current federal court decisions *Martin v. Boise*, 920 F.3d 584 (9th Cir., 2019) and *Johnson v. City of Grants Pass*, 50 F.4th 787 (9th Cir., 2022; and

WHEREAS, the City has engaged in extensive community outreach, including a community questionnaire with 437 responses, anonymous surveys from individuals experiencing homelessness, additional outreach to public and private service providers, and discussions with other local stakeholders to create a comprehensive and adaptable response strategy for individuals experiencing homelessness; and

WHEREAS, the City Council conducted 7 work sessions on public camping regulations, and the City has received additional input from the City's DEI Committee, Library Board, and Parks and Recreation Advisory Board on creating and implementing nimble public camping regulations; and

WHEREAS, the City seeks to create versatile policies and systems to access and obtain services provided by the Counties of Clackamas and Washington, which receive state and federal funding for housing and homelessness services for those within their respective jurisdictions; and

WHEREAS, in undertaking a review of City provisions related to public camping for survival, creating administrative rules related to the implementation of time, place, and manner restrictions on public camping became necessary to provide guidance and direction to City

employees regarding compliance with state laws and current federal case law in the enforcement of the provisions of Wilsonville Code related to public camping.

NOW, THEREFORE, THE CITY OF WILSONVILLE RESOLVES AS FOLLOWS:

Section 1. Findings. The City Council hereby adopts the above-stated recitals and the Staff Report accompanying this Resolution as the City Council's findings demonstrating that the regulations adopted herein are in the public interest and promote the health, safety, and welfare of the City of Wilsonville community.

Section 2. The City Council hereby adopts the Administrative Rules regarding the City's regulation of camping on public property attached hereto and incorporated by reference herein at **Exhibit A**.

Section 3. Effective Date. This Resolution is effective beginning July 1, 2023.

ADOPTED by the Wilsonville City Council at a regular meeting thereof this 15th day of May, 2023, and filed with the Wilsonville City Recorder this date.

JULIE FITZGERALD, MAYOR

ATTEST:

Kimberly Veliz, City Recorder

SUMMARY OF VOTES:

Mayor Fitzgerald

Council President Akervall

Councilor Linville

Councilor Berry

Councilor Dunwell

EXHIBITS:

A. Administrative Rules

DRAFT

CITY OF WILSONVILLE ADMINISTRATIVE RULES IMPLEMENTING ORDINANCE NO. 879

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1. Purpose.

- 1.1. The purpose of these Administrative Rules is to: (1) refine and provide specificity to the regulations in WC 10.700 through 10.780; (2) provide City personnel direction on implementing WC 10.700 through 10.780; and (3) identify area(s) where individuals who are involuntarily homeless may camp in accordance with the time, place, and manner regulations stated in WC 10.720 through 10.740.
- 1.2. These Administrative Rules are intended to provide guidance and direction for implementing WC 10.700 through 10.780 to ensure citation and removal of individuals and clean-up of campsites comply with Oregon law.
- 1.3. The regulations in WC 10.700 through 10.780 are objectively reasonable with regard to individuals who are involuntarily homeless, as required by HB 3115 (2021), and will be implemented as described in these Administrative Rules in an objectively reasonable manner, based on the totality of circumstances, including the impact of these Administrative Rules on the person experiencing homelessness.
- 1.4. These Administrative Rules are authorized under WC 10.760(3) and may be amended from time to time via resolution adopted by the City Council.

2. Definitions.

- 2.1. *To camp or camping* means to set up, or remain in or at, a campsite for the purpose of establishing or maintaining a temporary place to shelter for survival from the elements.
- 2.2. *Camp materials* means tents, huts, awnings, lean-tos, chairs, tarps or tarpaulins, cots, beds, sleeping bags, blankets, mattresses, sleeping or bedding materials, food or food storage items, and/or similar items that are or appear to be used as sheltering and/or sleeping accommodations, or to assist with sheltering for survival and/or sleeping activities.
- 2.3. *Campsite* means any place where any camp materials, bedding, sleeping bag, or other sleeping matter, or any stove or fire is placed, established, or maintained, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure or any vehicle or part thereof.
- 2.4. *City or Wilsonville* means the City of Wilsonville, Oregon.
- 2.5. *City Manager* means the City of Wilsonville City Manager or designee.
- 2.6. *City-owned property* means public real property, land, and premises owned by the City of Wilsonville.

- 2.7. *City right-of-way* means the space in, upon, along, across, over or under the City-owned streets, roads, highways, lanes, courts, ways, alleys, boulevards, sidewalks, bicycle lanes, and places used or intended to be used by the general public for travel as the same now or may hereafter exist, that the City has the right to allow the public to use.
- 2.8. *Designated Area(s)* means the area(s) the City has identified where individuals who are involuntarily homeless may shelter for survival, as further identified in Section 3 herein.
- 2.9. *Individuals who are involuntarily homeless* means the circumstance when there is no available emergency or transitional housing for an individual experiencing homelessness and/or no transportation for such individual to available emergency or transitional housing within the county where the person is located.
- 2.10. *Personal property* means any item that is reasonably recognizable as belonging to a person and has apparent value or utility.
- 2.11. *Rest* means to pause from exertion by stopping, sitting, lying, or sleeping.
- 2.12. *SROZ* means the City's Significant Resource Overlay Zone.
- 2.13. *Store* means to put aside or accumulate for use when needed, to put for safekeeping, to place or leave in a location.
- 2.14. *Vehicle* means every device in, upon, or by which any person or property is, or may be, transported or drawn upon any street or highway, and includes any hulk or component thereof, including, but not limited to cars, campers, recreational vehicles, motor homes, pickup trucks, pickup truck canopies, and trailers, except devices:
- 2.14.1. Designed to be moved exclusively by human power; or
- 2.14.2. Designed to be used exclusively upon stationary rails or tracks.
3. **Designated Area(s).** It is prohibited at all times for any person to use City property or City rights-of-way to camp for survival, except at the following location(s). The City designates the following specific locations on the Wilsonville City Hall property located at 29799 SW Town Center Loop East, Wilsonville, Oregon for individuals who are involuntarily homeless to camp, pursuant to the time and manner regulations outlined in WC 10.720 and WC 10.740:
- 3.1. Vehicle Camping Locations. An individual who is involuntarily homeless may camp in their vehicle in one of the primary parking spaces shown in **Illustration 1** below. The vehicle must be fully confined within the parking space and the individual may not place any camping materials or other materials outside of their

vehicle. If all primary parking spaces are full, an individual who is involuntarily homeless may camp in their vehicle in one of the designated overflow parking spaces. The parking spaces in between each designated parking space may not be used for camping or storage of personal property. Vehicle camping may not occupy designated non-vehicle camping locations.

3.1.1. If an individual who is involuntarily homeless is utilizing a recreational vehicle, the recreational vehicle may park diagonally in the primary parking spaces, but may not occupy more than three (3) spaces.

3.2. Non-Vehicle Camping Locations. An individual who is involuntarily homeless may camp in the spaces shown in **Illustration 1** below. The size of the campsite may not exceed 10 feet x 10 feet or 100 square feet. Each individual non-vehicle campsite must be at least 25 feet away from another non-vehicle campsite and at least 20 feet setback from property lines, as shown in Illustration 1. Individuals may not place any camping materials or other materials outside of their campsite. Campsites may not be located in the service area identified in **Illustration 1**.

Illustration 1

[Insert Aerial Map]

3.3. Other Temporary Circumstances. In the event that the areas and spaces identified in Illustration 1 above are at capacity and an individual who is involuntarily homeless needs a location to shelter for survival, the City Manager may designate additional location(s) as may be necessary pursuant to WC 10.770(2). Such temporary action by the City Manager must be considered for ratification by the City Council at its next regularly scheduled meeting.

3.3.1. In the event the City Manager must exercise authority pursuant to Section 3.3, the City Manager will consider areas and spaces that are in the best interest of the community and that best meet the purpose and intent of WC 10.700 through 10.780, including considering the following:

- 3.3.1.1. Whether circumstances indicate that such need is temporary or longer-term;
- 3.3.1.2. The feasibility of additional space in the City Hall parking lot;
- 3.3.1.3. The compatibility with surrounding uses and zoning of any other locations; and
- 3.3.1.4. Feasibility of obtaining regulatory approval for temporary use on vacant city properties.

4. Outreach and Education

- 4.1. Resource Materials. The City will develop resource material(s), including, but not limited to, Washington County and Clackamas County resources for individuals who are involuntarily homeless and information of the City's camping for survival regulations. The City will have these educational materials printed in English and Spanish and available to employees, individuals who are involuntarily homeless, service providers, and community members at City facilities commonly utilized by the public. The information will also be provided on the City's website.
- 4.2. County Coordination. The City will coordinate with Clackamas County and Washington County regarding each County's response to and resources for individuals who are involuntarily homeless. City personnel will provide regular updates to the City Council and community of each County's resources and projects to address homelessness.

5. Clean-Up Procedures

- 5.1. Procedure for Removing Campsites and Personal Property.
 - 5.1.1. If people are present when City personnel or contractors return following a posted notice to remove the personal property or campsite that was subject to the notice, people apparently in charge of the campsite, personal property, or vehicle should be given another verbal and/or written warning to move their own campsite, property, or vehicle.
 - 5.1.2. When removing individuals from an established campsite, the City will make reasonable efforts to remove individuals without the use of force, arrest, or citation.
 - 5.1.3. Following removal of a campsite or personal property, the City must post a notice stating the location where removed personal property is being stored, and how individuals can contact the City to retrieve their personal property. When practicable and when the person or people responsible for the personal property are present, the notice should also be personally delivered to the individual(s).
 - 5.1.4. When removing personal property, the City will make reasonable efforts to determine if property belongs to an individual and has any apparent utility. The City will make reasonable efforts to identify which campsite property was removed from, to aid in connecting people with their property removed by the City. Items that are of no apparent use or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination, will be considered garbage, and discarded as part of any cleanup efforts by the City.

5.1.5. Weapons, controlled substances other than prescription medication, and items that appear to be either stolen or evidence of a crime shall be given to law enforcement officials.

5.2. Removal of Vehicles. The provisions of this Subsection are in addition to existing processes for towing of hazardous vehicles or vehicles eligible for towing under state law.

5.2.1. A vehicle may be towed from City right-of-way as an abandoned vehicle under ORS 819.110 and WC 5.400 through 5.460, if it has been parked or left standing in a location or for a duration that is in violation of the Wilsonville Code and is not being used for shelter. (“Abandoned” for purposes of this Subsection means that the vehicle has been parked or left standing in excess of allowed time, even if people are using the vehicle in its parked location without moving it.) State and local regulations regarding notice and hearing for towed vehicles must be followed.

5.2.2. Vehicles that are disabled or left standing in a location as to constitute a hazard or obstruction on City rights-of-way may be immediately towed in accordance with the provisions of ORS 819.120 and WC 5.415. Notice shall be given as described under ORS 819.180 and WC 5.420, and, if requested, a hearing described under ORS 819.190 and WC 5.430.

5.3. Storage of Personal Property.

5.3.1. Personal property removed from campsites and unclaimed at the time of removal will be stored by the City, or its contractor(s), within the City limits, as identified on the notice posted at the time of removal, where people can reasonably access to retrieve belongings. Stored personal property will be reasonably available for any individual claiming ownership.

5.3.2. The City will not store, and will discard, items that have no apparent use or are in an unsanitary condition due to saturation or contamination from bodily fluids, whether human or animal, or other contamination. The City will not store perishable food items or other items that, if left in storage for up to 30 days, could contaminate other stored property.

5.3.3. The City, or its contractor(s), will keep records of the date property was received, a general description of the location the property was recovered from, the date the property must be stored until, and if known, a description or identification of the presumed owner of the property.

- 5.3.4. The City, or its contractor(s), will make reasonable efforts to provide a range of times the storage location will be available for people to collect property.
- 5.3.5. The City, or its contractor(s), will take reasonable precautions to secure stored property, including vehicles, but will not be responsible for loss or damage to stored property.
- 5.3.6. The City may dispose of any personal property that remains unclaimed after thirty (30) days, or such duration as required by statute.
- 5.3.7. Property held by the Clackamas County Sheriff's Office shall be disposed of in accordance with its policies and all applicable state laws.

5.4. Storage of Vehicles.

- 5.4.1. Towed or removed vehicles in which people are camping or sheltering should be stored as personal property removed from an established campsite in accordance with this Policy.
- 5.4.2. The City, or its contractor(s), will store vehicles in a reasonably secure location, consistent with practices for storing other removed personal property. Other than as required to facilitate tow or removal of a vehicle, or as may be required for other valid or law enforcement purpose in extraordinary circumstances, City personnel will not enter vehicles or perform any search, including an inventory search, of vehicle contents.
- 5.4.3. The City will release vehicles to a person entitled to lawful possession with proof of valid license for the person driving the vehicle away. A person must provide proof of ownership or other indicia of ownership, or written authorization from registered owner.
- 5.4.4. If not retrieved after thirty (30) days, the vehicle will be considered unlawfully parked or abandoned pursuant to ORS 98.810 or other applicable statutes, and can be towed and impounded to a towing lot subject to storage and other lawful fees, liens, and disposal.

6. Enforcement

- 6.1. Violation of Administrative Rules. Any violation of these Administrative Rules may be enforced in accordance with WC 10.750 and 10.760.
- 6.2. Humane Implementation and Enforcement. In accordance with state law, the regulations in WC 10.700 through 10.780 and these Administrative Rules should be implemented and enforced in ways to ensure humane treatment of individuals

who are involuntarily homeless when citing and/or removing them from campsites when violation(s) occurs.

6.3. Methods of Enforcement. Enforcement pursuant to WC 10.750 and 10.760 may be by the following ways:

- 6.3.1. Notice and removal and/or clean-up of a campsite pursuant to WC 10.750;
- 6.3.2. When circumstances warrant, emergency removal pursuant to WC 10.750(4); or
- 6.3.3. Citation for violation pursuant to WC 10.760. Citations will be issued when other means of achieving compliance have been unsuccessful or are not practicable for the particular situation.

6.4. Pre-Citation Process.

- 6.4.1. Except in emergencies or when not practicable for the particular situation, before a citation is issued, City personnel will contact, or will cause to be contacted, the person and provide opportunity to cure or remedy the alleged violation. City personnel should consider contacting Clackamas County or Washington County homeless response services (depending on the location). Communication with the person should be done in a manner designed to help the person understand the alleged violation and how to cure the violation.
- 6.4.2. The City will provide to persons allegedly violating the City's camping regulations any relevant resource material(s) developed pursuant to Section 4.1 above.

6.5. Enforcement Suspension and/or Dismissal.

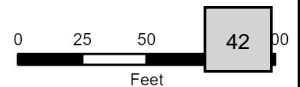
- 6.5.1. Enforcement of time restrictions may be suspended or modified in the event of a declared emergency, weather conditions, or for any other reason within the City Manager's authority, pursuant to WC 10.770(1).
- 6.5.2. The City may elect to dismiss a citation when an individual does not have access to shelter and is engaged in case management, housing, and/or behavioral health services, or when necessary or appropriate to respond to an individual's disability. Currently approved engagement includes:
 - 6.5.2.1. Clackamas County, including the Clackamas County Coordinated Housing Access Program

- 6.5.2.2. Washington County, including the Washington County Community Connect Program.

DRAFT



ATTACHMENT 2



ATTACHMENT 3

Item C.

○ 16-20gal Lagerstroemia Natchez 10' on center \$55 plant/ \$880total

○ 16-10gal Syringa vulgaris 10' on center \$38 plant/ \$608 total

Total cost \$1,488

Alternative evergreen or 3rd row

○ 16- 10gal Leyland cypress 10' on center \$55 a plant/\$880 total





Top: Crepe-myrtle 20'x20'

Left: Leyland cypress (70'X 25'

Right: Common lilac 16'x12'