ORDINANCE NO. 2003

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE FOLLOWING TITLES OF THE MILWAUKIE MUNICIPAL CODE: TITLE 17 LAND DIVISION AND TITLE 19 ZONING. THE AMENDMENTS IMPLEMENT TRANSPORTATION SYSTEM PLAN POLICY RECOMMENDATIONS RELATED TO STREET DESIGN, STREET SAFETY, AND MULTI-MODAL TRANSPORTATION FACILITIES (FILE #ZA-09-02).

WHEREAS, it is the City's goal to provide a safe, convenient, and economic transportation system; and

WHEREAS, the amendments implement policy recommendations from the 2007 Transportation System Plan (TSP) related to street design, street safety, and multi-modal transportation facilities; and

WHEREAS, the amendments to Titles 17 and 19 make the City's transportation regulations easier to understand, use, and defend; and

WHEREAS, the Planning Commission conducted a public hearing on March 10, 2009, as required by Zoning Ordinance Section 1011.5 Legislative Actions, and adopted a motion in support of the amendments; and

WHEREAS, legal and public notices have been provided as required by law; and

WHEREAS, City Council finds that the amendments are in the public interest;

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Findings of fact in support of the amendments are attached as Exhibit A.

Section 2. Titles 17 and 19 of the Milwaukie Municipal Code are amended as described in Exhibit B (strikeout version) and Exhibit C (clean version).

Section 3. All sections not amended as described in Exhibits B and C remain as written.

Read the first time on 6/2/09, and moved to second reading by 4-1 vote of the City Council.

Read the second time and adopted by the City Council on 6/16/09

Signed by the Mayor on 6/16/09

Jeremy Ferguson, Mayor

ATTEST:

Pat DuVal, City Recorder

APPROVED AS TO FORM:
Jordan Schrader Ramis PC

City Attorney

Document1 (Last revised 2/6/2008)

Exhibit A

Findings in Support of Approval
Land Use File ZA-09-02

1. The City of Milwaukie proposes to amend various transportation regulations that are contained in Title 17 Land Division Ordinance and Title 19 Zoning Ordinance of the Milwaukie Municipal Code. The land use application for these amendments is ZA-09-02.

2. The purpose of the proposed code amendments is to make the City's transportation regulations easier to understand, use, and defend. The majority of the proposed amendments are to Milwaukie Municipal Code (MMC) Chapter 19.1400, which is the City's main regulatory document for transportation improvements. However, since the City's transportation regulations and standards are dispersed among and/or referenced in many different code sections, amendments are proposed to all of the following code sections:

   - MMC Section 19.103 (Title 19 Definitions)
   - MMC Subsection 19.312.5 (Downtown Transportation Facility Requirements)
   - MMC Chapter 19.400 (Supplementary Development Regulations)
   - MMC Chapter 19.1400 (Citywide Transportation Facility Requirements)
   - MMC Title 17 (Land Division Transportation Facility Requirements)

   No amendments are proposed to the following documents:

   - Milwaukie Downtown and Riverfront Plan Public Area Requirements
   - Public Works Standards

3. The proposed amendments are subject to the following provisions of the Milwaukie Municipal Code (MMC):

   - MMC Chapter 19.900 Amendments
   - MMC Subsection 19.1011.5 Legislative Actions

4. Sections of the Milwaukie Municipal Code not addressed in these findings are found to be not applicable to the decision on this land use application.

5. Public notice was provided in accordance with MMC Subsection 19.1011.5 Legislative Actions.

6. Milwaukie Municipal Code (MMC) Chapter 19.900 – Amendments.

   A. MMC Section 19.901 requires that a text amendment to the Milwaukie Zoning Ordinance be initiated by the City Council, Planning Commission, or by a property owner.

      The amendments are proposed by the City of Milwaukie and were initiated by the Planning Commission prior to the first public hearing. City Council finds that this criterion is met.

   B. MMC Section 19.902 – Amendment Procedure.

i) MMC Subsection 19.902.1.A requires that proposed amendments be heard at a public hearing and follow the procedures outlined in MMC Subsection 19.1011.5 – Legislative Actions.

The Planning Commission held a public hearing on the proposed amendments on March 10, 2009. A public hearing before City Council is scheduled for May 5, 2009. Public notice was provided in accordance with MMC Subsection 19.1011.5. City Council finds that this criterion is met.

ii) MMC Subsection 19.902.1.B establishes standards for providing notice to Metro of any proposed amendments to the City's Comprehensive Plan or Zoning Ordinance.

Metro was provided notice of the proposed amendments on January 27, 2009, which exceeds the 45-day notification requirement. An analysis demonstrating compliance with the Metro Urban Growth Management Functional Plan will be sent to Metro no later than fourteen days prior to the final City Council hearing on the proposed amendments. City Council finds that this criterion is met.

iii) MMC Subsection 19.902.1.D requires that the Planning Director forward the Planning Commission's recommendation to City Council within forty days of the final Planning Commission hearing on the proposed amendments.

The Planning Commission held their final hearing on the proposed amendments on March 10, 2009. The Planning Director forwarded the Planning Commission's recommendation to City Council at a work session on March 17, 2009, which meets the 40-day requirement. City Council finds that this criterion is met.

C. MMC Subsection 19.904.1 requires that proposals for zoning text amendments provide written evidence that the following requirements are satisfied:

i) Applicable requirements of MMC Section 19.1003, which specify the form of petitions, applications, and appeals.

The Planning Director submitted an application on the prescribed form. Because no development is proposed, the other portions of MMC Section 19.1003 are not applicable. City Council finds that this requirement is met.

ii) Reasons for requesting the proposed text amendments.

The City of Milwaukie seeks to update its transportation regulations to ensure that the code remains current with best professional practices, complies with Metro requirements, and reflects the community's vision for how development should look and function. The proposed amendments are intended to:

- Make the code more clear and consistent.
- Ensure that transportation improvements are being required in a manner that is fair, consistent, and constitutional.
- Implement policy recommendations from the 2007 Transportation System Plan related to street design, street safety, and multi-modal transportation facilities.

See the commentary version of the proposed amendments for more detail (Attachment 4 of the May 5, 2009 staff report to City Council). City Council finds that this requirement is met.

iii) Explanation of how the proposed code amendments are consistent with other provisions of this title.

The proposed code amendments to Titles 17 and 19 are designed to ensure that they are consistent with the provisions of Title 19. The main focus of the proposed code amendments is to update the City's transportation regulations, which are primarily contained in MMC Chapter 19.1400 and Subsection 19.312.5. Both of these code sections were modified so that they appropriately reference and do not conflict with one another. The remaining amendments, which are to MMC Section 19.103, Chapter 19.400, and Title 17, are primarily proposed in response to Chapter 19.1400 amendments. They are intended to ensure that all internal code references are consistent and accurate, all new and existing terms are clearly defined, and all affected code sections are appropriately located. See the commentary version of the proposed amendments for more detail (Attachment 4 of the May 5, 2009 staff report to City Council). City Council finds that this requirement is met.

iv) The approval criteria of MMC Section 19.905.

The applicable approval criteria of MMC Section 19.905 are addressed below.

D. MMC Section 19.905 contains the approval criteria for zoning ordinance text amendments.

i) The proposed code amendments must conform to applicable comprehensive plan (Comp Plan) goals, policies, and objectives and be consistent with the provisions of City ordinances, Metro urban growth management functional plan (Functional Plan), and applicable regional policies.

Compliance with Milwaukie Comp Plan

The proposed code amendments conform to the following applicable Comp Plan goals, policies, and objectives.

- Policy 1 of Objective 2 of Chapter 2 requires that existing ordinances be amended and new ordinances be adopted to implement the Comp Plan. The proposed amendments implement policy recommendations from the 2007 Transportation System Plan (TSP) related to street design, street safety, and multi-modal transportation facilities. See below for more detail.
- The Transportation Element of Chapter 5 identifies the TSP as the City's guiding transportation document that contains its long-term transportation goals and policies for pedestrians, cyclists, drivers, transit users, and freight carriers. The proposed amendments implement TSP policy recommendations related to street design, street safety, and multi-modal transportation facilities as follows:
  - The proposed amendments incorporate more flexibility into the street design determination process, which allows the Engineering Director to develop cross sections that better respond to existing conditions. This approach replaces the existing practice of applying rigid street design standards and requiring a separate adjustment or variance process to deviate from those standards.
  - The existing code states that a proposed development should "not result in hazardous or unsafe transportation conditions or unacceptable level of

service impacts that cannot be mitigated." The proposed amendments describe in detail what that means.

- The proposed amendments update the pedestrian, bicycle, and transit facility code sections within MMC Chapter 19.1400 so that they are consistent with the TSP. Of note is the allowance for alternative sidewalk designs and bike boulevard treatments.

Compliance with City Ordinances

- See Findings 6 and 7 for findings related to compliance with all applicable City ordinances.

Compliance with Functional Plan

The proposed amendments are consistent with the following applicable titles of the Functional Plan.

- Title 8 requires that the City's comprehensive plan and land use regulations comply with the Functional Plan. As required by Metro Code Section 3.07.820.A, the City provided notice of the proposed amendments to Metro's Chief Operating Officer on January 27, 2009.

  In processing the proposed amendments, the City followed its own requirements for citizen involvement. The proposed amendments were referred to the City's Neighborhood District Associations for review and were discussed at several business, neighborhood, Planning Commission, and City Council meetings.

City Council finds that this criterion is met.

ii) The anticipated development must meet the intent of the proposed zone.

The proposed code amendments are legislative in nature and do not involve a specific development proposal in a particular zone. City Council finds that this criterion is not applicable.

iii) The proposed code amendments will meet or can be determined to reasonably meet applicable regional, state, and federal regulations.

The proposed amendments will comply with all applicable regional regulations. Almost all suggestions made by Metro and ODOT were incorporated into the proposed amendments thus ensuring that the City's code will remain in compliance with the Regional Transportation Plan.

The proposed amendments will comply with the following applicable Oregon Statewide Planning Goals.

- Goal 1 directs local jurisdictions to develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.

  The proposed amendments were broadly discussed in a variety of public forums. The Planning Commission and City Council discussed the proposed amendments at four work sessions each. They were also discussed at two meetings with downtown business owners/developers and at three meetings with the Neighborhood District Association (NDA) leadership.

The proposed code amendments were made available for public viewing on January 27, 2009 and referred to many agencies and stakeholders for review and comment.

The Planning Commission and City Council each held at least one public hearing on the proposed amendments. All hearings were published pursuant to MMC Section 19.1011.5.A.

- Goal 2 directs local jurisdictions to adopt implementing ordinances that conform to their comprehensive plan. See Finding 6.D.i for findings related to this goal.
- Goal 12 directs local jurisdictions to provide a safe, convenient, and economic transportation system through the adoption of a transportation system plan (TSP). The City adopted a TSP in 2007 in conformance with this goal. The proposed amendments implement key policy recommendations from the TSP. See Finding 6.D.i for more findings related to this goal.

iv) The proposed code amendments demonstrate that existing or planned public facilities and services can accommodate anticipated development of the subject site without significantly restricting potential development within the affected service area.

The proposed code amendments are legislative in nature and do not involve a specific development proposal at a particular site. City Council finds that this criterion is not applicable.

v) The proposed code amendments are consistent with the functional classification, capacity, and level of service of the transportation system.

The proposed code amendments are legislative in nature and do not involve a specific development proposal at a particular site. City Council finds that this criterion is not applicable.

7. MMC Subsection 19.1011.5 outlines the procedures for processing legislative land use policies and plans. Specifically, it requires the City to do the following:

A. Public Notification. Publish a notice of a hearing once each week for two consecutive weeks in a newspaper of general circulation in the city. The second publication shall not be less than five days prior to the date of the hearing.

The City provided the required published notice. City Council finds that this requirement is met.

B. Decision. The Planning Commission shall conduct a public hearing and shall make a decision based on compliance with the applicable goals and policies of the comprehensive plan. The Planning Commission shall prepare a recommendation to the City Council. If the Commission approves the proposal, a report and recommendation, including findings and conclusions, shall be forwarded to Council. The City Council shall conduct a public hearing.

The Planning Commission held a public hearing on March 10, 2009 and approved a motion to recommend approval of the proposed amendments to City Council. The Planning Director will forward the Commission's recommendations and findings to City Council in advance of the scheduled public hearing on May 5, 2009. City Council finds that this requirement is met.

8. The application was referred to various City departments, governmental agencies, neighborhood district associations, and stakeholders. Additionally, the most up-to-date draft of the proposed code amendments and commentary version of the document was posted on the City's web site staring on January 27, 2009. All verbal and written comments made on the proposed amendments were summarized and made available to the Planning Commission and City Council in advance of the public hearings.

EXHIBIT B

MILWAUKIE
Dogwood City of the West

Milwaukie Municipal Code Amendments

File No. ZA-09-02
Strikeout Copy

New text is underlined.
Deleted text is shown as ~~strikethrough text~~.

Title 19 Zoning Ordinance
Chapter 1400
Chapter 300
Section 103
Chapter 400

Title 17 Land Division Ordinance
Chapter 08
Chapter 20
Chapter 28
Chapter 32

~~Chapter 19.1400 TRANSPORTATION PLANNING, DESIGN STANDARDS, AND PROCEDURES~~

Chapter 19.1400 PUBLIC FACILITY IMPROVEMENTS

This chapter contains standards and procedures for both public transportation facilities and public utilities. Transportation facilities include elements of the public right-of-way such as streets, sidewalks, bicycle lanes, street trees, and benches. Public utilities include water, sewer, and storm infrastructure. Collectively, transportation facilities and public utilities are referred to as "public facilities." Public facilities that are built as a requirement of this chapter shall be designed and constructed in accordance with the Public Works Standards.

The main focus of this chapter is to ensure the provision of safe, convenient, and adequate public transportation facilities consistent with the adopted City of Milwaukie Transportation System Plan (TSP). The TSP outlines the community's vision for transportation facilities, which, among other things, includes a desire for complete streets with a multimodal emphasis. This chapter implements that vision by addressing the need for transportation facility improvements in a way that is consistent and equitable.

Provisions of this chapter coordinate with Title 12 Streets, Sidewalks, and Public Places; Chapter 13.28 Capital Improvements; Chapter 13.30 Reimbursement Districts; and Chapter 15.36 Public Works Standards. Any conflict between this chapter and another shall be resolved by administrative determination of the Engineering Director and Planning Director, as appropriate. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by another provision of this title or any other ordinance, resolution, or regulation, the provision which is most restrictive shall govern. Unless specifically defined in Section 19.103, words or phrases used in this chapter are intended to be interpreted with the meaning they have in common usage to give this chapter its most reasonable application.

19.1401 Purpose~~:~~

The purpose of Chapter 19.1400 is to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts. The purposes of this ~~Chapter~~ chapter include the following:

19.1401.1 For transportation facilities:

A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional, and state transportation system plans.

B. ~~Implement performance measures to protect~~ Protect the functional classification, capacity, and level of service of transportation facilities.

C. Ensure that transportation facility improvements are provided in rough proportion to development impacts. ~~Assure that new development provides transportation improvements in rough proportion to identified impacts of the development.~~

D. Provide an equitable and consistent method of requiring transportation facility improvements.

~~D.~~E. ~~Assure~~ Ensure that transportation facility improvements ~~are designed and connected to~~ accommodate multiple modes of travel, including pedestrian, bicycle, transit, and auto.

19.1401.2 For public facilities:

A. Ensure that public facility improvements are safe, convenient, and adequate.

B. Ensure that public facility improvements are designed and constructed to City standards in a timely manner.

C. Ensure that the expenditure of public monies for public facility improvements is minimized when improvements are needed for private development.

D. Ensure that public facility improvements meet the City of Milwaukie Comprehensive Plan goals and policies.

~~19.1402 Administration.~~

~~A. The Planning Director shall administer provisions of this chapter that apply to property excluding public rights-of-way. The City Engineer shall administer provisions that apply to public rights-of-way.~~

~~B. The City Engineer shall prepare and administer a Transportation Design Manual including the following subject to any limitations of this Code:~~

~~1. Design standards for transportation facilities located in public rights-of-way.~~

~~2. Policies, programs, or procedures related to neighborhood traffic management, school trip safety, capital improvements planning, and system development charges.~~

~~3. Traffic impact analysis methods, procedures, and submission requirements that implement Section 19.1408 Transportation Impact Analysis.~~

~~4. Facility maintenance policies and procedures.~~

~~5. Other provisions or requirements as needed or desired to manage the City's transportation system and its components.~~

~~The manual shall be adopted by resolution of the City Council.~~

~~C. Provisions of this Chapter shall be coordinated with Title 12 Street, Sidewalks, and Public Places; Chapter 15.32 Public Facilities Improvements; Chapter 15.36 Public Works Standards; Chapter 13.28 Capital Improvements; and Chapter 13.30 Reimbursement Districts. Any conflict between this Chapter and another shall be resolved by administrative determination of the City Engineer and Planning Director as applicable.~~

~~D. The City shall implement a system to collect and administer fees collected in lieu of constructing improvements required under provisions of this Title.~~

~~19.1403 Applicability.~~

~~A. Chapter 19.1400 applies to the following forms of development, except as limited by subsection 19.1403.1 of this section: partitions, subdivisions, new construction, including single and multifamily residential, commercial, industrial, institutional, governmental, and other.~~

~~B. Application Required. All actions subject to this section require submission of an application for transportation review. Applications shall be reviewed in accordance with Section 19.1001.~~

~~19.1403.1 Limitations.~~

~~A. For all development other than partitions, subdivisions, and single family, new construction or substantial redevelopment, as defined in Section 19.103, is exempt from Section 19.1407.2, Adequacy Requirements, when the estimated value of the construction improvements is less than two hundred thousand dollars ($200,000.00), and when a transportation impact study is not required. The two hundred thousand dollars ($200,000.00) value threshold shall be increased~~

~~three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.~~

~~B. New single-family residential development and substantial redevelopment of existing single-family structures are exempt from Section 19.1407.2, Adequacy Requirements, except for the following requirements when the value of improvements is less than ninety thousand dollars ($90,000.00). The ninety thousand dollars ($90,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter shall comply with the following provisions:~~

~~1. Section 19.1409.1(B), Required frontage;~~

~~2. Table 19.1409.2, Additional Setbacks in Major Streets;~~

~~3. Section 19.1409.2(B), Right-of-way dedication;~~

~~4. Section 19.1409.2(E), Vision clearance;~~

~~5. Section 19.1410.2, Public sidewalks; and~~

~~6. Section 19.1413, Access management.~~

~~C. Development in the Downtown Zones. Specific design standards and public area requirements have been adopted for the downtown zones; therefore, only the following provisions of Section 19.1400 shall apply in the downtown zones:~~

~~1. Section 19.1405.4, Notice and coordinated review.~~

~~2. Section 19.1408, Transportation impact analysis.~~

~~3. Section 19.1413, Access management.~~

~~D. The following activities and uses are exempt from the requirements of this section:~~

~~1. Operation, maintenance, and repair of existing transportation facilities.~~

~~2. Public capital improvement projects.~~

19.1402 Applicability

19.1402.1 General

Chapter 19.1400 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats that increase the number of lots.

D. New construction.

E. Modification or expansion of an existing structure (including single-family residential expansions as described in Subsection 19.1402.2) or a change or intensification in use that results in any one of the following:

1. A new dwelling unit.

2. Any increase in gross floor area.

3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.1402.2 Single-family Residential Expansions

Chapter 19.1400 applies to single-family residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single-family residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1500 square feet or more, all of Chapter 19.1400 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 200 square feet, but not more than 1499 square feet, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.1408.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 200 square feet, none of Chapter 19.1400 applies.

D. Single-family residential expansions shall provide adequate public utilities as determined by the Engineering Director pursuant to Section 19.1409.

E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.1402.3 Exemptions

Chapter 19.1400 does not apply to the following types of development in all zones:

A. Modifications to existing single-family residential structures that do not result in an increase in gross floor area.

B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.1402.2.E above.

C. Replats that do not increase the number of lots.

D. Property line adjustments.

E. Redevelopment of a structure following partial or total accidental destruction when all of the following criteria are met:

1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.

2. The use of the structure remains the same as the use that existed before the structure was destroyed.

3. A building permit is submitted and approved by the City within two years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.1402.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.1400.

F. Operation, maintenance, and repair of existing public facilities.

G. Public capital improvement projects.

~~19.1404 Exception, adjustment, or variance.~~

~~A. The criteria in this chapter reflect the need for flexibility in the application of transportation requirements and design standards to respond to unique site characteristics or hardship situations. Criteria are provided for different categories of exceptions and adjustments.~~

~~B. Review Process. All requests for adjustments and exceptions shall be processed in accordance with 19.1011.2 Type II Administrative Review procedures concurrent with the application for land use approval.~~

~~C. Adjustments. The transportation facility design standards of Chapter 19.1400 and the Transportation Design Manual may be adjusted in accordance with Table 19.1409.3 and the criteria listed below. Transportation facility design standards apply only to improvements located within public rights-of-way. An adjustment to a design standard may be granted when the City Engineer finds it is consistent with the following, based upon professional judgement and accepted engineering practices:~~

~~1. In all cases the adjustment is consistent with the purposes of Chapter 19.1400 and the Milwaukie Transportation System Plan;~~

~~2. The adjustment serves to protect significant features such as but not limited to trees, historic or other valued buildings, water resources, and the like where means to ensure continued protection of the resource are secured;~~

~~3. Strict compliance with the design standard will result in a potentially hazardous condition;~~

~~4. Strict compliance is deemed infeasible due to engineering limitations including connectivity to adjoining transportation and stormwater facilities; and/or~~

~~5. Existing transportation facilities that serve the site are adequately sized and are in usable and safe condition but do not meet a dimensional standard.~~

~~Cost of required improvements shall not be a basis for granting an adjustment.~~

~~D. Exceptions. The City Engineer may waive compliance with transportation~~ public ~~facility design standards for improvements located in the right-of-way in the following cases:~~

~~1. An approved and funded capital improvement project that benefits the site is scheduled for construction within three (3) years of the land use approval;~~

~~2. The developer pays to the City a fee in lieu of construction costs for required site improvements and there will be no safety hazards as determined by the City Engineer; and/or~~

~~3. A local improvement district, which includes the development site, has been approved.~~

~~E. Variances. Requests for relief from any provision of this chapter or the roadway design manual that cannot be modified under 19.1404.C or 19.1404.D shall be reviewed under provisions of Chapter 19.700 Variance, Exceptions, and Home Improvements.~~

19.1403 Review Process

19.1403.1 Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.1400 per Section 19.1402, the applicant shall schedule a preapplication conference with the City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

19.1403.2 Application Submittal

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, one of the following types of applications is required.

A. Development Permit Application. If the proposed development does not require a land use application, compliance with Chapter 19.1400 will be reviewed as part of the development permit application submittal.

B. Transportation Facilities Review (TFR) Land Use Application. If the proposed development triggers a Transportation Impact Study (TIS) per Section 19.1404, a TFR land use application shall be required. Compliance with Chapter 19.1400 will be reviewed as part of the TFR application submittal and will be subject to a Type II review process as set forth in Chapter 19.1000. The TFR application shall be consolidated with, and processed concurrently with, any other required land use applications.

C. Non-TFR Land Use Application. If the proposed development requires a land use application but does not trigger a TIS per Section 19.1404, compliance with Chapter 19.1400 will be reviewed as part of the land use application submittal, pursuant to the review procedures associated with that land use application as set forth in Chapter 19.1000.

~~**19.1405 Development Review Process.**~~

~~A. The development review process used to confirm compliance with Chapter 19.1400 varies depending on the review procedure applicable to the proposed development.~~

~~**19.1405.1 Type I Application Review.**~~

~~A. Compliance Required. Applicants for Type I review shall demonstrate compliance with applicable approval criteria on forms provided by, and in accordance with procedures established by the planning director.~~

~~B. Type I review procedures are set forth in Section 19.1011.1. Type I review is used to determine compliance with applicable provisions of Chapter 19.1400 for the following unless a concurrent application will require Minor or Major Quasi-Judicial review, in which case the application will be processed under subsections 19.1011.3 and 19.1011.4 respectively:~~

~~1. Development of a new detached or attached single-family dwelling on an existing lot;~~

~~2. New construction or substantial redevelopment other than single-family, when the estimated value of the construction improvements is less than two hundred thousand dollars ($200,000.00); and a transportation impact analysis is not required by Section 19.1408;~~

~~3. New construction or substantial redevelopment, other than single family, when the estimated value of the construction improvements exceeds two hundred thousand dollars ($200,000.00); and as follows:~~

~~a. Frontage improvements that meet the design standards of Chapter 19.1400 are in place or will be provided prior to occupancy; and~~

~~b. A transportation impact study is not required pursuant to Section 19.1408.~~

~~The two hundred thousand dollars ($200,000.00) value threshold shall be increased three percent (3%) annually to account for inflation of material and labor costs, commencing 12:00 a.m. October 18, 2001, and thereafter.~~

~~**19.1405.2 Type II Review.**~~

~~Type II review procedures are set forth in Section 19.1011.2. Type II application review process shall be used to confirm compliance with Chapter 19.1400, unless a concurrent application will require Minor or Major Quasi-Judicial review, in which case the application will be processed under Sections 19.1011.3 or 19.1011.4 as applicable.~~

~~A. Type II review is required in the following situations:~~

~~1. When a transportation impact analysis is required by Section 19.1408, or~~

~~2. When an adjustment or exception to a transportation facility design standard of Chapter 19.1400 or the Transportation Design Manual is requested.~~

~~**19.1405.3 Minor or Major Quasi-Judicial Review.**~~

~~Review procedures for Minor and Major Quasi-Judicial Review are set forth in Sections 19.1011.3 and 19.1011.4, respectively. A separate application and fee is required for the Chapter 19.1400 compliance review; however, the application will be consolidated and reviewed concurrent with the Minor or Major Quasi-Judicial Review.~~

~~**19.1405.4 Notice and Coordinated Review.**~~

~~A. Specific notice requirements. In addition to the general notice provisions set forth in Chapter 19.1100, the City shall provide notice of applications submitted for Chapter 19.1400 review as outlined below:~~

~~1. Notice to the Oregon Department of Transportation (ODOT) if the proposed development generates more than two hundred (200) vehicle trips per day, is within two hundred (200) feet of a State highway, or is within one thousand three hundred twenty (1,320) feet of a State highway interchange ramp.~~

~~2. Notice to Metro and Clackamas County if the proposed development is within two hundred (200) feet of a designated arterial or collector roadway, as identified in Figure 6.1 of the Milwaukie Comprehensive Plan.~~

~~3. Notice to Metro if the proposed development is within two hundred (200) feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.~~

~~4. Notice to Tri-Met if the proposed development (excluding single family development on an existing lot) is within two hundred (200) feet of an existing transit route.~~

~~B. Maps of areas subject to notice. The Transportation Design Manual includes maps that outline the areas subject to the specific notice requirements described above.~~

~~C. Coordinated review. The City shall coordinate the development application review conditions with the agencies listed above. If there is a deadline for agency submittal of comments and suggested conditions, it shall be included in the original notice provided by the City. The agency shall indicate if additional permits or approvals are required for access or transportation improvements separate from the City of Milwaukie requirements.~~

~~19.1405.5~~ 19.1403.3 Approval Criteria

~~Criteria for decisions under Chapter 19.1400 are as follows:~~

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submission.

A. Procedures, Requirements, and Standards. ~~The proposed d~~ Development and related ~~transportation~~ public facility improvements ~~will~~ shall comply with procedures, requirements, and standards of Chapter 19.1400 and the Public Works Standards. ~~Transportation Design Manual unless an exception or adjustment has been granted in accordance with Section 19.1404 or a variance has been granted in accordance with Chapter 19.700.~~

B. ~~If a transportation impact analysis is required, the findings of the analysis ensure that the development~~ Transportation Facility Improvements. Development shall ~~will~~ provide transportation improvements and mitigation at the time of development in rough proportion to the potential ~~identified~~ impacts of the development per Section 19.1405 Rough Proportionality, except as allowed by Section 19.1406 Fee in Lieu of Construction.

~~C. All required improvements identified under city review of a transportation impact study analysis shall be provided or otherwise accommodated in accordance with Section 19.1408.4 Mitigation.~~

~~D. The proposed development will not result in hazardous or unsafe transportation conditions or unacceptable level of service impacts that cannot be mitigated.~~

C. Safety and Functionality Standards. The City will not issue any development permits unless the proposed development complies with the City's basic safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submission of a development permit application, an applicant shall demonstrate that the development property has or will have all of the following:

1. Adequate street drainage, as determined by the Engineering Director.

2. Safe access and clear vision at intersections, as determined by the Engineering Director.

3. Adequate public utilities, as determined by the Engineering Director.

4. Access onto a public street with the minimum paved widths as stated in Subsection 19.1403.3.C.5 below.

5. Adequate frontage improvements as follows:

   a. For local streets, a minimum paved width of 16 feet along the site's frontage.

   b. For nonlocal streets, a minimum paved width of 20 feet along the site's frontage.

   c. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.

6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:

   a. Level of Service F for the first hour of the morning or evening two-hour peak period.

   b. Level of Service E for the second hour of the morning or evening two-hour peak period.

19.1403.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.1403.4. In making these determinations, the Engineering Director will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation. For development that is subject to Chapter 19.1400 per Subsection 19.1402.1, the Engineering Director will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.1404. Pursuant to Subsection 19.1404.1, the Engineering Director will also determine whether a Transportation Impact Study (TIS) is required. If a TIS is required, a Transportation Facilities Review land use application shall be submitted pursuant to Subsection 19.1403.2.B.

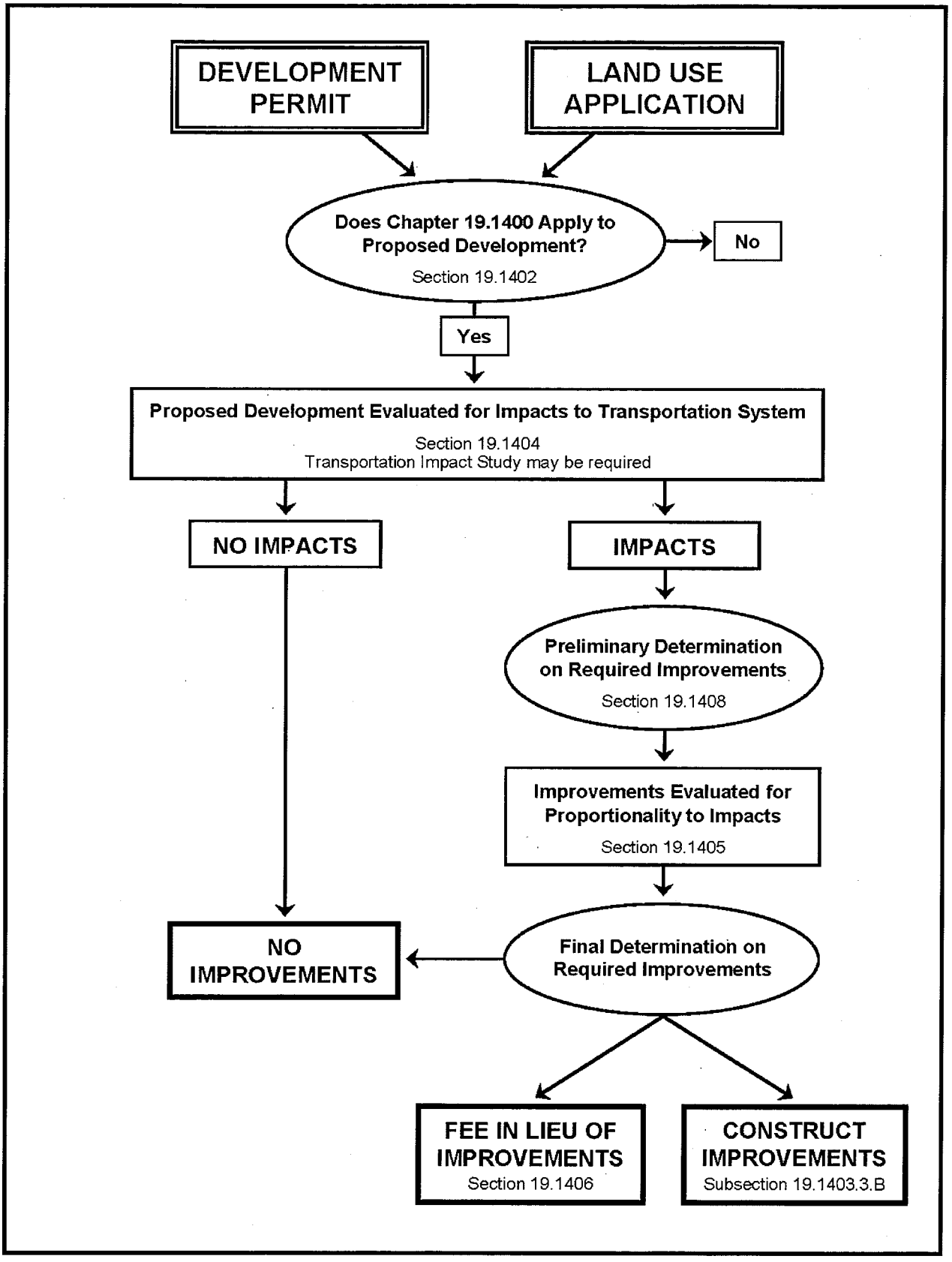
For development that is subject to Chapter 19.1400 per Subsection 19.1402.2, the City has determined that there are impacts to the transportation system if the proposed single-family residential expansion/conversion is greater than 200 square feet.

B. Street Design. Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.1408.

C. Proportional Improvements. When transportation facility improvements are required pursuant to this chapter, the Engineering Director will conduct a proportionality analysis pursuant to Section 19.1405 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.1405.2.

D. Fee in Lieu of Construction (FILOC). If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Subsection 19.1406.1.

Figure 19.1403.4
Process for Determining Transportation Facility Improvements



19.1403.5 Remedies

A. Variances. Relief from any transportation facility improvement requirement in Section 19.1408 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

B. Appeals. Appeal of a land use decision is subject to the provisions of Chapter 19.1000. Appeal of a rough proportionality determination (Subsection 19.1402.2 and Section 19.1405) or street design standard determination (Subsection 19.1408.2) not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

19.1404 Transportation Impact Evaluation

The Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. The TIS determination process and requirements are detailed below.

19.1404.1 TIS Determination

A. Based on information provided by the applicant about the proposed development, the Engineering Director will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.
2. Changes in use or intensity of use.
3. Projected increase in trip generation.
4. Potential impacts to residential areas and local streets.
5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to, school routes and multimodal street improvements identified in the TSP.
6. Potential impacts to intersection level of service (LOS).

B. It is the responsibility of the applicant to provide enough detailed information for the Engineering Director to make a TIS determination.

C. A TIS determination is not a land use action and may not be appealed.

19.1404.2 TIS General Provisions

A. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.

B. Prior to TIS scope preparation and review, the applicant shall pay to the City the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The City's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.

C. The TIS shall be submitted with a Transportation Facilities Review (TFR) land use application pursuant to Subsection 19.1403.2.B and associated application materials pursuant to Subsection 19.1403.3. The City will not accept a TFR application for processing if it does not include the

required TIS. The City will not accept other associated land use applications for processing if they are not accompanied by the required TFR application.

D. The Engineering Director may require a TIS review conference with the applicant to discuss the information provided in the TIS. This conference would be in addition to the required preapplication conference pursuant to Subsection 19.1403.1. If such a conference is required, the City will not accept the TFR application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.

E. The City may attach conditions of approval to land use decisions as needed to satisfy the transportation facility requirements of Section 19.1408 and to mitigate transportation impacts identified in the TIS.

19.1404.3 TIS Requirements

A. TIS Scope. The Engineering Director shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a one-half-mile radius of the development site. If the Engineering Director determines that development impacts may extend more than one-half mile from the development site, a larger study area may be required.

2. If notice to ODOT or Clackamas County is required pursuant to Section 19.1407, the City will coordinate with these agencies to provide a comprehensive TIS scope.

B. TIS Content. A project-specific TIS Checklist will be provided by the City once the Engineering Director has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the Engineering Director.

1. Introduction and Summary. This section should include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for City and County streets and volume to capacity for State roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; proposed mitigation(s); and traffic queuing and delays at study area intersections.

2. Existing Conditions. This section should include a study area description, including existing study intersection level of service.

3. Impacts. This section should include the proposed site plan, evaluation of the proposed site plan, and a project-related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) should also be provided.

4. Mitigation. This section should include proposed site and areawide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts pursuant to Section 19.1405.

5. Appendix. This section should include traffic counts, capacity calculations, warrant analysis, and any information necessary to convey a complete understanding of the technical adequacy of the TIS.

C. TIS Methodology. The City will include the required TIS methodology with the TIS scope.

D. Neighborhood Through-Trip Study. Any nonresidential development projected to add more than 25 through-vehicles per day to an adjacent residential local street or neighborhood route will

require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.

2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.

3. Traffic management strategies to mitigate for the impacts of projected through-trips consistent with Section 19.1405 Rough Proportionality and Subsection 19.1404.4 Mitigation.

19.1404.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area.

B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The Engineering Director or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.

1. On- and off-site improvements beyond required frontage improvements.

2. Development of a transportation demand management program.

3. Payment of a fee in lieu of construction.

4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.

5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

19.1405 Rough Proportionality

The purpose of this section is to ensure that required transportation facility improvements are roughly proportional to the potential impacts of the proposed development. The rough proportionality requirements of this section apply to both frontage and off-site, or nonfrontage, improvements. A rough proportionality determination may be appealed pursuant to Subsection 19.1403.5.

The Engineering Director will conduct a proportionality analysis for any proposed development that triggers transportation facility improvements per this chapter, with the exception of development subject to Subsection 19.1402.2. The Engineering Director may conduct a proportionality analysis for development that triggers transportation facility improvements per Subsection 19.1402.2.

When conducting a proportionality analysis for frontage improvements, the Engineering Director will not consider prior use for the portion of the proposed development that involves new construction. The Engineering Director will, however, consider any benefits that are estimated to accrue to the development property as a result of any required transportation facility improvements.

The following general provisions apply whenever a proportionality analysis is conducted.

19.1405.1 Impact Mitigation

Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, shall be provided in rough proportion to the transportation impacts of the proposed development. When a TIS is required, potential impacts will be determined in accordance with Section 19.1404. When no TIS is required, potential impacts will be determined by the Engineering Director.

19.1405.2 Rough Proportionality Guidelines

The following shall be considered when determining proportional improvements:

A. Condition and capacity of existing facilities within the impact area in relation to City standards. The impact area is generally defined as the area within a one-half-mile radius of the proposed development. If a TIS is required pursuant to Section 19.1404, the impact area is the TIS study area.

B. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.

C. The effect of increased demand associated with the proposed development on transportation facilities and on other approved, but not yet constructed, development projects within the impact area.

D. The most recent use when a change in use is proposed that does not involve new construction.

E. Applicable TSP goals, policies, and plans.

F. Whether any route affected by increased transportation demand within the impact area is listed in any City program including, but not limited to, school trip safety, neighborhood traffic management, capital improvement, and system development improvement.

G. Accident history within the impact area.

H. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.

I. Potential benefit the development property will receive as a result of the construction of any required transportation facility improvements.

J. Other considerations as may be identified in the review process.

19.1406 Fee in Lieu of Construction

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The fee in lieu of construction (FILOC) program ensures that opportunities to improve public transportation facilities are maximized and that the goals and requirements of this chapter are met. This section provides criteria for making FILOC determinations and administering the FILOC program.

19.1406.1 FILOC Criteria

The City may accept a fee in lieu of construction of required transportation facility improvements if one or more of the following conditions exist.

A. Required improvements are not feasible due to the inability to achieve proper design standards.

B. Required improvements would create a safety hazard.

C. Required improvements are part of a larger approved capital improvement project that is listed as a funded project in the City's Capital Improvement Program (CIP) and is scheduled for construction within three years of the City's approval of the proposed development.

19.1406.2 FILOC Findings

If the Engineering Director determines that a fee in lieu of construction satisfies one of the criteria in Subsection 19.1406.1 above, the City will accept a fee upon the Engineering Director finding that deferring construction of transportation facility improvements will not result in any safety hazards. If the Engineering Director cannot make such a finding, then the City will not accept a fee and will require construction of the improvements.

19.1406.3 FILOC Fees

If determined by the Engineering Director that required transportation facility improvements are eligible for FILOC, the applicant shall pay to the City an amount equal to the estimated cost to construct the required improvements. The amount of the fee shall be determined by the Engineering Director and shall be based on the average cost of the most recent capital improvement project itemized bid prices. All fees shall be paid to the City prior to the issuance of any development permits.

A. If full transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may only assess additional FILOC fees when there has been a change to the City's street design standards.

B. If partial transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may assess additional FILOC fees for the balance of the improvements.

19.1406.4 FILOC Administration

Fees collected by the City may be used to construct public transportation facility improvements or to leverage additional grant money for larger transportation facility improvement projects. An accounting of fees collected and expended will be made available by the City to the public on an annual basis at the end of the fiscal year. Expenditure of fees is subject to the following:

A. Fees shall be used for construction of public transportation facility improvement projects that benefit the development site and that are within the same Neighborhood District Association (NDA) boundary as the development site, with the following two exceptions.

1. For development within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and are within one or more of the downtown zones.

2. For development within the Historic Milwaukie NDA and not within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and that are within the Historic Milwaukie NDA and not within a downtown zone. Fees collected in the Historic Milwaukie NDA may be spent in one or more of the downtown zones with the approval of the Historic Milwaukie NDA.

B. Fees shall be used within ten years of the date on which they were collected. Fees that have not been used within ten years of collection will be returned to the owner of the development property at the time the refund is issued.

C. Staff shall identify the transportation facility improvement projects that meet the requirement of benefiting the development site per Subsection 19.1406.4.A and that can be constructed within the 10-year time period per Subsection 19.1406.4.B. Staff shall coordinate with the neighborhood district associations to prioritize the project lists for each neighborhood.

19.1407 Agency Notification and Coordinated Review

19.1407.1 Agency Notification

In addition to the general notice provisions set forth in Chapter 19.1000 for land use applications, the City shall provide notice of applications that are subject to Chapter 19.1400 to the following agencies:

A. Oregon Department of Transportation (ODOT): If the proposed development generates more than 100 vehicle trips per day, is within 200 feet of a State highway, or is within 1,320 feet of a State highway interchange ramp.

B. ODOT Rail Division: If the proposed development is within 300 feet of a public railroad crossing or if a modification is proposed to an existing public railroad crossing. Private crossing improvements are subject to review and licensing by the private rail service provider.

C. Metro and Clackamas County: If the proposed development is within 200 feet of a designated arterial or collector roadway, as identified in Figure 8-3b of the TSP.

D. Metro: If the proposed development is within 200 feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.

E. TriMet: If the proposed development (excluding single-family development on an existing lot) is within 200 feet of an existing or proposed transit route as identified on the current TriMet service map and Figure 7-3 of the TSP.

19.1407.2 Coordinated Review

The City shall coordinate application review and land use findings and conditions, if any, with the agencies listed above. The City shall include the deadline for review comments in its notice. Agencies shall indicate in their comments if additional public facility permits or approvals are required through their agency separate from City permits and approvals.

~~19.1406 Neighborhood Through-trip Study.~~

~~Any nonresidential development adding more than twenty-five (25) through vehicles per day to an adjacent residential local street will require assessment and mitigation of local street impacts. Through trips are defined as those to and from a development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include the following:~~

~~A. An estimate of the number of through trips per day on adjacent residential streets created by the development and the existing counts for the same streets.~~

~~B. Traffic management strategies shall be identified to mitigate the impacts of increased through trips attributed to new development consistent with Section 19.1408.3 Rough Proportionality and 19.1408.4 Mitigation.~~

~~This provision shall be implemented independent of Section 19.1408 when the development proposal does not require a transportation impact study in accordance with 19.1408.2.B Threshold Scoring. If a transportation impact analysis is required, the through-trip study shall be included in the transportation impact study.~~

~~19.1407 Adequate Transportation Facility Requirement.~~

~~19.1407.1 Purpose.~~

~~The purpose of this Chapter is to ensure that streets, sidewalks, and other transportation facility design elements are safe, convenient, and adequate to accommodate the impacts of new development or~~

~~redevelopment consistent with the State Transportation Plan Rule and the Milwaukie Comprehensive Plan, Transportation System Plan, and Capital Improvement Plan.~~

~~19.1407.2 Adequacy Requirement.~~

~~Rights-of-way, streets, sidewalks, necessary public improvements, and other public transportation facilities shall be adequate at the time of development or shall be made adequate in a timely manner for all development projects subject to review under Chapter 19.1400. This provision applies to transportation facilities located in the public right-of-way abutting the development site.~~

~~The provision may also apply to transportation facilities located in rights-of-way that do not abut the site when a transportation impact analysis conducted under Section 19.1408 demonstrates that affected facilities are insufficient to accommodate the impacts of the proposed development. In such cases transportation improvements are required in rough proportion to the impacts created by the development in accordance with Section 19.1408.~~

~~19.1407.3 Definition of Necessary Improvements.~~

~~As used in 19.1407.2, "necessary improvements" are:~~

~~A. Improvements identified as necessary in a transportation impact analysis to comply with the adequate public facility requirement; and/or~~

~~B. Improvements otherwise identified as necessary for compliance with 19.1407.4.B.~~

~~19.1407.4 Definition of Adequacy.~~

~~As used in 19.1407.2, "adequate" means the following:~~

~~A. Compliance with Level of Service D for all intersections, except those on Oregon Highway 99E, which shall be subject to the following:~~

~~1. Level of Service F for the first hour of the morning or evening two-hour peak period; and~~

~~2. Level of Service E for the second hour of the morning or evening two-hour peak period; and~~

~~B. Compliance with the design standards specified in Chapter 19.1400 and the Transportation Design Manual, including but not limited to the following:~~

~~1. Right-of-way width;~~

~~2. Functional classification cross section;~~

~~3. Transportation facility design standards;~~

~~4. Pedestrian, bicycle and transit standards; and~~

~~5. Access management standards.~~

~~19.1407.5 Determination of Level of Services.~~

~~Level of Service is determined by using the latest edition of the Highway Capacity Manual (Transportation Research Board). Comparable measures of performance, including volume to capacity analysis, may be substituted for Level of Service analysis, as outlined in the Transportation Design Manual.~~

~~19.1407.6 Definition of Timely.~~

~~As used in 19.1407.2, "timely" means the following:~~

~~A. Necessary transportation improvements will be constructed by the developer or through another mechanism, such as a local improvement district. Necessary improvements shall be completed, or~~

the developer shall provide the City with a deposit, letter of credit, performance bond or other surety satisfactory to staff, prior to:

1. Final city inspections for occupancy approval; and/or

2. Recording of the plat in the case of a subdivision or partition; and/or

B. Necessary transportation improvements are included in the Milwaukie Capital Improvement Plan, are fully funded and are scheduled to be under construction within three years of the date the land use approval is issued.

19.1408 Transportation Impact Analysis.

19.1408.1 Intent.

A transportation impact analysis documents the expected impacts of a proposed development on the surrounding transportation system and the adequacy of the transportation system to serve the proposed development. The TIA provides a consistent framework to evaluate transportation impacts and the basis to assess reasonable and proportionate mitigation of impacts. Frontage improvements are a development requirement and shall not be considered mitigation of transportation impacts.

19.1408.2 Applicability.

A. All projects that require development review under Chapter 19.1400 shall schedule a preapplication conference with the Planning Director and City Engineer or designees prior to submittal of the land use application.

B. Based on the information provided by the applicant, the City will determine whether a transportation impact analysis is required under the "threshold scoring" method described in the Transportation Design Manual.

C. The City may also require a preapplication conference and transportation impact analysis for quasi-judicial plan amendment, zone change and conditional use permit applications.

D. The determination of whether a transportation impact analysis is required is not a land use action and may not be appealed.

E. If it is determined that a transportation impact analysis is required, the City shall specify the required content and impact area of the project, consistent with the guidelines in the Transportation Design Manual.

F. The applicant shall pay to the City the costs of transportation impact study review in accordance with the fee resolution adopted by the City Council.

G. If the application requires specific notice to ODOT or Clackamas County under the provisions of 19.1405.4, the City will request agency input to establish a coordinated scope for the transportation impact analysis.

H. The transportation impact analysis shall be submitted with the application materials for land use approval. Failure to submit the transportation impact analysis shall be grounds for deeming the application incomplete pursuant to Section 19.1004 and Oregon Revised Statutes 227.178.

I. The decision-making authority may apply conditions to land use decisions as needed to satisfy adequate transportation facility requirements of Section 19.1408 or otherwise mitigate transportation impacts described in the transportation impact analysis.

~~19.1408.3 Rough Proportionality.~~

~~A. Mitigation of impacts due to increased demand for transportation facilities associated with the development proposal shall be provided in rough proportion to the transportation impacts of the development. These impacts shall be identified by the transportation impact analysis conducted under Section 19.1408.2.~~

~~B. The applicant shall bear the burden of demonstrating proportionate impacts to motor vehicle, pedestrian, bicycle, and transit facilities related to the development proposal.~~

~~C. The estimation of rough proportionality does not require precision, though it shall be as precise as possible given available analytical methods. Accepted engineering methods shall be used when available and appropriate. Limitations of available engineering methods and practices do not preclude estimation of rough proportionality through other approaches. Professional judgement and reasoning may be used to describe proportional impacts in terms that allow identification of required mitigation. In identifying proportional impacts the following shall be considered:~~

~~1. Condition and capacity of existing facilities within the impact area in relation to city standards.~~

~~2. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.~~

~~3. The effect of increased demand on transportation facilities related to the proposed development and any other approved development within the impact area.~~

~~4. Applicable Transportation System Plan/Comprehensive Plan policies and network action plans.~~

~~5. Whether any route affected by increased demand within the impact area is listed in any city program including School Trip Safety; Neighborhood Traffic Management; Capital Improvement; System Development Improvement, or others.~~

~~6. Accident history within the impact area.~~

~~7. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.~~

~~8. Other considerations as may be specified in the development review process and communicated in writing by the City.~~

~~19.1408.4 Mitigation.~~

~~A. Mitigation of transportation impacts shall be provided by the applicant when there is an increase in demand for transportation facilities, including motor vehicle, pedestrian, bicycle, and/or transit trips within the impact area. Increase in demand is demonstrated through a transportation impact analysis conducted under this Chapter.~~

~~B. Mitigation options include, but are not limited to, the following:~~

~~1. On- and off-site improvements constructed by the developer (beyond required frontage improvements) can be considered as mitigation of transportation impacts.~~

~~2. Demand management programs may be used as mitigation when applied as conditions of land use approval.~~

~~3. Payment of in-lieu fee may be used to meet mitigation requirements where it is not practical to construct improvements due to cost or timing considerations. The in-lieu fee shall be commensurate with the cost of mitigation improvements. Such payments shall be reserved by the city for future transportation projects that serve the project impact area.~~

4. Correction of off-site transportation deficiencies within the impact area, not substantially related to the impacts of the project, may be credited toward mitigation requirements.

5. Construction of on-site facilities or facilities located within the right-of-way adjoining the project site that exceed minimum required standards and which have a public transportation benefit may be considered toward meeting mitigation requirements.

19.1409 Street Requirements and Design Standards.

19.1409.1 General Provisions.

A. Streets shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual.

B. Streets shall be designed in consideration of Chapter 5 of the Milwaukie Comprehensive Plan. Chapter 5, Figure 6.1 illustrates the Functional Classification of Streets; Figure 6.10 illustrates the Street Master Plan.

C. No development permit shall be issued unless it complies with the Adequate Transportation Facility Requirement set forth in Section 19.1407.

D. No development permit shall be issued unless the development has frontage or approved access to a public street. For lots that are legally nonconforming with regard to frontage, an access easement sufficient to accommodate required improvements will be required.

E. All transportation facilities shall be designed and improved in accordance with the standards of this Chapter and the Transportation Design Manual. ODOT facilities shall be designed consistent with state and federal standards.

F. Cross sections for street improvements by functional classification are included in the Transportation Design Manual.

G. Rights-of-way shall be provided in accordance with the widths shown in Table 19.1409.3 and may not be varied under provisions of this Chapter.

H. Transportation facility design standards shall be provided in accordance with the dimensions shown as "required" on Table 19.1409.3.

I. Under provisions of Section 19.1404 Adjustments and Exceptions, the City Engineer may authorize adjustments to transportation facility design standards not less than the "minimum allowed" dimensions in Table 19.1409.3.

19.1409.2 Street Functional Classification and Improvement Standards.

A. Right-of-way and Improvements. Table 19.1409.3 specifies right-of-way widths and improvement standards by street functional classification. The Transportation Design Manual includes cross sections that illustrate the improvements (e.g., lanes, parking strip, sidewalk, etc.) associated with each functional classification and right-of-way width.

B. Dedication. All streets and necessary rights-of-way shall be dedicated to the public for street purposes in accordance with Table 19.1409.3 and Section 19.1407 Adequate Transportation Facility Requirements. Additional dedication may be required at intersections for improvements identified as needed by the Milwaukie Transportation System Plan or a transportation impact study analysis conducted under Section 19.1408.

C. Improvements. No development shall occur unless the development has frontage or approved access to a public street.

~~1. Any new street or additional street width planned as a portion of an existing street shall be dedicated and improved in accordance with this Chapter.~~

~~2. New development shall be connected to the street network by a paved street.~~

~~3. Half-street improvements, as opposed to full-width street improvements, are generally not acceptable. However, half-street improvements may be approved where essential to reasonable development of the property and when the review authority finds that it will be possible to obtain the dedication and/or improvement of the remainder of the street when property on the other side of the half-street is developed. The minimum width for a half-street improvement shall be 20 feet.~~

~~4. To ensure adequate access to a development site, the review authority may require off-site street improvements concurrent with development if warranted by a transportation impact analysis.~~

~~5. Where necessary to give access or permit future development of adjoining land, streets shall be extended to the boundary lines of the tract to be developed, and:~~

~~a. These street stubs to adjoining properties are not considered to be cul-de-sacs since they are intended to continue as through streets at such time as the adjoining property is developed.~~

~~b. A barricade and sign shall be constructed at the end of the street that shall not be removed until authorized by the City Engineer. The cost of the barricade and sign shall be included in the street construction cost.~~

~~c. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub streets in excess of 150 feet in length.~~

~~d. In order to assure the eventual continuation or completion of the street, reserve strips may be required.~~

~~e. Drainage facilities shall be provided to properly manage storm water run-off from temporary dead-ends.~~

19.1408 Transportation Facility Requirements

This section contains the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. For ease of reading, the more common term "street" is used more frequently than the more technical terms "public right-of-way" or "right-of-way." As used in this section, however, all three terms have the same meaning.

The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character.

The City's street design standards are based on the street classification system described in the TSP. Figure 8-3a of the TSP identifies the functional street classification for every street in the city and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

19.1408.1 General Street Requirements and Standards

A. Access Management. All development subject to Chapter 19.1400 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision. All development subject to Chapter 19.1400 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones. Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Unless specifically stated otherwise, the standards in this section do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan per Subsection 19.312.5.

D. Development in Non-Downtown Zones. Development in a non-downtown zone that has frontage on a street section shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements is subject to the street design standards and right-of-way dedication requirements contained in that document for that street frontage. The following general provisions apply only to street frontages that are not shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements and for development that is not in any of the downtown zones listed in Subsection 19.1408.1.C above:

1. Streets shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. ODOT facilities shall be designed consistent with State and federal standards. County facilities shall be designed consistent with County standards.

2. Streets shall be designed according to their Functional Classification per Figure 8-3b of the TSP.

3. Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.1408.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with this section and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.

4. The City shall not approve any development permits for a proposed development unless it has frontage or approved access to a public street.

5. Off-site street improvements shall only be required to ensure adequate access to the proposed development and to mitigate for off-site impacts of the proposed development.

6. The following provisions apply to all new public streets and extensions to existing public streets.

   a. All new streets shall be dedicated and improved in accordance with this chapter.

   b. Dedication and construction of a half street is generally not acceptable. However, a half street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half street shall be the minimum width necessary to accommodate two travel lanes pursuant to Subsection 19.1408.2.

~~D.~~ 7. Traffic calming may be required for existing or new streets. ~~in the design of a proposed street through the development review process or through the Neighborhood Traffic~~

~~Management Program for existing streets.~~ Traffic calming devices shall be designed in accordance with ~~to the standards in~~ the Public Works Standards or with the approval of the Engineering Director. ~~Transportation Design Manual~~.

~~E. Vision Clearance. No signs, structures, or vegetation in excess of three feet in height shall be placed in "vision clearance areas" at intersections of streets, driveways, and alleys based on the guidelines in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" (Green Book). The City Engineer may vary sight distance standards in the interest of preserving significant vegetation, or other valued features, where the variance will not cause undue safety hazards.~~

~~F. Additional Setbacks from Major Streets. Yards abutting a major street are subject to additional yard requirements. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of a building shall be in accordance with Table 19.1409.2.~~

8. Railroad crossings. Where anticipated development impacts trigger a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval.

9. Street signs. The City shall install all street signs, relative to traffic control and street names, as specified by the Engineering Director. The applicant shall reimburse the City for the cost of all such signs installed by the City.

10. Streetlights. The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with the Public Works Standards or with the approval of the Engineering Director.

~~19.1409.3 General Street Design Standards.~~

E. Street Layout and Connectivity

~~A.~~ 1. ~~General.~~ The length, width, and shape of blocks shall take ~~into account the need for adequate~~ lot size standards, ~~convenient~~ access~~,~~ and circulation needs, ~~and~~ traffic safety, and ~~shall recognize the limitations of the topography~~ topographic limitations into consideration.

~~B.~~ 2. ~~Street layout and connectivity.~~ The street network ~~Street layouts~~ shall be generally rectilinear but may vary due ~~and may be aligned to physically adapt streets~~ to topography or other natural conditions. ~~; or to provide a variety of alignments or grid patterns within an interconnected street system.~~

3. Streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.

a. Temporary turnarounds shall be constructed for street stubs in excess of 150 feet in length. Drainage facilities shall be constructed to properly manage stormwater runoff from temporary turnarounds.

b. Street stubs to adjoining properties shall not be considered turnarounds, unless required and designed as turnarounds, since they are intended to continue as through streets when adjoining properties develop.

c. Reserve strips may be required in order to ensure the eventual continuation or completion of a street.

~~C. Block length and perimeter. For parcels of land to be subdivided with a total size of three acres or larger, no block may be more than 530 feet in length between intersecting street~~

~~lines, unless it is adjacent to an arterial street, except where topography, barriers including railroads, freeways, existing development, or environmental constraints including but not limited to wetlands or water features warrant exception.~~

~~For sites to be subdivided with a total size of less than three acres, no block may be more than 800 feet in length between intersecting street lines, unless it is adjacent to an arterial street, except where topography, barriers including railroads, freeways, existing development, or environmental constraints including but not limited to wetlands or water features warrant exception.~~

~~The average perimeter of blocks formed by streets shall not exceed 1,600 feet.~~

~~For the purpose of this section, "existing development" means built improvements including streets, associated utilities, and permanent residential, commercial, or institutional structures. Modification of the block length and perimeter standards shall only be permitted under variance provisions of Zoning Ordinance Chapter 19.700.~~

~~D.~~ 4. ~~Cul-de-sacs~~ Permanent turnarounds shall only be provided when no opportunity exists for creating a through street connection. The lack of present ownership or control over abutting property shall not be grounds for construction of a turnaround. ~~cul-de-sac.~~ For proposed land division sites that are ~~parcels of land to be subdivided with a total size of~~ three acres or larger, a street ending in a turnaround ~~cul-de-sac~~ shall have a maximum length of 200 feet, as measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround ~~cul-de-sac~~. For proposed land division sites that are ~~parcels of land to be subdivided with a total size of~~ less than three acres, a street ending in a turnaround ~~cul-de-sac~~ shall have a maximum length of 400 feet, measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround ~~cul-de-sac~~. Turnarounds shall be designed in accordance with the requirements of the Public Works Standards. The requirements of this subsection may be adjusted by the Engineering Director to avoid alignments that encourage nonlocal through traffic. ~~A cross section for cul-de-sacs is provided in the Transportation Design Manual.~~

~~E. Pedestrian/bicycle accessways shall be required to provide mid-block connections between blocks that exceed 600 feet, or to link the end of a cul-de-sac with a nearby collector or arterial street or activity center. The standards for accessways are provided in Sections 19.1410 and 19.1411.~~

~~F.~~ 5. Closed end street systems~~, as defined in Section 19.103~~ may serve no more than 20 dwellings.

~~G. Alleys. Alleys are encouraged in commercial and industrial developments. Alleys are allowed in residential districts with the approval of the Planning Commission, subject to the standards in the Transportation Design Manual.~~

~~H. Street design details. Standards for design speed, horizontal/vertical curves, grades and curb return radius are specified by street functional classification in the Transportation Design Manual.~~

~~I. Street names. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.~~

~~J. Railroad crossings. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval, or another equitable means of cost distribution subject to Section 19.1407.~~

~~Adequate Transportation Facilities and 19.1408 Transportation Impact Analysis as applicable.~~

~~K. Street signs. The City shall install all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. The cost of signs shall be the responsibility of the developer.~~

~~L. Traffic signals. The location of traffic signals shall be noted on approved development plans. Where a proposed intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed.~~

~~M. Streetlights. The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with regulations adopted by the City.~~

~~19.1409.4 General Intersection Design Standards.~~

F. Intersection Design and Spacing

~~A.~~ 1. Connecting street intersections shall be located to provide for traffic flow, safety, and turning movements, as conditions warrant.

~~B.~~ 2. Street and intersection alignments for local streets shall ~~should~~ facilitate local circulation but avoid alignments that encourage ~~non-local~~ nonlocal through traffic.

~~C.~~ 3. Streets should generally be aligned to intersect at right angles (90 degrees). Angles of less than 75 degrees will not be permitted unless the Engineering Director ~~City Engineer~~ has approved a special intersection design.

~~D.~~ 4. New streets shall intersect ~~with~~ at existing street intersections so that centerlines are not offset ~~except as provided in Table 19.1409.1~~. Where existing streets adjacent to a proposed development do not align properly, conditions shall ~~may~~ be imposed on the development to provide for proper alignment.

5. Minimum and maximum block perimeter standards are provided in Table 19.1408.1.

6. Minimum and maximum intersection spacing standards are provided in Table 19.1408.1.

Table ~~19.1409.1.~~ 19.1408.1 Street/Intersection Spacing

Street Classification	Minimum Distance Between Street Intersections	Maximum Distance Between Street Intersections	Maximum Block Perimeter
Arterial	530 feet	1000 feet	2600 feet
Collector	300 feet	600 feet	1800 feet
Neighborhood Route	150 feet	~~400~~ 530 feet	1650 feet
Local	100 feet	530 feet	1650 feet

~~Table 19.1409.2 Additional Yard Requirements.~~

~~Major Street~~	~~Distance from Centerline (plus yard requirements in zone)~~
~~Firwood Street (55th to Stanley)~~	~~25 feet~~
~~Harmony Road~~	~~40 feet~~
~~Harrison Street (Milwaukie Expressway to 44th)~~	~~40 feet~~
~~Harrison Street (Milwaukie Expressway to McLoughlin)~~	~~30 feet~~
~~Harvey Street (32nd to 42nd)~~	~~25 feet~~
~~Howe Street (42nd to 43rd)~~	~~30 feet~~
~~Johnson Creek Boulevard~~	~~30 feet~~
~~King Road~~	~~40 feet~~
~~Linwood Avenue~~	~~40 feet~~
~~Lake Road~~	~~30 feet~~
~~Logus Road~~	~~25 feet~~
~~Monroe Street (52nd to Linwood)~~	~~30 feet~~
~~Oak Street~~	~~30 feet~~
~~Oatfield Road~~	~~30 feet~~
~~Ochoco Street~~	~~30 feet~~
~~Olsen Street~~	~~25 feet~~
~~Railroad Avenue~~	~~30 feet~~
~~River Road (south of Lark Street)~~	~~30 feet~~
~~Roswell Street (32nd to 42nd)~~	~~25 feet~~
~~Washington Street (west of Railroad)~~	~~30 feet~~
~~Willow Street (Windsor Drive to Stanley)~~	~~25 feet~~
~~17th Avenue (Ochoco to McLoughlin)~~	~~40 feet~~
~~32nd Avenue (north of Harrison)~~	~~30 feet~~
~~37th Avenue (Lake Road to Grogan)~~	~~25 feet~~
~~40th Avenue (Harvey to Railroad)~~	~~40 feet~~
~~42nd Avenue (Johnson Creek Blvd. to Howe Street)~~	~~30 feet~~
~~42nd Avenue (Harrison Street to King Road)~~	~~30 feet~~
~~43rd Avenue (Howe to King)~~	~~30 feet~~
~~55th Avenue (Firwood to Johnson Creek Blvd.)~~	~~25 feet~~

~~Table 19.1409.3 Transportation Facility Design Standards~~ ***~~Dimensions are shown in feet~~***

~~Classification~~	~~Right of Way~~	~~Travel Lane~~		~~On-street Parking~~		~~Sidewalks~~		~~Landscape Strips~~		~~Bike Lane/ Combined Bike & Travel Lane~~	
		~~Req'd.~~	~~Min. Allowed~~	~~Req'd.~~	~~Min. Allowed[1]~~	~~Req'd.~~	~~Min. Allowed~~	~~Req'd.~~	~~Min. Allowed~~	~~Req'd.~~	~~Min. Allowed~~
~~Arterial[2]~~	~~73~~	~~12~~	~~11~~	~~8~~	~~7/6~~	~~10~~	~~5~~	~~5~~	~~0~~	~~6/16~~	~~5/14~~
~~Collector[3]~~	~~60~~	~~11~~	~~10~~	~~8~~	~~7/6~~	~~8~~	~~5~~	~~5~~	~~0~~	~~6/16~~	~~5/14~~
~~Neighborhood~~	~~52~~	~~10~~	~~10~~	~~8~~	~~7/6~~	~~6~~	4	~~5~~	~~0~~	~~6/16~~	~~5/14~~
~~Local~~	~~50~~	~~10~~	~~10~~	~~8~~	~~7/6~~	~~6~~	4	~~5~~	~~0~~	~~6/16~~	~~5/14~~
~~Truck Route~~	~~n/a~~	~~12~~	~~11~~	~~8~~	~~7/6~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~6/16~~	~~5/14~~
~~Bus Route~~	~~n/a~~	~~12~~	~~11~~	~~8~~	~~7/6~~	~~n/a~~	~~n/a~~	~~n/a~~	~~n/a~~	~~6/16~~	~~5/14~~

~~Arterials[3]~~	~~Collectors~~		~~Neighborhood Routes~~	
~~OR Highway 99E*~~	~~Johnson Creek Blvd.*~~	~~Main Street~~	~~Roswell Street~~	~~Logus Road~~
~~OR Expressway 224*~~	~~17th Avenue*~~	~~Stanley Avenue~~	~~Olsen Street~~	~~27th Avenue~~
~~Linwood Avenue*~~	~~32nd Avenue~~	~~Oak Street~~	~~Harvey Street~~	~~37th Avenue~~
~~Lake Road*~~	~~Washington Street~~	~~Monroe Street~~	~~Brookside Drive~~	~~Wood Avenue~~
~~King Road*~~	~~Jefferson Street~~	~~Jackson Street~~	~~Regents Street~~	~~Washington Street/Ida Lane~~
~~Harrison Street*~~	~~34th Avenue~~	~~Railroad Avenue~~	~~Willow Street~~	~~Furnberg Drive/71st Avenue~~
~~River Road*~~	~~42nd Avenue~~	~~Rusk Road~~	~~Mason Lane~~	~~Cedar Crest Drive~~
	~~43rd Avenue~~	~~37th Avenue~~	~~Howe Street~~	~~Home Avenue~~

~~*A street shown with an asterisk indicates the route is a regional facility in accordance with the Regional Transportation Plan.~~

~~[1] Minimum residential on-street parking is 6 feet. Minimum commercial on-street parking is 7 feet.~~

~~[2] Right-of-way requirements for Oregon Highway 99E and Expressway 224 shall be determined by Oregon Department of Transportation. Required right-of-ways for the following arterials supersede Table 1409.3: 60 feet for Oatfield Road, 64 feet for Linwood Avenue.~~

~~[3] Right-of-way requirements are 72 feet for 17th Avenue between Highway 99E and Expressway 224; 60 feet for 17th Avenue north of Expressway 224; and 50 feet for the following: Monroe Street west of 224, Stanley Avenue, 34th Avenue 600 feet north of Lake Road, 32nd Avenue, and the conjunction of 43rd Avenue Howe Street 42nd Avenue.~~

~~[4] Minor arterials include Linwood Avenue, Lake Road, Harrison Street, King Road, and Oatfield Road. McLoughlin Blvd. south of Harrison is a major arterial; north of Harrison it is a principal arterial.~~

19.1408.2 Street Design Standards

Table 19.1408.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design standards in Subsection 19.1408.2.A augment the dimensional standards contained in Table 19.1408.2. The Engineering Director will rely on Table 19.1408.2 and Subsection 19.1408.2.A to determine the full-width cross section for a specific street segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.1408.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

Table 19.1408.2 Street Design Standards (Dimensions are shown in feet)

Street Classification	Full-width Right of Way Dimension	Individual Street Elements					
		Travel Lane (Center Lane)	Bike Lane	On-Street Parking	Landscape Strips	Sidewalk Curb Tight	Sidewalk Setback
Arterial	54'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	6'
Collector	40'–74'	10'–11'	5'–6'	6'–8'	3'–5'	8'	6'
Neighborhood	20'–68'	10'	5'	6'–8'	3'–5'	6'	5'
Local	20'–68'	8' or 10'	5'	6'–8'	3'–5'	6'	5'
Truck Route	34'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	Per Street Classification
Transit Route	30'–89'	10'–12' (12'–13')	5'–6'	6'–8'	3'–5'	Per Street Classification	Per Street Classification

A. Additional Street Design Standards. These standards augment the dimensional standards contained in Table 19.1408.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum ten-foot travel lane width shall be provided on local streets with no on-street parking.

2. Where travel lanes are next to a curb line, an additional one foot of travel lane width shall be provided. Where a travel lane is located between curbs, an additional two feet of travel lane width shall be provided.

3. Where shared lanes or bicycle boulevards are planned, up to an additional six feet of travel lane width shall be provided.

4. Bike lane widths may be reduced to a minimum of four feet where unusual circumstances exist, as determined by the Engineering Director, and where such a reduction would not result in a safety hazard.

5. Where a curb is required by the Engineering Director, it shall be designed in accordance with the Public Works Standards.

6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.

7. On-street parking in industrial zones shall have a minimum width of eight feet.

8. On-street parking in commercial zones shall have a minimum width of seven feet.

9. On-street parking in residential zones shall have a minimum width of six feet.

10. Sidewalk widths may be reduced to a minimum of four feet for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.

11. Landscape strip widths shall be measured from back of curb to front of sidewalk.

12. Where landscape strips are required, street trees shall be provided a minimum of every forty feet in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.

13. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.

14. A minimum of six inches shall be required between a property line and the street element that abuts it; e.g. sidewalk or landscape strip.

B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.1408.2 and the additional street design standards in Subsection 19.1408.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. Options and/or needs for environmentally beneficial and/or green street designs.

2. Multimodal street improvements identified in the TSP.

3. Street design alternative preferences identified in Chapter 10 of the TSP, specifically with regarding to sidewalk and landscape strip improvements.

4. Existing development pattern and proximity of existing structures to the right-of-way.

5. Existing right-of-way dimensions and topography.

~~19.1410 Pedestrian requirements and standards.~~

19.1408.3 Sidewalk Requirements and Standards

~~19.1410.1 General Provisions.~~

A. General Provisions

~~A.~~ 1. ~~Pedestrian facilities, including public sidewalks, on-site walkways, and pedestrian/bicycle accessways, shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. transportation design manual.~~

~~B.~~ 1. Goals, objectives, and policies relating to walking are included in Chapter 5 of the ~~Milwaukie~~ TSP ~~Comprehensive Plan~~ and provide the context for needed pedestrian improvements ~~the pedestrian requirements and standards~~. Figure 5-1 ~~3.1~~ of the TSP ~~Comprehensive Plan~~ illustrates the ~~Walkways Network~~ Pedestrian Master Plan and ~~Figure 3.2 illustrates the Walkways Action Plan.~~ Table 5-3 contains the Pedestrian Action Plan.

~~C.~~ 2. Americans with Disabilities Act (ADA) requirements for public sidewalks ~~pedestrian facilities~~ shall apply where there is a conflict with ~~e~~City standards.

~~19.1410.2 Public sidewalks.~~

B. Sidewalk Requirements

~~A.~~ 1. Requirements. ~~Public sidewalks~~ Sidewalks shall be provided ~~are required~~ on the public street frontage of all ~~new~~ development per the requirements of this chapter. ~~(including detached and attached single family dwellings on existing lots), all land divisions, and~~

~~substantial redevelopment of commercial, industrial, multifamily and institutional uses. Public~~ ~~s~~Sidewalks shall ~~are~~ generally be constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within ~~an~~ public easement with the approval of the Engineering Director. ~~city engineer~~.

~~B.~~ 2. Design Standards. Sidewalks shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. ~~Standards and cross section details for the location, width and design of public sidewalks are included in the transportation design manual.~~

~~C.~~ 3. Maintenance. Abutting property owners shall be responsible for maintaining sidewalks and landscape strips in accordance with Chapter 12.04. ~~Maintenance of sidewalks, curbs, and planting strips is the continuing obligation of the adjacent property owner in accordance with Chapter 12.04.~~

~~**19.1410.3 On-site walkways and circulation.**~~

~~A. Requirement. All new development (excluding single family) and substantial redevelopment of commercial, industrial, multifamily and institutional uses shall provide a system of walkways that encourage safe and convenient pedestrian movement within the site and connections to off-site destinations. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.~~

~~B. Location. A walkway into the site shall be provided for every three hundred (300) feet of street frontage.~~

~~C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.~~

~~D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.~~

~~E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than five (5) feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a seven (7) foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.~~

~~**19.1410.4 Pedestrian/bicycle accessways.**~~

~~A. Intent. Pedestrian/bicycle accessways are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers and commercial districts to adjacent and nearby residential areas, transit stops and neighborhood activity centers where public street connections between such uses are unavailable.~~

~~Public street connections for cars, pedestrians and bicycle circulation are preferable to accessways. Pedestrian/bicycle accessways should only be used to ensure connectivity to nearby neighborhood activity centers in areas where no other public street options are available.~~

~~B. Requirement. Pedestrian/bicycle accessways shall be required in the following situations:~~

~~1. In residential and industrial districts where a street connection is not feasible and the addition of an accessway would reduce walking or bicycling distance by four hundred (400) feet or more, and by at least fifty percent (50%) over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.~~

~~2. In commercial and community service use districts where addition of an accessway would reduce walking or bicycling distance by two hundred (200) feet, and by at least fifty percent (50%) over other available pedestrian routes to an existing transit stop, a planned transit route, or to a school, shopping center, or neighborhood park.~~

~~3. For purposes of subsections (B)(1) and (2) of this section, other available pedestrian routes include public sidewalks and walkways within shopping centers, planned developments and industrial districts. Routes may cross parking lots on adjoining properties if the route is open to the public for pedestrian use, is a paved surface and is unobstructed.~~

~~4. Accessways shall be located to provide a reasonably direct connection between likely pedestrian destinations.~~

~~C. Design Standards. An accessway shall have a minimum right-of-way width of fifteen (15) feet and shall be improved to a minimum width of ten (10) feet and paved with a hard surface material. If an accessway also provides secondary fire access or a public utility corridor, its right-of-way width shall be at least twenty (20) feet with a minimum fifteen (15)-foot-wide paved surface. Additional standards relating to entry points, maximum length, visibility, and lighting of accessways are provided in the Design Manual.~~

~~D. Ownership, liability and maintenance of accessways. To enable access and allow maintenance over time for all pedestrian/bicycle accessways, the city engineer can require one of the following:~~

~~1. That the accessways be dedicated to the public and accepted by the city as public right-of-way prior to the final approval of the development.~~

~~2. That approval of the development shall be contingent upon granting to the public access easements to such accessways.~~

~~3. That the developer incorporate the accessway into recorded easements or tract(s) of common ownership which specifically requires the property owners and future property owners who are subject to such easements or are owners of such tracts to provide for the ownership, liability and maintenance of the accessway.~~

~~19.1411 Bicycle requirements and standards.~~

~~19.1411.1 General Provisions.~~

19.1408.4 Bicycle Facility Requirements and Standards

A. General Provisions

~~A.~~ 1. Bicycle facilities~~, including on-street bike lanes, off-street~~ include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths. ~~bikeways, and bicycle parking, shall be designed and improved in accordance with the standards of this Chapter, the bicycle parking provisions of Section 19.505, and the Transportation Design Manual.~~

~~B.~~ 2. Goals, objectives, and policies relating to bicycling are included in Chapter 6 of the TSP and provide the context for needed bicycle improvements. ~~Chapter 5 of the Milwaukie Comprehensive Plan. Figure 4.1 of the Comprehensive Plan illustrates the Bikeways Network Master Plan and Figure 4.2 illustrates the Bikeways Action Plan.~~ Figure 6-2 of the TSP illustrates the Bicycle Master Plan, and Table 6-3 contains the Bicycle Action Plan.

~~**19.1411.2 Bike Lanes and Bikeways.**~~

B. Bicycle Facility Requirements

~~A.~~ 1. Requirements. ~~Bike~~ Bicycle facilities ~~lanes and bikeways~~ shall be provided in accordance with this chapter, Chapter 19.500, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion. ~~the Milwaukie Transportation System Plan. Except as amended by the Transportation System Plan, bike lanes shall be provided along collector and arterial streets.~~

~~B.~~ 2. Timing of Construction. To assure continuity and safety, required bicycle facilities shall ~~bike lanes and bikeways will~~ generally be constructed ~~as part of the~~ at the time of development. If not practical to sign, stripe, or construct bicycle facilities at the time of development due to the absence of adjacent facilities, the development shall provide the paved street width necessary to accommodate the required bicycle facilities. ~~construction or improvement of collector and arterial streets.~~

~~C.~~ 3. Design Standards. Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.500 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. ~~Bike lanes shall be six (6) feet wide and shall be provided for each direction of travel allowed on the street. Bike lanes and bikeways shall be constructed consistent with the design guidelines and standards delineated in the latest edition of the Oregon Bicycle Plan. Excerpts of the guidelines and standards are provided in the Transportation Design Manual.~~

~~**19.1411.3 Bicycle Parking.** Bicycle parking requirements are set forth in Chapter 19.500.~~

19.1408.5 Pedestrian/Bicycle Path Requirements and Standards

A. General Provisions

Pedestrian/bicycle paths are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers, and commercial districts to adjacent and nearby residential areas, transit stops, and neighborhood activity centers.

Pedestrian/bicycle paths may be in addition to, or in lieu of, a public street. Paths that are in addition to a public street shall generally run parallel to that street. These types of paths are not subject to the provisions of this subsection and shall be designed in accordance with the Public Works Standards or as specified by the Engineering Director. Paths that are in lieu of a public street shall be considered in areas only where no other public street connection options are feasible. These types of paths are subject to the provisions of this subsection.

B. Pedestrian/Bicycle Path Requirements

In addition to sidewalks on public streets, other available pedestrian routes, as used in this subsection, include walkways within shopping centers, planned developments, community service use developments, and commercial and industrial districts. Routes may cross parking lots on adjoining properties if the route is paved, unobstructed, and open to the public for pedestrian use.

Pedestrian/bicycle paths shall be required in the following situations.

1. In residential and mixed-use districts, a pedestrian/bicycle path shall be required at least every 300 feet when a street connection is not feasible.

2. In residential and industrial districts where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 400 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

3. In commercial districts and community service use developments where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 200 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

4. In all districts where addition of a path would provide a mid-block connection between blocks that exceed 800 feet or would link the end of a turnaround with a nearby street or activity center.

C. Design Standards

Pedestrian/bicycle paths shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Paths shall be located to provide a reasonably direct connection between likely pedestrian and bicyclist destinations. A path shall have a minimum right-of-way width of 15 feet and a minimum improved surface of 10 feet. If a path also provides secondary fire access or a public utility corridor, it shall have a minimum right-of-way width of 20 feet and a minimum improved surface of 15 feet. Additional standards relating to entry points, maximum length, visibility, and path lighting are provided in the Public Works Standards.

D. Ownership and Maintenance

To ensure ongoing access to and maintenance of pedestrian/bicycle paths, the Engineering Director will require one or more of the following:

1. Dedication of the path to the public and acceptance of the path by the City as public right-of-way prior to final development approval.

2. Creation of a public access easement over the path prior to final development approval.

3. Incorporation of the path into recorded easements or tract(s) of common ownership that specifically requires existing property owners and future property owners who are subject to such easements or own such tracts to provide for the ownership, liability, and maintenance of the path into perpetuity. This shall occur prior to final development approval.

~~19.1412 Transit requirements and standards.~~

19.1408.6 Transit Requirements and Standards

~~19.1412.1 General Provisions.~~

A. General Provisions

~~A~~1. Transit facilities include~~, including~~ bus stops, shelters, and related facilities. Required transit facility improvements may include the dedication of land or the provision of a public easement. ~~, shall be designed and improved in accordance with Tri-Met standards and the requirements and standards of this chapter and the Transportation Design Manual.~~

~~B~~2. Goals, objectives, and policies relating to transit are included in Chapter 7 of the TSP. ~~Chapter 5 of the Milwaukie Comprehensive Plan.~~ Figure 7-3 of the TSP illustrates the Transit Master Plan, and Table 7-2 contains the Transit Action Plan.

~~**19.1412.2 Transit Facilities.**~~

B. Transit Facility Requirements

~~A~~1. ~~Notice and Coordination with Tri-Met. When development of a multifamily, commercial, office, or institutional use is proposed within two hundred (200) feet of an existing or planned transit route, notice shall be provided to Tri-Met as outlined in Section 19.1405.4. Tri-Met may recommend that transit-related facilities be constructed at the time of development to support transit use.~~

~~B~~1. ~~Factors Determining Transit~~ Requirements. ~~The~~ ~~f~~Factors that determine the level of transit facility requirements include, but are not limited to, street classification, existing and planned level of transit service on ~~in~~ adjacent streets, block length, proximity of major pedestrian destinations, existing and projected ~~anticipated~~ ridership, and transit needs of ~~a~~ the development. Required improvements may include provision of an easement or dedication of land for transit facilities, ~~a bus stop,~~ benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lightings. The required improvements shall reflect a reasonable and proportionate share of the potential impacts of the proposed development pursuant to Section 19.1405.

~~C~~2. Location of ~~Transit~~ Facilities. Transit facilities shall be located at controlled street intersections, wherever possible. ~~A bus stop shall consist of at least a bus stop pad designed in compliance with the ADA. The location of the bus stop shall be chosen so that there is a connection to an accessible route.~~ Where a bus stop has already been established within 500 feet of ~~the affected~~ a proposed development, a new bus stop shall only be provided if recommended by TriMet ~~Tri-Met~~ and required by the Engineering Director ~~director~~. Otherwise, the development ~~developer~~ shall upgrade the existing stop. Upgrades may include, but are not limited to, the installation of benches, shelters, and landscaping. ~~through provision of improved waiting facilities (i.e., installation of benches, shelters or landscaping).~~

3. Design Standards. Transit facilities shall be designed and improved in accordance with current TriMet standards, the requirements of this chapter, and the Public Works Standards.

4. TriMet Notice and Coordination. The City shall provide notice of all proposed developments to TriMet pursuant to Section 19.1407. TriMet may recommend the construction of transit-related facilities at the time of development to support transit use. The City shall make the final determination regarding transit-related facility requirements.

19.1412.3 Building Orientation to Transit.

The following requirements apply to all new multifamily, commercial, office, and institutional development within five hundred (500) feet of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

A. Building Orientation to Transit Street. New buildings shall have their primary orientation toward a transit street or, if not adjacent to a transit street, a public right-of-way which leads to a transit street. The primary building entrance shall be visible from the street and shall be directly accessible from a sidewalk connected to the public right-of-way. A building may have more than one (1) entrance. If the development has frontage on more than one transit street, the primary building entrance may be oriented to either street or to the corner.

B. Maximum Setbacks Adjacent to Transit Street. When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321, Community Service Use, shall be set back no more than thirty (30) feet from the right-of-way that is providing transit service.

1. An individual building may be set back more than thirty (30) feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the thirty (30) foot setback standard.

2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than one hundred (100) feet.

3. If the proposed building is part of an institutional campus, the director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

4. If the site abuts more than one (1) street served by transit, then the maximum setback requirement need only apply to one (1) street.

19.1413 Access management standards.

19.1413.1 General Provisions.

A. Access Permit Required. Access to a public street requires an access permit in accordance with the following:

1. Permits for access to city streets shall be subject to review and approval by the city engineer based on the adopted city standards contained in this chapter. An access permit may be in the form of a letter to the applicant, or it may be attached to a land use decision notice as a condition of approval.

2. Permits for access to state highways shall be subject to review and approval by ODOT, except when ODOT has delegated this responsibility to the city or Clackamas County. Decisions regarding access permits to state highways shall be based on access standards adopted by ODOT.

3. Permits for access to county highways shall be subject to review and approval by Clackamas County, except where the county has delegated this responsibility to the city. Decisions regarding access permits to county highways shall be based on access standards adopted by Clackamas County.

B. Access Spacing Targets. All development shall be provided public street access. Access roads (public. and/or private), driveways, and easements shall be as set forth in other sections of these

~~design standards. Spacing of access points (public street and/or driveways) shall meet the criteria in Table 19.1413.1 to the greatest extent practicable. The minimum spacing is measured between the nearest points of the point of curvature on the curb return(s) of public streets or the top of the wings of any driveway~~

~~Spacing criteria are based upon several factors, including stopping sight distance, ability of turning traffic to leave a through lane with minimal disruption to operation, minimizing right turn conflict overlaps, maximizing egress capacity and reducing compound turning conflicts where queues for turning/decelerating traffic encounter conflicting movements from entering/exiting streets and driveways.~~

~~C. Modification of Access Spacing Targets. Any development that deviates from the access spacing (public street or driveway) targets will be required to prepare an access study that assesses transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirements established in Table 19.1413.1. For example, for a site with arterial access, analysis would include evaluation of site access and capacity along the project frontage plus capacity and access issues within five hundred and thirty (530) feet of the adjacent property. The access study shall include the following:~~

~~1. Review of site access spacing and design.~~

~~2. Traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site.~~

~~3. Review of all modes of transportation to the site.~~

~~4. Where access spacing targets are not met, a series of mitigation measures shall be identified including but not limited to assessment of medians, consolidation of access, shared driveways, temporary access, provision of future consolidated access or other measures that would be acceptable to the city engineer or designee.~~

~~D. Driveways. Access to private property shall be permitted with the use of driveway curb cuts. The access points with the street shall be the minimum necessary to provide access while not inhibiting the safe circulation and carrying capacity of the street. Driveways shall meet all applicable guidelines of the Americans with Disabilities Act.~~

~~Table 19.1413.1 Access Spacing Targets.~~

~~**Street Classification**~~	~~**Minimum Feet**~~
~~Arterial~~	~~600~~
~~Collector~~	~~300~~
~~ODOT Facilities (ORE 99E, ORE 224)~~	~~Per Appendix C of Oregon Highway Plan~~

~~E. Access Study Requirements. The city or other agency with access jurisdiction may require an access study prepared by a qualified professional to determine access requirements.~~

~~F. Authority to Restrict Access. To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the city engineer may restrict the location of driveways on streets and require that driveways be placed on adjacent streets, upon the finding that the proposed access would:~~

~~1. Cause or increase existing hazardous traffic conditions;~~

~~2. Provide inadequate access for emergency vehicles; or~~

~~3. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.~~

~~G. Conditions of Approval. The city or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements for shared driveways, development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system.~~

~~19.1413.2 Location of Driveway Access.~~

~~A. Double Frontage. When a lot has frontage onto two (2) or more streets, access shall be provided first from the street with the lowest classification. For example, access shall be provided from a local street before a collector or arterial street.~~

~~B. Distance from Property Line. Unless a shared access is proposed or required, new curb cuts for driveway access shall be at least seven and one half (7½) feet from the property line in residential districts and at least ten (10) feet from the property line in all other districts.~~

~~C. New Single-Family Development Fronting Arterials or Collectors. Direct individual access to arterial or collector streets from detached or attached single-family dwellings and lots shall be discouraged. Direct access shall be considered only if there is no practical alternative way to access the site and only if the driveway is designed to allow for vehicles to turn around on-site (via a hammerhead or loop).~~

~~D. Backing into the Right-of-Way Prohibited. Driveways shall be designed to contain all vehicle backing movements on-site, except for detached or attached single-family uses on local streets.~~

~~E. Minimum Distance from Driveway to Intersection Curb Return. To protect the safety and capacity of street intersections, the following minimum distance from the intersection curb return to the bottom of the driveway wing shall be maintained:~~

~~1. For local and neighborhood streets, driveways for detached or attached single-family residential shall be located at least forty-five (45) feet from the intersection curb return, or located as far away from the curb return as possible.~~

~~2. Driveways for multifamily and all other uses accessing local and neighborhood streets shall be located at least one hundred (100) feet from the intersection curb return.~~

~~3. For arterials and collectors, driveways shall be located beyond the end of queue of traffic during peak hour conditions or a minimum of four hundred (400) feet for arterials and three hundred (300) feet for collectors, whichever is greater.~~

~~19.1413.3 Number and Size of Driveways.~~

~~A. Number. The number of access points on arterial and collector streets from any development shall be minimized whenever possible through the use of shared driveways and coordinated on-site circulation patterns.~~

~~1. One driveway per site frontage will be the normal number allowed. For residential properties, additional site access is permitted by use of a mountable curb and reinforced sidewalk in accordance with design requirements of the Transportation Design Manual.~~

~~2. Multifamily, commercial or industrial developments with street frontage greater than one hundred and fifty (150) feet may request an additional driveway, if needed.~~

~~B. Shared Driveways. Within commercial, industrial and multifamily areas, shared driveways and internal access between similar uses are encouraged to reduce the number of access points to the higher classified roadway, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared driveways or internal access between uses will be established by means of common access easements.~~

~~C. Driveway Size. Driveway openings (curb cuts) shall be the minimum width necessary to provide the required number of vehicle travel lanes (nine (9) feet for each travel lane). The following standards (measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians. This chapter does not apply to requirements for flag lots, which are found in Section 19.426.~~

~~1. Single-family attached and detached uses shall have a minimum driveway width of nine (9) feet and a maximum width of eighteen (18) feet.~~

~~2. Three-family uses shall have a minimum driveway width of sixteen (16) feet and a maximum width of twenty (20) feet.~~

~~3. Multiple family uses with between four (4) and seven (7) dwellings shall have a minimum driveway width of twenty (20) feet, and a maximum width of twenty-four (24) feet.~~

~~4. Multiple family uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway width of twenty-four (24) feet, and a maximum width of thirty (30) feet.~~

~~5. Commercial, office and institutional uses shall have a minimum driveway width of twelve (12) feet, and a maximum width of thirty-six (36) feet.~~

~~6. Industrial uses shall have a minimum driveway width of fifteen (15) feet, and a maximum width of forty-five (45) feet.~~

~~Maximum driveway widths for commercial and industrial uses may be increased if the city engineer determines that more than two (2) lanes are required based on the number of trips generated or the need for turning lanes.~~

19.1409 Public Utility Requirements

19.1409.1 Review Process

The Engineering Director shall review all proposed development subject to Chapter 19.1400 per Section 19.1402 in order to: (1) evaluate the adequacy of existing public utilities to serve the proposed development, and (2) determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City's public utility requirements and standards.

A. Permit Review. The Engineering Director shall make every effort to review all development permit applications for compliance with the City's public utility requirements and standards within ten working days of application submission. Upon completion of this review, the Engineering Director shall either approve the application, request additional information, or impose conditions on the application to ensure compliance with this chapter.

B. Review Standards. Review standards for public utilities shall be those standards currently in effect, or as modified, and identified in such public documents as Milwaukie's Comprehensive Plan, Wastewater Master Plan, Water Master Plan, Stormwater Master Plan, Transportation System Plan, and Public Works Standards.

19.1409.2 Public Utility Improvements

Public utility improvements shall be required for proposed development that would have a detrimental effect on existing public utilities, cause capacity problems for existing public utilities, or fail to meet standards in the Public Works Standards. Development shall be required to complete or otherwise provide for the completion of the required improvements.

A. The Engineering Director shall determine which, if any, utility improvements are required. The Engineering Director's determination requiring utility improvements shall be based upon an analysis that shows the proposed development will result in one or more of the following situations:

1. Exceeds the design capacity of the utility.

2. Exceeds Public Works Standards or other generally accepted standards.

3. Creates a potential safety hazard.

4. Creates an ongoing maintenance problem.

B. The Engineering Director may approve one of the following to ensure completion of required utility improvements.

1. Formation of a reimbursement district in accordance with Chapter 13.30 for off-site public facility improvements fronting other properties.

2. Formation of a local improvement district in accordance with Chapter 3.08 for off-site public facility improvements fronting other properties.

19.1409.3 Design Standards

Public utility improvements shall be designed and improved in accordance with the requirements of this chapter, the Public Works Standards, and improvement standards and specifications identified by the City during the development review process. The applicant shall provide engineered utility plans to the Engineering Director for review and approval prior to construction to demonstrate compliance with all City standards and requirements.

19.1409.4 Oversizing

The Engineering Director may require utility oversizing in anticipation of additional system demand. If oversizing is required, the Engineering Director may authorize a reimbursement district or a system development charge (SDC) credit in accordance with Chapter 13.28.

19.1409.5 Monitoring

The Engineering Director shall monitor the progress of all public utility improvements by the applicant to ensure project completion and compliance with all City permitting requirements and standards. Utility improvements are subject to the requirements of Chapter 12.08. Follow-up action, such as facility inspection, bond release, and enforcement, shall be considered a part of the monitoring process.

Title 19 ZONING

Chapter 19.300 USE ZONES

19.303.3 Standards. In an R-5 zone the following standards shall apply:

J. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.304.3 Standards. In an R-3 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.305.3 Standards. In an R-2.5 zone the following standards shall apply:

I. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.306.3 Standards. In an R-2 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.307.3 Standards. In an R-1-B zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.308.3 Standards. In an R-1 zone the following standards shall apply:

K. Transition Area. A transition~~al~~ area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.309.3 Standards. In an R-O-C zone the following standards shall apply:

L. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.311.3 Standards. In a C-L zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.312.3 Uses.

G. Limited Uses. The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an "L" in Table 19.312.3.

5. Office, personal service, and retail trade uses in the downtown residential zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses are limited to the ground floor; and individual office, personal service, or retail uses may not exceed five thousand square feet in floor area. Home occupations are permitted in accordance with Section ~~19.425~~ 19.407 of this title.

19.312.5 Public Area Requirements.

A. Purpose: The City has two adopted plans that guide the revitalization of downtown Milwaukie. The first focuses on land uses in the downtown zones entitled Milwaukie Downtown and Riverfront Land Use Framework Plan. The second focuses on public area requirements in the downtown zones entitled Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The purpose of the public area requirements plan is to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design. ~~The design of streets, sidewalks, and public spaces is critical to the overall character and vitality of the downtown zones. The public area requirements prescribe specific details and design criteria for improvements within the public right-of-way, to establish a common urban design thread and link the different land uses and architectural styles of the downtown zones.~~

B. Applicability. All downtown development projects that meet the applicability provisions of Section 19.1402 are subject to Chapter 19.1400 in its entirety, with the exception of specified portions of Section 19.1408 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections shown in the public area requirements plan even when the development project is not in a downtown zone. ~~The downtown and riverfront public area requirements shall apply as follows:~~

~~1. All new development in the downtown zones shall comply with the public area requirements.~~

~~2. Any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty percent of the value of the land and existing improvements, as determined by the county assessor, shall comply with the public area requirements. The building official shall determine development permit value.~~

~~3. If the development permit value is less than fifty percent of the value of the land and existing improvements, as determined by the county assessor, then an amount equal to at least ten percent of the development permit value shall be utilized to meet the public area requirements. For example, if a one hundred thousand dollar improvement is proposed for a site with land and improvements valued at two hundred fifty thousand dollars, at least ten thousand dollars shall be dedicated to meet the public area requirements. Priorities for public area improvements shall be determined at a preapplication conference with community development department staff. In general, the public area requirements will be prioritized to benefit the pedestrian as follows:~~

~~First priority: Sidewalk improvements~~

~~Second priority: Street trees~~

~~Third priority: Streetlights~~

~~Fourth priority: Street furniture and bicycle parking~~

C. Review Process. All downtown development projects that meet the applicability provisions of Section 19.1402 shall submit all appropriate applications per Subsection 19.1403.2. For downtown development projects requiring a land use application, the applicant shall schedule a preapplication conference with the City prior to submittal of the application. Land use

applications for downtown development projects shall be submitted in accordance with Subsection 19.1403.2 and processed in accordance with Chapter 19.1000.

D. Street Design Standards. If the Engineering Director determines that the proposed development has impacts on the transportation system pursuant to Section 19.1404, the Community Development Director will identify the type, size, and location of needed improvements to the public right-of-way using the Milwaukie Downtown and Riverfront Plan: Public Area Requirements as a guide. The Engineering Director will then conduct a proportionality analysis pursuant to Section 19.1405. If none of the needed improvements are determined to be proportional to the development's impacts, the proposed development will be required to comply with the City's safety and functionality standards, which are contained in Subsection 19.1403.3.C. If only some of the needed improvements are determined to be proportional to the development's impacts, the Community Development Director will determine which improvements the proposed development will be required to fund or construct. Appeal of the City's proportionality analysis is allowed pursuant to Subsection 19.1403.5.B.

19.313.3 Standards. In a C-G zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection ~~19.416~~ 19.403.7.

19.323.5 Alteration and Development.

E. Criteria and Findings. Approval of a permit to alter a landmark or any property in the HP district shall be based on findings of adherence to the following guidelines:

10. Buffering. An appropriate buffer or screen, as provided under Subsection ~~19.416~~ 19.403.7, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

Title 19 ZONING

Chapter 19.100 INTRODUCTORY PROVISIONS

19.103 Definitions.

Refer to Title 18 for definitions related to flood hazard areas.

As used in this title:

"Abandonment" means wireless communication facility is abandoned when it has not been used by a licensed carrier for a period of ~~six (6)~~ months.

"Access" means the way or means by which pedestrians, bicycles, and vehicles enter and leave property.

"Accessory structure or accessory use" means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including any required off-street parking within ~~two hundred (200)~~ feet (measured in a straight line) of the building or use it is intended to serve.

"Accessway" means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

"Accidental destruction" means damage or destruction caused by accident or natural hazard, including, but not limited to, fire, flood, or wind.

"Adult entertainment business" means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. "Adult entertainment business" includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels, and adult theaters.

"Agriculture" means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

"Airport" or "aircraft landing facility" means any landing area, runway, or other facility designed, used, or intended to be used by aircraft and including all necessary taxiways, hangars and other necessary buildings and open spaces.

"Alley" means a ~~minor~~ right-of-way that provides access ~~which is used primarily for vehicular service~~ to the back or side of properties otherwise abutting on a street. Generally, alleys provide secondary vehicle access. Where vehicle access from the street is not allowed, not possible, or not desirable, an alley may provide primary vehicle access.

"Alteration" means ~~a change in construction or a change in occupancy. Where the term "alteration" is applied to a change in construction, it is intended to apply to~~ any change, addition, or modification ~~in construction~~ to any existing structure or improvement on the site, including changes to site access, when such changes result in any one of the following: (1) intensification of the use(s) on the site, (2) intensification of the improvements on the site, (3) changes to the exterior appearance of significant historic resources or buildings in the downtown zones, or (4) changes that may have a detrimental effect on surrounding properties or a natural resource area. Alteration may or may not involve an increase in gross floor area. Alteration does not include "routine maintenance and repair." ~~When the term is used in connection with a change in use occupancy, it is intended to apply to changes in occupancy from one use to another~~. See also "improvements."

~~Alteration, Structural. "Structural alteration" means a change or repair which would tend to prolong the life of the supporting member of a building or structure. A change in the external dimension of the building shall be considered a structural alteration.~~

"Antenna" means electrical conductor or group of electrical conductors in the form of a metal rod, wire panel or dish that transmit or receive radio waves or microwaves for wireless communications.

"Antenna support structure" means a structure on which a wireless antenna is or may be placed.

"Alternative support structure"~~:~~ means an ~~An~~ existing building, water tower, utility pole in the ~~right of way~~ right-of-way, or an antenna support structure that meets stealth design criteria.

"Existing ~~antenna~~ support structure"~~:~~ means any ~~Any~~ support structure existing at the time of the application.

"Application" means all forms, materials, and information required for submission for action authorized under this title.

"Arbor" means an unroofed and unenclosed structure of vines, branches, or lattice work typically used to support climbing vines or shrubs.

~~"Application" means all materials and information submitted for action authorized under this title specified herein and on related administrative forms and checklists.~~

"Automobile service station" means a retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products; but not major automotive repairs, painting, and body and fender work.

"Bankful stage" means the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.

"Basement" means a portion of a building, not deemed a story, which has more than one half of its height (but not more than ~~six (6)~~ feet) measured from finished floor to finished ceiling above the adjoining ground level grade.

"Belfry" means an ornamental or functional roof mounted structure for enclosing a bell.

"Belvedere" means an architectural feature of a building designed to create views from the building.

~~"Bikeways"~~ "Bicycle facility" means any ~~road, street,~~ or path which in some manner is specifically designated and/or designed for the use of bicycles or for shared use by bicycles and other transportation modes. ~~The term "bikeway" includes bike lane, bike path, and bike route:~~ Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.

~~1.~~ "Bike lane" means a portion of a road, street, or shoulder which has been designated for use by bicyclists through the application of a paint stripe.

"Shared lane" means a roadway where bicyclists and autos share the same travel lane. A shared lane is usually wider than a vehicle travel lane but does not delineate between vehicle and bike lanes. It may include bike boulevard treatments.

"Bike boulevard" means a lower-volume street with various treatments to promote safe and convenient bicycle travel. A bike boulevard usually accommodates bicyclists and motorists in the same travel lanes, often with no specific vehicle or bike lane delineation. It usually assigns higher

priority to through bicyclists, with secondary priority assigned to motorists. A bike boulevard also includes treatments to slow vehicle traffic to enhance the bicycling environment.

~~2.~~ "Bike path" means a separate trail or path on which motor vehicles are prohibited and which is for the exclusive use of bicycles or for the shared use of bicycles, ~~and~~ pedestrians, and other nonmotorized modes of travel.

~~3. "Bike route" means a system of bikeways designated by route markers. Bike routes include shared roadways open to motor vehicles and upon which no bicycle lane is designated.~~

"Boarding, lodging, or rooming house" means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

"Buffer area" means a land area with space, landscaping, and other means sufficient to protect the uses in one zone from being offensive to the uses in another zone.

"Building" means a structure built for the support, shelter, or enclosure of any persons, animals, chattels, or property of any kind excepting uncovered patios or decks not exceeding ~~eighteen (~~18~~)~~ inches in height above the average grade of the adjoining ground.

"Building height" means the vertical distance measured from the adjoining street centerline grade, as established by the city, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

"Building line" means a line that coincides with the front side of the main building.

"Build-to line" means an imaginary line on which the front of a building or structure must be located or built, and which is measured as a distance from a public right-of-way.

"Cellar" means a room or group of rooms, usually under a building, which has more than one half of its height measured from finished floor to finished ceiling below the average grade of the adjoining ground.

"Change in use" means a change in the primary use from one use to another or the addition of other uses, not including accessory uses. A change in use determination shall reference the uses listed in this section or the City's use zones as a guide. A proposal to change or add new uses may require land use approval. See also "use."

"City" means the City of Milwaukie, Oregon.

~~"Closed-end street system" means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the roadway network. "Closed-end street system" does not include street systems, where more than one street connection to the roadway network is made by roadway construction, or is planned by dedication of right-of-way, or where other permanent reservations are made for future street extension to the roadway network.~~

~~"Collector street" means a roadway that carries local traffic from local streets to arterial streets within the city. Collectors also serve local community uses and serve as circulation magnets for local streets. Local public transit may use collector streets.~~

"Co-location" means the placement of an antenna on an existing wireless communication facility, building, water tower, utility pole, where the antennas and all supports are located on an existing structure.

"Commercial parking facility" means a parking structure, surface, or below-grade parking lot, for which a charge or fee is assessed for parking. Commercial parking facilities provide parking that is not accessory

to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.

"Commercial recreation" means an establishment where people pay for recreation including such types as health center, places with court games, dance halls, places with machine games, and so forth.

"Congregate housing facility" means a multidwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premise supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all ~~R-zones which~~ residential zones that permit multifamily apartments, and they require conditional use approval in those ~~R-zones which~~ residential zones that allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.

"Constructed wetlands" means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

"Corridor design plan" means a plan which establishes special development standards along a transportation corridor. A corridor design plan is adopted as part of the comprehensive plan and is implemented through overlay zones.

"Cupola" means an ornamental or functional structure placed on a roof or dome mimicking or functioning as a lantern, belfry, or belvedere.

"Curb return" means the curved portion of a street curb at street intersections or the curved portion of a curb in the wings of a driveway approach.

"Daycare center" means any facility, institution, establishment, or place not a part of a school as defined in this section and not meeting the definition of family daycare, that provides daycare to children not of common parentage, including day nurseries, nursery schools, preschools, daycare facilities, or similar units operating under any name for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

"Debris" means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

"Department of Environmental Quality (DEQ) Water Quality Standards" means the numerical criteria or narrative condition needed in order to protect an identified beneficial use.

"Developer's agreement" means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facility improvements specifically identified in the document, or in cases where local improvement district or project formation is necessary to share in the cost of necessary public facility improvements, to not remonstrate against the City for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or project formation. This may consist of such determination methods as street frontage percentage, lot square footage, and/or standard per lot assessment. A developer's agreement is not a Development Agreement as defined by ORS 95.504.

"Development" means all improvements on a site, including, but not limited to: buildings, accessory structures, parking and loading areas, paved or graveled areas, improved open areas (such as plazas or walkways), above-ground utilities, landscaping, and areas devoted to exterior display, storage, or activities. Development also includes actions that result in physical change to a site, including, but not limited to: ~~any man-made change defined as buildings or other structures,~~ mining, dredging, ~~paving,~~ filling, or grading in amounts greater than ~~ten (~~10~~)~~ cubic yards ~~on any lot or excavation~~. Some types of development may require issuance of a development permit and/or land use approval prior to construction or placement. Development does not include the following: (~~a~~1) ~~Stream~~ stream enhancement or restoration projects approved by cities and counties; (~~b~~2) ~~Farming~~ farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; ~~and~~ (~~c~~3) ~~Construction~~ construction on lots in subdivisions meeting the criteria of ORS 92.040(2); or (4) natural geologic forms or unimproved land.

"Development permit" means any permit, such as a building permit, issued by the City's Building Department for action authorized under this title. Land use approval by the City's Planning Department or Planning Commission is required prior to the issuance of a development permit for some actions.

"Disturb" means to make ~~man-made~~ changes to the existing physical status of the land~~, which~~ that are made in connection with development. The following ~~uses~~ changes are excluded from the definition: enhancement or restoration of the Water Quality Resource Area~~;~~ and planting native cover identified in the Milwaukie Native Plant List.

"Dormer" means a projecting structure built out from a sloping roof usually containing a window.

"Dormitory" means a room which is rented for sleeping purposes for more than ~~four (~~4~~)~~ persons.

"Downtown zones" means the ~~five (~~5~~)~~ zones that implement the Milwaukie Downtown and Riverfront Land Use Framework Plan ~~downtown and riverfront land use framework plan~~ – Downtown Storefront ~~downtown storefront~~ (DS), Downtown Commercial ~~downtown commercial~~ (DC), Downtown Office ~~downtown office~~ (DO), Downtown Residential ~~downtown residential~~ (DR), and Downtown Open Space ~~downtown open space~~ (DOS).

"Drinking establishment" means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

"Drive-through facility" means a business activity involving buying or selling of goods, or the provision of services, where one of the parties conducts the activity from within a motor vehicle. Facilities usually associated with a drive-through are queuing lanes, service windows, service islands and service bays for vehicular use.

"Driveway" means the portion of the accessway located on private property or public lands outside of the public right-of-way.

"Driveway approach" means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section. See Chapter 12.16 Access Management for definitions of these terms.

"Dwelling" means a structure containing one or more dwelling units used, intended, or designed to be built, used, rented, let or hired out to be occupied, or which are occupied for living purposes. Dwelling types are defined in this section.

"Dwelling unit" means one or more rooms designed for occupancy by one family, but excluding a recreational vehicle~~:~~.

~~1.~~ "Single-family attached" means ~~two (~~2~~)~~ dwelling units, each occupied as a housekeeping unit, sharing common structural walls.

~~2.~~ "Single-family detached" means a house or a manufactured home normally occupied by one family with no structural connection to adjacent units. The dwelling and lot are usually under single ownership.

~~3.~~ "Multifamily apartment" means a single structure containing ~~three (3)~~ or more dwelling units, usually for rent, and sharing common structural walls.

~~4.~~ "Multifamily condominium" means a single structure containing ~~three (3)~~ or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.

~~5.~~ "Interior single-family attached, interior multifamily condominium" means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.

~~6.~~ "Accessory dwelling" means a dwelling unit that is clearly incidental and subordinate to a detached single-family dwelling, located in a single-family structure designed for occupancy by a housekeeping unit, and not containing more than ~~one (1)~~ cooking facility. For the purpose of this definition "cooking facility" means an oven, stove, range or other device used or intended for the preparation or heating of food.

~~a.~~ "Type 1 accessory dwelling" means an accessory dwelling unit not less than ~~two hundred twenty-five (225)~~ square feet gross floor area and not more than ~~six hundred (600)~~ square feet gross floor area and meeting the requirements of Section 19.404. For the purpose of this section, gross floor area is measured from the inside face of walls enclosing the unit including all storage space, closets, halls, stairwells and rooms.

~~b.~~ "Type 2 accessory dwelling" means an accessory dwelling unit other than a type 1 accessory dwelling unit, as permitted by ~~subsection~~ Subsection 19.602.10.

"Eating establishment" means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

"Emergency" means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

"Enhancement" means the process of improving upon the natural functions and/or values of an area or feature, which has been degraded by human activity. Enhancement activities may or may not return the site to a ~~pre-disturbance~~ predisturbance condition, but create/recreate processes and features that occur naturally.

"Equipment cabinets" means an enclosed box or structure used to house equipment for the operation, maintenance, or repair of a wireless communication antenna.

"FAA approval" means demonstration of compliance with all applicable rules and regulations under the FAA's jurisdiction.

"Facade" means all the wall planes of a structure as seen from one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.

~~"Facility" means a created or constructed structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement.~~

"Family" means any person or group of persons living within a single housekeeping unit as defined in this section.

"Family daycare" means a private residence occupied by the family daycare provider in all areas zoned for residential or commercial purposes and used as a home occupation by the provider for the care of fewer than ~~thirteen (13)~~ children, including children of the provider, regardless of full-time or part-time care status.

"Fence" means any artificially constructed barrier of any material or combination of materials erected for purpose of enclosing, protecting, or screening areas of land and uses thereon.

> ~~Fence, Sight-Obscuring.~~ "Sight-obscuring fence" means a fence consisting of wood, metal, masonry, or similar materials, or an evergreen hedge or other evergreen planting, arranged in such a way as to obscure vision at least ~~eighty percent (80%)~~.

"Flag lot" means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or "pole" to the main part of the lot used for building, which is located behind another lot that has street frontage. There are ~~two (2)~~ distinct parts to the flag lot; the development area or "flag" which comprises the actual building site, and the access strip or "pole" which provides access from the street to the flag.

"Flood management areas" means all lands contained within the ~~one hundred (100)~~ year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

"Floodway" means the channel of a stream and adjacent land areas which are required to carry and discharge flood waters or flood flows of a ~~one hundred (100)~~ year flood, as defined by the Corps of Engineers.

"Floodway fringe" means that land area which is outside of the stream floodway but is subject to periodic inundation by a ~~one hundred (100)~~ year flood, as defined by the Corps of Engineers.

"Floor area" means the sum of the area of each floor level, including cellars, basements, mezzanines, accessory structures, penthouses, corridors, lobbies, stores, and offices that are within the principal outside faces of exterior walls, or from the centerline of walls separating two buildings, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room of at least 6 feet 6 inches, regardless of their use or finished state. Floor area does not include the following: ~~the sum of the gross horizontal area of the general floor of a building, measured from the exterior faces of the exterior walls, or from the centerline of walls separating two (2) buildings; but not including:~~

~~1. Attic space providing headroom of less than seven (7) feet;~~

~~2. Basement or cellar;~~

~~3.~~ • Uncovered steps or fire escapes~~;~~.

~~4.~~ • Private garages, carports, or unenclosed porches~~;~~.

~~5.~~ • Accessory water towers or cooling towers~~; or~~.

~~6.~~ • Accessory off-street parking or loading spaces.

"Floor area ratio" means the amount of building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of ~~two (2)~~ to ~~one (1)~~ means ~~two~~ 2 square feet of floor area for every ~~one~~ 1 square foot of site area. A developer may exclude public utility easements from the site area when calculating the floor area ratio for a site.

"Foster home" means any home maintained by a person licensed by the ~~state~~ State to provide care, food, and lodging in such home for not more than ~~ten (10)~~ children, including his or her own children, under the age of ~~eighteen (18)~~ years and unaccompanied by a parent or guardian.

"Frontage" means the portion of a property that abuts a public or private street. ~~property abutting on a street.~~

"Frontage improvements" means transportation facility improvements occurring along a property's frontage. See also "improvements."

"Garage" means a covered structure designed to provide shelter for vehicles and which is accessory to a residential use. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to, or detached from, another structure.

> "Carport" means a stationary structure consisting of a roof, its supports, and not more than one wall (or storage cabinets substituting for a wall) used to shelter motor vehicles, recreational vehicles, or boats. A structure is only considered to be a carport when it is being used to meet minimum off-street parking requirements.

Grade:~~, Ground Level.~~

> "Ground-level grade" means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within ~~five (5)~~ feet of a public sidewalk, the ground level shall be measured at the average sidewalk elevation.

"Green street" means a street that incorporates a stormwater management system into its design, allowing most stormwater runoff to be absorbed locally. Green street treatments capture and treat stormwater runoff locally, thereby protecting streams, groundwater, and wildlife habitat.

"Greenway areas" means lands that lie along the Willamette River and major courses flowing into the Willamette River. Shown on the zoning map as the Willamette Greenway Overlay.

"Ground floor" means any floor with direct access to grade. A building or facility always has at least one ground floor, and may have more than one ground floor where a split-level entry has been provided or where a building is built into a hillside.

"Guyed tower" means a tower which is supported by the use of cables (guy wires).

"Half street" means transportation facility improvements equal to one-half of a street design cross section plus enough additional roadway pavement for at least two travel lanes.

"Hazardous materials" means materials defined by the Oregon Department of Environmental Quality as hazardous.

"High-impact commercial businesses" means any such use that generates substantial traffic, noise, light, irregular hours, or other negative impact on the community. Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and motels.

"Home occupation" means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

"Horticulture" means the cultivation of plants, garden crops, trees or nursery stock.

"Hotel" means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

"Housekeeping unit" means a living arrangement within a dwelling unit in which a single common kitchen facility, laundry facility, living and dining rooms, and other general living areas of the dwelling, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

Improvements:

"Off-site improvements" means all public facility improvements occurring off the site and not along the site's frontage.

"On-site improvements" means all development on the site. The term on-site improvements also refers to public facility improvements occurring on the site or along its frontage in a right-of-way or easement. See also "frontage improvements."

Institution:

"Institutional campus" means a medical or educational institution and associated uses. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial and light industrial uses, major event entertainment, residential and other uses.

~~Institution, Higher Educational.~~ "Higher educational institution" means a college or university, accredited by the ~~state~~ State.

"Interior landscaping" means area(s) internal to a lot that is(are) devoted to buffer area(s) with plantings.

"Invasive non-native or noxious vegetation" means plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread into native plant communities.

"Junkyard" means any establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles, or motor vehicle parts, iron, steel, or other scrap or old ferrous or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

"Kennel" means any lot or premises on which ~~four (4)~~ or more dogs, more than ~~four (4)~~ months of age, are kept.

"Kitchen facility" means an area in which something is built, installed, or established to prepare food for eating by a heating process.

"Landscape strip" means an area for street trees and other plantings within the public right-of-way that is usually located between the curb and the sidewalk.

"Landscaping" means vegetation and materials, including, but not limited to, shrubs, grass, trees, planting beds and bark dust.

"Lantern" means a superstructure crowning a roof or dome having open or windowed walls to let in light and air.

"Lattice tower" means a tower characterized by an open framework of lateral cross members, which stabilize the tower without the use of guy wires.

"Lease area" means the area of a parcel on which wireless communication facilities, antennas and equipment buildings are located.

"Limited use" means a use that is permitted subject to specific limitations as described in the zoning ordinance.

"Livestock" means domestic animals, such as cattle, horses, sheep, hogs or goats, raised for home use or for profit.

"Loading space" means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

~~"Local street" means a roadway that carries residential traffic within residential neighborhoods within the city. Local streets connect to other local streets or collector streets for greater access within or between neighborhoods. Local public transit may use local streets.~~

"Lot" means a plot, parcel, or area of land owned by or under the lawful control and in the lawful possession of one ~~(1)~~ distinct ownership.

~~Lot, Corner.~~ "Corner lot" means a lot abutting on ~~two (2)~~ or more streets, other than an alley, at their intersection.

"Interior lot" means a lot other than a corner lot.

"Through lot" means an interior lot having frontage on 2 streets.

"Lot coverage" means the footprint of a building or buildings on a lot, measured from the outermost projection of the structure expressed as a percentage of the total lot area.

"Lot depth" means the average horizontal distance between the front lot line and the rear lot line.

~~Lot, Interior. "Interior lot" means a lot other than a corner lot.~~

"Lot line" means the property line bounding a lot~~:~~.

~~1.~~ ~~Lot Line, Front.~~ "Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.

~~2.~~ ~~Lot Line, Rear.~~ "Rear lot line" means a lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular or other-shaped lot, a line ~~ten (10)~~ feet in length within the lot parallel to and at the maximum distance from the front lot line.

~~3.~~ ~~Lot Line, Side.~~ "Side lot line" means any lot line not a front or rear lot line.

~~Lot, Through. "Through lot" means an interior lot having frontage on two (2) streets.~~

"Lot width" means the horizontal distance between side lot lines measured at the building line.

~~"Major arterial street" means a roadway that serves as a regional facility that carries both local and through traffic to destinations within and outside of the city. Public transit serving other communities and different points in the region may use these streets.~~

"Manufactured dwelling" means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, and that is being used for residential purposes.

"Manufactured dwelling park" means a lot, tract, or parcel of land under one ownership, the primary purpose of which is to rent space for placement of a manufactured dwelling. A manufactured dwelling park shall contain a minimum of ~~two (2)~~ acres, and a minimum of ~~four (4)~~ manufactured dwellings.

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

"Minimum vegetation" means the area of a lot that supports plantings or natural growth, grass, shrubs, measured as a percentage of lot area including planted areas under roof eaves.

~~"Minor arterial street" means a roadway that carries local traffic from collector streets to regional facilities within the city. Minor arterials provide access to community uses and to neighborhoods within the city. Public transit serving other communities and different points in the region may use these streets.~~

~~"Mitigation" means the reduction of adverse effects of a proposed project by considering, in the order: (a) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (b) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (c) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (d) compensating for the impact by replacing or providing comparable substitute water quality resource areas.~~

"Mobile home" means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

"Monopole" means a single upright pole engineered to be self-supporting without lateral cross supports or guy wires and used as an antenna support structure.

"Motel or tourist court" means one or more buildings designed or used as temporary living quarters for transients.

"Native vegetation" means any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant List.

~~"Neighborhood street" means a roadway that moves local traffic in and out from residential areas to arterials and collectors. Neighborhood streets are similar to local streets in design (with residential frontage), but carry more traffic and are commonly used by local residents. Neighborhood streets do not provide citywide circulation, but mainly serve an immediate neighborhood. Because their traffic levels are greater than local streets and potential speeding can be higher, neighborhood traffic management techniques can be appropriate.~~

"Net acre" means an area measuring ~~forty-three thousand five hundred sixty (~~43,560~~)~~ square feet excluding the following: rights-of-way; floodplains; protected water features; natural resource areas protected under statewide planning Goal 5; slopes in excess of ~~twenty-five (~~25~~)~~ percent; and publicly owned land designated for park, open space and resource protection.

"New construction" means development on a site that was previously undeveloped or from which previously existing structures have been demolished. New construction includes the following: (1) new structures, (2) new additions to existing structures, and (3) reconstruction of fully or partially demolished structures.

"Nonconforming structure or use" means a lawful existing structure or use, at the time the ordinance codified in this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Office~~:, Professional and Administrative.~~

> "Professional and administrative office" means professional, executive, management, or administrative offices of firms or organizations. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers,

accountants, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

"Off-street parking" means space located outside of any street right-of-way that is designed to accommodate the parking of motorized and nonmotorized vehicles.

"Open space" means any parcel of land or portion of a parcel without a structure, except as used and defined in the planned development zone.

"Ordinary mean high water line" means as the elevation on the bank or shore to which water ordinarily rises in season.

"Ordinary mean low water line" means the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water.

"Owner" includes an authorized agent of the owner.

"Parking space" means an area available for the parking of a standard American automobile or compact size.

"Perennial streams" means all primary and secondary perennial waterways mapped by the U.S. Geological Survey.

"Pergola" means an unenclosed and unroofed structure of parallel columns supporting an open roof of beams and crossing rafters or trellis work.

"Perimeter landscaping" means an area around the edge of a lot that is devoted to a buffer area with plantings.

"Person" means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

"Personal/business services" means the provision of services to individuals or businesses. Typical uses include laundromats/dry cleaners, tanning salons, barbers, beauty salons, shoe repair, copy centers, secretarial services and blueprint services.

"Physical characteristics" means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill and embankments.

"Planning director's interpretation" means a ruling of the planning director regarding the applicability, scope, or effect of any provision of Titles 14, 17 and this title.

"Plaza" means an area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas, typically provided with amenities such as seating, drinking and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

"Pleasure craft" means a motorized or nonmotorized boat, canoe, kayak or other similar vessel that is used for private aquatic recreational uses.

"~~Post-construction~~ Postconstruction erosion control" means ~~re-establishing~~ reestablishing groundcover or landscaping prior to the removal of temporary erosion control measures.

"Poultry" means domestic fowl, such as chickens, turkeys, ducks or geese, raised for flesh or eggs.

"Preapplication conference" means a meeting between community development department staff and an applicant or property owner. It provides for an exchange of information regarding applicable requirements of city codes, makes available technical assistance which will aid in the development of an application,

and attempts to identify procedures, policies, and regulations that may pose opportunities or constraints for a proposal.

"Prefabricated construction" (modular units) means a structural unit, conforming to the Uniform Building Code, that has been wholly or in part prefabricated at an off-site location and brought by trailer to the site for assembly.

"Primary entrance" means the entrance to a building that most pedestrians are expected to use. Generally, each building has ~~one (1)~~ primary entrance. Primary entrances are the widest entrances of those provided for use by pedestrians. In multitenant buildings, primary entrances open directly into the building's lobby or principal interior ground-level circulation space. When a multitenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a primary entrance. In single-tenant buildings, primary entrances open directly into lobby, reception, or sales areas.

"Protected water features" means the following:

"Primary protected water features" means and includes: any of the following:

~~a.~~ • Title 3 wetlands.~~; and~~

~~b.~~ • Rivers, streams, and drainages downstream from the point at which ~~one hundred (100)~~ acres or more are drained to that water feature (regardless of whether it carries year-round flow).~~; and~~

~~c.~~ • Streams carrying year-round flow.~~; and~~

~~d.~~ • Springs which feed streams and wetlands and have year-round flow.~~; and~~

~~e.~~ • Natural lakes.

"Secondary protected water features" means and includes intermittent streams and seeps downstream of the point at which ~~fifty (50)~~ acres are drained and upstream of the point at which ~~one hundred (100)~~ acres are drained to that water feature.

"Public area requirements" means specific standards for streets, sidewalks and public spaces adopted to implement the downtown and riverfront land use framework plan.

"Public facilities" means transportation and public utility improvements as described below.

"Transportation facilities" means transportation-related improvements in a right-of-way or easement, including, but not limited to, travel lanes, bicycle lanes, sidewalks, and transit facilities.

"Public utilities" means public utility-related improvements in a right-of-way, easement, or tract, including water, sanitary sewer, and stormwater infrastructure. See also "utility facilities."

"Public park" means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation, or management of the Milwaukie community services department.

"Railroad facilities" means railroad switching yards, terminal structure, railroad tracks or any other facilities connected with railroads which generate substantial noise or nuisance.

"Recreational vehicle" means a vehicular-like, portable structure which can be towed, hauled, or driven and is primarily designed for temporary living accommodations for recreational camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers and recreational vans.

"Religious institution" means a structure used by a religious organization having a tax-exempt status.

"Residential home" means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for

the elderly, disabled, handicapped or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.

"Residential trailer" means a manufactured dwelling that was constructed prior to January 1, 1962.

"Restoration" means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities ~~re-establish~~ reestablish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity.

"Retail trade" means the sale, lease, or rental of new or used products to the general public. Typical uses include, but are not limited to, grocery stores, specialty stores, drugstores, bookstores, jewelry stores, and video stores.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Riparian" means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Routine repair and maintenance" means activities directed at preserving an existing allowed use or facility including replacement of materials, but excluding any increases in the existing dimensions of the structure. See also "alteration."

School:~~, Commercial.~~

> "Commercial school" means a place where instruction is given to pupils in arts, crafts, trades or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.
>
> ~~School, Primary, Elementary, Junior High, or High.~~ "Primary, elementary, junior high or high school" means and includes public, private, or parochial; but not nursery school, kindergarten, or day nursery, except when operated in conjunction with a school.

"Second-floor housing" means a residential use that is located on or above the second floor of a building, with the ground floor of the building devoted to nonresidential use (such as, but not limited to, retail or office use).

"Senior and retirement housing" means a multiunit dwelling where persons who are of retirement age reside. Activity levels including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium. The dwelling units shall not have more than one bedroom per unit and shall not have more than ~~eight hundred (800)~~ square feet per dwelling unit.

"Shared parking" means the same off-street parking area is identified by one or more uses for the parking needs of employees, customers, and/or residents.

"Sidewalk" means a paved walkway within a public right-of-way that is designed for pedestrian use. Sidewalks are generally adjacent to, but separated from, bicycle and vehicle travel lanes by horizontal and/or vertical street elements. Separation generally involves a curb, landscape strip, or both a curb and landscape strip.

~~"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.~~

"Specified anatomical areas" means and includes any of the following:

~~1.~~ • Less than completely and opaquely covered genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola.~~; or~~

~~2.~~ • Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means and includes any of the following:

~~1.~~ • The fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast.~~;~~

~~2.~~ • Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.~~;~~

~~3.~~ • Masturbation, actual or simulated.~~; or~~

~~4.~~ • Excretory functions as part of or in connection with any of the activities set forth in the first three bullet points ~~subsections 1 through 3~~ of this definition.

"Stealth Design" means a wireless communication facility that is designed or located in a such a way that the facility is not readily recognizable as wireless communication equipment and is compatible with surrounding uses.

"Steep slopes" means slopes that are equal to or greater than ~~twenty-five (~~25%~~) percent~~.

"Stormwater ~~pre-treatment~~ facility" or "stormwater pre-treatment facility" means any structure or ~~drainage way~~ drainageway that is designed, constructed, ~~and~~ filter, and retain or detain surface water ~~run-off~~ runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as wetlands, swales, and ponds that are maintained as stormwater facilities.

"Story" means portion of a building between any floor and the next floor above. If the floor level directly above a basement or unused under-floor space is more than ~~six (~~6~~)~~ feet above grade for more than ~~fifty (~~50%~~) percent~~ of the total perimeter or is more than ~~ten (~~10~~)~~ feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

> ~~Story, Half.~~ "Half story" means a story under a gable, gambrel, or hip roof, the wall plates of which on at least ~~two (~~2~~)~~ opposite exterior walls are not more than ~~two (~~2~~)~~ feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than ~~six (~~6~~)~~ feet above grade, for more than fifty ~~(~~50%~~) percent~~ of the total perimeter or is not more than ~~ten (~~10~~)~~ feet above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

"Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river~~. It~~ that flows at least part of the year, including perennial and intermittent streams.

"Street" means the entire width between ~~the~~ right-of-way lines ~~of every way~~ for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

"Street classification" or "functional street classification" means the classification given to a street that encompasses both its design characteristics and the level and type of service it is intended to provide. These classifications guide design standards, levels of access, traffic control, law enforcement, and the provision for federal, State, and regional transportation funding. The City's functional street classification

system includes regional routes, arterials, collectors, neighborhood streets, and local streets. These classifications are described in more detail in the City's Transportation System Plan.

"Street network" means individual streets that are physically connected to one another and that collectively serve travel needs on a local, citywide, and regional level.

"Closed-end street system" means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the street network. A closed-end street system does not include a street system with more than one existing or future connection to the street network. Future connections require dedication of right-of-way or other permanent reservations for future connectivity.

"Through street" means a street that connects to other streets on both ends.

"Street stub" means a temporary street ending that is intended to be extended through adjacent property in the future. Street stubs are generally required when it is anticipated that adjacent property will need to extend the street to accommodate future development.

"Street tree" means a tree located in the right-of-way in a center median or island or in a landscape strip or tree well between the street and the sidewalk.

"Structure" means something constructed or built and having a fixed base or fixed connection to the ground or another structure. (Streets and utilities are excluded from this definition.)

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure to a use.

~~"Substantial redevelopment" means any renovation, expansion, or alteration of an existing building that has a development permit value that exceeds fifty (50) percent of the real market value of site improvements as determined by the county assessor. The development permit value includes all labor and material costs associated with the proposed construction. The building official shall determine the value of the development permit.~~

"Temporary or transitional facility" means a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is ~~sixty (~~60~~)~~ days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.

"Title 3 Wetlands" means wetlands as shown on the water quality resource area map and other wetlands added to city or county adopted water quality resource area maps consistent with the criteria in Metro Urban Growth Management Functional Plan Title 3 Section 3.

"Tower" means a structure with the sole purpose of serving as an antenna support structure. "Tower" includes guyed towers, lattice towers and monopoles, but does not include any alternative antenna support structure.

"Townhouse" means an attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Townhouses on interior lots may have a zero side yard setback. A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.

"Traffic management" means the many and varied traffic management measures used to reduce the impacts of vehicular traffic volumes and speeds on residential neighborhoods and improve safety for pedestrians and cyclists.

"Transit stop" means a site designated by ~~Tri-Met~~ TriMet as the location at which a ~~Tri-Met~~ TriMet bus or light rail train will accept or discharge passengers.

"Transit street" means a street with existing transit service operating at ~~twenty (~~20~~)~~ minute-or-less peak hour frequency.

"Transition area" means an area where new multifamily projects in R-3, R-2, and R-1 ~~zones~~ Zones that are adjacent to areas designated for lower densities have required transition measures.

"Trellis" means an unenclosed and unroofed vertical frame supporting open latticework used as a screen or support for growing vines or other plants.

"Turnaround" means a vehicle maneuvering area at the end of a street, such as a cul-de-sac or hammerhead turnaround, that allows vehicles to turn around. Turnarounds can be either permanent or temporary.

"Use" means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained. See also "change in use."

"Utility facilities" means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater ~~pre-treatment~~ facilities.

"Vegetated corridor" means the area of setback between the top of the bank of a protected water feature and the delineated edge of the water quality resource area as defined in Table 1.

"Vegetation" means plantings or natural growth including trees, grass, shrubs, and other similar vegetated groundcover.

"Vehicle" means a device in, upon, or by which any person or property is or may be transported or drawn upon a public street ~~highway~~, except devices moved by human power or used exclusively upon stationary rails or tracks.

"Walkway" means a pedestrian-only corridor that is paved with a hard surface material and connects pedestrians from parking areas to uses, between uses, and to sidewalks on adjacent public streets. Walkways are separated from parking areas and internal driveways to promote pedestrian safety.

"Water quality and floodplain management area" means the area that identifies where the water quality resource area and floodplain management area overlay zone is applied.

~~"Water quality facility" means any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water run-off during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales and ponds that are maintained as stormwater quality control facilities.~~

"Water quality resource areas" means vegetated corridors and the adjacent water feature as established in Chapter 19.322.

"Mitigation" means the reduction of adverse effects of a proposed project by considering, in this order: (1) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (2) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (3) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and/or (4) compensating for the impact by replacing or providing comparable substitute water quality resource areas.

"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.

"Watershed" means a geographic unit defined by the flows of rainwater or snowmelt.

"Wetlands" means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

"Wireless Communication Facility (WCF)" means a facility that is designed and used for the purpose of transmitting, receiving, and relaying radio waves of various wireless communication devices. A wireless communication facility normally includes one or more of the following:

~~1.~~ • Antennas.~~;~~

~~2.~~ • An antenna support structure.~~;~~

~~3.~~ • An equipment cabinet.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.~~:~~

~~1.~~ ~~Yard, Front.~~ "Front yard" means a yard between side lot lines, and measured horizontally at right angles to the front lot line from the lot line to the nearest point of the building.

~~2.~~ ~~Yard, Rear.~~ "Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

~~3.~~ ~~Yard, Side.~~ "Side yard" means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building.

~~4.~~ ~~Yard, Street Side.~~ "Street side yard" means a yard adjacent to a street between the front yard and the rear lot line, measured horizontally and at right angles from the side lot to the nearest point of the building.

~~Chapter 19.400 SUPPLEMENTARY REGULATIONS~~

~~19.401 Accessory structures.~~

~~A. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys, and public and private easements.~~

~~B. Multiple accessory structures are permitted subject to building separation, building coverage, and minimum vegetation requirements of the zoning district in which the lot is located.~~

~~C. An accessory structure shall comply with all of the requirements of the Uniform Building Code.~~

~~D. Accessory structures excluding fences, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.~~

~~E. An accessory structure must maintain a minimum side and rear yard setback of five (5) feet, except where other requirements of this title are more restrictive.~~

~~F. Alteration or modification of nonconforming accessory structures are subject to the provisions of Chapter 19.800 Nonconforming Uses and Structures.~~

~~G. Pergolas, arbors, and trellises are permitted in yards in all residential zones.~~

~~19.402 Accessory structures, limitations.~~

~~A. Residential accessory structures excluding pools, uncovered decks and patios are subject to the following.~~

~~1. For lots ten thousand (10,000) square feet or less, the footprint of an accessory structure may not exceed five hundred (500) square feet. For lots greater than ten thousand (10,000) square feet the footprint of an accessory building may not exceed eight hundred fifty (850) square feet.~~

~~2. An accessory structure may not exceed fifteen (15) feet in height as measured from the average finished grade within a ten- (10)-foot horizontal distance from the base of the building to the highest point of the roof.~~

~~3. Flat roofs and shed roofs are prohibited on accessory structures that have a floor-to-ceiling height greater than nine (9) feet.~~

~~4. The minimum roof pitch for accessory structures with other than a flat or shed roof is four (4) inches rise for every twelve (12) inches of run.~~

~~5. The placement of fill to raise grade elevations that has the effect of exceeding building height limitations is prohibited.~~

~~6. Metal siding is prohibited on accessory structures with a footprint greater than one hundred twenty (120) square feet. For accessory structures greater that one hundred twenty (120) square feet, exterior siding and roofing materials that are commonly used on residential structures shall be used.~~

~~B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:~~

~~Fences, walls, or plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fence, wall, and planting standards to maintain unobstructed vehicle vision are provided as part of the regulations in Chapter 12.24 and clear vision determination process specified in Chapter 19.1409.2.E. Fences and walls on lot perimeters in areas other than those~~

~~obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:~~

~~1. Residential Zones and Residential Uses in all Zones. Maximum height is six (6) feet for rear, street side and side yards, forty-two (42) inches for front yards, except that for flag lots fences in the front yard may be six (6) feet. No electrified, barbed, or razor wire fencing is permitted.~~

~~2. Commercial Zones. Maximum height six (6) feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, following a Type II administrative review as per subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a six- (6)-foot-high sight-obscuring fence.~~

~~3. Industrial Zones. Maximum height eight (8) feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, except where such fencing is proposed adjacent to residential zones or residential uses, in which case such may be allowed following a Type II administrative review as per subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a sight-obscuring fence with a minimum height of six (6) feet.~~

~~In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a one-foot horizontal distance from the fence.~~

~~C. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to three (3) feet for an uncovered patio, deck, or swimming pool not exceeding eighteen (18) inches in height above the average grade of the adjoining ground (finished elevation).~~

~~19.403 Accessory uses, general provisions.~~

~~Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:~~

~~A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling.~~

~~B. A greenhouse or hothouse may be maintained accessory to a dwelling provided nothing grown is sold on the premises.~~

~~C. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed fifty in number and shall require the written consent of all owners of real property (or a part thereof) within one hundred (100) feet of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept.~~

~~D. Keeping of colonies of bees shall be prohibited except that the planning commission may approve an application to keep not more than two (2) colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within one hundred (100) feet of any point on the boundary of the property on which the bees are proposed to be kept.~~

~~E. Amateur and CB radio equipment and operations shall be considered an accessory use. Radio and television structures or towers outside of dwellings shall be subject to building regulations. Such structures and towers shall conform to height, yard, and other standards of the zoning ordinance.~~

~~Any deviation from these standards will require a variance by the planning commission. Operational characteristics and limitations of such equipment shall be as established and administered by the FCC.~~

~~19.404 Type 1 accessory dwelling unit.~~

~~Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following.~~

~~19.404.1 Purpose.~~

~~To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or~~

~~modifications must be designed so that the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.~~

~~19.404.2 Approval Required.~~

~~Type 1 accessory dwelling units are subject to subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information.~~

~~A. Completed application forms;~~

~~B. Site plan showing the following:~~

~~1. Lot lines and location and dimensions of existing and proposed structures with yard dimensions;~~

~~2. Location and dimension of existing and proposed parking;~~

~~3. Location of structures on adjoining lots;~~

~~C. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.~~

~~19.404.3 General.~~

~~A. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.~~

~~B. Notwithstanding the maximum allowable gross floor area of six hundred (600) square feet, the accessory dwelling unit shall not exceed forty percent (40%) of the gross floor area of the primary structure.~~

~~C. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28, Capital Improvements.~~

19.404.4 Ownership and Tenancy.

Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

19.404.5 Business License Required.

A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

19.404.6 Use, Alteration or Conversion of Structure.

Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

A. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

B. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

C. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

D. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

E. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

F. No more than one accessory dwelling unit per lot is permitted.

19.404.7 Required Parking.

Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.

19.405 Storage in front yard.

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than ten (10) days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

19.406 Clear vision areas.

A clear vision area shall be maintained on the corners of all property at the intersection of two (2) streets or a street and a railroad according to the provisions of the clear vision ordinance.

~~19.407 Maintenance of minimum ordinance requirements.~~

~~No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use.~~

~~19.408 Dual use of required open space.~~

~~No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1(C).~~

~~19.409 Buildings on the same lot.~~

~~A minimum distance of six (6) feet as measured between the closest points of the structures shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. In R-10, R-7, R-5, and R-3 zones, only one (1) building designed for dwelling purposes shall be permitted per lot.~~

~~19.410 Distance from property line.~~

~~Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least three (3) feet from the property line.~~

~~19.411 Projections from buildings.~~

~~Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to twenty-four (24) inches into a required side yard or thirty-six (36) inches into a required front or rear yard.~~

~~19.412 Lot size requirements, general exceptions.~~

~~If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than three thousand (3000) square feet, or with no frontage on a public street. This section shall not apply in the downtown zones.~~

~~19.413 Yard requirements, general exceptions.~~

~~19.413.1 Exceptions.~~

~~The following exceptions to the yard requirements are established for a lot in any one zone:~~

~~A. The required front yard need not exceed the average depth of the two (2) abutting front yards within one hundred (100) feet of the proposed structure.~~

~~B. The required front yard need not exceed the average depth of the abutting front yard within one hundred (100) feet of the proposed structure and the required front yard depth.~~

~~C. (Repealed by Ord. 1893)~~

~~19.414 Building height limitations, general exceptions.~~

~~Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of this chapter, except as provided in an L-F zone.~~

~~19.415 Additional building height.~~

~~One additional story may be permitted in excess of the required maximum standard. An additional ten percent (10%) of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.~~

~~19.416 Transition area.~~

~~19.416.1 Transition Measures.~~

~~In zones where multifamily, commercial, or industrial projects are proposed that are within one hundred (100) feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.~~

~~A. Roadways separating projects;~~

~~B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the six (6) foot level to screen living rooms from direct view across open areas;~~

~~C. Gradual density changes. A new project may not have a density greater than twenty-five percent (25%) of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.~~

~~19.417 Minimum vegetation.~~

~~In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.~~

~~19.418 Density and dedication of park land.~~

~~In exchange for the dedication of park land, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same.~~

~~19.419 Density and housing cost.~~

~~For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at twenty-five percent (25%) below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus ten percent (10%). The planned unit development density increase specified in Section 19.319 and this density increase are additive.~~

~~19.420 Temporary structure permits.~~

~~19.420.1 Requirements for Approval.~~

~~Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed six (6) months where:~~

~~A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.;~~

~~B. The applicant has applied for a building permit for a permanent dwelling;~~

~~C. The temporary structure will be owner-occupied;~~

~~D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy;~~

~~E. The use is consistent with the Milwaukie comprehensive plan; or~~

~~F. There is no other reasonable alternative to use of a temporary structure.~~

~~19.420.2 Approval Conditions.~~

~~In addition, the applicant must satisfy the following conditions for approval:~~

~~A. City approval of a sewage disposal system for the structure;~~

~~B. Screening of the structure to minimize any adverse visual impact on surrounding property;~~

~~C. Placement of manufactured skirting around the structure;~~

~~D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.~~

~~19.420.3 Review Process.~~

~~Applications for temporary structures shall be processed according to subsection 19.1011.1, Type I administrative review. Temporary permits that exceed the six (6) month time period allowed under subsection 19.420.1 must be reviewed by the planning commission under subsection 19.1011.3.~~

~~19.421 Manufactured dwelling parks.~~

~~19.421.1 Purpose.~~

~~This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing six (6) to twelve (12) dwelling units per acre.~~

~~19.421.2 Application.~~

~~A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.~~

~~B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas, and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.~~

~~19.421.3 General Requirements.~~

~~Manufactured dwelling parks shall be subject to review under subsection 19.1011.3 of the zoning ordinance, Minor Quasi-Judicial Review.~~

~~19.421.4 Development Requirements.~~

~~All manufactured dwelling parks shall meet the following minimum requirements:~~

~~A. The minimum size of a manufactured dwelling park shall be two (2) acres.~~

~~B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after fifteen percent (15%) of the site has been deducted for access drives.~~

~~C. A minimum setback of fifteen (15) feet will be observed between all manufactured dwellings and the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of six (6) feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.~~

~~D. Each manufactured dwelling unit or accessory structure shall maintain a minimum ten (10) foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back ten (10) feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of fifteen (15) feet.~~

~~E. A minimum of fifteen percent (15%) of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to one hundred (100) square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.~~

~~F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of twenty-four (24) feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of three (3) feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of thirty (30) feet of paving.~~

~~G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500 of the zoning ordinance. If twenty-four (24) foot wide streets are constructed, an additional off-street parking space per each two (2) manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within one hundred (100) feet of the manufactured dwellings they serve.~~

~~H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.~~

~~I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below-grade level and for a minimum distance of six (6) inches above finish grade, the materials shall be resistant to decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.~~

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy.

19.422 Manufactured home placement.

19.422.1 Purpose.

This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.422.2 Applicability.

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown on the following table:

Table 2 Manufactured Home Placement by Zone

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.422.3 Definitions.

For the purposes of this section, the following definition shall apply:

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.422.4 Siting Standards.

Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than one thousand (1000) square feet.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than twelve (12) inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

C. The unit shall have a roof with a pitch of at least three (3) inches in twelve (12) inches.

D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.

F. (Repealed by Ord. 1965)

G. The unit shall comply with the definition for manufactured home as identified in this section.

H. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.422.5 Implementation of Siting Standards.

A. For unit placement on an individual lot within all R-zones, the siting standards shall be administered as part of the building permit process for the unit placement.

B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.420 is not subject to the siting standards of this section.

19.422.6 Occupancy of Units.

All approval and siting standards of this section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

19.422.7 Review Processes.

A. Siting standards of this section shall be reviewed as part of the building review procedures of subsection 19.1011.1.

B. Subdivision processes and procedures are those contained in the city subdivision ordinance.

19.423 Multifamily recycling areas.

19.423.1 Purpose.

This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

19.423.2 Definition.

For the purposes of this section, the following definition shall apply:

"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

19.423.3 Applicability.

All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

19.423.4 Recycling Collection Area Standards.

Standards for recycling collection areas are as follows:

A. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.

B. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.

C. Recycling containers must be covered either by roof or weatherproof lids.

D. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.

E. The recycling collection area(s) must have a collection capacity of at least one hundred (100) cubic feet in size for every ten (10) dwelling units or portion thereof.

F. The recycling collection area must be easily accessible to collection service personnel between the hours of six a.m. and six p.m.

G. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.

H. City fire department approval will be required for all recycling collection areas.

I. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

19.423.5 Review of Recycling Collection Areas.

A. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of subsection 19.1011.3, Minor Quasi-Judicial Review.

B. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of subsection 19.1011.1, Type I Administrative Review.

19.424 Home occupations.

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the city's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

19.424.1 Home Occupation Use Standards.

Home occupation uses are allowed by right, however they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

A. Be incidental and accessory to the residential use of the property;

B. Maintain the residential character of the building and premises;

C. Not have the outward appearance of a business;

D. Not detract from the residential character of the neighborhood; and

E. Be owned and operated by an occupant of the dwelling.

19.424.2 Prohibitions and Use Restrictions.

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five (5) enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two (2) may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.424.3 Permitted Signage.

Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed four (4) square feet in area, shall not be illuminated, shall not exceed three (3) feet in height and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the city without prior notice.

19.424.4 Enforcement.

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with subsection 19.424.1 of this section:

A. Number of on-site employees who are not members of the family residing on the premises;

B. Use of the home to distribute or receive goods;

C. Use of the premises for parking of customer, client, or employee vehicles and the location and number of parking spaces;

D. The use of public streets for parking or storage;

E. The time of day that home occupation activities may take place;

F. Equipment or material storage, including vehicles and trailers;

G. Noise, light, fumes, exhaust, and similar impacts.

19.425 Design standards for single-family housing.

A. All new one and two (2) family dwellings shall meet the following design standards:

1. The main entrance of the dwelling shall be oriented to the street upon which the lot fronts or which provides vehicle access. The main entrance shall be considered to be oriented to the street if the front door faces the street or if the front door leads to a porch, patio, or sidewalk that is located in the front yard.

2. The area of windows on all exterior wall elevation(s) facing the street shall be at least twelve percent (12%) of the area of those elevations. Roofs, including gable ends, shall not be included in wall area.

B. All dwellings, except temporary dwellings approved in accordance with this chapter, shall include at least three (3) of the following features on any building elevation that faces, or is visible to, the

~~street (if on a corner lot, visible to the street where the dwelling takes access). Manufactured homes are subject to additional requirements of this chapter.~~

~~1. Covered porch at least five (5) feet deep;~~

~~2. Entry area recessed at least two (2) feet from the exterior wall to the door;~~

~~3. Bay or bow window that projects at least one foot from exterior wall;~~

~~4. Offset on the building face of at least sixteen (16) inches from one exterior wall surface to the other;~~

~~5. Dormer;~~

~~6. Roof eaves with a minimum projection of twelve (12) inches from the intersection of the roof and the exterior walls;~~

~~7. Roof line offsets of at least sixteen (16) inches from the top surface of one roof to the top surface of the other;~~

~~8. Attached garage;~~

~~9. Cupola;~~

~~10. Tile or wood shingle roofs;~~

~~11. Horizontal lap siding;~~

~~12. Brick covering at least forty percent (40%) of the building elevation that is visible from the street.~~

~~19.426 Flag lot design and development standards.~~

~~19.426.1 Applicability.~~

~~Flag lots in all zones are subject to the development standards of this section.~~

~~19.426.2 Development Standards.~~

~~A. Lot Area Calculation. The areas contained within the accessway or pole portion of the lot shall not be counted towards meeting the minimum lot area requirement.~~

~~B. Yard Setbacks for Flag Lots.~~

~~1. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is thirty (30) feet.~~

~~2. Side Yard. The minimum side yard for principal and accessory structures in flag lots is ten (10) feet.~~

~~19.426.3 Variances Prohibited.~~

~~Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.~~

~~19.426.4 Frontage, Accessway, and Driveway Design.~~

~~A. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is twenty-five (25) feet.~~

~~B. Abutting flag lots shall have a combined frontage and accessway of thirty-five (35) feet. For abutting accessways of two (2) or more flag lots, the accessway of any individual lot shall not be less than fifteen (15) feet.~~

~~C. Driveway Design and Emergency Vehicle Access.~~

1. Driveways shall be designed and constructed in accordance with standards adopted by the engineering director.

2. Driveways serving single flag lots shall have a minimum paved width of twelve (12) feet.

3. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this section.

4. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area may be required.

5. Driveways serving two (2) flag lots shall be consolidated and have a minimum shared driveway width of sixteen (16) feet.

6. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable. Driveway location and design is subject to clear vision and driveway spacing provisions of Chapter 19.1400, Transportation Planning, Design Standards, and Procedures.

7. Design standards for shared driveways serving more than three (3) lots shall be specified by the engineering director after consultation with the fire marshal.

8. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

19.426.5 Protection of Adjoining Properties.

A. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of 19.1409.2.E and Chapter 12.24. Fencing shall conform to the standards of 19.402(B).

B. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the city attorney is provided. Screening and landscaping shall be installed within six (6) months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

C. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along the flag lot driveway abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as follows.

1. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within three (3) years of planting is allowed.

2. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.

3. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

D. Tree Mitigation. All trees six (6) inches or greater in diameter, as measured at the lowest limb or four (4) feet above the ground, whichever is less, shall be preserved. Where trees are required to

~~be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of two (2) inches caliper and evergreen trees shall be a minimum of five (5) feet tall.~~

~~19.426.6 Landscape Plan Required.~~

~~A landscaping plan shall be submitted to the planning director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:~~

~~A. A list of existing vegetation by type, including number, size, and species of trees;~~

~~B. Details for protections of existing trees;~~

~~C. List of existing natural features;~~

~~D. Location and space of existing and proposed plant materials;~~

~~E. List of plant material types by botanical and common names;~~

~~F. Notation of trees to be removed;~~

~~G. Size and quantity of plant materials; and~~

~~H. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway.~~

Chapter 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.401 General Exceptions

19.401.1 Lot Size Exceptions

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than 3000 square feet, or with no frontage on a public street. This section shall not apply in the downtown zones.

19.401.2 Yard Exceptions

A. In addition to yard requirements listed for each zoning district, buildings along certain major streets are subject to additional yard requirements as provided in Table 19.401.2 below. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of any building is the distance listed in Table 19.401.2 plus the yard requirement of the underlying zone.

Table 19.401.2 Additional Yard Requirements

Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th to Stanley)	25 feet
Harmony Road	40 feet
Harrison Street (Milwaukie Expressway to 44th)	40 feet
Harrison Street (Milwaukie Expressway to McLoughlin)	30 feet
Harvey Street (32nd to 42nd)	25 feet
Howe Street (42nd to 43rd)	30 feet
Johnson Creek Boulevard	30 feet
King Road	40 feet
Linwood Avenue	40 feet
Lake Road	30 feet
Logus Road	25 feet
Monroe Street (52nd to Linwood)	30 feet
Oak Street	30 feet
Oatfield Road	30 feet
Ochoco Street	30 feet
Olsen Street	25 feet
Railroad Avenue	30 feet
River Road (south of Lark Street)	30 feet
Roswell Street (32nd to 42nd)	25 feet
Washington Street (west of Railroad)	30 feet
Willow Street (Windsor Drive to Stanley)	25 feet
17th Avenue (Ochoco to McLoughlin)	40 feet
32nd Avenue (north of Harrison)	30 feet
37th Avenue (Lake Road to Grogan)	25 feet

40th Avenue (Harvey to Railroad)	40 feet
42nd Avenue (Johnson Creek Blvd. to Howe Street)	30 feet
42nd Avenue (Harrison Street to King Road)	30 feet
43rd Avenue (Howe to King)	30 feet
55th Avenue (Firwood to Johnson Creek Blvd.)	25 feet

B. The following exceptions to the yard requirements are established for a lot in any one zone:

1. The required front yard need not exceed the average depth of the 2 abutting front yards within 100 feet of the proposed structure.

2. The required front yard need not exceed the average depth of the abutting front yard within 100 feet of the proposed structure and the required front yard depth.

C. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 inches into a required side yard or 36 inches into a required front or rear yard.

19.401.3 Building Height Exceptions

A. Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of this chapter, except as provided in an L-F zone.

B. One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.

19.401.4 Density Exceptions

A. In exchange for the dedication of park land, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same.

B. For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at 25% below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus 10%. The planned unit development density increase specified in Section 19.319 and this density increase are additive.

19.402 Accessory Structures and Uses

19.402.1 Accessory Structures, General Provisions

A. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys, and public and private easements.

B. Multiple accessory structures are permitted subject to building separation, building coverage, and minimum vegetation requirements of the zoning district in which the lot is located.

C. An accessory structure shall comply with all of the requirements of the Uniform Building Code.

D. Accessory structures excluding fences, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.

E. An accessory structure must maintain a minimum side and rear yard setback of 5 feet, except where other requirements of this title are more restrictive.

F. Alteration or modification of nonconforming accessory structures is subject to the provisions of Chapter 19.800 Nonconforming Uses and Structures.

G. Pergolas, arbors, and trellises are permitted in yards in all residential zones.

19.402.2 Accessory Structures, Single-Family Residential Provisions

A. Residential accessory structures excluding pools, uncovered decks, and patios are subject to the following:

1. For lots 10,000 square feet or less, the footprint of an accessory structure may not exceed 500 square feet. For lots greater than 10,000 square feet the footprint of an accessory building may not exceed 850 square feet.

2. An accessory structure may not exceed 15 feet in height as measured from the average finished grade within a 10-foot horizontal distance from the base of the building to the highest point of the roof.

3. Flat roofs and shed roofs are prohibited on accessory structures that have a floor-to-ceiling height greater than 9 feet.

4. The minimum roof pitch for accessory structures with other than a flat or shed roof is 4 inches rise for every 12 inches of run.

5. The placement of fill to raise grade elevations that has the effect of exceeding building height limitations is prohibited.

6. Metal siding is prohibited on accessory structures with a footprint greater than 120 square feet. For accessory structures greater that 120 square feet, exterior siding and roofing materials that are commonly used on residential structures shall be used.

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

1. Fences, walls, and plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fences, walls, and plantings shall meet clear vision standards provided in Chapter 12.24. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

a. Residential Zones and Residential Uses in All Zones. Maximum height is 6 feet for rear, street side and side yards, 42 inches for front yards, except that for flag lots fences in the front yard may be 6 feet. No electrified, barbed, or razor wire fencing is permitted.

b. Commercial Zones. Maximum height 6 feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, following a Type II administrative review as per Subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a 6-foot-high sight-obscuring fence.

c. Industrial Zones. Maximum height 8 feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, except where such fencing is proposed adjacent to residential zones or residential uses, in which case such may be allowed following a Type II administrative review as per Subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a sight-obscuring fence with a minimum height of 6 feet.

2. In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a one-foot horizontal distance from the fence.

C. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to 3 feet for an uncovered patio, deck, or swimming pool not exceeding 18 inches in height above the average grade of the adjoining ground (finished elevation).

19.402.3 Accessory Uses, General Provisions

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling.

B. A greenhouse or hothouse may be maintained accessory to a dwelling provided nothing grown is sold on the premises.

C. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed fifty in number and shall require the written consent of all owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept.

D. Keeping of colonies of bees shall be prohibited except that the planning commission may approve an application to keep not more than 2 colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the bees are proposed to be kept.

E. Amateur and CB radio equipment and operations shall be considered an accessory use. Radio and television structures or towers outside of dwellings shall be subject to building regulations. Such structures and towers shall conform to height, yard, and other standards of the zoning ordinance. Any deviation from these standards will require a variance by the planning commission. Operational characteristics and limitations of such equipment shall be as established and administered by the FCC.

19.402.4 Accessory Dwelling Unit (Type 1)

Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following:

A. Purpose. To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or modifications must be designed so that

the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.

B. Approval Required. Type 1 accessory dwelling units are subject to Subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information:

1. Completed application forms.

2. Site plan showing the following:

a. Lot lines and location and dimensions of existing and proposed structures with yard dimensions.

b. Location and dimension of existing and proposed parking.

c. Location of structures on adjoining lots.

3. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.

C. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.

D. Notwithstanding the maximum allowable gross floor area of 600 square feet, the accessory dwelling unit shall not exceed 40% of the gross floor area of the primary structure.

E. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28 Capital Improvements.

F. Ownership and Tenancy. Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

G. Business License Required. A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

H. Use, Alteration, or Conversion of Structure. Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

1. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

2. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

3. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

4. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

5. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

6. No more than one accessory dwelling unit per lot is permitted.

I. Required Parking. Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.

19.403 Site and Building Design Provisions

19.403.1 Storage in Front Yard

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than 10 days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

19.403.2 Clear Vision Areas

A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad according to the provisions of the clear vision ordinance in Chapter 12.24.

19.403.3 Maintenance of Minimum Ordinance Requirements

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use.

19.403.4 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1.C.

19.403.5 Buildings on the Same Lot

A minimum distance of 6 feet as measured between the closest points of the structures shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. In R-10, R-7, R-5, and R-3 zones, only one building designed for dwelling purposes shall be permitted per lot.

19.403.6 Distance from Property Line

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 feet from the property line.

19.403.7 Transition Area

In zones where multifamily, commercial, or industrial projects are proposed that are within 100 feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.

A. Roadways separating projects.

B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the 6 foot level to screen living rooms from direct view across open areas.

C. Gradual density changes. A new project may not have a density greater than 25% of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.

19.403.8 Minimum Vegetation

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

19.403.9 Multifamily Recycling Requirements

A. Purpose. This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

B. Definition. For the purposes of this section, the following definition shall apply:

"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

C. Applicability. All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

D. Recycling Collection Area Standards. Standards for recycling collection areas are as follows:

1. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.

2. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.

3. Recycling containers must be covered either by roof or weatherproof lids.

4. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.

5. The recycling collection area(s) must have a collection capacity of at least 100 cubic feet in size for every 10 dwelling units or portion thereof.

6. The recycling collection area must be easily accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m.

7. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.

8. City fire department approval will be required for all recycling collection areas.

9. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

E. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of Subsection 19.1011.3, Minor Quasi-Judicial Review.

F. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of Subsection 19.1011.1, Type I Administrative Review.

19.403.10 Design Standards for Single-Family Dwellings

A. All new single-family attached and detached dwelling units shall meet the following design standards:

1. The main entrance of the dwelling shall be oriented to the street upon which the lot fronts or which provides vehicle access. The main entrance shall be considered to be oriented to the street if the front door faces the street or if the front door leads to a porch, patio, or sidewalk that is located in the front yard.

2. The area of windows on all exterior wall elevation(s) facing the street shall be at least 12% of the area of those elevations. Roofs, including gable ends, shall not be included in wall area.

B. All dwellings, except temporary dwellings approved in accordance with this chapter, shall include at least three of the following features on any building elevation that faces, or is visible to, the street (if on a corner lot, visible to the street where the dwelling takes access). Manufactured homes are subject to additional requirements of this chapter.

1. Covered porch at least 5 feet deep.

2. Entry area recessed at least 2 feet from the exterior wall to the door.

3. Bay or bow window that projects at least 1 foot from exterior wall.

4. Offset on the building face of at least 16 inches from one exterior wall surface to the other.

5. Dormer.

6. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls.

7. Roof line offsets of at least 16 inches from the top surface of one roof to the top surface of the other.

8. Attached garage.

9. Cupola.

10. Tile or wood shingle roofs.

11. Horizontal lap siding.

12. Brick covering at least 40% of the building elevation that is visible from the street.

19.403.11 Flag Lot Design and Development Standards

A. Applicability. Flag lots in all zones are subject to the development standards of this section.

B. Development Standards.

1. Lot Area Calculation. The areas contained within the accessway or pole portion of the lot shall not be counted towards meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots.

a. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is 30 feet.

b. Side Yard. The minimum side yard for principal and accessory structures in flag lots is 10 feet.

C. Variances Prohibited. Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

D. Frontage, Accessway, and Driveway Design.

1. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 feet. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

2. Abutting flag lots shall have a combined frontage and accessway of 35 feet. For abutting accessways of two or more flag lots, the accessway of any individual lot shall not be less than 15 feet.

3. Driveway Design and Emergency Vehicle Access.

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

b. Driveways serving single flag lots shall have a minimum paved width of 12 feet.

c. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this section.

d. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area may be required.

e. Driveways serving two flag lots shall be consolidated and have a minimum shared driveway width of 16 feet.

f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

g. Design standards for shared driveways serving more than three lots shall be specified by the engineering director after consultation with the fire marshal.

h. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

E. Protection of Adjoining Properties. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection19.402.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the city attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be

foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along the flag lot driveway abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as follows:

   a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within three (3) years of planting is allowed.

   b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.

   c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

F. Tree Mitigation. All trees 6 inches or greater in diameter, as measured at the lowest limb or 4 feet above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 inches caliper and evergreen trees shall be a minimum of 5 feet tall.

G. Landscaping Plan Required. A landscaping plan shall be submitted to the planning director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.

2. Details for protections of existing trees.

3. List of existing natural features.

4. Location and space of existing and proposed plant materials.

5. List of plant material types by botanical and common names.

6. Notation of trees to be removed.

7. Size and quantity of plant materials.

8. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway.

19.403.12 On-Site Walkways and Circulation

A. Requirement. All development subject to Chapter 19.1400 (excluding single-family residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

B. Location. A walkway into the site shall be provided for every 300 feet of street frontage.

C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.

D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than 5 feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.403.13 Building Orientation to Transit

The following requirements apply to all new multifamily, commercial, office, and institutional development within 500 feet of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

A. Building Orientation to Transit Street. New buildings shall have their primary orientation toward a transit street or, if not adjacent to a transit street, a public right-of-way which leads to a transit street. The primary building entrance shall be visible from the street and shall be directly accessible from a sidewalk connected to the public right-of-way. A building may have more than one entrance. If the development has frontage on more than one transit street, the primary building entrance may be oriented to either street or to the corner.

B. Maximum Setbacks Adjacent to Transit Street. When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321 Community Service Use, shall be set back no more than 30 feet from the right-of-way that is providing transit service.

1. An individual building may be set back more than 30 feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30 foot setback standard.

2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 feet.

3. If the proposed building is part of an institutional campus, the Planning Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

4. If the site abuts more than one street served by transit, then the maximum setback requirement need only apply to one street.

19.404 Temporary Dwelling Unit Provisions

19.404.1 Requirements for Approval

Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed 6 months where:

A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.

B. The applicant has applied for a building permit for a permanent dwelling.

C. The temporary structure will be owner-occupied.

D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy.

E. The use is consistent with the Milwaukie comprehensive plan.

F. There is no other reasonable alternative to use of a temporary structure.

19.404.2 Approval Conditions

In addition, the applicant must satisfy the following conditions for approval:

A. City approval of a sewage disposal system for the structure.

B. Screening of the structure to minimize any adverse visual impact on surrounding property.

C. Placement of manufactured skirting around the structure.

D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.

19.404.3 Review Process

Applications for temporary structures shall be processed according to Subsection 19.1011.1 Type I administrative review. Temporary permits that exceed the 6-month time period allowed under Subsection 19.404.1 must be reviewed by the planning commission under Subsection 19.1011.3.

19.405 Manufactured Dwelling Parks

19.405.1 Purpose

This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing 6 to 12 dwelling units per acre.

19.405.2 Application

A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.

B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas,

and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.

19.405.3 General Requirements

Manufactured dwelling parks shall be subject to review under Subsection 19.1011.3 Minor Quasi-Judicial Review.

19.405.4 Development Requirements

All manufactured dwelling parks shall meet the following minimum requirements:

A. The minimum size of a manufactured dwelling park shall be two acres.

B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after 15% of the site has been deducted for access drives.

C. A minimum setback of 15 feet will be observed between all manufactured dwellings and the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of 6 feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.

D. Each manufactured dwelling unit or accessory structure shall maintain a minimum 10-foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back 10 feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of 15 feet.

E. A minimum of 15% of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to 100 square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.

F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of 24 feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of 4 feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of 30 feet of paving.

G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500. If 24-foot wide streets are constructed, an additional off-street parking space per each two manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within 100 feet of the manufactured dwellings they serve.

H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.

I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below grade level and for a minimum distance of 6 inches above finished grade, the materials shall be resistant to

decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy.

19.406 Manufactured Dwelling Placement

19.406.1 Purpose

This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.406.2 Applicability

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown in Table 19.406:

Table 19.406 Manufactured Dwelling Placement by Zone

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.406.3 Definitions

For the purposes of this section, the following definition shall apply:

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.406.4 Siting Standards

Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1000 square feet.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

C. The unit shall have a roof with a pitch of at least 3 inches rise for every 12 inches of run.

D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.

F. The unit shall comply with the definition for manufactured home as identified in this section.

G. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.406.5 Implementation of Siting Standards

A. For unit placement on an individual lot within all residential zones, the siting standards shall be administered as part of the building permit process for the unit placement.

B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.404 is not subject to the siting standards of this section.

19.406.6 Occupancy of Units

All approval and siting standards of this section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

19.406.7 Review Process

A. Siting standards of this section shall be reviewed as part of the building review procedures of Subsection 19.1011.1.

B. Subdivision processes and procedures are contained in Title 17 Land Division.

19.407 Home Occupation Provisions

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the city's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

19.407.1 Home Occupation Use Standards

Home occupation uses are allowed by right, however they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

A. Be incidental and accessory to the residential use of the property.

B. Maintain the residential character of the building and premises.

C. Not have the outward appearance of a business.

D. Not detract from the residential character of the neighborhood.

E. Be owned and operated by an occupant of the dwelling.

19.407.2 Prohibitions and Use Restrictions

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.407.3 Permitted Signage

Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed 4 square feet in area, shall not be illuminated, shall not exceed 3 feet in height, and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the City without prior notice.

19.407.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Subsection 19.407.1 of this section:

A. Number of on-site employees who are not members of the family residing on the premises.

B. Use of the home to distribute or receive goods.

C. Use of the premises for parking of customer, client, or employee vehicles, and the location and number of parking spaces.

D. The use of public streets for parking or storage.

E. The time of day that home occupation activities may take place.

F. Equipment or material storage, including vehicles and trailers.

G. Noise, light, fumes, exhaust, and similar impacts.

Chapter 17.08 DEFINITIONS

17.08.330 ~~Transportation Design Manual.~~ (Repealed by Ord. ___.)

~~"Transportation Design Manual" means the document authorized under Ordinance 1893, which is maintained and administered by the engineering director for the purpose of execut-ing the purposes of Ordinance 1893, implementing the Transportation System Plan, and providing transportation design standards and policies.~~

Chapter 17.20 PRELIMINARY PLAT

17.20.060 Proposed conditions.

A. Twelve (12) copies of a preliminary plat shall be submitted to the planning director. The plat shall include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;

2. Name and address of the record owner or owners and of the person who prepared the site plan;

3. Approximate acreage and square feet under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;

4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;

5. Location of existing structures, identifying those to remain in place and those to be removed;

6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;

7. Existing development and natural features for the site and adjacent properties, including those properties within one hundred (100) feet of the proposal, showing buildings, mature trees, topography, and other structures;

8. Elevation and location of flood hazard boundaries;

9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City ~~city~~; whether ~~if~~ roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include

documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, ~~and~~ Title 19, and City ~~city~~ design standards, including the Public Works Standards. ~~Milwaukie Transportation Design Manual.~~

D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, ~~and~~ Title 19, and City ~~city~~ design standards, including the Public Works Standards. ~~Milwaukie Transportation Design Manual.~~

E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards. ~~that demonstrates estimated pre- and post-development flows, stormwater collection and management measures, and proposed discharges.~~

F. Proposed deed restrictions, if any, in outline form.

G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, state law, and other applicable city ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat the additional details shall be submitted with the request for final plat approval.

Chapter 17.28 DESIGN STANDARDS

17.28.010 Conformity of subdivision.

Partitions and subdivisions shall conform with any development plans of the city and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the city.

17.28.020 ~~Streets.~~ Public facility improvements.

All land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.1400 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities. ~~General. Requirements and standards for the layout, design and improvement of streets, pedestrian facilities, bicycle facilities, and transit facilities are included in Chapter 19.1400 and the Milwaukie Transportation Design Manual are applicable to all land divisions.~~

~~B. The location, width, and grade of streets shall be considered in relation to existing and planned streets, topographic conditions, public convenience and safety, and the proposed use of the land served by the street. The street system shall assure an adequate traffic circulation and connectivity to existing streets or planned streets. Intersection angles, grades, tangents, and curves shall be appropriate for the traffic to be carried and the terrain. Where their location is not shown in a development plan, the arrangement of streets in a subdivision shall either:~~

~~1. Provide for the continuation or appropriate extension of existing streets in surrounding areas; or~~

~~2. Conform to a plan for the neighborhood approved or adopted by the planning commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.~~

17.28.030 Easements.

A. Utility Lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be provided in accordance with applicable design standards in the Public Works Standards. ~~at least ten (10) feet wide and centered on rear or side lot lines.~~

B. Watercourses. If a subdivision is traversed by a watercourse such as a drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of including construction and maintenance. Streets, parkways, bicycle ways or pedestrian ways parallel to major watercourses may be required.

17.28.040 General lot design.

A. Size and Shape. Lot size, width, shape and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19. This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature.

B. Rectilinear Lots Required. Lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable,

shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

C. Limits on Compound Lot Line Segments. Changes in direction along side and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding ten percent (10%) of the distance between opposing lot corners along a given lot line is prohibited. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

D. Adjustments to Lot Shape Standard. Lot shape standards may be adjusted subject to ~~Section~~ Chapter 19.700, Variances, Exceptions and Home Improvement Exceptions.

E. Limits on Double and Reversed Frontage Lots. Double frontage and reversed frontage lots should be avoided, except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

F. Measurement of Required Frontage. Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access.

17.28.050 Flag lot development and future access.

Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots. The creation of flag lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, planning commission review shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval.

17.28.060 Flag lot design standards.

A. Consistency with the Zoning Ordinance. Flag lot design shall be consistent with Subsection 19.403.11. ~~Chapter 19.425.~~

B. More than Two Flag Lots Prohibited. The division of any unit of land shall not result in the creation of more than ~~two (2)~~ flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than ~~two (2)~~ flag lots are prohibited.

17.28.070 Flag lot limitations.

Flag lots are prohibited in subdivisions.

17.28.080 Public open spaces.

A. Due consideration shall be given to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the comprehensive plan or master plan adopted by the city is located in whole or in part in a subdivision, the planning commission may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the planning commission, and where the comprehensive plan or adopted master plan of the city does not indicate proposed public use area, the planning

commission may require the dedication or reservation of areas or sites of a character, extent and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within ~~eighteen (~~18~~)~~ months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same.

Chapter 17.32 IMPROVEMENTS

17.32.010 Improvement procedures.

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option, shall conform to the requirements of this title and to improvement standards and specifications in the Public Works Standards and Chapter 19.1400 Public Facility Improvements. ~~followed by the city.~~ The improvements shall be installed in accordance with the following procedure:

A. Work shall not begin until plans have been checked for adequacy and approved by the city in writing. All such plans shall be prepared in accordance with requirements of the city.

B. Work shall not begin until the city has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the city is notified.

C. Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.

E. A map showing all public improvements as built shall be filed with the city upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the city.

17.32.020 ~~Required improvements.~~ Utility undergrounding.

~~If any part of the subdivision is within the city, the following improvements shall be installed at the expense of the applicant:~~

~~A. Streets. Streets within the subdivision and streets partially within the subdivision shall be graded for the entire right-of-way width, constructed and surfaced in accordance with standards adopted by the city in Chapter 19.1400, the Transportation Design Manual, and other standards as may be adopted by the engineering director. Existing streets that abut the subdivision shall be graded, constructed, reconstructed, surfaced or repaired as determined by the approval authority with the advice of the engineering director.~~

~~B. Curbs. Curbs shall be constructed in accordance with standards adopted by the city.~~

~~C. Sidewalks. Sidewalks shall be constructed in accordance with standards adopted by the city.~~

~~D. Sanitary Sewers. Sanitary sewers shall be installed to serve each lot in accordance with standards adopted by the city.~~

~~E. Drainage. Drainage of surface water shall be provided as determined by the approval authority with the advice of the engineering director.~~

~~F.~~ ~~Underground Utility and Service Facilities.~~ All utility lines, including, but not limited to, those required for electric, communication, lighting, ~~and~~ cable television services, and related facilities shall be placed underground~~;. except s~~Surface-mounted transformers, surface-mounted connection boxes and meter cabinets ~~which may be placed above ground~~, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and

utility transmission lines operating at ~~fifty thousand (~~50,000~~)~~ volts or above may be placed above ground. The applicant shall make all necessary arrangements with the serving utility to provide the underground services.

~~G. Street Light Standards. Street light standards shall be installed in accordance with regulations adopted by the city.~~

~~H. Street Signs. Street name signs shall be installed at all street intersections and dead-end signs shall be installed at the entrance to all dead-end streets and cul-de-sacs in accordance with standards adopted by the city. Other signs may be required upon the recommendation of the engineering director.~~

~~I. Monuments. Monuments shall be placed at all lot and block corners, angle points, points of curves in streets, and intermediate points. Monuments shall be of such material, size and length as required by state law and city standards. Any monuments that are disturbed before all improvements are completed shall be replaced to conform to the requirements of state law. Centerline monuments wells shall meet the specifications of, and be installed as required by the county surveyor.~~

~~J. Water. Water mains and fire hydrants shall be installed to serve each lot in accordance with standards adopted by the city.~~

17.32.030 Guarantee.

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of one (1) year following acceptance by the city. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the engineering director. Said cash or bond shall comply with the terms and conditions of Subsection 17.24.060~~ of this title~~.

EXHIBIT C

MILWAUKIE
Dogwood City of the West

Milwaukie Municipal Code Amendments

File No. ZA-09-02
Clean Copy

Title 19 Zoning Ordinance
Chapter 1400
Chapter 300
Section 103
Chapter 400

Title 17 Land Division Ordinance
Chapter 08
Chapter 20
Chapter 28
Chapter 32

Chapter 19.1400 PUBLIC FACILITY IMPROVEMENTS

This chapter contains standards and procedures for both public transportation facilities and public utilities. Transportation facilities include elements of the public right-of-way such as streets, sidewalks, bicycle lanes, street trees, and benches. Public utilities include water, sewer, and storm infrastructure. Collectively, transportation facilities and public utilities are referred to as "public facilities." Public facilities that are built as a requirement of this chapter shall be designed and constructed in accordance with the Public Works Standards.

The main focus of this chapter is to ensure the provision of safe, convenient, and adequate public transportation facilities consistent with the adopted City of Milwaukie Transportation System Plan (TSP). The TSP outlines the community's vision for transportation facilities, which, among other things, includes a desire for complete streets with a multimodal emphasis. This chapter implements that vision by addressing the need for transportation facility improvements in a way that is consistent and equitable.

Provisions of this chapter coordinate with Title 12 Streets, Sidewalks, and Public Places; Chapter 13.28 Capital Improvements; Chapter 13.30 Reimbursement Districts; and Chapter 15.36 Public Works Standards. Any conflict between this chapter and another shall be resolved by administrative determination of the Engineering Director and Planning Director, as appropriate. Where the conditions imposed by any provision of this title are less restrictive than comparable conditions imposed by another provision of this title or any other ordinance, resolution, or regulation, the provision which is most restrictive shall govern. Unless specifically defined in Section 19.103, words or phrases used in this chapter are intended to be interpreted with the meaning they have in common usage to give this chapter its most reasonable application.

19.1401 Purpose

The purpose of Chapter 19.1400 is to ensure that development, including redevelopment, provides public facilities that are safe, convenient, and adequate in rough proportion to their public facility impacts. The purposes of this chapter include the following:

19.1401.1 For transportation facilities:

A. Provide standards and procedures to implement provisions of the State Transportation Planning Rule (OAR 660, Division 12) and local, regional, and state transportation system plans.

B. Protect the functional classification, capacity, and level of service of transportation facilities.

C. Ensure that transportation facility improvements are provided in rough proportion to development impacts.

D. Provide an equitable and consistent method of requiring transportation facility improvements.

E. Ensure that transportation facility improvements accommodate multiple modes of travel, including pedestrian, bicycle, transit, and auto.

19.1401.2 For public facilities:

A. Ensure that public facility improvements are safe, convenient, and adequate.

B. Ensure that public facility improvements are designed and constructed to City standards in a timely manner.

C. Ensure that the expenditure of public monies for public facility improvements is minimized when improvements are needed for private development.

D. Ensure that public facility improvements meet the City of Milwaukie Comprehensive Plan goals and policies.

19.1402 Applicability

19.1402.1 General

Chapter 19.1400 applies to the following types of development in all zones:

A. Partitions.

B. Subdivisions.

C. Replats that increase the number of lots.

D. New construction.

E. Modification or expansion of an existing structure (including single-family residential expansions as described in Subsection 19.1402.2) or a change or intensification in use that results in any one of the following:

1. A new dwelling unit.
2. Any increase in gross floor area.
3. Any projected increase in vehicle trips, as determined by the Engineering Director.

19.1402.2 Single-family Residential Expansions

Chapter 19.1400 applies to single-family residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single-family residential expansions.

A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1500 square feet or more, all of Chapter 19.1400 applies.

B. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by at least 200 square feet, but not more than 1499 square feet, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.1408.2.

C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 200 square feet, none of Chapter 19.1400 applies.

D. Single-family residential expansions shall provide adequate public utilities as determined by the Engineering Director pursuant to Section 19.1409.

E. Construction or expansion of garage and carport structures shall comply with the requirements of Chapter 12.16 Access Management. Existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.1402.3 Exemptions

Chapter 19.1400 does not apply to the following types of development in all zones:

A. Modifications to existing single-family residential structures that do not result in an increase in gross floor area.

B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.1402.2.E above.

C. Replats that do not increase the number of lots.

D. Property line adjustments.

E. Redevelopment of a structure following partial or total accidental destruction when all of the following criteria are met:

1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.

2. The use of the structure remains the same as the use that existed before the structure was destroyed.

3. A building permit is submitted and approved by the City within two years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.1402.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.1400.

F. Operation, maintenance, and repair of existing public facilities.

G. Public capital improvement projects.

19.1403 Review Process

19.1403.1 Preapplication Conference

For all proposed development that requires a land use application and is subject to Chapter 19.1400 per Section 19.1402, the applicant shall schedule a preapplication conference with the City prior to submittal of the land use application. The Engineering Director may waive this requirement for proposals that are not complex.

19.1403.2 Application Submittal

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, one of the following types of applications is required.

A. Development Permit Application. If the proposed development does not require a land use application, compliance with Chapter 19.1400 will be reviewed as part of the development permit application submittal.

B. Transportation Facilities Review (TFR) Land Use Application. If the proposed development triggers a Transportation Impact Study (TIS) per Section 19.1404, a TFR land use application shall be required. Compliance with Chapter 19.1400 will be reviewed as part of the TFR application submittal and will be subject to a Type II review process as set forth in Chapter 19.1000. The TFR application shall be consolidated with, and processed concurrently with, any other required land use applications.

C. Non-TFR Land Use Application. If the proposed development requires a land use application but does not trigger a TIS per Section 19.1404, compliance with Chapter 19.1400 will be reviewed as part of the land use application submittal, pursuant to the review procedures associated with that land use application as set forth in Chapter 19.1000.

19.1403.3 Approval Criteria

For all proposed development that is subject to Chapter 19.1400 per Section 19.1402, the required development permit and/or land use application shall demonstrate compliance with the following approval criteria at the time of submission.

A. Procedures, Requirements, and Standards. Development and related public facility improvements shall comply with procedures, requirements, and standards of Chapter 19.1400 and the Public Works Standards.

B. Transportation Facility Improvements. Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.1405 Rough Proportionality, except as allowed by Section 19.1406 Fee in Lieu of Construction.

C. Safety and Functionality Standards. The City will not issue any development permits unless the proposed development complies with the City's basic safety and functionality standards, the purpose of which is to ensure that development does not occur in areas where the surrounding public facilities are inadequate. Upon submission of a development permit application, an applicant shall demonstrate that the development property has or will have all of the following:

1. Adequate street drainage, as determined by the Engineering Director.
2. Safe access and clear vision at intersections, as determined by the Engineering Director.
3. Adequate public utilities, as determined by the Engineering Director.
4. Access onto a public street with the minimum paved widths as stated in Subsection 19.1403.3.C.5 below.
5. Adequate frontage improvements as follows:
    a. For local streets, a minimum paved width of 16 feet along the site's frontage.
    b. For nonlocal streets, a minimum paved width of 20 feet along the site's frontage.
    c. For all streets, a minimum horizontal right-of-way clearance of 20 feet along the site's frontage.
6. Compliance with Level of Service D for all intersections impacted by the development, except those on Oregon Highway 99E that shall be subject to the following:
    a. Level of Service F for the first hour of the morning or evening two-hour peak period.
    b. Level of Service E for the second hour of the morning or evening two-hour peak period.

19.1403.4 Determinations

There are four key determinations related to transportation facility improvements that occur during the processing of a development permit or land use application. These determinations are described below in the order in which they occur in the review process. They are also shown in Figure 19.1403.4. In making these determinations, the Engineering Director will take the goals and policies of the TSP into consideration and use the criteria and guidelines in this chapter.

A. Impact Evaluation. For development that is subject to Chapter 19.1400 per Subsection 19.1402.1, the Engineering Director will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.1404. Pursuant to Subsection 19.1404.1, the Engineering Director will also determine whether a Transportation Impact Study (TIS) is

required. If a TIS is required, a Transportation Facilities Review land use application shall be submitted pursuant to Subsection 19.1403.2.B.

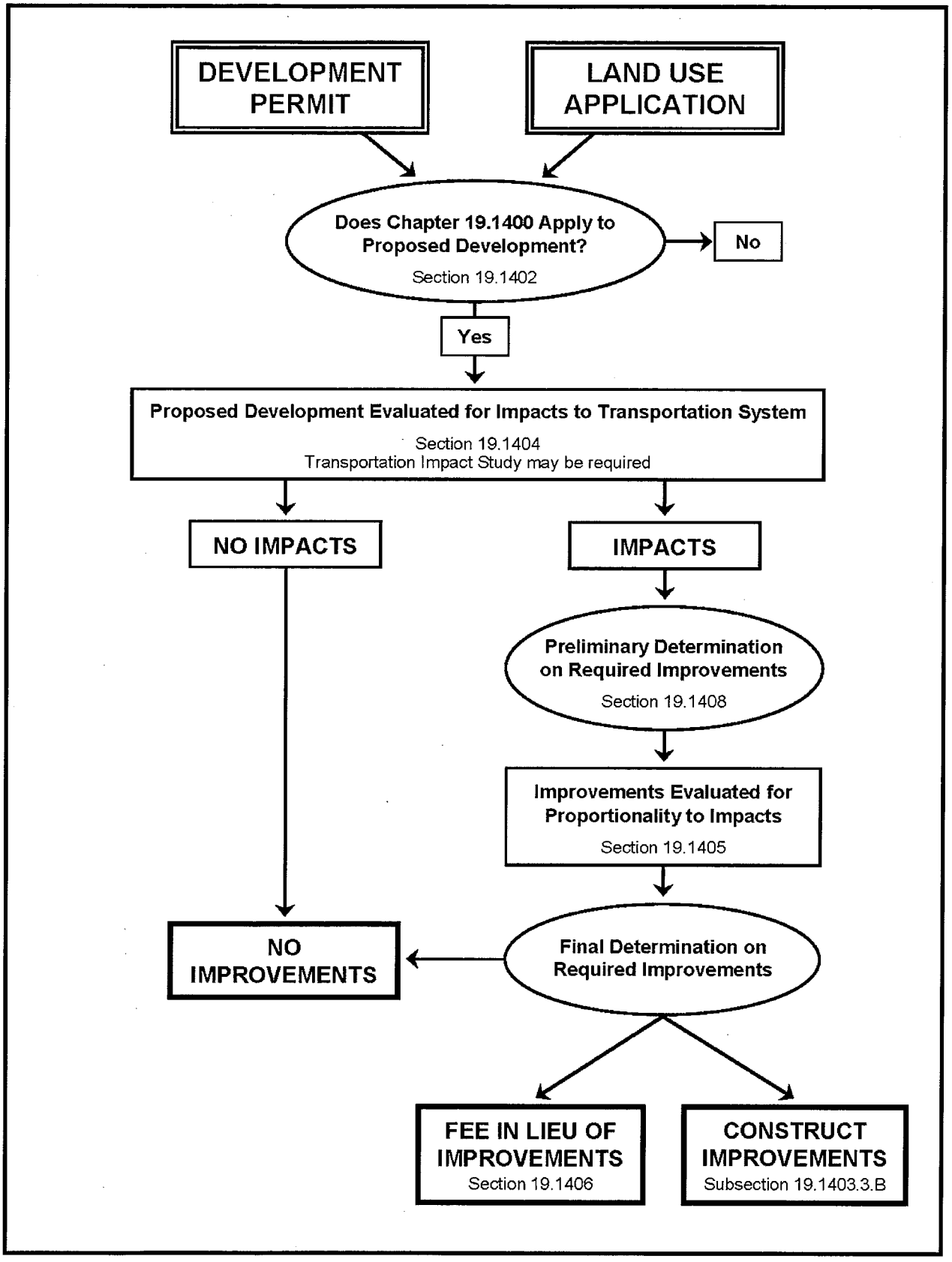
For development that is subject to Chapter 19.1400 per Subsection 19.1402.2, the City has determined that there are impacts to the transportation system if the proposed single-family residential expansion/conversion is greater than 200 square feet.

B. Street Design. Given the City's existing development pattern, it is expected that most transportation facility improvements will involve existing streets and/or will serve infill development. To ensure that required improvements are safe and relate to existing street and development conditions, the Engineering Director will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.1408.

C. Proportional Improvements. When transportation facility improvements are required pursuant to this chapter, the Engineering Director will conduct a proportionality analysis pursuant to Section 19.1405 to determine the level of improvements that are roughly proportional to the level of potential impacts from the proposed development. Guidelines for conducting a proportionality analysis are contained in Subsection 19.1405.2.

D. Fee in Lieu of Construction (FILOC). If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Subsection 19.1406.1.

Figure 19.1403.4
Process for Determining Transportation Facility Improvements



19.1403.5 Remedies

A. Variances. Relief from any transportation facility improvement requirement in Section 19.1408 may be granted through a variance process, which requires submission and approval of a Variance land use application. Variance criteria and procedures are located in Chapter 19.700.

B. Appeals. Appeal of a land use decision is subject to the provisions of Chapter 19.1000. Appeal of a rough proportionality determination (Subsection 19.1402.2 and Section 19.1405) or street design standard determination (Subsection 19.1408.2) not associated with a land use decision is subject to the provisions of Subsection 19.1011.3 for minor quasi-judicial review.

19.1404 Transportation Impact Evaluation

The Engineering Director will determine whether a proposed development has impacts on the transportation system by using existing transportation data. If the Engineering Director cannot properly evaluate a proposed development's impacts without a more detailed study, a transportation impact study (TIS) will be required to evaluate the adequacy of the transportation system to serve the proposed development and determine proportionate mitigation of impacts. The TIS determination process and requirements are detailed below.

19.1404.1 TIS Determination

A. Based on information provided by the applicant about the proposed development, the Engineering Director will determine when a TIS is required and will consider the following when making that determination.

1. Changes in land use designation, zoning designation, or development standard.
2. Changes in use or intensity of use.
3. Projected increase in trip generation.
4. Potential impacts to residential areas and local streets.
5. Potential impacts to priority pedestrian and bicycle routes, including, but not limited to, school routes and multimodal street improvements identified in the TSP.
6. Potential impacts to intersection level of service (LOS).

B. It is the responsibility of the applicant to provide enough detailed information for the Engineering Director to make a TIS determination.

C. A TIS determination is not a land use action and may not be appealed.

19.1404.2 TIS General Provisions

A. All transportation impact studies, including neighborhood through-trip and access studies, shall be prepared and certified by a registered Traffic or Civil Engineer in the State of Oregon.

B. Prior to TIS scope preparation and review, the applicant shall pay to the City the fees and deposits associated with TIS scope preparation and review in accordance with the adopted fee schedule. The City's costs associated with TIS scope preparation and review will be charged against the respective deposits. Additional funds may be required if actual costs exceed deposit amounts. Any unused deposit funds will be refunded to the applicant upon final billing.

C. The TIS shall be submitted with a Transportation Facilities Review (TFR) land use application pursuant to Subsection 19.1403.2.B and associated application materials pursuant to Subsection 19.1403.3. The City will not accept a TFR application for processing if it does not include the

required TIS. The City will not accept other associated land use applications for processing if they are not accompanied by the required TFR application.

D. The Engineering Director may require a TIS review conference with the applicant to discuss the information provided in the TIS. This conference would be in addition to the required preapplication conference pursuant to Subsection 19.1403.1. If such a conference is required, the City will not accept the TFR application for processing until the conference has taken place. The applicant shall pay the TIS review conference fee at the time of conference scheduling, in accordance with the adopted fee schedule.

E. The City may attach conditions of approval to land use decisions as needed to satisfy the transportation facility requirements of Section 19.1408 and to mitigate transportation impacts identified in the TIS.

19.1404.3 TIS Requirements

A. TIS Scope. The Engineering Director shall determine the study area, study intersections, trip rates, traffic distribution, and required content of the TIS based on information provided by the applicant about the proposed development.

1. The study area will generally comprise an area within a one-half-mile radius of the development site. If the Engineering Director determines that development impacts may extend more than one-half mile from the development site, a larger study area may be required.

2. If notice to ODOT or Clackamas County is required pursuant to Section 19.1407, the City will coordinate with these agencies to provide a comprehensive TIS scope.

B. TIS Content. A project-specific TIS Checklist will be provided by the City once the Engineering Director has determined the TIS scope. A TIS shall include all of the following elements, unless waived by the Engineering Director.

1. Introduction and Summary. This section should include existing and projected trip generation including vehicular trips and mitigation of approved development not built to date; existing level and proposed level of service standard for City and County streets and volume to capacity for State roads; project build year and average growth in traffic between traffic count year and build year; summary of transportation operations; proposed mitigation(s); and traffic queuing and delays at study area intersections.

2. Existing Conditions. This section should include a study area description, including existing study intersection level of service.

3. Impacts. This section should include the proposed site plan, evaluation of the proposed site plan, and a project-related trip analysis. A figure showing the assumed future year roadway network (number and type of lanes at each intersection) should also be provided.

4. Mitigation. This section should include proposed site and areawide specific mitigation measures. Mitigation measures shall be roughly proportional to potential impacts pursuant to Section 19.1405.

5. Appendix. This section should include traffic counts, capacity calculations, warrant analysis, and any information necessary to convey a complete understanding of the technical adequacy of the TIS.

C. TIS Methodology. The City will include the required TIS methodology with the TIS scope.

D. Neighborhood Through-Trip Study. Any nonresidential development projected to add more than 25 through-vehicles per day to an adjacent residential local street or neighborhood route will

require assessment and mitigation of residential street impacts. Through-trips are defined as those to and from a proposed development that have neither an origin nor a destination in the neighborhood. The through-trip study shall include all of the following:

1. Existing number of through-trips per day on adjacent residential local streets or neighborhood routes.
2. Projected number of through-trips per day on adjacent residential local streets or neighborhood routes that will be added by the proposed development.
3. Traffic management strategies to mitigate for the impacts of projected through-trips consistent with Section 19.1405 Rough Proportionality and Subsection 19.1404.4 Mitigation.

19.1404.4 Mitigation

A. Transportation impacts shall be mitigated at the time of development when the TIS identifies an increase in demand for vehicular, pedestrian, bicycle, or transit transportation facilities within the study area.

B. The following measures may be used to meet mitigation requirements. Other mitigation measures may be suggested by the applicant or recommended by a State authority (e.g., ODOT) in circumstances where a State facility will be impacted by a proposed development. The Engineering Director or other decision-making body, as identified in Chapter 19.1000, shall determine if the proposed mitigation measures are adequate.

1. On- and off-site improvements beyond required frontage improvements.
2. Development of a transportation demand management program.
3. Payment of a fee in lieu of construction.
4. Correction of off-site transportation deficiencies within the study area that are not substantially related to development impacts.
5. Construction of on-site facilities or facilities located within the right-of-way adjoining the development site that exceed minimum required standards and that have a transportation benefit to the public.

19.1405 Rough Proportionality

The purpose of this section is to ensure that required transportation facility improvements are roughly proportional to the potential impacts of the proposed development. The rough proportionality requirements of this section apply to both frontage and off-site, or nonfrontage, improvements. A rough proportionality determination may be appealed pursuant to Subsection 19.1403.5.

The Engineering Director will conduct a proportionality analysis for any proposed development that triggers transportation facility improvements per this chapter, with the exception of development subject to Subsection 19.1402.2. The Engineering Director may conduct a proportionality analysis for development that triggers transportation facility improvements per Subsection 19.1402.2.

When conducting a proportionality analysis for frontage improvements, the Engineering Director will not consider prior use for the portion of the proposed development that involves new construction. The Engineering Director will, however, consider any benefits that are estimated to accrue to the development property as a result of any required transportation facility improvements.

The following general provisions apply whenever a proportionality analysis is conducted.

19.1405.1 Impact Mitigation

Mitigation of impacts, due to increased demand for transportation facilities associated with the proposed development, shall be provided in rough proportion to the transportation impacts of the proposed development. When a TIS is required, potential impacts will be determined in accordance with Section 19.1404. When no TIS is required, potential impacts will be determined by the Engineering Director.

19.1405.2 Rough Proportionality Guidelines

The following shall be considered when determining proportional improvements:

A. Condition and capacity of existing facilities within the impact area in relation to City standards. The impact area is generally defined as the area within a one-half-mile radius of the proposed development. If a TIS is required pursuant to Section 19.1404, the impact area is the TIS study area.

B. Existing vehicle, bicycle, pedestrian, and transit use within the impact area.

C. The effect of increased demand associated with the proposed development on transportation facilities and on other approved, but not yet constructed, development projects within the impact area.

D. The most recent use when a change in use is proposed that does not involve new construction.

E. Applicable TSP goals, policies, and plans.

F. Whether any route affected by increased transportation demand within the impact area is listed in any City program including, but not limited to, school trip safety, neighborhood traffic management, capital improvement, and system development improvement.

G. Accident history within the impact area.

H. Potential increased safety risks to transportation facility users, including pedestrians and cyclists.

I. Potential benefit the development property will receive as a result of the construction of any required transportation facility improvements.

J. Other considerations as may be identified in the review process.

19.1406 Fee in Lieu of Construction

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The fee in lieu of construction (FILOC) program ensures that opportunities to improve public transportation facilities are maximized and that the goals and requirements of this chapter are met. This section provides criteria for making FILOC determinations and administering the FILOC program.

19.1406.1 FILOC Criteria

The City may accept a fee in lieu of construction of required transportation facility improvements if one or more of the following conditions exist.

A. Required improvements are not feasible due to the inability to achieve proper design standards.

B. Required improvements would create a safety hazard.

C. Required improvements are part of a larger approved capital improvement project that is listed as a funded project in the City's Capital Improvement Program (CIP) and is scheduled for construction within three years of the City's approval of the proposed development.

19.1406.2 FILOC Findings

If the Engineering Director determines that a fee in lieu of construction satisfies one of the criteria in Subsection 19.1406.1 above, the City will accept a fee upon the Engineering Director finding that deferring construction of transportation facility improvements will not result in any safety hazards. If the Engineering Director cannot make such a finding, then the City will not accept a fee and will require construction of the improvements.

19.1406.3 FILOC Fees

If determined by the Engineering Director that required transportation facility improvements are eligible for FILOC, the applicant shall pay to the City an amount equal to the estimated cost to construct the required improvements. The amount of the fee shall be determined by the Engineering Director and shall be based on the average cost of the most recent capital improvement project itemized bid prices. All fees shall be paid to the City prior to the issuance of any development permits.

A. If full transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may only assess additional FILOC fees when there has been a change to the City's street design standards.

B. If partial transportation facility improvements have been assessed with previous development(s) on the development property and the proposed development has additional impacts, the City may assess additional FILOC fees for the balance of the improvements.

19.1406.4 FILOC Administration

Fees collected by the City may be used to construct public transportation facility improvements or to leverage additional grant money for larger transportation facility improvement projects. An accounting of fees collected and expended will be made available by the City to the public on an annual basis at the end of the fiscal year. Expenditure of fees is subject to the following:

A. Fees shall be used for construction of public transportation facility improvement projects that benefit the development site and that are within the same Neighborhood District Association (NDA) boundary as the development site, with the following two exceptions.

   1. For development within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and are within one or more of the downtown zones.

   2. For development within the Historic Milwaukie NDA and not within a downtown zone, fees shall be used for construction of transportation facility improvements that benefit the development site and that are within the Historic Milwaukie NDA and not within a downtown zone. Fees collected in the Historic Milwaukie NDA may be spent in one or more of the downtown zones with the approval of the Historic Milwaukie NDA.

B. Fees shall be used within ten years of the date on which they were collected. Fees that have not been used within ten years of collection will be returned to the owner of the development property at the time the refund is issued.

C. Staff shall identify the transportation facility improvement projects that meet the requirement of benefiting the development site per Subsection 19.1406.4.A and that can be constructed within the 10-year time period per Subsection 19.1406.4.B. Staff shall coordinate with the neighborhood district associations to prioritize the project lists for each neighborhood.

19.1407 Agency Notification and Coordinated Review

19.1407.1 Agency Notification

In addition to the general notice provisions set forth in Chapter 19.1000 for land use applications, the City shall provide notice of applications that are subject to Chapter 19.1400 to the following agencies:

A. Oregon Department of Transportation (ODOT): If the proposed development generates more than 100 vehicle trips per day, is within 200 feet of a State highway, or is within 1,320 feet of a State highway interchange ramp.

B. ODOT Rail Division: If the proposed development is within 300 feet of a public railroad crossing or if a modification is proposed to an existing public railroad crossing. Private crossing improvements are subject to review and licensing by the private rail service provider.

C. Metro and Clackamas County: If the proposed development is within 200 feet of a designated arterial or collector roadway, as identified in Figure 8-3b of the TSP.

D. Metro: If the proposed development is within 200 feet of a designated regional multiuse trail, as identified in the Regional Transportation Plan.

E. TriMet: If the proposed development (excluding single-family development on an existing lot) is within 200 feet of an existing or proposed transit route as identified on the current TriMet service map and Figure 7-3 of the TSP.

19.1407.2 Coordinated Review

The City shall coordinate application review and land use findings and conditions, if any, with the agencies listed above. The City shall include the deadline for review comments in its notice. Agencies shall indicate in their comments if additional public facility permits or approvals are required through their agency separate from City permits and approvals.

19.1408 Transportation Facility Requirements

This section contains the City's requirements and standards for improvements to public streets, including pedestrian, bicycle, and transit facilities. For ease of reading, the more common term "street" is used more frequently than the more technical terms "public right-of-way" or "right-of-way." As used in this section, however, all three terms have the same meaning.

The City recognizes the importance of balancing the need for improved transportation facilities with the need to ensure that required improvements are fair and proportional. The City also acknowledges the value in providing street design standards that are both objective and flexible. Objective standards allow for consistency of design and provide some measure of certainty for developers and property owners. Flexibility, on the other hand, gives the City the ability to design streets that are safe and that respond to existing street and development conditions in a way that preserves neighborhood character.

The City's street design standards are based on the street classification system described in the TSP. Figure 8-3a of the TSP identifies the functional street classification for every street in the city and Figure 10-1 identifies the type and size of street elements that may be appropriate for any given street based on its classification.

19.1408.1 General Street Requirements and Standards

A. Access Management. All development subject to Chapter 19.1400 shall comply with access management standards contained in Chapter 12.16.

B. Clear Vision. All development subject to Chapter 19.1400 shall comply with clear vision standards contained in Chapter 12.24.

C. Development in Downtown Zones. Street design standards and right-of-way dedication for the downtown zones are subject to the requirements of the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Unless specifically stated otherwise, the standards in this section do not apply to development located in the downtown zones or on street sections shown in the public area requirements plan per Subsection 19.312.5.

D. Development in Non-Downtown Zones. Development in a non-downtown zone that has frontage on a street section shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements is subject to the street design standards and right-of-way dedication requirements contained in that document for that street frontage. The following general provisions apply only to street frontages that are not shown in the Milwaukie Downtown and Riverfront Plan: Public Area Requirements and for development that is not in any of the downtown zones listed in Subsection 19.1408.1.C above:

1. Streets shall be designed and improved in accordance with the standards of this chapter and the Public Works Standards. ODOT facilities shall be designed consistent with State and federal standards. County facilities shall be designed consistent with County standards.

2. Streets shall be designed according to their Functional Classification per Figure 8-3b of the TSP.

3. Street right-of-way shall be dedicated to the public for street purposes in accordance with Subsection 19.1408.2. Right-of-way shall be dedicated at the corners of street intersections to accommodate the required turning radii and transportation facilities in accordance with this section and the Public Works Standards. Additional dedication may be required at intersections for improvements identified by the TSP or a required transportation impact study.

4. The City shall not approve any development permits for a proposed development unless it has frontage or approved access to a public street.

5. Off-site street improvements shall only be required to ensure adequate access to the proposed development and to mitigate for off-site impacts of the proposed development.

6. The following provisions apply to all new public streets and extensions to existing public streets.

   a. All new streets shall be dedicated and improved in accordance with this chapter.

   b. Dedication and construction of a half street is generally not acceptable. However, a half street may be approved where it is essential to allow reasonable development of a property and when the review authority finds that it will be possible for the property adjoining the half street to dedicate and improve the remainder of the street when it develops. The minimum paved roadway width for a half street shall be the minimum width necessary to accommodate two travel lanes pursuant to Subsection 19.1408.2.

7. Traffic calming may be required for existing or new streets. Traffic calming devices shall be designed in accordance with the Public Works Standards or with the approval of the Engineering Director.

8. Railroad crossings. Where anticipated development impacts trigger a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval.

9. Street signs. The City shall install all street signs, relative to traffic control and street names, as specified by the Engineering Director. The applicant shall reimburse the City for the cost of all such signs installed by the City.

10. Streetlights. The location of streetlights shall be noted on approved development plans. Streetlights shall be installed in accordance with the Public Works Standards or with the approval of the Engineering Director.

E. Street Layout and Connectivity

1. The length, width, and shape of blocks shall take lot size standards, access and circulation needs, traffic safety, and topographic limitations into consideration.

2. The street network shall be generally rectilinear but may vary due to topography or other natural conditions.

3. Streets shall be extended to the boundary lines of the developing property where necessary to give access to or allow for future development of adjoining properties.

   a. Temporary turnarounds shall be constructed for street stubs in excess of 150 feet in length. Drainage facilities shall be constructed to properly manage stormwater runoff from temporary turnarounds.

   b. Street stubs to adjoining properties shall not be considered turnarounds, unless required and designed as turnarounds, since they are intended to continue as through streets when adjoining properties develop.

   c. Reserve strips may be required in order to ensure the eventual continuation or completion of a street.

4. Permanent turnarounds shall only be provided when no opportunity exists for creating a through street connection. The lack of present ownership or control over abutting property shall not be grounds for construction of a turnaround. For proposed land division sites that are three acres or larger, a street ending in a turnaround shall have a maximum length of 200 feet, as measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround. For proposed land division sites that are less than three acres, a street ending in a turnaround shall have a maximum length of 400 feet, measured from the cross street right-of-way to the farthest point of right-of-way containing the turnaround. Turnarounds shall be designed in accordance with the requirements of the Public Works Standards. The requirements of this subsection may be adjusted by the Engineering Director to avoid alignments that encourage nonlocal through traffic.

5. Closed end street systems may serve no more than 20 dwellings.

F. Intersection Design and Spacing

1. Connecting street intersections shall be located to provide for traffic flow, safety, and turning movements, as conditions warrant.

2. Street and intersection alignments for local streets shall facilitate local circulation but avoid alignments that encourage nonlocal through traffic.

3. Streets should generally be aligned to intersect at right angles (90 degrees). Angles of less than 75 degrees will not be permitted unless the Engineering Director has approved a special intersection design.

4. New streets shall intersect at existing street intersections so that centerlines are not offset. Where existing streets adjacent to a proposed development do not align properly, conditions shall be imposed on the development to provide for proper alignment.
5. Minimum and maximum block perimeter standards are provided in Table 19.1408.1.
6. Minimum and maximum intersection spacing standards are provided in Table 19.1408.1.

Table 19.1408.1 Street/Intersection Spacing

Street Classification	Minimum Distance Between Street Intersections	Maximum Distance Between Street Intersections	Maximum Block Perimeter
Arterial	530 feet	1000 feet	2600 feet
Collector	300 feet	600 feet	1800 feet
Neighborhood Route	150 feet	530 feet	1650 feet
Local	100 feet	530 feet	1650 feet

19.1408.2 Street Design Standards

Table 19.1408.2 contains the street design elements and dimensional standards for street cross sections by functional classification. Dimensions are shown as ranges to allow for flexibility in developing the most appropriate cross section for a given street or portion of street based on existing conditions and the surrounding development pattern. The additional street design standards in Subsection 19.1408.2.A augment the dimensional standards contained in Table 19.1408.2. The Engineering Director will rely on Table 19.1408.2 and Subsection 19.1408.2.A to determine the full-width cross section for a specific street segment based on functional classification. The full-width cross section is the sum total of the widest dimension of all individual street elements. If the Engineering Director determines that a full-width cross section is appropriate and feasible, a full-width cross section will be required. If the Engineering Director determines that a full-width cross section is not appropriate or feasible, the Engineering Director will modify the full-width cross section requirement using the guidelines provided in Subsection 19.1408.2.B. Standards for design speed, horizontal/vertical curves, grades, and curb return radii are specified in the Public Works Standards.

Table 19.1408.2 Street Design Standards (Dimensions are shown in feet)

Street Classification	Full-width Right of Way Dimension	Individual Street Elements					
		Travel Lane (Center Lane)	Bike Lane	On-Street Parking	Landscape Strips	Sidewalk Curb Tight	Sidewalk Setback
Arterial	54'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	6'
Collector	40'–74'	10'–11'	5'–6'	6'–8'	3'–5'	8'	6'
Neighborhood	20'–68'	10'	5'	6'–8'	3'–5'	6'	5'
Local	20'–68'	8' or 10'	5'	6'–8'	3'–5'	6'	5'
Truck Route	34'–89'	11'–12' (12'–13')	5'–6'	6'–8'	3'–5'	8'–10'	Per Street Classification
Transit Route	30'–89'	10'–12' (12'–13')	5'–6'	6'–8'	3'–5'	Per Street Classification	Per Street Classification

A. Additional Street Design Standards. These standards augment the dimensional standards contained in Table 19.1408.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum ten-foot travel lane width shall be provided on local streets with no on-street parking.
2. Where travel lanes are next to a curb line, an additional one foot of travel lane width shall be provided. Where a travel lane is located between curbs, an additional two feet of travel lane width shall be provided.
3. Where shared lanes or bicycle boulevards are planned, up to an additional six feet of travel lane width shall be provided.
4. Bike lane widths may be reduced to a minimum of four feet where unusual circumstances exist, as determined by the Engineering Director, and where such a reduction would not result in a safety hazard.
5. Where a curb is required by the Engineering Director, it shall be designed in accordance with the Public Works Standards.
6. Center turn lanes are not required for truck and bus routes on street classifications other than arterial roads.
7. On-street parking in industrial zones shall have a minimum width of eight feet.
8. On-street parking in commercial zones shall have a minimum width of seven feet.
9. On-street parking in residential zones shall have a minimum width of six feet.
10. Sidewalk widths may be reduced to a minimum of four feet for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.
11. Landscape strip widths shall be measured from back of curb to front of sidewalk.
12. Where landscape strips are required, street trees shall be provided a minimum of every forty feet in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.
13. Where water quality treatment is provided within the public right-of-way, the landscape strip width may be increased to accommodate the required treatment area.
14. A minimum of six inches shall be required between a property line and the street element that abuts it; e.g. sidewalk or landscape strip.

B. Street Design Determination Guidelines

The Engineering Director shall make the final determination regarding right-of-way and street element widths using the ranges provided in Table 19.1408.2 and the additional street design standards in Subsection 19.1408.2.A. The Engineering Director shall also determine whether any individual street element may be eliminated on one or both sides of the street in accordance with Figure 10-1 of the TSP. When making a street design determination that varies from the full-width cross section, the Engineering Director shall consider the following:

1. Options and/or needs for environmentally beneficial and/or green street designs.
2. Multimodal street improvements identified in the TSP.
3. Street design alternative preferences identified in Chapter 10 of the TSP, specifically with regarding to sidewalk and landscape strip improvements.

4. Existing development pattern and proximity of existing structures to the right-of-way.

5. Existing right-of-way dimensions and topography.

19.1408.3 Sidewalk Requirements and Standards

A. General Provisions

1. Goals, objectives, and policies relating to walking are included in Chapter 5 of the TSP and provide the context for needed pedestrian improvements. Figure 5-1 of the TSP illustrates the Pedestrian Master Plan and Table 5-3 contains the Pedestrian Action Plan.

2. Americans with Disabilities Act (ADA) requirements for public sidewalks shall apply where there is a conflict with City standards.

B. Sidewalk Requirements

1. Requirements. Sidewalks shall be provided on the public street frontage of all development per the requirements of this chapter. Sidewalks shall generally be constructed within the dedicated public right-of-way, but may be located outside of the right-of-way within a public easement with the approval of the Engineering Director.

2. Design Standards. Sidewalks shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards.

3. Maintenance. Abutting property owners shall be responsible for maintaining sidewalks and landscape strips in accordance with Chapter 12.04.

19.1408.4 Bicycle Facility Requirements and Standards

A. General Provisions

1. Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.

2. Goals, objectives, and policies relating to bicycling are included in Chapter 6 of the TSP and provide the context for needed bicycle improvements. Figure 6-2 of the TSP illustrates the Bicycle Master Plan, and Table 6-3 contains the Bicycle Action Plan.

B. Bicycle Facility Requirements

1. Requirements. Bicycle facilities shall be provided in accordance with this chapter, Chapter 19.500, the TSP, and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Requirements include, but are not limited to, parking, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion.

2. Timing of Construction. To assure continuity and safety, required bicycle facilities shall generally be constructed at the time of development. If not practical to sign, stripe, or construct bicycle facilities at the time of development due to the absence of adjacent facilities, the development shall provide the paved street width necessary to accommodate the required bicycle facilities.

3. Design Standards. Bicycle facilities shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Bicycle parking shall be designed and improved in accordance with Chapter 19.500 and the Milwaukie Downtown and Riverfront Plan: Public Area Requirements.

19.1408.5 Pedestrian/Bicycle Path Requirements and Standards

A. General Provisions

Pedestrian/bicycle paths are intended to provide safe and convenient connections within and from new residential subdivisions, multifamily developments, planned developments, shopping centers, and commercial districts to adjacent and nearby residential areas, transit stops, and neighborhood activity centers.

Pedestrian/bicycle paths may be in addition to, or in lieu of, a public street. Paths that are in addition to a public street shall generally run parallel to that street. These types of paths are not subject to the provisions of this subsection and shall be designed in accordance with the Public Works Standards or as specified by the Engineering Director. Paths that are in lieu of a public street shall be considered in areas only where no other public street connection options are feasible. These types of paths are subject to the provisions of this subsection.

B. Pedestrian/Bicycle Path Requirements

In addition to sidewalks on public streets, other available pedestrian routes, as used in this subsection, include walkways within shopping centers, planned developments, community service use developments, and commercial and industrial districts. Routes may cross parking lots on adjoining properties if the route is paved, unobstructed, and open to the public for pedestrian use.

Pedestrian/bicycle paths shall be required in the following situations.

1. In residential and mixed-use districts, a pedestrian/bicycle path shall be required at least every 300 feet when a street connection is not feasible.

2. In residential and industrial districts where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 400 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

3. In commercial districts and community service use developments where addition of a path would reduce walking distance, via a sidewalk or other available pedestrian route, by at least 200 feet and by at least 50% to an existing transit stop, planned transit route, school, shopping center, or park.

4. In all districts where addition of a path would provide a mid-block connection between blocks that exceed 800 feet or would link the end of a turnaround with a nearby street or activity center.

C. Design Standards

Pedestrian/bicycle paths shall be designed and improved in accordance with the requirements of this chapter and the Public Works Standards. Paths shall be located to provide a reasonably direct connection between likely pedestrian and bicyclist destinations. A path shall have a minimum right-of-way width of 15 feet and a minimum improved surface of 10 feet. If a path also provides secondary fire access or a public utility corridor, it shall have a minimum right-of-way width of 20 feet and a minimum improved surface of 15 feet. Additional standards relating to entry points, maximum length, visibility, and path lighting are provided in the Public Works Standards.

D. Ownership and Maintenance

To ensure ongoing access to and maintenance of pedestrian/bicycle paths, the Engineering Director will require one or more of the following:

1. Dedication of the path to the public and acceptance of the path by the City as public right-of-way prior to final development approval.

2. Creation of a public access easement over the path prior to final development approval.

3. Incorporation of the path into recorded easements or tract(s) of common ownership that specifically requires existing property owners and future property owners who are subject to such easements or own such tracts to provide for the ownership, liability, and maintenance of the path into perpetuity. This shall occur prior to final development approval.

19.1408.6 Transit Requirements and Standards

A. General Provisions

1. Transit facilities include bus stops, shelters, and related facilities. Required transit facility improvements may include the dedication of land or the provision of a public easement.

2. Goals, objectives, and policies relating to transit are included in Chapter 7 of the TSP. Figure 7-3 of the TSP illustrates the Transit Master Plan, and Table 7-2 contains the Transit Action Plan.

B. Transit Facility Requirements

1. Requirements. Factors that determine the level of transit facility requirements include, but are not limited to, street classification, existing and planned level of transit service on adjacent streets, block length, proximity of major pedestrian destinations, existing and projected ridership, and transit needs of the development. Required improvements may include provision of an easement or dedication of land for transit facilities, benches, shelters, bus turnouts, curb extensions, median refuges for pedestrian crossings, public telephones, or pedestrian lighting. The required improvements shall reflect a reasonable and proportionate share of the potential impacts of the proposed development pursuant to Section 19.1405.

2. Location of Facilities. Transit facilities shall be located at controlled street intersections, wherever possible. Where a bus stop has already been established within 500 feet of a proposed development, a new bus stop shall only be provided if recommended by TriMet and required by the Engineering Director. Otherwise, the development shall upgrade the existing stop. Upgrades may include, but are not limited to, the installation of benches, shelters, and landscaping.

3. Design Standards. Transit facilities shall be designed and improved in accordance with current TriMet standards, the requirements of this chapter, and the Public Works Standards.

4. TriMet Notice and Coordination. The City shall provide notice of all proposed developments to TriMet pursuant to Section 19.1407. TriMet may recommend the construction of transit-related facilities at the time of development to support transit use. The City shall make the final determination regarding transit-related facility requirements.

19.1409 Public Utility Requirements

19.1409.1 Review Process

The Engineering Director shall review all proposed development subject to Chapter 19.1400 per Section 19.1402 in order to: (1) evaluate the adequacy of existing public utilities to serve the proposed development, and (2) determine whether new public utilities or an expansion of existing public utilities is warranted to ensure compliance with the City's public utility requirements and standards.

A. Permit Review. The Engineering Director shall make every effort to review all development permit applications for compliance with the City's public utility requirements and standards

within ten working days of application submission. Upon completion of this review, the Engineering Director shall either approve the application, request additional information, or impose conditions on the application to ensure compliance with this chapter.

B. Review Standards. Review standards for public utilities shall be those standards currently in effect, or as modified, and identified in such public documents as Milwaukie's Comprehensive Plan, Wastewater Master Plan, Water Master Plan, Stormwater Master Plan, Transportation System Plan, and Public Works Standards.

19.1409.2 Public Utility Improvements

Public utility improvements shall be required for proposed development that would have a detrimental effect on existing public utilities, cause capacity problems for existing public utilities, or fail to meet standards in the Public Works Standards. Development shall be required to complete or otherwise provide for the completion of the required improvements.

A. The Engineering Director shall determine which, if any, utility improvements are required. The Engineering Director's determination requiring utility improvements shall be based upon an analysis that shows the proposed development will result in one or more of the following situations:

1. Exceeds the design capacity of the utility.
2. Exceeds Public Works Standards or other generally accepted standards.
3. Creates a potential safety hazard.
4. Creates an ongoing maintenance problem.

B. The Engineering Director may approve one of the following to ensure completion of required utility improvements.

1. Formation of a reimbursement district in accordance with Chapter 13.30 for off-site public facility improvements fronting other properties.
2. Formation of a local improvement district in accordance with Chapter 3.08 for off-site public facility improvements fronting other properties.

19.1409.3 Design Standards

Public utility improvements shall be designed and improved in accordance with the requirements of this chapter, the Public Works Standards, and improvement standards and specifications identified by the City during the development review process. The applicant shall provide engineered utility plans to the Engineering Director for review and approval prior to construction to demonstrate compliance with all City standards and requirements.

19.1409.4 Oversizing

The Engineering Director may require utility oversizing in anticipation of additional system demand. If oversizing is required, the Engineering Director may authorize a reimbursement district or a system development charge (SDC) credit in accordance with Chapter 13.28.

19.1409.5 Monitoring

The Engineering Director shall monitor the progress of all public utility improvements by the applicant to ensure project completion and compliance with all City permitting requirements and standards. Utility improvements are subject to the requirements of Chapter 12.08. Follow-up action, such as facility inspection, bond release, and enforcement, shall be considered a part of the monitoring process.

Title 19 ZONING

Chapter 19.300 USE ZONES

19.303.3 Standards. In an R-5 zone the following standards shall apply:

J. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.304.3 Standards. In an R-3 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.305.3 Standards. In an R-2.5 zone the following standards shall apply:

I. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.306.3 Standards. In an R-2 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.307.3 Standards. In an R-1-B zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.308.3 Standards. In an R-1 zone the following standards shall apply:

K. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.309.3 Standards. In an R-O-C zone the following standards shall apply:

L. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.311.3 Standards. In a C-L zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.312.3 Uses.

G. Limited Uses. The following provisions describe the use limitations and correspond with the footnote numbers for uses listed with an "L" in Table 19.312.3.

5. Office, personal service, and retail trade uses in the downtown residential zone may only be developed as part of a mixed use building that includes housing. Office, personal service, and retail trade uses are limited to the ground floor; and individual office, personal service, or retail uses may not exceed five thousand square feet in floor area. Home occupations are permitted in accordance with Section 19.407 of this title.

19.312.5 Public Area Requirements.

A. Purpose. The City has two adopted plans that guide the revitalization of downtown Milwaukie. The first focuses on land uses in the downtown zones entitled Milwaukie Downtown and Riverfront Land Use Framework Plan. The second focuses on public area requirements in the downtown zones entitled Milwaukie Downtown and Riverfront Plan: Public Area Requirements. Public area requirements are defined as improvements within the public right-of-way and include, but are not limited to, sidewalks, bicycle lanes, on-street parking, curb extensions, lighting, street furniture, and landscaping. The purpose of the public area requirements plan is to ensure the development of a consistent and high-quality public right-of-way that establishes a safe, comfortable, contiguous pedestrian-oriented environment with a unified urban design.

B. Applicability. All downtown development projects that meet the applicability provisions of Section 19.1402 are subject to Chapter 19.1400 in its entirety, with the exception of specified portions of Section 19.1408 that pertain to street requirements and design standards for non-downtown development projects. Street requirements and design standards for development projects in the downtown zones are governed by the Milwaukie Downtown and Riverfront Plan: Public Area Requirements. These requirements and standards also apply to all street sections shown in the public area requirements plan even when the development project is not in a downtown zone.

C. Review Process. All downtown development projects that meet the applicability provisions of Section 19.1402 shall submit all appropriate applications per Subsection 19.1403.2. For downtown development projects requiring a land use application, the applicant shall schedule a preapplication conference with the City prior to submittal of the application. Land use applications for downtown development projects shall be submitted in accordance with Subsection 19.1403.2 and processed in accordance with Chapter 19.1000.

D. Street Design Standards. If the Engineering Director determines that the proposed development has impacts on the transportation system pursuant to Section 19.1404, the Community Development Director will identify the type, size, and location of needed improvements to the public right-of-way using the Milwaukie Downtown and Riverfront Plan: Public Area Requirements as a guide. The Engineering Director will then conduct a proportionality analysis pursuant to Section 19.1405. If none of the needed improvements are determined to be proportional to the development's impacts, the proposed development will be required to comply with the City's safety and functionality standards, which are contained in Subsection 19.1403.3.C. If only some of the needed improvements are determined to be proportional to the development's impacts, the Community Development Director will determine which improvements the proposed development will be required to fund or construct. Appeal of the City's proportionality analysis is allowed pursuant to Subsection 19.1403.5.B.

19.313.3 Standards. In a C-G zone the following standards shall apply:

F. Transition Area. A transition area shall be maintained according to Subsection 19.403.7.

19.323.5 Alteration and Development.

E. Criteria and Findings. Approval of a permit to alter a landmark or any property in the HP district shall be based on findings of adherence to the following guidelines:

10. Buffering. An appropriate buffer or screen, as provided under Subsection 19.403.7, may be required when a new commercial or industrial improvement or use is proposed on or adjacent to a designated resource, or within or adjacent to an historic district.

Title 19 ZONING

Chapter 19.100 INTRODUCTORY PROVISIONS

19.103 Definitions.

Refer to Title 18 for definitions related to flood hazard areas.

As used in this title:

"Abandonment" means wireless communication facility is abandoned when it has not been used by a licensed carrier for a period of 6 months.

"Access" means the way or means by which pedestrians, bicycles, and vehicles enter and leave property.

"Accessory structure or accessory use" means a structure or use incidental and subordinate to the main use of property and located on the same lot as the main use, including any required off-street parking within 200 feet (measured in a straight line) of the building or use it is intended to serve.

"Accessway" means the place, means, or way by which vehicles have safe, adequate, and usable ingress and egress to a property. The accessway consists of the driveway and driveway approach.

"Accidental destruction" means damage or destruction caused by accident or natural hazard, including, but not limited to, fire, flood, or wind.

"Adult entertainment business" means an establishment which, for any form of consideration, provides or exhibits primarily products or performances characterized by an emphasis on the depiction or description of specified anatomical areas or specified sexual activities. "Adult entertainment business" includes, but is not limited to, adult arcades, adult bookstores, adult clubs, adult bars, adult motels or hotels, and adult theaters.

"Agriculture" means the tilling of the soil, the raising of crops, dairying, or animal husbandry; but not including the keeping or raising of fowl, pigs, or furbearing animals unless the keeping of animals is clearly incidental to the principal use of the property for the raising of crops.

"Airport" or "aircraft landing facility" means any landing area, runway, or other facility designed, used, or intended to be used by aircraft and including all necessary taxiways, hangars and other necessary buildings and open spaces.

"Alley" means a right-of-way that provides access to the back or side of properties otherwise abutting on a street. Generally, alleys provide secondary vehicle access. Where vehicle access from the street is not allowed, not possible, or not desirable, an alley may provide primary vehicle access.

"Alteration" means any change, addition, or modification to any existing structure or improvement on the site, including changes to site access, when such changes result in any one of the following: (1) intensification of the use(s) on the site, (2) intensification of the improvements on the site, (3) changes to the exterior appearance of significant historic resources or buildings in the downtown zones, or (4) changes that may have a detrimental effect on surrounding properties or a natural resource area. Alteration may or may not involve an increase in gross floor area. Alteration does not include "routine maintenance and repair." See also "improvements."

"Antenna" means electrical conductor or group of electrical conductors in the form of a metal rod, wire panel or dish that transmit or receive radio waves or microwaves for wireless communications.

"Antenna support structure" means a structure on which a wireless antenna is or may be placed.

"Alternative support structure" means an existing building, water tower, utility pole in the right-of-way, or an antenna support structure that meets stealth design criteria.

"Existing support structure" means any support structure existing at the time of the application.

"Application" means all forms, materials, and information required for submission for action authorized under this title.

"Arbor" means an unroofed and unenclosed structure of vines, branches, or lattice work typically used to support climbing vines or shrubs.

"Automobile service station" means a retail place of business engaged primarily in the sale of motor fuels, but also supplying goods and services required in the operation and maintenance of automotive vehicles. These may include petroleum products, tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products; but not major automotive repairs, painting, and body and fender work.

"Bankful stage" means the stage or elevation at which water overflows the natural banks of a stream or other waters of the state and begins to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.

"Basement" means a portion of a building, not deemed a story, which has more than one half of its height (but not more than 6 feet) measured from finished floor to finished ceiling above the adjoining ground level grade.

"Belfry" means an ornamental or functional roof mounted structure for enclosing a bell.

"Belvedere" means an architectural feature of a building designed to create views from the building.

"Bicycle facility" means any street or path which in some manner is specifically designated and/or designed for the use of bicycles or for shared use by bicycles and other transportation modes. Bicycle facilities include bicycle parking and on-street and off-street bike lanes, shared lanes, bike boulevards, and bike paths.

"Bike lane" means a portion of a road, street, or shoulder which has been designated for use by bicyclists through the application of a paint stripe.

"Shared lane" means a roadway where bicyclists and autos share the same travel lane. A shared lane is usually wider than a vehicle travel lane but does not delineate between vehicle and bike lanes. It may include bike boulevard treatments.

"Bike boulevard" means a lower-volume street with various treatments to promote safe and convenient bicycle travel. A bike boulevard usually accommodates bicyclists and motorists in the same travel lanes, often with no specific vehicle or bike lane delineation. It usually assigns higher priority to through bicyclists, with secondary priority assigned to motorists. A bike boulevard also includes treatments to slow vehicle traffic to enhance the bicycling environment.

"Bike path" means a separate trail or path on which motor vehicles are prohibited and which is for the exclusive use of bicycles or for the shared use of bicycles, pedestrians, and other nonmotorized modes of travel.

"Boarding, lodging, or rooming house" means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided. Lodging capacity is subject to provisions of the Uniform Building Code.

"Buffer area" means a land area with space, landscaping, and other means sufficient to protect the uses in one zone from being offensive to the uses in another zone.

"Building" means a structure built for the support, shelter, or enclosure of any persons, animals, chattels, or property of any kind excepting uncovered patios or decks not exceeding 18 inches in height above the average grade of the adjoining ground.

"Building height" means the vertical distance measured from the adjoining street centerline grade, as established by the city, to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between the eaves and ridge for a gable, hip or gambrel roof; provided, however, that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished grade at the front of the building.

"Building line" means a line that coincides with the front side of the main building.

"Build-to line" means an imaginary line on which the front of a building or structure must be located or built, and which is measured as a distance from a public right-of-way.

"Cellar" means a room or group of rooms, usually under a building, which has more than one half of its height measured from finished floor to finished ceiling below the average grade of the adjoining ground.

"Change in use" means a change in the primary use from one use to another or the addition of other uses, not including accessory uses. A change in use determination shall reference the uses listed in this section or the City's use zones as a guide. A proposal to change or add new uses may require land use approval. See also "use."

"City" means the City of Milwaukie, Oregon.

"Co-location" means the placement of an antenna on an existing wireless communication facility, building, water tower, utility pole, where the antennas and all supports are located on an existing structure.

"Commercial parking facility" means a parking structure, surface, or below-grade parking lot, for which a charge or fee is assessed for parking. Commercial parking facilities provide parking that is not accessory to a specific use. Examples include short- and long-term fee parking facilities, commercial district shared parking lots, and commercial shuttle parking.

"Commercial recreation" means an establishment where people pay for recreation including such types as health center, places with court games, dance halls, places with machine games, and so forth.

"Congregate housing facility" means a multidwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premise supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all residential zones that permit multifamily apartments, and they require conditional use approval in those residential zones that allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.

"Constructed wetlands" means those wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

"Corridor design plan" means a plan which establishes special development standards along a transportation corridor. A corridor design plan is adopted as part of the comprehensive plan and is implemented through overlay zones.

"Cupola" means an ornamental or functional structure placed on a roof or dome mimicking or functioning as a lantern, belfry, or belvedere.

"Curb return" means the curved portion of a street curb at street intersections or the curved portion of a curb in the wings of a driveway approach.

"Daycare center" means any facility, institution, establishment, or place not a part of a school as defined in this section and not meeting the definition of family daycare, that provides daycare to children not of common parentage, including day nurseries, nursery schools, preschools, daycare facilities, or similar units operating under any name for the purpose of being given board, care, or training apart from their parents or guardians for compensation or reward.

"Debris" means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this ordinance or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

"Department of Environmental Quality (DEQ) Water Quality Standards" means the numerical criteria or narrative condition needed in order to protect an identified beneficial use.

"Developer's agreement" means a notarized document signed by the property owner, and recorded against the property in question, wherein the property owner agrees to construct or provide public facility improvements specifically identified in the document, or in cases where local improvement district or project formation is necessary to share in the cost of necessary public facility improvements, to not remonstrate against the City for such improvements, and to pay the assessment or share for such improvements at the time they are made. Actual property owner share and share formula shall be determined at the time of local improvement district or project formation. This may consist of such determination methods as street frontage percentage, lot square footage, and/or standard per lot assessment. A developer's agreement is not a Development Agreement as defined by ORS 95.504.

"Development" means all improvements on a site, including, but not limited to: buildings, accessory structures, parking and loading areas, paved or graveled areas, improved open areas (such as plazas or walkways), above-ground utilities, landscaping, and areas devoted to exterior display, storage, or activities. Development also includes actions that result in physical change to a site, including, but not limited to: mining, dredging, filling, or grading in amounts greater than 10 cubic yards. Some types of development may require issuance of a development permit and/or land use approval prior to construction or placement. Development does not include the following: (1) stream enhancement or restoration projects approved by cities and counties; (2) farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of Title 3; (3) construction on lots in subdivisions meeting the criteria of ORS 92.040(2); or (4) natural geologic forms or unimproved land.

"Development permit" means any permit, such as a building permit, issued by the City's Building Department for action authorized under this title. Land use approval by the City's Planning Department or Planning Commission is required prior to the issuance of a development permit for some actions.

"Disturb" means to make changes to the existing physical status of the land that are made in connection with development. The following changes are excluded from the definition: enhancement or restoration of the Water Quality Resource Area and planting native cover identified in the Milwaukie Native Plant List.

"Dormer" means a projecting structure built out from a sloping roof usually containing a window.

"Dormitory" means a room which is rented for sleeping purposes for more than 4 persons.

"Downtown zones" means the 5 zones that implement the Milwaukie Downtown and Riverfront Land Use Framework Plan—Downtown Storefront (DS), Downtown Commercial (DC), Downtown Office (DO), Downtown Residential (DR), and Downtown Open Space (DOS).

"Drinking establishment" means a tavern, bar, cocktail lounge, or other similar business establishment with the primary function of preparing and serving alcoholic beverages to the public for consumption on the premises. This establishment may or may not be in conjunction with an eating establishment.

"Drive-through facility" means a business activity involving buying or selling of goods, or the provision of services, where one of the parties conducts the activity from within a motor vehicle. Facilities usually associated with a drive-through are queuing lanes, service windows, service islands and service bays for vehicular use.

"Driveway" means the portion of the accessway located on private property or public lands outside of the public right-of-way.

"Driveway approach" means the portion of the accessway located within the public right-of-way. The driveway approach consists of the driveway apron, wings, and sidewalk section. See Chapter 12.16 Access Management for definitions of these terms.

"Dwelling" means a structure containing one or more dwelling units used, intended, or designed to be built, used, rented, let or hired out to be occupied, or which are occupied for living purposes. Dwelling types are defined in this section.

"Dwelling unit" means one or more rooms designed for occupancy by one family, but excluding a recreational vehicle.

"Single-family attached" means 2 dwelling units, each occupied as a housekeeping unit, sharing common structural walls.

"Single-family detached" means a house or a manufactured home normally occupied by one family with no structural connection to adjacent units. The dwelling and lot are usually under single ownership.

"Multifamily apartment" means a single structure containing 3 or more dwelling units, usually for rent, and sharing common structural walls.

"Multifamily condominium" means a single structure containing 3 or more individually owned dwelling units, with all other common elements jointly owned on a specified basis.

"Interior single-family attached, interior multifamily condominium" means that dwelling unit or units that are interior to the whole residential structure and does not include the dwelling units that are on the ends of the structure facing lot lines.

"Accessory dwelling" means a dwelling unit that is clearly incidental and subordinate to a detached single-family dwelling, located in a single-family structure designed for occupancy by a housekeeping unit, and not containing more than 1 cooking facility. For the purpose of this definition "cooking facility" means an oven, stove, range or other device used or intended for the preparation or heating of food.

"Type 1 accessory dwelling" means an accessory dwelling unit not less than 225 square feet gross floor area and not more than 600 square feet gross floor area and meeting the requirements of Section 19.404. For the purpose of this section, gross floor area is measured from the inside face of walls enclosing the unit including all storage space, closets, halls, stairwells and rooms.

"Type 2 accessory dwelling" means an accessory dwelling unit other than a type 1 accessory dwelling unit, as permitted by Subsection 19.602.10.

"Eating establishment" means a restaurant or other similar business establishment with the primary function of serving food, prepared to order, to the public, and may serve alcoholic beverages at the dining table. This establishment may or may not have an attached drinking establishment.

"Emergency" means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

"Enhancement" means the process of improving upon the natural functions and/or values of an area or feature, which has been degraded by human activity. Enhancement activities may or may not return the site to a predisturbance condition, but create/recreate processes and features that occur naturally.

"Equipment cabinets" means an enclosed box or structure used to house equipment for the operation, maintenance, or repair of a wireless communication antenna.

"FAA approval" means demonstration of compliance with all applicable rules and regulations under the FAA's jurisdiction.

"Facade" means all the wall planes of a structure as seen from one side or view. For example, the front facade of a building would include all of the wall area that would be shown on the front elevation of the building plans.

"Family" means any person or group of persons living within a single housekeeping unit as defined in this section.

"Family daycare" means a private residence occupied by the family daycare provider in all areas zoned for residential or commercial purposes and used as a home occupation by the provider for the care of fewer than 13 children, including children of the provider, regardless of full-time or part-time care status.

"Fence" means any artificially constructed barrier of any material or combination of materials erected for purpose of enclosing, protecting, or screening areas of land and uses thereon.

> "Sight-obscuring fence" means a fence consisting of wood, metal, masonry, or similar materials, or an evergreen hedge or other evergreen planting, arranged in such a way as to obscure vision at least 80%.

"Flag lot" means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or "pole" to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or "flag" which comprises the actual building site, and the access strip or "pole" which provides access from the street to the flag.

"Flood management areas" means all lands contained within the 100 year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Maps and the area of inundation for the February 1996 flood. In addition, all lands which have documented evidence of flooding.

"Floodway" means the channel of a stream and adjacent land areas which are required to carry and discharge flood waters or flood flows of a 100 year flood, as defined by the Corps of Engineers.

"Floodway fringe" means that land area which is outside of the stream floodway but is subject to periodic inundation by a 100 year flood, as defined by the Corps of Engineers.

"Floor area" means the sum of the area of each floor level, including cellars, basements, mezzanines, accessory structures, penthouses, corridors, lobbies, stores, and offices that are within the principal outside faces of exterior walls, or from the centerline of walls separating two buildings, not including architectural setbacks or projections. Included are all areas that have floor surfaces with clear standing head room of at least 6 feet 6 inches, regardless of their use or finished state. Floor area does not include the following:

- Uncovered steps or fire escapes.
- Private garages, carports, or unenclosed porches.

- Accessory water towers or cooling towers.
- Accessory off-street parking or loading spaces.

"Floor area ratio" means the amount of building floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 2 to 1 means 2 square feet of floor area for every 1 square foot of site area. A developer may exclude public utility easements from the site area when calculating the floor area ratio for a site.

"Foster home" means any home maintained by a person licensed by the State to provide care, food, and lodging in such home for not more than 10 children, including his or her own children, under the age of 18 years and unaccompanied by a parent or guardian.

"Frontage" means the portion of a property that abuts a public or private street.

"Frontage improvements" means transportation facility improvements occurring along a property's frontage. See also "improvements."

"Garage" means a covered structure designed to provide shelter for vehicles and which is accessory to a residential use. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to, or detached from, another structure.

> "Carport" means a stationary structure consisting of a roof, its supports, and not more than one wall (or storage cabinets substituting for a wall) used to shelter motor vehicles, recreational vehicles, or boats. A structure is only considered to be a carport when it is being used to meet minimum off-street parking requirements.

Grade:

> "Ground-level grade" means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within 5 feet of a public sidewalk, the ground level shall be measured at the average sidewalk elevation.

"Green street" means a street that incorporates a stormwater management system into its design, allowing most stormwater runoff to be absorbed locally. Green street treatments capture and treat stormwater runoff locally, thereby protecting streams, groundwater, and wildlife habitat.

"Greenway areas" means lands that lie along the Willamette River and major courses flowing into the Willamette River. Shown on the zoning map as the Willamette Greenway Overlay.

"Ground floor" means any floor with direct access to grade. A building or facility always has at least one ground floor, and may have more than one ground floor where a split-level entry has been provided or where a building is built into a hillside.

"Guyed tower" means a tower which is supported by the use of cables (guy wires).

"Half street" means transportation facility improvements equal to one-half of a street design cross section plus enough additional roadway pavement for at least two travel lanes.

"Hazardous materials" means materials defined by the Oregon Department of Environmental Quality as hazardous.

"High-impact commercial businesses" means any such use that generates substantial traffic, noise, light, irregular hours, or other negative impact on the community. Examples include, but are not limited to: drinking establishments, commercial recreation, adult entertainment businesses, theaters, hotels, and motels.

"Home occupation" means an occupation normally carried on at a dwelling as an accessory use to the dwelling, with the activity conducted in such a manner as to give no appearance of a business, and with no infringement upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

"Horticulture" means the cultivation of plants, garden crops, trees or nursery stock.

"Hotel" means a building or portion thereof designed or used for occupancy of transient individuals who are lodged with or without meals, and in which no provision is made for cooking in any individual room or suite.

"Housekeeping unit" means a living arrangement within a dwelling unit in which a single common kitchen facility, laundry facility, living and dining rooms, and other general living areas of the dwelling, and the duties, rights, and obligations associated with the performance of domestic tasks and management of household affairs, are shared by the residents by virtue of legal relationship or mutual agreement.

Improvements:

"Off-site improvements" means all public facility improvements occurring off the site and not along the site's frontage.

"On-site improvements" means all development on the site. The term on-site improvements also refers to public facility improvements occurring on the site or along its frontage in a right-of-way or easement. See also "frontage improvements."

Institution:

"Institutional campus" means a medical or educational institution and associated uses. Medical institutional campuses include medical centers and hospitals. Educational institutional campuses include universities, colleges, high schools, and other similar institutions offering course of study leading to a high school diploma or degree certified by a recognized accreditation body. Associated uses on institutional campuses may include some commercial and light industrial uses, major event entertainment, residential and other uses.

"Higher educational institution" means a college or university, accredited by the State.

"Interior landscaping" means area(s) internal to a lot that is(are) devoted to buffer area(s) with plantings.

"Invasive non-native or noxious vegetation" means plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread into native plant communities.

"Junkyard" means any establishment or place of business that is maintained, operated, or used for storing, keeping, buying, or selling old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, wrecked, scrapped, or ruined motor vehicles, or motor vehicle parts, iron, steel, or other scrap or old ferrous or nonferrous material, metal or nonmetal materials, and the term includes automobile graveyards, garbage dumps and scrap metal processing facilities.

"Kennel" means any lot or premises on which 4 or more dogs, more than 4 months of age, are kept.

"Kitchen facility" means an area in which something is built, installed, or established to prepare food for eating by a heating process.

"Landscape strip" means an area for street trees and other plantings within the public right-of-way that is usually located between the curb and the sidewalk.

"Landscaping" means vegetation and materials, including, but not limited to, shrubs, grass, trees, planting beds and bark dust.

"Lantern" means a superstructure crowning a roof or dome having open or windowed walls to let in light and air.

"Lattice tower" means a tower characterized by an open framework of lateral cross members, which stabilize the tower without the use of guy wires.

"Lease area" means the area of a parcel on which wireless communication facilities, antennas and equipment buildings are located.

"Limited use" means a use that is permitted subject to specific limitations as described in the zoning ordinance.

"Livestock" means domestic animals, such as cattle, horses, sheep, hogs or goats, raised for home use or for profit.

"Loading space" means an off-street space or berth on the same lot, or parcel, with a building or use, or contiguous to a group of buildings or uses, for the temporary parking of a vehicle while loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley, or other appropriate means of access and egress.

"Lot" means a plot, parcel, or area of land owned by or under the lawful control and in the lawful possession of one distinct ownership.

"Corner lot" means a lot abutting on 2 or more streets, other than an alley, at their intersection.

"Interior lot" means a lot other than a corner lot.

"Through lot" means an interior lot having frontage on 2 streets.

"Lot coverage" means the footprint of a building or buildings on a lot, measured from the outermost projection of the structure expressed as a percentage of the total lot area.

"Lot depth" means the average horizontal distance between the front lot line and the rear lot line.

"Lot line" means the property line bounding a lot.

"Front lot line" means, in the case of an interior lot, the lot line separating the lot from the street other than an alley; in the case of a corner lot, a line separating the lot from the street on which the contemplated development will face; and, in the case of a through lot, a line separating the lot from the street on which the contemplated development will face.

"Rear lot line" means a lot line which is opposite and most distant from the front lot line; and in the case of an irregular, triangular or other-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

"Side lot line" means any lot line not a front or rear lot line.

"Lot width" means the horizontal distance between side lot lines measured at the building line.

"Manufactured dwelling" means a residential trailer, mobile home, or manufactured home meeting ORS 446.003(25) and designed to be used as a year-round residential dwelling. The manufactured dwelling is a structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, and that is being used for residential purposes.

"Manufactured dwelling park" means a lot, tract, or parcel of land under one ownership, the primary purpose of which is to rent space for placement of a manufactured dwelling. A manufactured dwelling park shall contain a minimum of 2 acres, and a minimum of 4 manufactured dwellings.

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

"Minimum vegetation" means the area of a lot that supports plantings or natural growth, grass, shrubs, measured as a percentage of lot area including planted areas under roof eaves.

"Mobile home" means a manufactured dwelling that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

"Monopole" means a single upright pole engineered to be self-supporting without lateral cross supports or guy wires and used as an antenna support structure.

"Motel or tourist court" means one or more buildings designed or used as temporary living quarters for transients.

"Native vegetation" means any vegetation native to the Portland metropolitan area or listed on the Milwaukie Native Plant List.

"Net acre" means an area measuring 43,560 square feet excluding the following: rights-of-way; floodplains; protected water features; natural resource areas protected under statewide planning Goal 5; slopes in excess of 25 percent; and publicly owned land designated for park, open space and resource protection.

"New construction" means development on a site that was previously undeveloped or from which previously existing structures have been demolished. New construction includes the following: (1) new structures, (2) new additions to existing structures, and (3) reconstruction of fully or partially demolished structures.

"Nonconforming structure or use" means a lawful existing structure or use, at the time the ordinance codified in this chapter or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Office:

> "Professional and administrative office" means professional, executive, management, or administrative offices of firms or organizations. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

"Off-street parking" means space located outside of any street right-of-way that is designed to accommodate the parking of motorized and nonmotorized vehicles.

"Open space" means any parcel of land or portion of a parcel without a structure, except as used and defined in the planned development zone.

"Ordinary mean high water line" means as the elevation on the bank or shore to which water ordinarily rises in season.

"Ordinary mean low water line" means the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water.

"Owner" includes an authorized agent of the owner.

"Parking space" means an area available for the parking of a standard American automobile or compact size.

"Perennial streams" means all primary and secondary perennial waterways mapped by the U.S. Geological Survey.

"Pergola" means an unenclosed and unroofed structure of parallel columns supporting an open roof of beams and crossing rafters or trellis work.

"Perimeter landscaping" means an area around the edge of a lot that is devoted to a buffer area with plantings.

"Person" means any natural person, firm, partnership, association, social or fraternal organization, corporation, estate, trust, receiver, syndicate, branch of government or any other group or combination acting as a unit.

"Personal/business services" means the provision of services to individuals or businesses. Typical uses include laundromats/dry cleaners, tanning salons, barbers, beauty salons, shoe repair, copy centers, secretarial services and blueprint services.

"Physical characteristics" means the physical, natural, and/or man-made features characteristic to a property or properties, including, but not limited to, trees and other vegetation, rocks and outcrops, topography and ground features such as knolls and depressions, water bodies and wetlands, soil characteristics, excavations and fill and embankments.

"Planning director's interpretation" means a ruling of the planning director regarding the applicability, scope, or effect of any provision of Titles 14, 17 and this title.

"Plaza" means an area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas, typically provided with amenities such as seating, drinking and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

"Pleasure craft" means a motorized or nonmotorized boat, canoe, kayak or other similar vessel that is used for private aquatic recreational uses.

"Postconstruction erosion control" means reestablishing groundcover or landscaping prior to the removal of temporary erosion control measures.

"Poultry" means domestic fowl, such as chickens, turkeys, ducks or geese, raised for flesh or eggs.

"Preapplication conference" means a meeting between community development department staff and an applicant or property owner. It provides for an exchange of information regarding applicable requirements of city codes, makes available technical assistance which will aid in the development of an application, and attempts to identify procedures, policies, and regulations that may pose opportunities or constraints for a proposal.

"Prefabricated construction" (modular units) means a structural unit, conforming to the Uniform Building Code, that has been wholly or in part prefabricated at an off-site location and brought by trailer to the site for assembly.

"Primary entrance" means the entrance to a building that most pedestrians are expected to use. Generally, each building has 1 primary entrance. Primary entrances are the widest entrances of those provided for use by pedestrians. In multitenant buildings, primary entrances open directly into the building's lobby or principal interior ground-level circulation space. When a multitenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a primary entrance. In single-tenant buildings, primary entrances open directly into lobby, reception, or sales areas.

"Protected water feature" means the following:

"Primary protected water feature" means and includes any of the following:

- Title 3 wetlands.
- Rivers, streams, and drainages downstream from the point at which 100 acres or more are drained to that water feature (regardless of whether it carries year-round flow).
- Streams carrying year-round flow.
- Springs which feed streams and wetlands and have year-round flow.
- Natural lakes.

"Secondary protected water features" means and includes intermittent streams and seeps downstream of the point at which 50 acres are drained and upstream of the point at which 100 acres are drained to that water feature.

"Public area requirements" means specific standards for streets, sidewalks and public spaces adopted to implement the downtown and riverfront land use framework plan.

"Public facilities" means transportation and public utility improvements as described below.

"Transportation facilities" means transportation-related improvements in a right-of-way or easement, including, but not limited to, travel lanes, bicycle lanes, sidewalks, and transit facilities.

"Public utilities" means public utility-related improvements in a right-of-way, easement, or tract, including water, sanitary sewer, and stormwater infrastructure. See also "utility facilities."

"Public park" means a park, playground, swimming pool, reservoir, or athletic field within the city which is under the control, operation, or management of the Milwaukie community services department.

"Railroad facilities" means railroad switching yards, terminal structure, railroad tracks or any other facilities connected with railroads which generate substantial noise or nuisance.

"Recreational vehicle" means a vehicular-like, portable structure which can be towed, hauled, or driven and is primarily designed for temporary living accommodations for recreational camping and travel use and includes, but is not limited to, travel trailers, motor homes, camping trailers, campers and recreational vans.

"Religious institution" means a structure used by a religious organization having a tax-exempt status.

"Residential home" means a dwelling unit operated as a single housekeeping unit for the purpose of providing a residence which includes food, shelter, personal services, and care, on a permanent basis, for the elderly, disabled, handicapped or others requiring such a residence as defined by the Federal Fair Housing Amendments Acts of 1988.

"Residential trailer" means a manufactured dwelling that was constructed prior to January 1, 1962.

"Restoration" means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity.

"Retail trade" means the sale, lease, or rental of new or used products to the general public. Typical uses include, but are not limited to, grocery stores, specialty stores, drugstores, bookstores, jewelry stores, and video stores.

"Right-of-way" means an area that allows for the passage of people or goods. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public is usually in a tract or easement. See also "street."

"Riparian" means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

"Roadway" means the portion of the street consisting of the paved area between curbs or shoulders. The roadway includes vehicle travel lanes, parking strips, and bike lanes.

"Routine repair and maintenance" means activities directed at preserving an existing allowed use or facility including replacement of materials, but excluding any increases in the existing dimensions of the structure. See also "alteration."

School:

"Commercial school" means a place where instruction is given to pupils in arts, crafts, trades or other occupational skills, and operated as a commercial enterprise as distinguished from schools endowed or supported by taxation.

"Primary, elementary, junior high or high school" means and includes public, private, or parochial; but not nursery school, kindergarten, or day nursery, except when operated in conjunction with a school.

"Second-floor housing" means a residential use that is located on or above the second floor of a building, with the ground floor of the building devoted to nonresidential use (such as, but not limited to, retail or office use).

"Senior and retirement housing" means a multiunit dwelling where persons who are of retirement age reside. Activity levels including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium. The dwelling units shall not have more than one bedroom per unit and shall not have more than 800 square feet per dwelling unit.

"Shared parking" means the same off-street parking area is identified by one or more uses for the parking needs of employees, customers, and/or residents.

"Sidewalk" means a paved walkway within a public right-of-way that is designed for pedestrian use. Sidewalks are generally adjacent to, but separated from, bicycle and vehicle travel lanes by horizontal and/or vertical street elements. Separation generally involves a curb, landscape strip, or both a curb and landscape strip.

"Specified anatomical areas" means and includes any of the following:
- Less than completely and opaquely covered genitals, pubic region, buttock, anus, or female breast below a point immediately above the top of the areola.
- Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

"Specified sexual activities" means and includes any of the following:
- The fondling or other erotic touching of human genitals, pubic region, buttock, anus, or female breast.
- Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- Masturbation, actual or simulated.
- Excretory functions as part of or in connection with any of the activities set forth in the first three bullet points of this definition.

"Stealth Design" means a wireless communication facility that is designed or located in a such a way that the facility is not readily recognizable as wireless communication equipment and is compatible with surrounding uses.

"Steep slopes" means slopes that are equal to or greater than 25%.

"Stormwater facility" or "stormwater pre-treatment facility" means any structure or drainageway that is designed, constructed, and maintained to collect, filter, and retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as wetlands, swales, and ponds that are maintained as stormwater facilities.

"Story" means portion of a building between any floor and the next floor above. If the floor level directly above a basement or unused under-floor space is more than 6 feet above grade for more than 50% of the total perimeter or is more than 10 feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

"Half story" means a story under a gable, gambrel, or hip roof, the wall plates of which on at least 2 opposite exterior walls are not more than 2 feet above the floor of such story. If the floor level directly above a basement or unused under-floor space is less than 6 feet above grade, for more than fifty 50% of the total perimeter or is not more than 10 feet above grade at any point, such basement or unused under-floor space shall be considered as a half-story.

"Stream" means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river, that flows at least part of the year, including perennial and intermittent streams.

"Street" means the entire width between right-of-way lines for vehicular, bicycle, and pedestrian traffic and includes the terms "road," "highway," "lane," "place," "avenue," "alley," and other similar designations.

"Street classification" or "functional street classification" means the classification given to a street that encompasses both its design characteristics and the level and type of service it is intended to provide. These classifications guide design standards, levels of access, traffic control, law enforcement, and the provision for federal, State, and regional transportation funding. The City's functional street classification system includes regional routes, arterials, collectors, neighborhood streets, and local streets. These classifications are described in more detail in the City's Transportation System Plan.

"Street network" means individual streets that are physically connected to one another and that collectively serve travel needs on a local, citywide, and regional level.

"Closed-end street system" means any configuration of streets, including cul-de-sacs, that connect to a single point of access on the street network. A closed-end street system does not include a street system with more than one existing or future connection to the street network. Future connections require dedication of right-of-way or other permanent reservations for future connectivity.

"Through street" means a street that connects to other streets on both ends.

"Street stub" means a temporary street ending that is intended to be extended through adjacent property in the future. Street stubs are generally required when it is anticipated that adjacent property will need to extend the street to accommodate future development.

"Street tree" means a tree located in the right-of-way in a center median or island or in a landscape strip or tree well between the street and the sidewalk.

"Structure" means something constructed or built and having a fixed base or fixed connection to the ground or another structure. (Streets and utilities are excluded from this definition.)

"Structured parking" means a covered structure, or portion of a covered structure, that provides parking areas for motor vehicles. The structure can be part of a principal structure or can be an accessory structure to a use.

"Temporary or transitional facility" means a facility which may provide temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers and detention and detoxification facilities.

"Title 3 Wetlands" means wetlands as shown on the water quality resource area map and other wetlands added to city or county adopted water quality resource area maps consistent with the criteria in Metro Urban Growth Management Functional Plan Title 3 Section 3.

"Tower" means a structure with the sole purpose of serving as an antenna support structure. "Tower" includes guyed towers, lattice towers and monopoles, but does not include any alternative antenna support structure.

"Townhouse" means an attached residential structure which retains private ownership of a portion of the land around it, generally in the form of a small front and/or rear yard. Townhouses on interior lots may have a zero side yard setback. A townhouse can be located in the center of a large project or it can be located adjacent to an existing street. The front door is not required to open onto a street if it is on the interior of a development. If a townhouse property is adjacent to a street, it is required to have its front door facing the street.

"Traffic management" means the many and varied traffic management measures used to reduce the impacts of vehicular traffic volumes and speeds on residential neighborhoods and improve safety for pedestrians and cyclists.

"Transit stop" means a site designated by TriMet as the location at which a TriMet bus or light rail train will accept or discharge passengers.

"Transit street" means a street with existing transit service operating at 20 minute-or-less peak hour frequency.

"Transition area" means an area where new multifamily projects in R-3, R-2, and R-1 Zones that are adjacent to areas designated for lower densities have required transition measures.

"Trellis" means an unenclosed and unroofed vertical frame supporting open latticework used as a screen or support for growing vines or other plants.

"Turnaround" means a vehicle maneuvering area at the end of a street, such as a cul-de-sac or hammerhead turnaround, that allows vehicles to turn around. Turnarounds can be either permanent or temporary.

"Use" means the purpose for which land or a structure is designed, arranged, or intended, or for which it is occupied or maintained. See also "change in use."

"Utility facilities" means buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater facilities.

"Vegetated corridor" means the area of setback between the top of the bank of a protected water feature and the delineated edge of the water quality resource area as defined in Table 1.

"Vegetation" means plantings or natural growth including trees, grass, shrubs, and other similar vegetated groundcover.

"Vehicle" means a device in, upon, or by which any person or property is or may be transported or drawn upon a public street, except devices moved by human power or used exclusively upon stationary rails or tracks.

"Walkway" means a pedestrian-only corridor that is paved with a hard surface material and connects pedestrians from parking areas to uses, between uses, and to sidewalks on adjacent public streets. Walkways are separated from parking areas and internal driveways to promote pedestrian safety.

"Water quality and floodplain management area" means the area that identifies where the water quality resource area and floodplain management area overlay zone is applied.

"Water quality resource areas" means vegetated corridors and the adjacent water feature as established in Chapter 19.322.

"Mitigation" means the reduction of adverse effects of a proposed project by considering, in this order: (1) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (2) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (3) reducing or eliminating the impact over time by preservation and maintenance

operations during the life of the action by monitoring and taking appropriate measures; and/or (4) compensating for the impact by replacing or providing comparable substitute water quality resource areas.

"Significant negative impact" means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.

"Watershed" means a geographic unit defined by the flows of rainwater or snowmelt.

"Wetlands" means those areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

"Wireless Communication Facility (WCF)" means a facility that is designed and used for the purpose of transmitting, receiving, and relaying radio waves of various wireless communication devices. A wireless communication facility normally includes one or more of the following:

- Antennas.
- An antenna support structure.
- An equipment cabinet.

"Yard" means an open space on a lot which is unobstructed from the ground upward except as otherwise provided in this title.

"Front yard" means a yard between side lot lines, and measured horizontally at right angles to the front lot line from the lot line to the nearest point of the building.

"Rear yard" means a yard between side lot lines or between a street side yard and opposite side lot line, and measured horizontally at right angles to the rear lot line from the rear lot line to the nearest point of a main building.

"Side yard" means a yard between the front and rear yard measured horizontally and at right angles from the side lot line to the nearest point of the building.

"Street side yard" means a yard adjacent to a street between the front yard and the rear lot line, measured horizontally and at right angles from the side lot to the nearest point of the building.

Chapter 19.400 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.401 General Exceptions

19.401.1 Lot Size Exceptions

If a lot or the aggregate of contiguous lots or parcels platted prior to effective date of the ordinance codified in this chapter has an area or dimension which does not meet the requirements of said ordinance, the lot or aggregate holdings may be put to a use permitted outright subject to the other requirements of the zone in which the property is located except that a residential use shall be limited to a single-family dwelling or to the number of dwelling units consistent with the density requirements of the zone. However, no dwelling shall be built on a lot with less area than 3000 square feet, or with no frontage on a public street. This section shall not apply in the downtown zones.

19.401.2 Yard Exceptions

A. In addition to yard requirements listed for each zoning district, buildings along certain major streets are subject to additional yard requirements as provided in Table 19.401.2 below. Yards shall be measured so that the minimum distance from the center line of the right-of-way to the closest point of any building is the distance listed in Table 19.401.2 plus the yard requirement of the underlying zone.

Table 19.401.2 Additional Yard Requirements

Major Street	Distance from Centerline (plus yard requirements in zone)
Firwood Street (55th to Stanley)	25 feet
Harmony Road	40 feet
Harrison Street (Milwaukie Expressway to 44th)	40 feet
Harrison Street (Milwaukie Expressway to McLoughlin)	30 feet
Harvey Street (32nd to 42nd)	25 feet
Howe Street (42nd to 43rd)	30 feet
Johnson Creek Boulevard	30 feet
King Road	40 feet
Linwood Avenue	40 feet
Lake Road	30 feet
Logus Road	25 feet
Monroe Street (52nd to Linwood)	30 feet
Oak Street	30 feet
Oatfield Road	30 feet
Ochoco Street	30 feet
Olsen Street	25 feet
Railroad Avenue	30 feet
River Road (south of Lark Street)	30 feet
Roswell Street (32nd to 42nd)	25 feet
Washington Street (west of Railroad)	30 feet
Willow Street (Windsor Drive to Stanley)	25 feet
17th Avenue (Ochoco to McLoughlin)	40 feet
32nd Avenue (north of Harrison)	30 feet

37th Avenue (Lake Road to Grogan)	25 feet
40th Avenue (Harvey to Railroad)	40 feet
42nd Avenue (Johnson Creek Blvd. to Howe Street)	30 feet
42nd Avenue (Harrison Street to King Road)	30 feet
43rd Avenue (Howe to King)	30 feet
55th Avenue (Firwood to Johnson Creek Blvd.)	25 feet

B. The following exceptions to the yard requirements are established for a lot in any one zone:

1. The required front yard need not exceed the average depth of the 2 abutting front yards within 100 feet of the proposed structure.

2. The required front yard need not exceed the average depth of the abutting front yard within 100 feet of the proposed structure and the required front yard depth.

C. Architectural features such as cornices, eaves, canopies, sunshades, gutters, steps, unroofed landings, and flues may project up to 24 inches into a required side yard or 36 inches into a required front or rear yard.

19.401.3 Building Height Exceptions

A. Projections such as chimneys, spires, domes, elevator shaft housings, flagpoles, and other similar objects not used for human occupancy are not subject to the building height limitations of this chapter, except as provided in an L-F zone.

B. One additional story may be permitted in excess of the required maximum standard. An additional 10% of site area that is retained in vegetation beyond the minimum is required for each additional story. This provision does not apply to the R-10, R-7, R-5, or downtown zones.

19.401.4 Density Exceptions

A. In exchange for the dedication of park land, residential density may be increased (and lot sizes decreased) so that overall parcel density remains the same.

B. For any housing development proposed, an additional housing unit will be allowed for each unit priced for sale at 25% below the average new single-family housing cost. The cost shall be that established in the most recent edition of "Real Estate Trends," published semiannually by the Metropolitan Portland Real Estate Research Committee, Inc. Overall project density may not exceed the allowable density plus 10%. The planned unit development density increase specified in Section 19.319 and this density increase are additive.

19.402 Accessory Structures and Uses

19.402.1 Accessory Structures, General Provisions

A. No accessory structure shall encroach upon or interfere with the use of any adjoining property or public right-of-way including but not limited to streets, alleys, and public and private easements.

B. Multiple accessory structures are permitted subject to building separation, building coverage, and minimum vegetation requirements of the zoning district in which the lot is located.

C. An accessory structure shall comply with all of the requirements of the Uniform Building Code.

D. Accessory structures excluding fences, pergolas, arbors, or trellises may not be located within the required front yard except as otherwise permitted in this chapter.

E. An accessory structure must maintain a minimum side and rear yard setback of 5 feet, except where other requirements of this title are more restrictive.

F. Alteration or modification of nonconforming accessory structures is subject to the provisions of Chapter 19.800 Nonconforming Uses and Structures.

G. Pergolas, arbors, and trellises are permitted in yards in all residential zones.

19.402.2 Accessory Structures, Single-Family Residential Provisions

A. Residential accessory structures excluding pools, uncovered decks, and patios are subject to the following:

1. For lots 10,000 square feet or less, the footprint of an accessory structure may not exceed 500 square feet. For lots greater than 10,000 square feet the footprint of an accessory building may not exceed 850 square feet.

2. An accessory structure may not exceed 15 feet in height as measured from the average finished grade within a 10-foot horizontal distance from the base of the building to the highest point of the roof.

3. Flat roofs and shed roofs are prohibited on accessory structures that have a floor-to-ceiling height greater than 9 feet.

4. The minimum roof pitch for accessory structures with other than a flat or shed roof is 4 inches rise for every 12 inches of run.

5. The placement of fill to raise grade elevations that has the effect of exceeding building height limitations is prohibited.

6. Metal siding is prohibited on accessory structures with a footprint greater than 120 square feet. For accessory structures greater that 120 square feet, exterior siding and roofing materials that are commonly used on residential structures shall be used.

B. Fences, walls, and plantings may be constructed or maintained in yards with the following limitations:

1. Fences, walls, and plantings shall be constructed or maintained in yards only so as to permit unobstructed vision of passenger vehicle operations when approaching intersecting streets or driveways. Fences, walls, and plantings shall meet clear vision standards provided in Chapter 12.24. Fences and walls on lot perimeters in areas other than those obstructing the vision of passenger vehicle operators shall be constructed or maintained to the following standards:

a. Residential Zones and Residential Uses in All Zones. Maximum height is 6 feet for rear, street side and side yards, 42 inches for front yards, except that for flag lots fences in the front yard may be 6 feet. No electrified, barbed, or razor wire fencing is permitted.

b. Commercial Zones. Maximum height 6 feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, following a Type II administrative review as per Subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a 6-foot-high sight-obscuring fence.

c. Industrial Zones. Maximum height 8 feet. No electrified wire is permitted. Barbed or razor wire may be permitted for security purposes on top of a maximum height fence, except where such fencing is proposed adjacent to residential zones or residential uses, in which case such may be allowed following a Type II administrative review as per Subsection 19.1011.2 in which a determination has been made that the proposed fencing will not adversely impact the health, safety, or welfare of adjacent property occupants. All outdoor storage shall require a sight-obscuring fence with a minimum height of 6 feet.

2. In all cases, fence and wall height shall be measured from the top of the fence or wall to the highest ground level within a one-foot horizontal distance from the fence.

C. Regardless of the yard requirements of the zone, a side, rear, or front yard may be reduced to 3 feet for an uncovered patio, deck, or swimming pool not exceeding 18 inches in height above the average grade of the adjoining ground (finished elevation).

19.402.3 Accessory Uses, General Provisions

Accessory uses shall comply with all requirements for the principal use except where specifically modified by this chapter and shall comply with the following limitations:

A. A guesthouse without kitchen facilities may be maintained accessory to a dwelling.

B. A greenhouse or hothouse may be maintained accessory to a dwelling provided nothing grown is sold on the premises.

C. Keeping of livestock or poultry shall be in buildings that fully comply with building and sanitary codes. The keeping of chickens or other domestic or domesticated fowl shall not exceed fifty in number and shall require the written consent of all owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the chickens or domesticated fowl are proposed to be kept.

D. Keeping of colonies of bees shall be prohibited except that the planning commission may approve an application to keep not more than 2 colonies of bees whenever such application is accompanied by the written consent of all the owners of real property (or a part thereof) within 100 feet of any point on the boundary of the property on which the bees are proposed to be kept.

E. Amateur and CB radio equipment and operations shall be considered an accessory use. Radio and television structures or towers outside of dwellings shall be subject to building regulations. Such structures and towers shall conform to height, yard, and other standards of the zoning ordinance. Any deviation from these standards will require a variance by the planning commission. Operational characteristics and limitations of such equipment shall be as established and administered by the FCC.

19.402.4 Accessory Dwelling Unit (Type 1)

Type 1 accessory dwelling unit is a permitted accessory use in all residential zones that allow single-family detached structures subject to the following:

A. Purpose. To provide the means for reasonable accommodation of accessory dwelling units, providing affordable and decent housing while providing home owners with alternative financial resources, thereby encouraging maintenance of existing housing stock. It is the intent of this section that development of accessory dwelling units not diminish the single-family character of a neighborhood and that any single-family residence containing an accessory dwelling maintain the appearance of a single-family dwelling as viewed from the street. Any conversion or alteration of a single-family structure that requires exterior additions or modifications must be designed so that

the outward appearance of the structure is consistent with general design characteristics of single-family structures and is consistent with the architectural treatment of the existing structure.

B. Approval Required. Type 1 accessory dwelling units are subject to Subsection 19.1011.2, Type II Administrative Review. Applications shall be made on forms provided by the planning department and shall be accompanied by the following information:

1. Completed application forms.

2. Site plan showing the following:

   a. Lot lines and location and dimensions of existing and proposed structures with yard dimensions.

   b. Location and dimension of existing and proposed parking.

   c. Location of structures on adjoining lots.

3. Dimensioned architectural drawings showing existing and proposed floor plans and elevations. Elevations are to identify existing and proposed details such as siding material, window and door design, roof style and height, and otherwise as necessary to demonstrate compliance with the requirements of this regulation. Floor plans are to identify existing and proposed layout with all spaces identified.

C. The applicant must demonstrate the proposed modifications comply with applicable building and fire safety codes.

D. Notwithstanding the maximum allowable gross floor area of 600 square feet, the accessory dwelling unit shall not exceed 40% of the gross floor area of the primary structure.

E. Construction of an accessory dwelling unit is subject to Milwaukie Municipal Code Chapter 13.28 Capital Improvements.

F. Ownership and Tenancy. Either the primary residence or the accessory unit must be occupied by the property owner. Proof of owner-occupancy shall be made annually in accordance with a procedure and submission requirements established by the planning director. Ownership of the accessory units shall not be subdivided or otherwise separated from ownership of the primary residence.

G. Business License Required. A Milwaukie business license is required for operation of rental property, pursuant to Milwaukie Municipal Code Chapter 5.04.

H. Use, Alteration, or Conversion of Structure. Type I accessory dwelling units may be located in a single-family residential structure provided the following criteria are met:

1. All exterior modifications shall be consistent with general design characteristics of single-family residential design. In reviewing applications for exterior modifications for consistency of architectural treatment with existing design, consideration shall be given to design elements such as, but not limited to, placement of doors and windows, finish materials, location of parking, lighting, and the like.

2. For fronting lots, only one entrance to the residential structure shall face the street. Exterior access to the accessory unit shall be located in side or rear yards or by means of the existing main entrance.

3. No portion of a building that encroaches within a required yard setback may be converted to or used as an accessory dwelling unit.

4. Exterior lighting for accessory unit doorways shall not encroach beyond the property line of the lot on which it is located.

5. No fire escape or exterior stair for access to an upper level may be located on the front of the building.

6. No more than one accessory dwelling unit per lot is permitted.

I. Required Parking. Off-street parking shall be provided in accordance with Chapter 19.500. If new parking must be constructed to meet minimum required parking, it shall be located contiguous to existing parking.

19.403 Site and Building Design Provisions

19.403.1 Storage in Front Yard

Vehicles that are partially dismantled or do not have a valid state license shall not be stored more than 10 days in a required front yard or street side yard. All vehicles, licensed or unlicensed, shall be stored in driveway areas only. Vehicles used for commercial purposes (such as trucks) shall be screened or stored from view of the street.

19.403.2 Clear Vision Areas

A clear vision area shall be maintained on the corners of all property at the intersection of two streets or a street and a railroad according to the provisions of the clear vision ordinance in Chapter 12.24.

19.403.3 Maintenance of Minimum Ordinance Requirements

No lot area, yard, other open space, or off-street parking or loading area shall be reduced by conveyance or otherwise below the minimum requirements of this title, except by dedication or conveyance for a public use.

19.403.4 Dual Use of Required Open Space

No lot area, yard, or other open space or off-street parking or loading area which is required by this title for one use shall be used to meet the required lot area, yard, or other open space or off-street parking area for another use, except as provided in subsection 19.503.1.C.

19.403.5 Buildings on the Same Lot

A minimum distance of 6 feet as measured between the closest points of the structures shall be maintained between a building designed for dwelling purposes and other buildings on the same lot. In R-10, R-7, R-5, and R-3 zones, only one building designed for dwelling purposes shall be permitted per lot.

19.403.6 Distance from Property Line

Where a side or rear yard is not required and a structure is not to be erected at the property line, it shall be set back at least 3 feet from the property line.

19.403.7 Transition Area

In zones where multifamily, commercial, or industrial projects are proposed that are within 100 feet of areas designated for lower density, transition measures shall be applied in order to minimize the impact on lower density uses. The downtown zones are exempt from this section. The transition measures shall be subject to planning commission review at a public hearing per subsection 19.1011.3, Minor Quasi-Judicial Review, and shall include one or a combination of the following. The planning commission may apply conditions to such approval as will meet the objectives of this section.

A. Roadways separating projects.

B. Open areas (developed or undeveloped) separating new structures from adjacent parcels. A minimum distance equal to the required front yard of adjacent parcels will be established and maintained as open area. Natural vegetation, landscaping, or fencing will be provided to the 6 foot level to screen living rooms from direct view across open areas.

C. Gradual density changes. A new project may not have a density greater than 25% of the allowable density on lower density residential parcels abutting the project. If abutting parcels have a variety of allowable residential densities, parcels with similar allowable densities abutting the highest percentage of the project perimeter will govern.

19.403.8 Minimum Vegetation

In the vegetation area a maximum of area shall be for planting and a minimum for bark dust. Plans for development shall include landscaping plans which shall be reviewed for conformance to this standard.

19.403.9 Multifamily Recycling Requirements

A. Purpose. This section is intended to promote recycling and to meet requirements of ORS 459.165, which requires local jurisdictions to provide opportunities for recycling, and ORS Chapter 90, which requires landlords to provide a location in multifamily residential dwelling projects for recycling.

B. Definition. For the purposes of this section, the following definition shall apply:

"Recycling collection area" means a specific location where recyclable materials may be deposited and contained for regular collection by a material collection service.

C. Applicability. All new multifamily apartment and condominium dwelling projects, and projects proposing unit expansion to existing multifamily apartment and condominium dwellings, must provide area(s) for recycling collection subject to the standards herein.

D. Recycling Collection Area Standards. Standards for recycling collection areas are as follows:

1. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.
2. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.
3. Recycling containers must be covered either by roof or weatherproof lids.
4. If located outdoors, the recycling collection area must be screened from the street and adjacent properties by sight-obscuring materials.
5. The recycling collection area(s) must have a collection capacity of at least 100 cubic feet in size for every 10 dwelling units or portion thereof.
6. The recycling collection area must be easily accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m.
7. The recycling collection area and containers must be clearly labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.
8. City fire department approval will be required for all recycling collection areas.
9. Review and comment for all recycling collection areas will be required from the appropriate franchise collection service.

E. Review of recycling collection areas for new multifamily dwelling projects that require conditional use approval shall be made by the planning commission following the procedures of Subsection 19.1011.3, Minor Quasi-Judicial Review.

F. Review of recycling collection areas for new multifamily projects that are permitted outright shall be made at the time of project building permit review following the procedures of Subsection 19.1011.1, Type I Administrative Review.

19.403.10 Design Standards for Single-Family Dwellings

A. All new single-family attached and detached dwelling units shall meet the following design standards:

1. The main entrance of the dwelling shall be oriented to the street upon which the lot fronts or which provides vehicle access. The main entrance shall be considered to be oriented to the street if the front door faces the street or if the front door leads to a porch, patio, or sidewalk that is located in the front yard.

2. The area of windows on all exterior wall elevation(s) facing the street shall be at least 12% of the area of those elevations. Roofs, including gable ends, shall not be included in wall area.

B. All dwellings, except temporary dwellings approved in accordance with this chapter, shall include at least three of the following features on any building elevation that faces, or is visible to, the street (if on a corner lot, visible to the street where the dwelling takes access). Manufactured homes are subject to additional requirements of this chapter.

1. Covered porch at least 5 feet deep.

2. Entry area recessed at least 2 feet from the exterior wall to the door.

3. Bay or bow window that projects at least 1 foot from exterior wall.

4. Offset on the building face of at least 16 inches from one exterior wall surface to the other.

5. Dormer.

6. Roof eaves with a minimum projection of 12 inches from the intersection of the roof and the exterior walls.

7. Roof line offsets of at least 16 inches from the top surface of one roof to the top surface of the other.

8. Attached garage.

9. Cupola.

10. Tile or wood shingle roofs.

11. Horizontal lap siding.

12. Brick covering at least 40% of the building elevation that is visible from the street.

19.403.11 Flag Lot Design and Development Standards

A. Applicability. Flag lots in all zones are subject to the development standards of this section.

B. Development Standards.

1. Lot Area Calculation. The areas contained within the accessway or pole portion of the lot shall not be counted towards meeting the minimum lot area requirement.

2. Yard Setbacks for Flag Lots.

   a. Front and Rear Yard. The minimum front and rear yard requirement for flag lots is 30 feet.

   b. Side Yard. The minimum side yard for principal and accessory structures in flag lots is 10 feet.

C. Variances Prohibited. Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

D. Frontage, Accessway, and Driveway Design.

1. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 feet. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

2. Abutting flag lots shall have a combined frontage and accessway of 35 feet. For abutting accessways of two or more flag lots, the accessway of any individual lot shall not be less than 15 feet.

3. Driveway Design and Emergency Vehicle Access.

   a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

   b. Driveways serving single flag lots shall have a minimum paved width of 12 feet.

   c. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this section.

   d. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area may be required.

   e. Driveways serving two flag lots shall be consolidated and have a minimum shared driveway width of 16 feet.

   f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

   g. Design standards for shared driveways serving more than three lots shall be specified by the engineering director after consultation with the fire marshal.

   h. Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

E. Protection of Adjoining Properties. Flag lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection19.402.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the city attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be

foreclosed. The property owner shall maintain required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Impacts to neighboring lots due to use of the flag lot driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along the flag lot driveway abutting any neighboring lot that is not part of the parent lot from which the flag lot was created is required as follows:

   a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within three (3) years of planting is allowed.

   b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.

   c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

F. Tree Mitigation. All trees 6 inches or greater in diameter, as measured at the lowest limb or 4 feet above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least one evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 inches caliper and evergreen trees shall be a minimum of 5 feet tall.

G. Landscaping Plan Required. A landscaping plan shall be submitted to the planning director prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors and outdoor use areas on lots that adjoin the flag lot driveway.

19.403.12 On-Site Walkways and Circulation

A. Requirement. All development subject to Chapter 19.1400 (excluding single-family residential development) shall provide a system of walkways that encourages safe and convenient pedestrian movement within and through the development site. Redevelopment projects that involve remodeling or changes in use shall be brought closer into conformance with this requirement to the greatest extent practicable. On-site walkways shall link the site with the public street sidewalk system. Walkways are required between parts of a site where the public is invited to walk. Walkways are not required between buildings or portions of a site that are not intended or likely to be used by pedestrians, such as truck loading docks and warehouses.

B. Location. A walkway into the site shall be provided for every 300 feet of street frontage.

C. Connections. Walkways shall connect building entrances to one another and building entrances to adjacent public streets and existing or planned transit stops. On-site walkways shall connect with walkways, sidewalks, bicycle facilities, alleys and other bicycle or pedestrian connections on adjacent properties used or planned for commercial, multifamily, institutional or park use. The City may require connections to be constructed and extended to the property line at the time of development.

D. Routing. Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops to primary buildings on the site.

E. Design Standards. Walkways shall be constructed with a hard surface material and shall be no less than 5 feet in width. If adjacent to a parking area where vehicles will overhang the walkway, a 7-foot wide walkway shall be provided. The walkways shall be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials. On-site walkways shall be lighted to an average five tenths foot-candle level. Stairs or ramps shall be provided where necessary to provide a direct route.

19.403.13 Building Orientation to Transit

The following requirements apply to all new multifamily, commercial, office, and institutional development within 500 feet of an existing or planned transit route measured along the public sidewalk that provides direct access to the transit route:

A. Building Orientation to Transit Street. New buildings shall have their primary orientation toward a transit street or, if not adjacent to a transit street, a public right-of-way which leads to a transit street. The primary building entrance shall be visible from the street and shall be directly accessible from a sidewalk connected to the public right-of-way. A building may have more than one entrance. If the development has frontage on more than one transit street, the primary building entrance may be oriented to either street or to the corner.

B. Maximum Setbacks Adjacent to Transit Street. When adjacent to a street served by transit, new commercial, office or institutional development, including uses authorized under Section 19.321 Community Service Use, shall be set back no more than 30 feet from the right-of-way that is providing transit service.

1. An individual building may be set back more than 30 feet, provided the building is part of an approved phased development that will result in a future building(s) that complies with the 30 foot setback standard.

2. For sites with multiple buildings, the maximum distance from a street with transit to a public entrance of the primary building shall be no more than 100 feet.

3. If the proposed building is part of an institutional campus, the Planning Director may allow flexibility in the setback and orientation of the building. As a trade-off for this flexibility, enhanced sidewalk connections shall be provided between the institutional building(s) and nearby transit stops.

4. If the site abuts more than one street served by transit, then the maximum setback requirement need only apply to one street.

19.404 Temporary Dwelling Unit Provisions

19.404.1 Requirements for Approval

Upon application of the property owner, the community development director may approve the location of a temporary structure, such as a motor home, recreational vehicle, or trailer house, for use as a temporary residence during construction of a permanent dwelling for a period not to exceed 6 months where:

A. There is an emergency hardship resulting from a natural catastrophe such as fire, flood, storm, etc.

B. The applicant has applied for a building permit for a permanent dwelling.

C. The temporary structure will be owner-occupied.

D. The temporary structure must be removed upon completion of the permanent structure and prior to the issuance of the final certificate of occupancy.

E. The use is consistent with the Milwaukie comprehensive plan.

F. There is no other reasonable alternative to use of a temporary structure.

19.404.2 Approval Conditions

In addition, the applicant must satisfy the following conditions for approval:

A. City approval of a sewage disposal system for the structure.

B. Screening of the structure to minimize any adverse visual impact on surrounding property.

C. Placement of manufactured skirting around the structure.

D. Any other condition imposed by the community development director to safeguard the public health, safety, convenience and general welfare.

19.404.3 Review Process

Applications for temporary structures shall be processed according to Subsection 19.1011.1 Type I administrative review. Temporary permits that exceed the 6-month time period allowed under Subsection 19.404.1 must be reviewed by the planning commission under Subsection 19.1011.3.

19.405 Manufactured Dwelling Parks

19.405.1 Purpose

This section is intended to complement the policies of the comprehensive plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing 6 to 12 dwelling units per acre.

19.405.2 Application

A. Manufactured dwelling park developments are only allowed in the R-3, R-5, and R-7 zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this section.

B. Each application for a manufactured dwelling park shall include a plot plan drawn to scale of the specific layout of the entire park. The plot plan shall include both the dimensions and the existing and proposed locations of all utilities, roadways, structures, parking, landscaping and open areas,

and manufactured dwelling spaces on the site. In addition, the location of structures on adjacent properties shall be shown.

19.405.3 General Requirements

Manufactured dwelling parks shall be subject to review under Subsection 19.1011.3 Minor Quasi-Judicial Review.

19.405.4 Development Requirements

All manufactured dwelling parks shall meet the following minimum requirements:

A. The minimum size of a manufactured dwelling park shall be two acres.

B. The number of units allowed in the manufactured dwelling park will be subject to the density requirements of the underlying zone after 15% of the site has been deducted for access drives.

C. A minimum setback of 15 feet will be observed between all manufactured dwellings and the outer boundary of the manufactured dwelling park. Exterior boundaries of the park shall be screened to a height of 6 feet by a sight-obscuring solid wall, fence, or evergreen or other suitable hedge planting, exclusive of required openings. It shall be the responsibility of the property owner to install and maintain required landscaping and irrigation systems.

D. Each manufactured dwelling unit or accessory structure shall maintain a minimum 10-foot setback from the private street and the nearest point of the unit or accessory structure. If the manufactured dwelling space is on the side of a private street bounded by a sidewalk, the unit or accessory structure shall be set back 10 feet from the sidewalk. Each unit or accessory structure shall be separated from any unit or accessory structure on an adjacent space by a minimum of 15 feet.

E. A minimum of 15% of the gross site area shall be reserved for common open space for the use of all residents. Open space requirements may include up to 100 square feet per unit of indoor facilities. Outdoor open space areas should be suitably landscaped.

F. A manufactured dwelling park shall have an entrance drive from a public street. Access to individual units shall be from private streets within the site which have a minimum width of 24 feet of paving from curb to curb. A paved sidewalk shall be provided along at least one side of each private street in the park and shall be a minimum of 4 feet in width. Parking shall be permitted on one side of those private streets constructed with a minimum width of 30 feet of paving.

G. Off-street parking and recreational vehicle parking shall be provided as per Chapter 19.500. If 24-foot wide streets are constructed, an additional off-street parking space per each two manufactured dwelling spaces shall be provided as visitor spaces. These parking spaces shall be within 100 feet of the manufactured dwellings they serve.

H. Except for a structure which conforms to the state definition of a manufactured dwelling accessory structure, no other extension shall be attached to a manufactured dwelling, except a garage or carport constructed to the specifications of the Oregon State Structural Specialty Code.

I. All manufactured dwellings shall be set onto an excavated area with perimeter foundation, and the excavated area shall be backfilled, or the dwelling must be installed with an approved foundation siding/skirting enclosing the entire perimeter of the dwelling. Foundation siding/skirting and backup framing shall be weather-resistant, noncombustible, or self-extinguishing materials which blend with the exterior siding of the dwelling. Below grade level and for a minimum distance of 6 inches above finished grade, the materials shall be resistant to

decay or oxidation. The siding shall be installed in accordance with manufacturer's recommendations or approved equal standards.

J. Requirements for lighting, utility systems, decks, play areas, park sanitation, and maintenance not specified herein shall be those specified in OAR 814-28, Mobile Home Parks and OAR 814-23, Mobile Homes, Manufactured Homes, Recreational Vehicles and Accessory Buildings or Structures.

K. Standards of the underlying zone also apply except where otherwise provided for in this section.

L. The entire manufactured dwelling park shall comply with the above requirements prior to occupancy.

19.406 Manufactured Dwelling Placement

19.406.1 Purpose

This section is intended to meet state legislative requirements for the placement of manufactured homes on individual lots and to provide standards for unit placement.

19.406.2 Applicability

Manufactured homes placed on individual lots are subject to the provisions of this section. Treatment of manufactured homes by zones is shown in Table 19.406:

Table 19.406 Manufactured Dwelling Placement by Zone

Zone	Permitted Outright	Conditional Use	Temporary Permit	Manuf. Home Subdivision
R-10	X		X	X
R-7	X		X	X
R-5	X		X	X
R-3	X		X	X
R-2.5	X		X	X
R-2	X		X	X
R-1-B	X		X	X
R-1	X		X	X
R-O-C	X		X	X

19.406.3 Definitions

For the purposes of this section, the following definition shall apply:

"Manufactured home" means a single-family residential structure as defined in ORS 446.003(25)(a)(C) which includes a Department of Housing and Urban Development (HUD) label certifying that the structure is constructed in accordance with the Manufactured Housing Construction and Safety Standards of 1974 (42 USC Sections 5401 et seq.) as amended on August 22, 1981.

19.406.4 Siting Standards

Manufactured homes placed on individual lots shall meet the following standards:

A. The unit shall be multisectional (double-wide or wider) and enclose a floor area of not less than 1000 square feet.

B. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 inches above grade and enclosed at the perimeter by skirting of pressure treated wood, masonry, or concrete wall construction and complying with the minimum setup standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918.

C. The unit shall have a roof with a pitch of at least 3 inches rise for every 12 inches of run.

D. The unit shall have a garage or carport constructed with exterior siding and roofing which, in color, materials, and appearance, matches the manufactured home. The community development director may, at the time of placement permit application, require an attached or detached garage in lieu of a carport where such is consistent with the predominant construction of immediately surrounding dwellings.

E. The unit shall have exterior siding and roofing which, in color, materials, and appearance, is similar to the exterior siding and roofing material commonly in use on residential dwellings within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the community development director. Materials that shall not be allowed include bare metal siding or roofing.

F. The unit shall comply with the definition for manufactured home as identified in this section.

G. The unit shall comply with single-family parking and paving standards as described in Chapter 19.500.

19.406.5 Implementation of Siting Standards

A. For unit placement on an individual lot within all residential zones, the siting standards shall be administered as part of the building permit process for the unit placement.

B. Manufactured home placement as authorized by the temporary structure permit process of Section 19.404 is not subject to the siting standards of this section.

19.406.6 Occupancy of Units

All approval and siting standards of this section shall be complied with before a manufactured home placed on an individual lot may be approved for occupancy.

19.406.7 Review Process

A. Siting standards of this section shall be reviewed as part of the building review procedures of Subsection 19.1011.1.

B. Subdivision processes and procedures are contained in Title 17 Land Division.

19.407 Home Occupation Provisions

It is the intent of these regulations to support and encourage home occupations but at the same time protect the residential character of the city's residential neighborhoods. A home occupation shall be allowed as an accessory use to all residential uses permitted by right, subject to the following restrictions. Home occupation businesses, which are not clearly accessory and incidental to the residential use, are prohibited. All activities permitted under this section must be consistent with this section.

19.407.1 Home Occupation Use Standards

Home occupation uses are allowed by right, however they are subject to limitations to ensure compatibility with residential uses. A home occupation shall:

A. Be incidental and accessory to the residential use of the property.

B. Maintain the residential character of the building and premises.

C. Not have the outward appearance of a business.

D. Not detract from the residential character of the neighborhood.

E. Be owned and operated by an occupant of the dwelling.

19.407.2 Prohibitions and Use Restrictions

A. Outside display or storage of merchandise, materials, or equipment on the premises or any adjacent right-of-way is prohibited.

B. Noise, odor, smoke, gases, vibration, heat, or glare that is detectable beyond the limits of the property is prohibited.

C. In the case of on-premise instruction, no more than five enrollees shall be present at the same time.

D. Motor vehicle, boat or trailer repair is prohibited as a home occupation.

E. Only one home occupation is allowed per residence, except that two may be permitted provided no employees not residing in the home are engaged in the conduct of any business activity on the premises.

19.407.3 Permitted Signage

Only one sign is permitted on any property with an approved home occupation. The sign shall not exceed 4 square feet in area, shall not be illuminated, shall not exceed 3 feet in height, and shall not be located within the public right-of-way. Signs located within the public right-of-way may be removed by the City without prior notice.

19.407.4 Enforcement

Home occupations are allowed when consistent with provisions of this section. The following may be considered in any enforcement action against a home occupation for failure to comply with Subsection 19.407.1 of this section:

A. Number of on-site employees who are not members of the family residing on the premises.

B. Use of the home to distribute or receive goods.

C. Use of the premises for parking of customer, client, or employee vehicles, and the location and number of parking spaces.

D. The use of public streets for parking or storage.

E. The time of day that home occupation activities may take place.

F. Equipment or material storage, including vehicles and trailers.

G. Noise, light, fumes, exhaust, and similar impacts.

Chapter 17.08 DEFINITIONS

17.08.330 (Repealed by Ord. ____.)

Chapter 17.20 PRELIMINARY PLAT

17.20.060 Proposed conditions.

A. Twelve (12) copies of a preliminary plat shall be submitted to the planning director. The plat shall include the following information:

1. Date, north point, scale, address, assessor reference number, and legal description;
2. Name and address of the record owner or owners and of the person who prepared the site plan;
3. Approximate acreage and square feet under a single ownership, or if more than one ownership is involved, the total contiguous acreage of all landowners directly involved in the partition;
4. For land adjacent to and within the area to be divided, the locations, names, and existing widths of all streets, driveways, public safety accesses, easements, and right-of-ways; location, width, and purpose of all other existing easements; and location and size of sewer and waterlines, drainage ways, power poles, and other utilities;
5. Location of existing structures, identifying those to remain in place and those to be removed;
6. Lot design and layout, showing proposed setbacks, landscaping, buffers, driveways, lot sizes, and relationship to existing or proposed streets and utility easements;
7. Existing development and natural features for the site and adjacent properties, including those properties within one hundred (100) feet of the proposal, showing buildings, mature trees, topography, and other structures;
8. Elevation and location of flood hazard boundaries;
9. The location, width, name, and approximate centerline grade and curve radii of all streets; the relationship of all streets to any projected streets planned by the City; whether roads will continue beyond the plat; and existing and proposed grade profiles. No street name may be used which will duplicate or be confused with the name of an existing street, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area.

B. A conceptual plan shall be provided for complete subdivision or partitioning of the property, as well as any adjacent vacant or underutilized properties, so that access issues may be addressed in a comprehensive manner. The concept plan shall include documentation that all options for access have been investigated including shared driveways, pedestrian accessways, and new street development.

C. A detailed narrative description demonstrating how the proposal meets all applicable provisions of this title, Title 19, and City design standards, including the Public Works Standards.

D. Plans and drawings as necessary to demonstrate compliance with all applicable provisions of chapters of this title, Title 19, and City design standards, including the Public Works Standards.

E. A drainage summary report and plan prepared in accordance with the applicable Public Works Standards.

F. Proposed deed restrictions, if any, in outline form.

G. Improvements to be made by the developer and the approximate time such improvements are to be completed. Sufficient detail regarding proposed improvements shall be submitted so that they may be checked for compliance with the objectives of this title, state law, and other applicable city ordinances. If the nature of the improvements is such that it is impractical to prepare all necessary details prior to approval of the preliminary plat the additional details shall be submitted with the request for final plat approval.

Chapter 17.28 DESIGN STANDARDS

17.28.010 Conformity of subdivision.

Partitions and subdivisions shall conform with any development plans of the city and shall take into consideration any preliminary plans made in anticipation thereof and shall conform with the requirements of state laws and with the standards established by the city.

17.28.020 Public facility improvements.

All land divisions and boundary changes that increase the number of lots shall be subject to the requirements and standards contained in Chapter 19.1400 Public Facility Improvements and the Public Works Standards for improvements to streets, sidewalks, bicycle facilities, transit facilities, and public utilities.

17.28.030 Easements.

A. Utility Lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated wherever necessary. The easements shall be provided in accordance with applicable design standards in the Public Works Standards.

B. Watercourses. If a subdivision is traversed by a watercourse such as a drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width as will be adequate for the purpose of including construction and maintenance. Streets, parkways, bicycle ways or pedestrian ways parallel to major watercourses may be required.

17.28.040 General lot design.

A. Size and Shape. Lot size, width, shape and orientation shall be appropriate for the location and the type of use contemplated. Minimum lot standards shall conform to Title 19. This section does not apply to units of land that are created for purposes other than land development including parks, natural areas, right-of-way dedications, or reservations of a similar nature.

B. Rectilinear Lots Required. Lot shape shall be rectilinear, except where not practicable due to location along a street radius, or existing lot shape. The sidelines of lots, as far as practicable, shall run at right angles to the street upon which the lots face. As far as practicable, the rear lot line shall run parallel to the street.

C. Limits on Compound Lot Line Segments. Changes in direction along side and rear lot lines shall be avoided. Cumulative lateral changes in direction of a side or rear lot line exceeding ten percent (10%) of the distance between opposing lot corners along a given lot line is prohibited. Changes in direction shall be measured from a straight line drawn between opposing lot corners.

D. Adjustments to Lot Shape Standard. Lot shape standards may be adjusted subject to Chapter 19.700 Variances, Exceptions and Home Improvement Exceptions.

E. Limits on Double and Reversed Frontage Lots. Double frontage and reversed frontage lots should be avoided, except where essential to provide separations of residential development from railroads, traffic arteries, or adjacent nonresidential uses, or to overcome specific disadvantages of topography and orientation.

F. Measurement of Required Frontage. Pursuant to the definition and development standards contained in Title 19 for frontage, required frontage shall be measured along the street upon which the lot takes access.

17.28.050 Flag lot development and future access.

Applicants for flag lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots. The creation of flag lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots may be allowed as an interim measure. In this case, planning commission review shall be required and the flag lot(s) must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval.

17.28.060 Flag lot design standards.

A. Consistency with the Zoning Ordinance. Flag lot design shall be consistent with Subsection 19.403.11.

B. More than Two Flag Lots Prohibited. The division of any unit of land shall not result in the creation of more than 2 flag lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots are prohibited.

17.28.070 Flag lot limitations.

Flag lots are prohibited in subdivisions.

17.28.080 Public open spaces.

A. Due consideration shall be given to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use.

B. Where a proposed park, playground or other public use shown in the comprehensive plan or master plan adopted by the city is located in whole or in part in a subdivision, the planning commission may require the dedication or reservation of such area within the subdivision.

C. Where considered desirable by the planning commission, and where the comprehensive plan or adopted master plan of the city does not indicate proposed public use area, the planning commission may require the dedication or reservation of areas or sites of a character, extent and location suitable for the development of parks and other public use.

D. If the applicant is required to reserve land area for park, playground, or other public use, such land shall be acquired by the appropriate public agency within 18 months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the applicant.

E. New residential projects will require the dedication of land if the development corresponds to park locations defined in the parks and recreation master plan.

F. In exchange for the dedication of parkland, the allowable density on the remaining lands will be increased, so that the overall parcel density remains the same.

Chapter 17.32 IMPROVEMENTS

17.32.010 Improvement procedures.

In addition to other requirements, improvements installed by the applicant, either as a requirement of these regulations or their own option, shall conform to the requirements of this title and to improvement standards and specifications in the Public Works Standards and Chapter 19.1400 Public Facility Improvements. The improvements shall be installed in accordance with the following procedure:

A. Work shall not begin until plans have been checked for adequacy and approved by the city in writing. All such plans shall be prepared in accordance with requirements of the city.

B. Work shall not begin until the city has been notified in advance, and if work is discontinued for any reason, it shall not be resumed until the city is notified.

C. Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

D. All underground utilities, installed in streets by the applicant, including but not limited to, water, sanitary sewers and storm drains shall be constructed prior to the surfacing of streets. Stubs for service connections shall be extended to property lines long enough to avoid disturbing the street improvements when service connections are made. How utilities are to be serviced shall be indicated.

E. A map showing all public improvements as built shall be filed with the city upon completion of the improvements. All such maps shall be prepared in accordance with requirements of the city.

17.32.020 Utility undergrounding.

All utility lines, including, but not limited to, those required for electric, communication, lighting, cable television services, and related facilities shall be placed underground. Surface-mounted transformers, surface-mounted connection boxes and meter cabinets, temporary utility service facilities during construction, high-capacity electric and communication feeder lines, and utility transmission lines operating at 50,000 volts or above may be placed above ground. The applicant shall make all necessary arrangements with the serving utility to provide the underground services.

17.32.030 Guarantee.

All improvements installed by the applicant shall be guaranteed as to workmanship and material for a period of one (1) year following acceptance by the city. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the engineering director. Said cash or bond shall comply with the terms and conditions of Subsection 17.24.060.