



CITY OF MILWAUKIE

To: Planning Commission
Through: Laura Weigel, Planning Manager
From: Vera Kalias, Senior Planner
Date: October 5, 2021, for October 12, 2021, Public hearing
Subject: File #ZA-2021-002 – Proposed Code Amendments: Middle Housing, Residential Parking, and Tree Preservation

ACTION REQUESTED

Open the public hearing for land use file #ZA-2021-002. Discuss the proposed amendments to the Milwaukie Municipal Code (MMC) Title 19 (Zoning), Title 17 (Land Division), Zoning map, Comprehensive Plan, and Comprehensive Plan Land Use map, take public testimony, and provide direction to staff regarding any desired revisions to the proposed amendments. Discussion about the proposed revisions to Title 16 (Tree Code) will be held at a continued public hearing on October 26.

The requested action this evening is to continue the public hearing to October 26. Ultimately, staff requests that the Planning Commission recommend City Council approval of file #ZA-2021-002 and adoption of the proposed ordinance and recommended Findings in Support of Approval found in Attachment 1.

BACKGROUND INFORMATION

Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan (Plan) policies call for expanded housing opportunities throughout the city and House Bill 2001 (HB 2001), passed by the state legislature in July 2019, requires the expansion of middle housing options.

Zoning code and map amendments to allow middle housing options in residential zones will move the city closer to realizing its goal of providing “safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability”.

Through these updates to the City’s zoning code, the following policy mandates are addressed:

- Increasing the supply of middle and attainable housing, and providing equitable access and housing choice for all

- Increasing the tree canopy and preserving existing trees to support the City’s goal of a 40% tree canopy
- Managing parking to enable middle housing and protect trees

The City is also required by [Oregon House Bill 2001 \(HB 2001\)](#) to expand housing opportunities throughout the city, including middle housing. HB 2001 requires middle housing options to be permitted in ALL residential areas zoned for detached single-unit dwellings throughout the state. Middle housing includes duplex, triplex, quadplex, townhouse and cottage cluster development – the types of housing that fill the gap between single-unit housing and apartment or mixed-use buildings.

The focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land. The outcome will be code amendments that balance the city’s goal for a 40% tree canopy and implementation of the housing policies outlined in the plan in compliance with HB 2001.

The scope of work for this project included the following tasks:

1. Public Engagement Strategy
2. Map and Code Audit and Analysis
3. Detailed Concept Development
4. Community Review and Testing
5. Draft Code Changes and Map Amendments
6. Code and Map Review and Reconciliation
7. Final Code and Map Changes and Adoption

Public outreach was conducted throughout the project since August 2020. Please refer to Attachments 2 and 3 for information about public outreach as part of this project.

ANALYSIS

Throughout the project, staff and the consultant team used the comprehensive plan goals and policies to guide the code amendments. All of the amendments are connected to the adopted comprehensive plan – see Attachment 1a for a detailed analysis.

The adoption of the Comprehensive Plan establishes a mandate for Milwaukie to update any lagging land use policies and practices that may be holding the city back from realizing its vision. One major area where current policies and practices need to be updated is the zoning code. The city made it an early priority to update the zoning code for single dwelling residential areas. These areas of the zoning code need to be amended in order to achieve a number of Comprehensive Plan goals related to increasing community diversity, preparing for population growth, protecting natural resources, and improving climate resiliency. Additionally, revising the code for residential areas begins the process of addressing historic patterns of inequity by

allowing different types of housing types, other than single unit housing, that may be an option for people at different income levels.

As noted above, the policy mandates from the comprehensive plan have been distilled to three key themes: housing, tree canopy, and parking. A summary of the connection between the proposed code amendments and these policy mandates is as follows (Please refer to Attachment 5 for the full code audit report prepared by Urbsworks):

Policy Mandate 1: Increase the supply of middle and attainable housing and provide equitable access and housing choice for all

Goal 7 of the Comprehensive Plan recognizes that in order for different forms of housing to be built the zoning and code will need to be revised to remove barriers to development. Additionally, the Milwaukie Housing Affordability Strategy cites the need to enable equitable housing options that meet the needs of all residents, including allowing more housing types to be allowed in low and medium density zones.

Further support for the development of denser forms of housing is found in the 2016 Housing Needs Analysis (HNA). The HNA notes a projected need for 1,150 additional new housing units by 2036, with 54% of these new units anticipated to be some form of attached housing. The scale and location of this new housing should be consistent with city goals of tree protection and complement the public realm.

Milwaukie’s Comprehensive Plan goals are aligned with the intent of Oregon’s Housing Choices Bill (HB 2001) to increase the amounts and types of housing available across Oregon. This will require establishing development standards that regulate size, shape, and form rather than focusing exclusively on density. Additional regulatory and maps changes will be needed in order for the City of Milwaukie to be compliant with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46, known as OAR 660-046.

Code amendments that will support this policy mandate are found in the following sections:

- Title 17 - Land Division – Sections regarding Application Procedure and Approval Criteria, Flag Lot Design and Development Standards
- Title 19 – Zoning (all sections)

Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees *(to be discussed in detail on October 26)*

It is clear that trees are very important to Milwaukians and are a major contributor to the quality of life in Milwaukie, and could be considered a signature feature of the city to be nurtured and protected. They contribute to property values and are important to reducing stormwater runoff, improving residents’ health outcomes, helping the city meet its climate change goals, and reducing heat island effect.

Many of the magnificent trees in Milwaukie are on private property, therefore it is appropriate that these trees be protected to achieve the community’s goals. As a result, trees on private property will

be regulated differently than they have been in the past. This protection will preserve the existing canopy and contribute to the future canopy of the city.

A culture shift will be required on the part of Milwaukians, the development community, and city staff; one that promotes a collaborative approach to tree preservation and planting. Staff and community members will begin to have tree specific conversations early in the development application process, as a result there will be a much better understanding of the community's goals regarding trees.

The city Tree Board, established in 2017, and the Public Works department now view trees as a form of citywide infrastructure that needs to be managed just like other forms of infrastructure. Unlike hard infrastructure, trees are the only urban infrastructure that exponentially increase benefits and value over time.

Both broad and detailed support for preserving and increasing the tree canopy throughout Milwaukie is found in the Comprehensive Plan, Climate Action Plan, and Urban Forestry Management Plan. In Goal 3 of the Comprehensive Plan a target is established to have 40% tree canopy throughout the City using a combination of development code and other strategies. Comp Plan goals recognize that flexibility is needed in the siting and design of buildings and design standards in order to preserve existing large and old-growth trees while also increasing the tree canopy in areas that are currently deficient. The Urban Forestry Management Plan and Climate Action Plan bolster these objectives with possible implementation actions, but do not indicate which regulatory changes might contribute the most to achieving canopy goals. The Urban Forestry Management Plan further notes that the tree canopy is not equitable across the city and supports implementation actions that, while reducing barriers to affordable housing, also increase equitable access to trees and their benefits.

Code amendments that support this policy mandate are found in the following sections:

- Title 16 – Environment, 16.32 – Tree – Code (and related code section, Public Works Standards, 5.0030)
- 19.200 Definitions, Tree-related definitions
- 19.402 Natural Resource Overlay Zone

Policy Mandate 3: Manage parking to enable middle housing and protect trees

Goals 6 and 8 of the Comprehensive Plan, along with strategies identified in the Climate Action Plan and Milwaukie Housing Affordability Strategy, offer strong support for minimizing parking in new developments to encourage the use of alternate transportation and to reduce vehicle emissions.

Additionally, the Milwaukie Housing Affordability Strategy identifies right sizing parking requirements to user patterns as critical to achieving this. Right sizing parking can help provide flexibility and both reduce the cost of housing production and increase viability for a range of unit types. Appropriate management may also be necessary. Reducing the amount of parking provided will also preserve more trees.

Code amendments that support this policy mandate are found in the following sections:

- 19.200 Definitions, Parking-related definitions

- 19.505.4 Parking Spaces Location
- 19.600 Off-Street Parking and Loading

Summary of Key Changes

Amendments related to the Zoning Map

Amendments to the existing single-unit residential zones reduce the number of residential zones in Milwaukie and broaden the range of housing types permitted throughout the City for a wider range of incomes.

Currently, the eight single-unit residential zones on the zoning map include a list of permitted and prohibited uses and have different development standards. The current zoning code does not comply with new Comprehensive Plan policies and HB 2001 and must be amended.

The proposed amendments update Milwaukie's Comprehensive Plan zoning map and the zoning ordinance to consolidate the existing low density residential zones (R-5, R-7, and R-10) into one new zone; the existing medium and high density zones are maintained as is, for a total of six residential zones. The amendments include updated lists of permitted land use designations that includes middle housing wherever detached single dwellings are permitted.

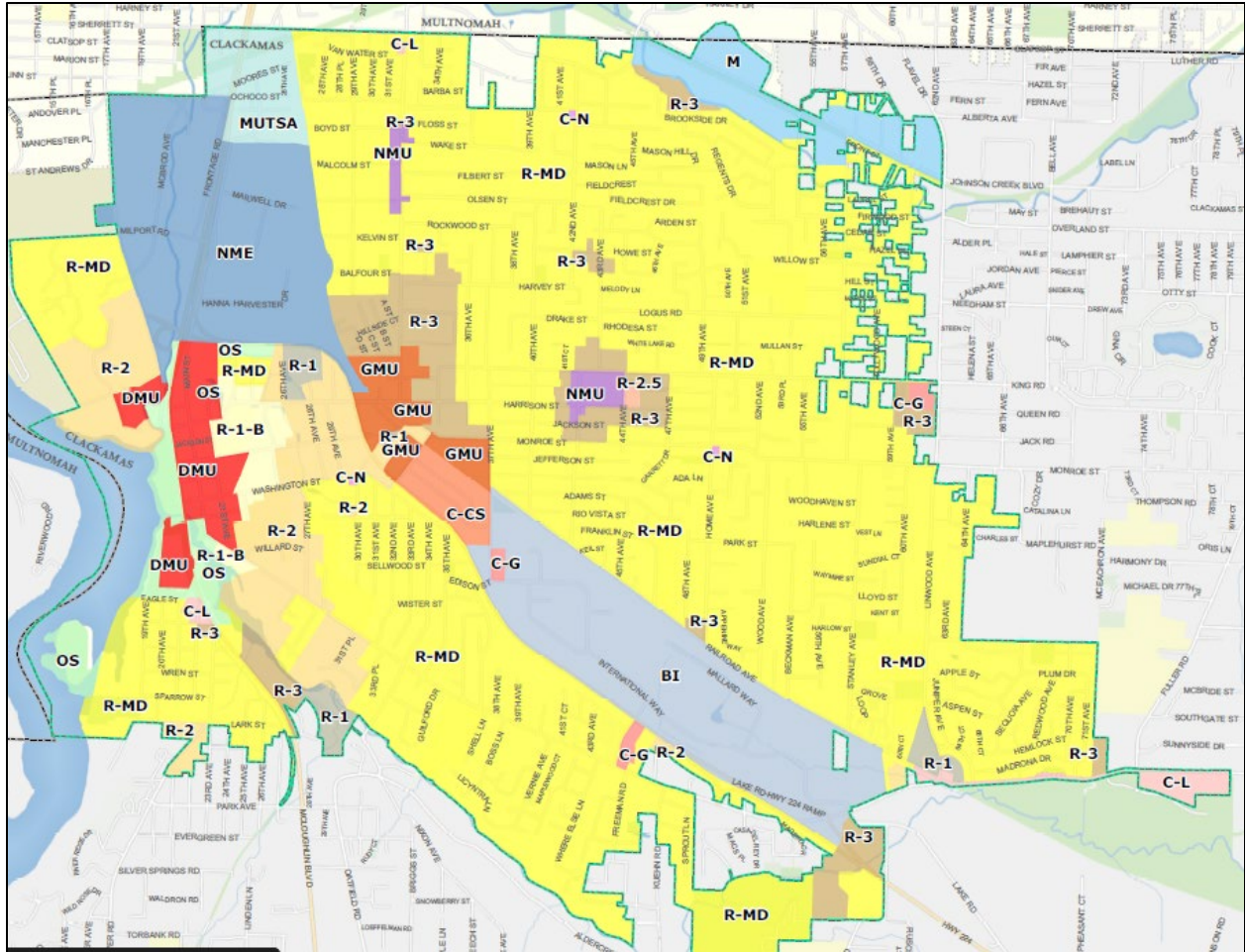


Figure 1. Proposed zoning map - consolidation of R-5, R-7, and R-10 into R-MD

Amendments related to Housing

In addition to reducing the number of residential base zones, code amendments related to housing provide greater detail as to how housing permitted under the new base land use zones will be designed and built. They address the form of the housing allowed in the residential zones which provides the ability to apply standards based on the site conditions and lot size.

Under the existing zoning code, the standards limit the form and type of housing allowed within the existing zones. The proposed amendments update the zoning code to simplify existing residential zones, permit a broader range of middle housing types, and remove certain development standards and approval standards for middle housing types so they are subject to the same level of review currently used for single dwellings. These updates meet the policy goals of creating housing that is priced at a range of income levels citywide and clarify existing code language.

All housing types must address certain development standards including:

- maximum lot coverage
- minimum landscaping
- minimum setbacks

- maximum building heights
- side yard height plane

Lot Size	Permitted Housing Types currently	Permitted Housing Types proposed
1,500 sq. ft.	Rowhouse (townhouse)	Rowhouse (townhouse)
3,000 sq. ft. to 4,999 sq. ft.	Detached single dwelling Detached single dwelling + ADU Duplex	Detached single dwelling Detached single dwelling + 2 ADU Duplex
5,000 sq. ft. to 6,999 sq. ft.	Detached single dwelling Detached single dwelling + ADU Duplex	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex
7,000 sq. ft. and greater	Detached single dwelling Detached single dwelling + ADU Duplex	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex Quadplex Cottage Cluster

Under the proposed design standards, middle housing types can be built as attached (stacked or side-by-side) or detached units, allowing more flexibility for the size of lot that housing can be built on. All other design standards would still apply.

Key amendments include:

- Amend base residential zones, permitted uses and development standards to permit middle housing
- Allow detached single dwelling and duplexes on 3,000 square foot lots
- Remove allowances for encroachments into side yard height plane to limit the size of single detached dwellings
- Permit more than one primary dwelling per lot in residential zones
- Amend single detached dwelling and duplex building design standards to include triplexes and quadplexes
- Remove minimum structure size for manufactured homes to treat same as single dwellings currently
- Amend review type for ADUs and duplexes to allow outright (same as single detached units); update some ADU standards for clarity.

- Implement new cottage cluster code development and design standards
- Amend current rowhouse standards

Amendments related to Parking

The proposed code amendments reduce on-site parking requirements and provide alternatives for locating parking which can reduce the cost of housing and decrease impervious surface.

Current code requirements for off-street parking do not count parking in the driveway toward the requirement of at least one parking space per dwelling unit. The current parking requirements do not comply with HB 2001 and must be amended.

The proposed amendments update Milwaukee's Municipal Code, Title 19.600 off-street parking and loading, to clarify the locations for on-site parking, lower the minimum number of on-site parking spaces required for each dwelling unit, and modify code language to allow for flexible approaches to parking.

Key amendments include:

- Amend minimum on-street parking requirements to one space per dwelling unit
- Allow the location of off-street parking space be within front setback or within 15 feet of front lot line or within side setback.
- Include a by-right reduction in minimum parking for income-restricted (affordable) housing
- Amend the parking modification process to include preservation of priority trees as a criterion for parking reduction

Amendments related to Trees *(to be discussed in detail on October 26)*

Amendments related to trees on private property are intended to make the existing Milwaukee tree code consistent with the policies in the Comprehensive Plan and Urban Forestry Management Plan.

The existing tree code addresses only trees in the public right of way or on public property, like park or street trees. In order to meet the City's goal of a 40% tree canopy, as identified in the Climate Action Plan, Urban Forestry Management Plan, and Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

In this package of code amendments, private tree code is proposed to protect canopy on private residential property. The proposed tree code focuses on the adoption of tree preservation standards, tree canopy standards, mitigation standards, soil volume, and protection standards. For residential development projects, tree canopy protection is prioritized, and tree replacement will be required if trees are removed. For other healthy non-development tree removal on private property, a permit will be required as well as tree replacement or mitigation. There will be exceptions and a streamlined process for unhealthy or dying trees, trees posing safety hazards, invasive species, and trees significantly impacting infrastructure without practical mitigation.

The proposed amendments to the City’s municipal code Title 16 and Title 19 clarify existing code language and update desired tree and plant types to meet City policy goals for greater forest diversity, more native and climate-resilient species, improving the ecological function and creating multi-level, uneven-aged canopy.

Key amendments include:

- Regulate preservation and protection of trees on private property in residential zones, including:
 - Define standards for preserving and protecting priority trees
 - Create a process for application and development review
 - Define priority trees
 - Establish minimum tree canopy of 40% per lot
- Add more tree types to be consistent with Urban Forestry Management Plan (conifers, wide-canopied broadleaf, narrow-canopy broadleaf)
- Amend “Vegetation Buffer Requirements” in Willamette Greenway overlay zone to be consistent with updated tree code
- Update “Native Plant List” referenced in Natural Resource Overlay Zone to include other vegetation types and nuisance/prohibited plants
- Update native vegetation and native plant definitions to be consistent with new tree code.

Proposed revisions to posted code package

The following is a summary of proposed revisions to the posted code amendment package based on comments from the Department of Land Conservation and Development and additional staff review (See Attachment 6):

- 19.501.2: provide the exception to allow a front porch to encroach into the front yard setback to middle housing types.
- In response to comments received from the Department of Land Conservation and Development:
 - Table 19.301.4: add a reference to the Cottage Cluster standards to clarify applicable setbacks standards.
 - 19.301 and 19.302: clarify that townhouse development is subject to a maximum density of 25 dwellings per acre per HB 2001.
 - Revise the site design objectives language in 19.505.1.A to reinforce that the objectives are part of a purpose statement and are not development standards. This will ensure that housing is reviewed against clear and objective standards.
 - Revise 19.505.5.D to limit townhouse development to no more than 4 consecutive townhouses in the R-MD zone, rather than a limit of 40 ft in width. The city cannot impose a width limitation on townhouse development if there is no corresponding limitation on single detached dwellings. A maximum of 4 consecutive townhouses is permitted under HB 2001.
 - Revise 19.702.2 and 19.702.4 to include duplexes as required under HB 2001.

CONCLUSIONS

Staff recommendation to the Planning Commission

Staff asks that the Planning Commission continue the public hearing to October 26 for additional discussion on middle housing and parking if necessary and to discuss the proposed tree code. The final recommendation is:

1. Recommend that the City Council approve the proposed amendments to MMC Title 19 (Zoning) and Title 17 (Land Division), the Zoning Map, the Comprehensive Plan Land Use Map, and to the Comprehensive Plan presented in Attachments 1-b and 1-c.
2. Recommend that the City Council adopt the proposed ordinance and attached Findings in Support of Approval presented in Attachments 1 and 1-a, respectively.

The proposed amendments implement a number of comprehensive plan goals and policies related to housing, tree preservation, and residential parking. The amendments are intended to increase the supply of middle and attainable housing, and provide equitable access and housing choice for all, both as a response to the comprehensive plan and also to comply with the requirements of HB 2001. The proposed code amendments are the result of an evaluation of the existing zoning ordinance to reduce barriers to and encourage development of smaller, potentially more affordable housing types. Accessory dwelling units, cottage cluster housing, townhouses, and other middle housing types are now proposed to be permitted by right in all residential zones in the city. Residential off-street parking amendments are in line with HB 2001 and acknowledge that construction of off-street parking increases the cost of housing.

Amendments related to trees on private property are intended to make the existing Milwaukie tree code consistent with the policies in the Comprehensive Plan and Urban Forestry Management Plan. In order to meet the City's goal of a 40% tree canopy, as identified in the Climate Action Plan, Urban Forestry Management Plan, and Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

CODE AUTHORITY AND DECISION-MAKING PROCESS

The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):

- MMC Section 19.902 Amendments to Maps and Ordinances
- MMC Section 19.1008 Type V Review

This application is subject to Type V review, which requires the Planning Commission to hold an initial evidentiary hearing to and then forward a recommendation to the City Council for a final decision. Type V applications are legislative in nature and involve the creation, revision, or large-scale implementation of public policy.

The Commission has 4 decision-making options as follows:

- A. Recommend that Council approve the proposed amendments as per to the recommended Findings in Support of Approval.
- B. Recommend that Council approve the proposed amendments with revisions, including modifications to the recommended Findings in Support of Approval. Such modifications need to be read into the record.
- C. Recommend that Council deny the proposed amendments.
- D. Continue the hearing.

There is no deadline for a final decision on Type V applications, as they are legislative in nature.

COMMENTS

Notice of the proposed amendments was mailed to the owners of all residential properties within the city limits.

Notice was also provided to the following agencies and departments: City of Milwaukie Building, Engineering, and Public Works Departments; Milwaukie City Attorney; Chairpersons & Land Use Committees (LUCs) for all Neighborhood District Associations (NDAs), Metro, and Department of Land and Conservation Development. Notice was also posted at City Hall, the Johnson Creek Facility, the Milwaukie Police Department, and the Ledding Library. A postcard notice in both English and Spanish was mailed to all addresses in the city that receive the Pilot newsletter. Additional outreach was done via city social media outlets, Engage Milwaukie, and the project email subscription list.

See Attachment 4 for complete comment details since the proposed code was posted on August 31, 2021.

ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	PC Packet	Public Copies	EPacket
1. Ordinance	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
a. Recommended Findings in Support of Approval (including Metro and State Findings)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b. Draft code amendment language (underline/strikeout)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
c. Draft code amendment language (clean)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
2. Public outreach summary table	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
3. Public outreach summary report dated July 29, 2021	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
4. Public comment spreadsheet tracker	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

	PC Packet	Public Copies	EPacket
5. Code Audit Report dated December 3, 2020	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
6. Proposed Revisions to code amendments	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

PC Packet = materials provided to Planning Commission 7 days prior to the meeting.

E-Packet = packet materials posted online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-81>, available 7 days prior to the meeting.



COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE COMPREHENSIVE PLAN LAND USE MAP AND RESIDENTIAL LAND USE DESIGNATIONS, MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE, TITLE 17 LAND DIVISION, TITLE 16 ENVIRONMENT, AND AMENDING THE ZONING MAP FOR THE PURPOSE OF ADDRESSING MIDDLE HOUSING, TREE PRESERVATION, AND RESIDENTIAL PARKING (FILE #ZA-2021-002).

WHEREAS, it is the intent of the City of Milwaukie to: support and promote housing opportunities and housing choice throughout the city; increase the supply of middle and attainable housing and providing equitable access to housing for all; increase the city's tree canopy and preserve existing trees to support efforts to achieve a 40% city-wide tree canopy; and to manage parking to enable middle housing and to protect trees; and

WHEREAS, the proposed code amendments implement several of the goals and policies of the city' comprehensive plan related to housing and tree preservation and comply with Oregon House Bill 2001; and

WHEREAS, legal and public notices have been provided as required by law, and that all residential addresses in the city were notified of the amendments and multiple opportunities for public review and input has been provided over the past 15 months; and

WHEREAS, on October 12 and October 26, 2021, the Milwaukie Planning Commission conducted a public hearing as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

WHEREAS, the Milwaukie City Council finds that the proposed amendments are in the public interest of the City of Milwaukie.

Now, Therefore, the City of Milwaukie does ordain as follows:

Section 1. Findings. Findings of fact in support of the amendments are adopted by the City Council and are attached as Exhibit A.

Section 2. Amendments. The Milwaukie Municipal Code (MMC) is amended as described in Exhibit B (underline/strikeout version), and Exhibit C (clean version).

Section 3. Effective Date. The amendments shall become effective **30 days** from the date of adoption.

Read the first time on _____, and moved to second reading by _____ vote of the City Council.

Read the second time and adopted by the City Council on _____.

Signed by the Mayor on _____.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

**Recommended Findings in Support of Approval
File #ZA-2021-002; CPA-2021-001; ZC-2021-002
Middle Housing, Tree Preservation and Residential Parking Code Amendments**

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

1. The applicant, the City of Milwaukie, proposes to amend the zoning and comprehensive plan maps, comprehensive plan, and make code amendments to Titles 12, 13, 16, 17, and 19 related to tree code on residential property, required off-street parking, and permitted middle housing types in all residential zones. The intent is to implement portions of the city's comprehensive plan and Oregon House Bill 2001 (HB 2001). The land use application file numbers are ZA-2021-002, CPA-2021-001, and ZC-2021-002.
2. The proposed amendments relate to implementation of portions of the Comprehensive Plan related to housing, tree preservation, and parking. Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan policies call for expanded housing opportunities throughout the city. The focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land.
3. Amendments are proposed in several titles of the municipal code, as follows:
 - Milwaukie Comprehensive Plan
 - Comprehensive Plan Land Use Map
 - Comprehensive Plan Residential Land Use Designations
 - Municipal Code - Title 19 Zoning Ordinance
 - Section 19.107 Zoning
 - Chapter 19.200 DEFINITIONS AND MEASUREMENTS
 - Section 19.301 Low Density Residential Areas
 - Section 19.302 Medium and High Density Residential Areas
 - Section 19.401 Willamette Greenway Zone WG
 - Section 19.402 Natural Resources NR
 - Chapter 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS
 - Section 19.501 General Exceptions
 - Section 19.504.8 Flag Lot Design and Development Standards
 - Section 19.505.1 Single Family Dwellings and Duplexes
 - Section 19.505.3 Multifamily Housing
 - Section 19.505.4 Cottage Cluster Housing
 - Section 19.505.5 Rowhouses
 - Section 19.506 Manufactured Dwelling Siting and Design Standards
 - Chapter 19.600 OFF-STREET PARKING AND LOADING

- Section 19.605 Vehicle Parking Quantity Requirements
 - Section 19.605.2 Quantity Modifications and Required Parking Determinations
 - Section 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements
 - Section 19.607 Off-Street Parking Standards for Residential Areas
 - Chapter 19.700 PUBLIC FACILITY IMPROVEMENTS
 - Section 19.702.1 General
 - Section 19.702.2 Single Unit Residential Expansions
 - Section 19.702.4 Exemptions
 - Section 19.703.4 Determinations
 - Section 19.704.4 Mitigation
 - Section 19.708.2 Street Design Standards
 - Chapter 19.900 LAND USE APPLICATIONS
 - Section 19.901 Introduction
 - Section 19.906 Development Review
 - Section 19.910.1 Accessory Dwelling Units
 - Section 19.901.2 Duplexes
 - Section 19.911 Variances
 - Municipal Code - Title 17 Land Division
 - Chapter 17.28 DESIGN STANDARDS
 - Section 17.28.050 Flag Lot Development and Future Access
 - Section 17.28.060 Flag Lot Design Standards
 - Section 17.28.070 Flag Lot Limitation
 - Municipal Code - Title 12 Streets, Sidewalks, and Public Places
 - Chapter 12.16 ACCESS MANAGEMENT
 - Section 12.16.030 Access Permitting
 - Section 12.16.040 Access Requirements and Standards
 - Municipal Code - Title 13 Public Services
 - Chapter 13.30 REIMBURSEMENT DISTRICTS
 - Section 13.30.010 Definitions
 - Municipal Code - Title 16 Environment
 - Chapter 16.32 TREE CODE
 - Section 16.32.010 Definitions
 - Section 16.32.030 Permit and Fee Exemptions
 - NEW: Section 16.32.042 Tree Preservation and Planting in Residential Zones
4. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
- MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1000 Review Procedures

5. Sections of the MMC not addressed in these findings are found to be not applicable to the decision on this land use application.
6. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on October 12, 2021, October 26, 2021, December 7, 2021, December 21, 2021, and January 18, 2022 as required by law.
7. MMC Chapter 19.1000 establishes the initiation and review requirements for land use applications. The City Council finds that these requirements have been met as follows.
 - a. MMC Subsection 19.1001.6 requires that Type V applications be initiated by the Milwaukie City Council, Planning Commission, Planning Manager, or any individual.

The amendments were initiated by the Planning Manager on August 13, 2021.

- b. MMC Section 19.1008 establishes requirements for Type V review. The procedures for Type V Review have been met as follows:

- (1) Subsection 19.1008.3.A.1 requires opportunity for public comment.

Opportunity for public comment and review has been provided over the past 15 months during the code development process as follows:

- *monthly Comprehensive Plan Implementation Committee meetings*
- *monthly Pilot articles*
- *monthly worksessions with the Planning Commission and City Council*
- *three online open houses and two community surveys*
- *small group meeting with BIPOC community members*
- *small group meeting in Spanish with Spanish speaking community members*
- *presentations to all NDAs*
- *numerous emails to all city committee members and project email subscribers, social media posts*
- *staff available at the Milwaukie Farmers Market*

Regarding the specific code language, the draft language was posted on the Engage Milwaukie webpage on June 25, 2021 as part of an informative virtual open house. In addition, the Planning Commission had 3 worksessions about the proposed code amendment language. Specific notice of the draft amendments and October 12, 2021 public hearing was as follows: notice was sent to all residential addresses in the city via a mailed postcard on September 14, 2021 and a Measure 56 notice related to the proposed tree code was mailed to all residential addresses on October 6, 2021; email notices were sent to all city committee members and the project email subscription list on September 1, 2021; posts were made to city social media on September 1, 2021. The current version

of the draft amendments have been posted on the application webpage since August 31, 2021. On September 1, 2021 staff e-mailed NDA leaders with information about the hearing and a link to the draft proposed amendments.

- (2) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing.

A notice of the Planning Commission's October 12, 2021, hearing was posted as required on September 1, 2021. A notice of the City Council's December 7, 2021, hearing was posted as required on November 4, 2021.

- (3) Subsection 19.1008.3.A.3 requires notice be sent to individual property owners if the proposal affects a discrete geographic area or specific properties in the City.

The proposed amendments will apply to all residential properties in the city. All residential properties were notified of the first hearing date via a mailed postcard, which was sent on September 14, 2021.

- (4) Subsection 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to DLCD on August 31, 2021.

- (5) Subsection 19.1008.3.C requires notice of a Type V application be sent to Metro 45 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on August 31, 2021.

- (6) Subsection 19.1008.3.D requires notice to property owners if, in the Planning Director's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

The proposed amendments will apply to all residential properties in the city. All residential properties were notified of the first hearing date via a mailed postcard, which was sent on September 14, 2021.

- (7) Subsection 19.1008.4 and 5 establish the review authority and process for review of a Type V application.

The Planning Commission held duly advertised public hearings on October 12 and October 26, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on December 7 and December 21, 2021 and January 18, 2022, and approved the amendments.

8. MMC 19.902 Amendments to Maps and Ordinances

- a. MMC 19.902.3 establishes requirements for amendments to the text of the Milwaukie Comprehensive Plan. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.3.A requires that changes to the text of the Milwaukie Comprehensive Plan shall be evaluated through a Type V review per Section 19.1008.

The Planning Commission held duly advertised public hearings on October 12 and October 26, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on December 7 and December 21, 2021 and January 18, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) MMC Subsection 19.902.3.B contains approval criteria for changes to the text of the Milwaukie Comprehensive Plan.

- (a) MMC Subsection 19.902.3.B.1 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

The only amendments proposed to the text of the comprehensive plan are in the section related to residential land use designations. The proposed amendments reflect the proposed zoning map amendments that consolidate the low density residential zones. The amendments rename the Low Density Residential designation to Moderate Density Residential: Zone R-MD. The remaining residential zones are renamed High Density. The amended description in both of these land use designations includes a list of middle housing types within the permitted housing types section.

- (b) MMC Subsection 19.902.3.B.2 requires that the proposed amendment is in the public interest with regard to neighborhood or community conditions.

The proposed amendments reflect the community's desire for policies and regulations that encourage a variety of high-quality, attractive residential development throughout the city. As noted above, the only text amendment to the comprehensive plan consolidates the residential land use designations to reflect the proposed zoning map amendments.

- (c) MMC Subsection 19.902.3.B.3 requires the public need be best satisfied by this particular proposed amendment.

The proposed amendments confirm the community's vision for broad housing choice throughout the city. As noted above, the only text amendment to the comprehensive plan consolidates the residential land use designations to reflect the proposed zoning map amendments.

- (d) MMC Subsection 19.902.3.B.4 requires that the proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies related to residential capacity.

The Metro Urban Growth Management Functional Plan includes a number of titles that address various aspects of the region's goals and policies for urban development.

- (a) Title 1 Housing Capacity

The proposed amendments will provide opportunities for middle housing development throughout the city's residential zones.

- (b) Title 7 Housing Choice

The proposed amendments will provide the opportunity for much-needed middle housing and incentives for income-restriction housing throughout all of the city's residential zones and will support Metro's policies for expanding housing choice with a needed housing type in Milwaukie.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

Staff has included the Metro findings as Exhibit 1 of this attachment.

- (e) MMC Subsection 19.902.3.B.5 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

DLCD has not identified any areas where the proposed amendments are inconsistent with State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

Exhibit 2 to this attachment has been prepared to illustrate how the proposed amendment is consistent with all relevant State statutes and administrative rules.

- b. MMC 19.902.4 establishes requirements for amendments to the maps of the Milwaukie Comprehensive Plan. The City Council finds that these requirements have been met as follows.
- (1) MMC Subsection 19.902.4.A requires that changes to the text of the Milwaukie Comprehensive Plan shall be evaluated through a Type V review per Section 19.1008.

*The Planning Commission held duly advertised public hearings on **October 12 and October 26, 2021** and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on **December 7 and December 21, 2021 and January 18, 2022**, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.*

- (2) MMC Subsection 19.902.4.B contains approval criteria for changes to the text of the Milwaukie Comprehensive Plan.
 - (a) MMC Subsection 19.902.3.B.1 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan, as proposed to be amended.

Changes to the maps of the Milwaukie Comprehensive Plan must be evaluated against the approval criteria in Subsection 19.902.3.B. A quasi-judicial map amendment shall be approved if these criteria are met. A legislative map amendment may be approved if these criteria are met.

The findings for compliance with MMC 19.902.3.B apply to the findings for these map amendments as well. Refer to the findings above for compliance with this code section.

9. MMC 19.902.5 establishes requirements for amendments to the text of the zoning ordinance. The City Council finds that these requirements have been met as follows.
 - a. MMC Subsection 19.902.5.A requires that changes to the text of the land use regulations of the Milwaukie Municipal Code shall be evaluated through a Type V review per Section 19.1008.

*The Planning Commission held duly advertised public hearings on **October 12 and October 26, 2021** and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on **December 7 and December 21, 2021 and January 18, 2022**, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.*

- (1) MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.
 - (a) MMC Subsection 19.905.B.1 requires that the proposed amendment be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments coordinate and are consistent with other provisions of the Milwaukie Municipal Code.
 - (b) MMC Subsection 19.902.5.B.2 requires that the proposed amendment be consistent with the goals and policies of the Comprehensive Plan.

The goals and policies of the Comprehensive Plan support the amendments to allow middle housing opportunities in all residential zones in the city and the development of a new tree code:

(c) Section 3 – Natural Resources and Environmental Quality:

Protect, conserve, and enhance the quality, diversity, quantity and resiliency of Milwaukie’s natural resources and ecosystems, and maintain the quality of its air, land, and water. Utilize a combination of development regulations, incentives, education and outreach programs, and partnerships with other public agencies and community stakeholders.

(a) Policy 3.4.2:

Pursue the City’s goal of creating a 40% tree canopy through a combination of development code and other strategies that lead to preservation of existing trees and planting of new trees and prioritize native and climate-adapted species, while also considering future solar access.

(b) Policy 3.4.3:

Provide flexibility in the division of land, the siting and design of buildings, and design standards in an effort to preserve the ecological function of designated natural resources and environmentally sensitive areas and retain native vegetation and trees.

(d) Section 6 – Climate Change and Energy Goals and Policies:

Promote energy efficiency and mitigate the anticipated impacts of climate change in Milwaukie through the use of efficient land use patterns, multimodal transportation options, wise infrastructure investments, and increased community outreach and education as outlined in the City’s Climate Action Plan.

(a) Policy 6.1.4:

Develop standards and guidelines that contribute to a 40% citywide tree canopy.

(b) Policy 6.16:

Encourage the creation of compact, walkable neighborhoods and neighborhood hubs throughout the City that provide a mix of uses and help reduce transportation emissions and energy usage.

(e) Section 7 – Housing:

Provide safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability within dwellings and

neighborhoods that are entirely equitable, delightfully livable, and completely sustainable.

(a) Goal 7.1 – Equity:

Enable and encourage housing options that meet the needs of all residents, with a specific focus on uplifting historically disenfranchised communities and eliminating disparities for populations with special needs or lower incomes.

(i) Policy 7.1.1:

Provide the opportunity for a wider range of rental and ownership housing choices in Milwaukie, including additional middle housing types in low and medium density zones.

(ii) Policy 7.1.2:

Establish development standards that regulate size, shape, and form and are not exclusively focused on regulating density.

(iii) Policy 7.1.3:

Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including historically marginalized or vulnerable populations such as people of color, aging populations, and people with low incomes.

(b) Goal 7.2 – Affordability:

Provide opportunities to develop housing that is affordable at a range of income levels.

(i) Policy 7.2.2:

Allow and encourage the development of housing types that are affordable to low or moderate-income households, including middle housing types in low and medium density zones as well as larger apartment and condominium developments in high-density and mixed-use zones.

(ii) Policy 7.2.4:

Provide a simplified permitting process for the development of accessory dwelling units (ADUs) or conversion of single-unit homes into duplexes or other middle housing types.

(c) Goal 7.3 – Sustainability:

Promote environmentally and socially sustainable practices associated with housing development and construction.

(i) Policy 7.3.1:

Provide flexibility of footprint and placement of new housing to be consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.

(ii) Policy 7.3.8:

Allow for a reduction in required off-street parking for new development within close proximity to light rail stations and frequent bus service corridors.

(f) Section 8 – Urban Design and Land Use Goals and Policies:

Promote the design of private development and public spaces and facilities to enhance community livability, environmental sustainability, social interaction, and multimodal connectivity and support the unique function of Milwaukie neighborhoods as the centers of daily life.

(a) Goal 8.3 – Process:

Provide a clear and straight forward design review process for development in Milwaukie along with incentives to achieve desired outcomes.

(i) Policy 8.3.2:

Ensure that a clear and objective process is available for all housing types that meet design standards, provide adequate open space, and fit into the community, while offering an alternative discretionary path for projects that cannot meet these standards.

The proposed amendments implement sections of the comprehensive plan related to middle housing, residential parking, and tree preservation and are in compliance with Oregon House Bill 2001. Zoning code and map amendments to allow middle housing options in all residential zones will move the city closer to realizing its goal of providing “safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability”.

Through these updates to the City’s zoning code, the following policy mandates are addressed:

- *Increasing the supply of middle and attainable housing, and providing equitable access and housing choice for all*

- *Increasing the tree canopy and preserving existing trees to support the City's goal of a 40% tree canopy*
 - *Managing parking to enable middle housing and protect trees*
- (g) MMC Subsection 19.902.5.B.3 requires that the proposed amendment be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies related to residential capacity.

The Metro Urban Growth Management Functional Plan includes a number of titles that address various aspects of the region's goals and policies for urban development.

(i) *Title 1 Housing Capacity*

The proposed amendments will provide opportunities for middle housing development throughout the city's residential zones.

(ii) *Title 7 Housing Choice*

The proposed amendments will provide the opportunity for much-needed middle housing and incentives for income-restriction housing throughout all of the city's residential zones and will support Metro's policies for expanding housing choice with a needed housing type in Milwaukee.

Exhibit 1 to this attachment has been prepared to illustrate how the proposed amendment is consistent with all relevant State statutes and administrative rules.

The proposed amendments were sent to Metro for comment. Metro did not identify any inconsistencies with the Metro Urban Growth Management Functional Plan or relevant regional policies. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.

- (h) MMC Subsection 19.902.5.B.4 requires that the proposed amendment be consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

The proposed amendments were sent to the Department of Land Conservation and Development (DLCD) for comment. The DLCD did not identify any areas where the proposed amendments were inconsistent with State statutes and administrative rules.

- (i) MMC Subsection 19.902.5.B.5 requires that the proposed amendment be consistent with relevant federal regulations.

The City Council finds that the Federal Fair Housing Amendments Act of 1988 is relevant to the proposed amendments. The proposed amendments provide a clear

and objective review process for middle housing development in the residential zones.

- b. MMC 19.902.6 establishes requirements for amendments to the Zoning Map. The City Council finds that these requirements have been met as follows.

- (1) MMC Subsection 19.902.6.A states that changes to the Zoning Map shall be evaluated through either a Type III or a Type V review.

The Zoning Map amendments involve all properties zoned R-5, R-7, and R-10. The amendments are legislative in nature and subject to Type V review.

*The Planning Commission held duly advertised public hearings on **October 12 and October 26, 2021** and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on **December 7 and December 21, 2021 and January 18, 2022**, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.*

- (2) MMC Subsection 19.902.6.B contains approval criteria for changes to the Zoning Map.

- (a) The proposed amendment is compatible with the surrounding area based on the following factors:

- i. Site location and character of the area.

The proposed zoning map amendments are a consolidation of the existing R-5, R-7, and R-10 zones into one zone: R-MD. The zones remain residential in nature, with amendments related to the allowance of middle housing types.

- ii. Predominant land use pattern and density of the area.

As noted above, the proposed zoning map amendments affect the R-5, R-7, and R-10 zones which are currently predominantly residential in nature at a low to moderate density. The consolidation of this zone reflects the intent of the comprehensive plan and HB 2001 to allow middle housing types in all residential zones in the city. They will remain residential zones, subject to design and development standards, but at a higher density as required by HB 2001.

- iii. Expected changes in the development pattern for the area.

Given the nature of the proposed amendments related to middle housing, the development pattern in some areas may intensify over time. The intent of the amendments package is to provide more opportunities for housing choice throughout the city which requires the allowance of middle housing types and not just single detached dwellings. The need for and overall lack of a variety

of housing in the single unit zones suggests that development in the area will intensify following the adoption of the proposed amendments.

- (b) The need is demonstrated for uses allowed by the proposed amendment.

Per the City's 2016 Housing Needs Analysis (HNA), Milwaukie currently has a range of housing types, including single dwelling detached and attached homes, duplexes, multi-unit, and mixed-use developments, and has sufficient capacity to provide for needed housing during the next 20 years. The HNA includes the City's buildable lands inventory (BLI) for housing within the UGB, showing that the city has sufficient zoned capacity to meet the projected housing needs over the next 20 years. Relevant findings from the HNA include:

(i) *The projected growth in the number of non-group households over 20 years (2016-2036) is roughly 1,070 households, with accompanying population growth of 2,150 new residents. The supply of buildable land includes properties zoned to accommodate a variety of housing types. Single dwelling residential zones with larger minimum lot sizes will accommodate single dwelling detached housing. Medium density residential zones will accommodate single dwelling attached homes (e.g., townhomes or rowhouses, duplexes and triplexes) and multi-family and mixed-use zones can accommodate high density housing.*

(iii) *Over the next 20 years, Milwaukie is likely to be attractive to younger adults seeking relatively affordable housing near transportation options and employment centers. Some in this generation are already starting families and will be well into middle age during the 20-year planning period. More of these households may move from areas like central Portland to communities like Milwaukie for more attainable housing, more space, and schools.*

The availability is shown of suitable alternative areas with the same or similar zoning designation.

Staff has interpreted this criterion to mean that the finding shall show that there is no suitable alternative area with the same or similar zoning designation.

As noted above the proposed zoning map amendments would consolidate the existing low density residential zones to one moderate density residential zone to accommodate the proposed amendments related to middle housing.

- (c) The subject property and adjacent properties presently have adequate public transportation facilities, public utilities, and services to support the use(s) allowed by the proposed amendment, or such facilities, utilities, and services are proposed or required as a condition of approval for the proposed amendment.

The public transportation facilities, public utilities, and services in the low density residential zones are adequate to support the proposed amendments. The subject properties are already being used for, or are zoned for, residential development. The

proposed amendments would increase the demand on the facilities, utilities, or services in the area, which have been planned for. The application was referred to the City Engineering and Public Works departments for review and no service-related issues were identified.

- (d) The proposed amendment is consistent with the functional classification, capacity, and level of service of the transportation system. A transportation impact study may be required subject to the provisions of Chapter 19.700.

The proposed amendment would intensify the development potential of the low-density residential zones, but it is expected that the development will occur incrementally and not in a manner that would result in a failure level of service on the city's transportation system. The city's TSP anticipates residential development in these zones and the TSP is being fully revised in 2022-2023.

- (e) The proposed amendment is consistent with the goals and policies of the Comprehensive Plan, including the Land Use Map.

The subject areas are designated for residential development and will continue to be designated as such. The goals and policies of the Comprehensive Plan for residential development are noted above in Finding 9 and the primary purpose of the amendments is to implement the comprehensive plan as it relates to housing, tree preservation, and residential parking. The proposed amendment is consistent with those goals and policies.

- (f) The proposed amendment is consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

See Finding 8.a.(1)(d) above.

- (g) The proposed amendment is consistent with relevant State statutes and administrative rules, including the Statewide Planning Goals and Transportation Planning Rule.

See Finding 8.a.(1)(e) above.

UGMFP Findings for Milwaukie Code Amendments for Middle Housing, Tree Preservation, and Residential Parking

The Metro Urban Growth Management Functional Plan (UGMFP) provides tools to meet regional goals and objectives adopted by Metro Council, including the 2040 Growth Concept and the Regional Framework Plan. Under the Metro Charter, the City of Milwaukie's Comprehensive Plan and implementing ordinances are required to comply and be consistent with the UGMFP. The UGMFP consists of 11 code titles with policies and compliance procedures for the following topics:

- Title 1: Housing Capacity
- Title 7: Housing Choice
- Title 8: Compliance Procedures
- Title 13: Nature in Neighborhoods

Metro requires "substantial compliance" with requirements in the UGMFP. Per the definition in Title 10, "substantial compliance" means that the City's zoning code conforms with the purposes of the performance standards in the functional plan "on the whole." Any failure to meet individual performance standard requirements is considered technical or minor in nature.

Based on the findings described below, the proposed code amendments related to middle housing, tree preservation, and residential parking substantially comply with all applicable titles of the Urban Growth Management Functional Plan.

Title 1: Housing Capacity

Finding: Title 1 of the UGMFP is intended to promote efficient land use within the Metro urban growth boundary (UGB) by increasing the capacity to accommodate housing. Metro's 2020 Compliance Report concluded that Milwaukie is in compliance for the City's Title 1 responsibilities.

Milwaukie has established minimum densities in its Zoning Code (Title 19 of the Municipal Code) (Code) for each residential base zone. These minimum and maximum densities comply with Title 1 for all zones where dwelling units are authorized. The proposed code updates are primarily related to middle housing to implement applicable sections of the comprehensive plan to promote a diversity of housing types and efficient residential development and to be in compliance with Oregon House Bill 2001. The proposed amendments do not reduce residential densities. The proposed zoning code and map amendments allow middle housing options in all residential zones and will move the city closer to realizing its goal of providing "safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability". The amendments are

intended to increase the supply of middle and attainable housing, and provide equitable access and housing choice for all. The findings for Statewide Planning Goal 10 (found in Exhibit 2 of the findings) include information from the Housing Needs Analysis evaluating housing capacity and demonstrates how the proposed code amendments support compact, dense development, especially in the city's high-density residential zones.

Based on the findings above, the proposed amendments are consistent with Title 1.

Title 7: Housing Choice

Finding:

Title 7 is designed to ensure the production of affordable housing within the UGB. Under Title 7, the City is required to ensure that its Comprehensive Plan and implementing ordinances include strategies to: ensure the production of a diverse range of housing types, maintain the existing supply of affordable housing, increase opportunities for new affordable housing dispersed throughout the City, and increase opportunities for households of all income levels to live in affordable housing (3.07.730). Metro's 2020 Compliance Report concluded that Milwaukie is in compliance for the City's Title 7 responsibilities.

The findings for Statewide Planning Goal 10 Housing, based on the City's 2016 Housing Needs Analysis (HNA), include findings that demonstrate that Milwaukie currently has a range of housing types, including single dwelling detached and attached homes, duplexes, multi-family, and mixed-use developments, and has sufficient capacity to provide for needed housing during the next 20 years. The City plans to update the HNA in 2022 to further solidify these findings. The findings for Statewide Planning Goal 10 also illustrate how the proposed code amendments implement the policies in the new comprehensive plan that promote a diverse range of housing types, with a focus on housing affordability, equity, sustainability, and livability. The proposed amendments allow a variety of housing options for households of all incomes, ages and living patterns, sited in a dispersed manner throughout the City to help ensure access to services, community amenities, and employment centers. A mix of housing types combined with the higher densities will support development of smaller units with lower land costs and increased opportunities for transit, all of which can facilitate more affordable housing.

In addition to the recently adopted comprehensive plan which has multiple policies supporting housing affordability, equity and choices, the City has conducted several recent planning efforts aimed at addressing similar goals. The *Milwaukie Housing Affordability Strategy* and *Equitable Housing Policy & Implementation Plan* identify a variety of specific strategies to further these goals, many of which are already being implemented by the City and its local and regional partners. The proposed code amendments are the result of an evaluation of the existing zoning ordinance to reduce barriers to and encourage the development of smaller, potentially more affordable housing types. Accessory dwelling

units, cottage cluster housing, townhouses, and other middle housing types are now proposed to be permitted by right in all residential zones in the city.

Based on the findings above, the proposed amendments are consistent with Title 7.

Title 8: Compliance Procedures

Finding: Title 8 establishes a process for ensuring compliance with requirements of the UGMFP. An amendment to the City comprehensive plan or land use regulations is deemed to comply with the UGMFP only if the City provided notice to Metro as required by section 3.07.820(a). The City of Milwaukie provided Metro a set of draft code amendments on August 31, 2021, which was more than 35 days prior to the first evidentiary hearing, scheduled for October 12, 2021.

Based on the findings above, the proposed amendments are consistent with Title 8.

Title 13: Nature in Neighborhoods

Finding: The purpose of Title 13 is twofold: (1) to conserve, protect, and restore a continuous ecologically viable streamside corridor system in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality and prevent water pollution. The City is required to comply with Title 13 for all mapped resources located within the City. By meeting the requirements of Title 13, the City also complies with Statewide Planning Goal 5 for riparian areas and wildlife habitat. Metro's 2020 Compliance Report concluded that Milwaukie is in compliance with Title 13.

The proposed code amendments do not propose any changes to the City's habitat protection program or inventory of habitat resources. Further the amendments strengthen the City's approach to habitat conservation with a new tree code that applies to residential properties. The new tree code applies to both new development and non-development activities.

Amendments related to trees on private property are intended to make the existing Milwaukie tree code consistent with the policies in the Comprehensive Plan and Urban Forestry Management Plan.

The current tree code addresses only trees in the public right of way or on public property, like park or street trees. In order to meet the City's goal of a 40% tree canopy, as identified in the Climate Action Plan, Urban Forestry Management Plan, and Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

In the proposed code amendments, private tree code is proposed to protect canopy on private residential property. The proposed tree code focuses on the adoption of tree preservation standards, tree canopy standards, mitigation standards, soil volume and

protection standards. For residential development projects, tree canopy protection is prioritized, and tree replacement will be required if trees are removed. For other healthy non-development tree removal on private property, a permit will be required as well as tree replacement or mitigation. There will be exceptions and a streamlined process for unhealthy or dying trees, trees posing safety hazards, invasive species, and trees significantly impacting infrastructure without practical mitigation.

The proposed amendments to the City's municipal code Title 16 and Title 19 clarify existing code language and update desired tree and plant types to meet City policy goals for greater forest diversity, more native and climate-resilient species, improving the ecological function and creating multi-level, uneven-aged canopy.

Based on the findings above, the proposed amendments are consistent with Title 13.

Statewide Findings for Milwaukie Plan and Code Amendments – Middle Housing

This memo summarizes the consistency of the proposed code amendments with the following statewide goals, as well as key Oregon Revised Statutes (ORSs) and Oregon Administrative Rules (OARs):

- Goal 1: Citizen Involvement
- Goal 2: Land Use Planning
- Goal 5: Natural and Historic Resources
- Goal 6: Air, Land and Water
- Goal 7: Natural Hazards
- Goal 8: Parks and Recreation
- Goal 9: Economic Development
- Goal 10: Housing
- Goal 11: Public Facilities
- Goal 12: Transportation
- Goal 13: Energy
- Goal 14: Growth Management
- Goal 15: Willamette Greenway

Other Statewide Planning Goals are not directly applicable to the proposed code amendments. Goals related to agriculture and forestry do not apply to land intended for future urbanization within the urban growth boundary. Additionally, the proposed amendments do not involve land or resources designated as part of Oregon’s coastal zone.

Consistency with the applicable goals is a requirement for any amendment to a City’s land use ordinances.

Based on the findings described below, the proposed code amendments comply with the applicable Statewide Goals and associated ORS and OAR provisions.

Goal 1: Citizen Involvement

Finding: Goal 1 requires the City to employ an appropriately-scaled involvement program to ensure the opportunity for meaningful public involvement throughout the land use planning process. Goal 1 requires the City to incorporate six key components in its public involvement program:

- Citizen Involvement: An officially-recognized committee for public involvement broadly representative of geographic areas and interests related to land use and land-use decisions to provide for widespread public involvement;
- Communication: Mechanisms for effective two-way communication between the public and elected/appointed officials;

- Influence: Opportunities for the public to be involved in all phases of the planning and decision-making process including developing, evaluating, and amending plans;
- Technical Information: Access to technical information used in the decision-making process, provided in an accessible and understandable format;
- Feedback Mechanisms: Programs to ensure that members of the public receive responses from policy-makers and that a written record for land-use decisions is created and made accessible; and,
- Financial Support: Adequate resources allocated for the public involvement program as an integral component of the planning budget.

Following is a summary of activities undertaken by the City associated with each of these elements of the City's community engagement effort undertaken to support the proposed code amendments related to middle housing, tree preservation, and residential parking.

Project Community Engagement Goals

At the beginning of the project, community engagement goals for the project were established. The goals included:

- Creating opportunities for as wide a reach of engagement as possible given the schedule and budget limitations.
- Making a concerted effort to engage historically under-represented communities. To quantify this goal, the project targeted having participation in the community surveys being approximately equivalent to the overall demographics in the city of Milwaukie.
- Focusing communications and seeking input in no-contact techniques while reaching out to multiple groups in smaller venues (via Zoom), rather than holding large city-wide open house events due to Covid.
- Communicating information in a way that people can provide meaningful input on the complex issues, such as by breaking down topics into understandable pieces and using visual images and examples to illustrate different policy concepts.
- Having a transparent and inclusive process that seeks both to educate and provide opportunities for input.
- Providing an open and welcoming process, with emphasis placed on using inclusive language in conversations, materials and plan and policy recommendations.
- Documenting public input and responding to individual comments.

Project Webpages

Information about the project was available on both the City of Milwaukie's website and at Engage Milwaukie, the City of Milwaukie's online engagement platform.

General project information was available on the City's website

(<https://www.milwaukieoregon.gov/planning/comprehensive-plan-implementation>), including project background, CPIC meeting information, summaries of the open houses, and contact information.

Engage Milwaukie (<https://engage.milwaukieoregon.gov/comprehensive-plan-implementation>) was utilized for the virtual open houses, community surveys, and to provide a forum for ongoing feedback. When the community surveys were closed, Engage Milwaukie also maintained the information from the open houses to be accessed by the public as desired. After registering, the public could comment on the project at any time during the process. Comments provided on Engage Milwaukie were included in the open house and community survey summaries.

Pilot Newsletter

Articles about the project were included monthly in the Pilot Newsletter, distributed to all residents within the City of Milwaukie. Articles provided background information about the project, informed people of upcoming opportunities for public input and provided updates of key project milestones.

<https://www.milwaukieoregon.gov/citymanager/city-newsletter-pilot>

Stakeholder Interviews

In October 2020, project team members conducted interviews with 32 Milwaukie stakeholders. The purpose of the interviews was to seek input on key livability issues and perspectives on housing, parking and tree preservation. The stakeholders included Milwaukie residents, housing advocates, housing developers, NDA chairs, City Councilors, and members of the Milwaukie community with ties to those who are historically under-represented in public processes.

Advisory Committee

The City appointed a Comprehensive Plan Implementation Committee (CPIC) in the spring of 2020 to provide feedback on the zoning code and map amendments. The 15-member committee (13 community members and two planning commissioners/City Councilors) offered feedback on code concepts and ensured that the diverse interests of the Milwaukie community are reflected in the code and map amendments, while also adhering to the state's requirements. The CPIC met 10 times from June 2020 through July 2021. Their input was incorporated into the draft code amendments that were brought before the Planning Commission and City Council for review. All meetings of the CPIC were held virtually over Zoom due to Covid restrictions, but were open to the public and time was reserved at each meeting for non-committee members to comment.

All CPIC meetings were recorded and the video for each meeting, including all meeting packets and PowerPoint presentations, were posted on the committee webpage:

<https://www.milwaukieoregon.gov/planning/comprehensive-plan-advisory-committee-cpic>.

Virtual Open Houses, with Accompanying Community Surveys

Due to COVID restrictions, no in-person outreach events occurred. Engage Milwaukie (<https://engage.milwaukieoregon.gov/comprehensive-plan-implementation>), the digital community engagement platform used by the City was used to provide three opportunities for the public to engage with the process virtually. All of the online open houses were translated into Spanish. Paper copies of materials (in English and Spanish) were available upon request.

The public was notified of the open house events via social media, project email list, bookmarks and postcards at the Ledding Library, direct emails to all city committee members, and the Pilot newsletter.

- Open house #1: Fall 2020

The first virtual open house and corresponding community survey was available from November 12 through November 29, 2020. The purpose of the first open house was to educate the public about the project, including the policy mandates guiding the project, and to seek input on the community's preferences. As part of the open house, participants could provide open-ended comments on each topic and/or could participate in the community survey. The survey sought input on the priorities of the Milwaukie community related to housing, trees and parking.

Ninety-three people provided feedback through the community survey. Approximately 89% of the respondents self-identified as Caucasian, 5% as people of color and 9% as other.

Feedback from the first open house, in conjunction with CPIC input, was used to identify priorities and preferences for the code concepts regarding housing, parking and tree preservation.

- Open house #2: Spring 2021

The virtual open house and corresponding survey was available from March 22 through April 15, 2021. The second open house provided code concepts for public review and comment. Concepts explored included parking locations, tree requirements and priorities related to the design of middle housing. The corresponding survey asked for feedback on specific scenarios for parking location and the number of parking spaces, and building form. Questions also sought to gain insight on preferences for site design and code flexibility.

There were 121 completed surveys and 149 people either provided comments and/or completed the survey. Approximately 84% of the respondents self-identified as Caucasian, 12% as people of color and 3% as other.

Feedback from the second open house, in conjunction with CPIC input, was used to refine the code concepts and create draft code amendments.

- Open house #3: Spring 2021

A third open house, available starting June 25, 2021 and staying open throughout the adoption process, presented the draft code amendments for public review and comment. Open house participants could either provide feedback through comments on Engage Milwaukie or by emailing the City's project manager. The open house also laid out the code amendment adoption process and identified how the public can provide public testimony during the process.

Neighborhood District Association (NDA) Presentations

Throughout the process, City planning staff provided project updates at Neighborhood District Association (NDA) meetings. In an effort to encourage as many people as possible to participate in the second open house and take the survey, city staff facilitated virtual discussions with each NDA at their regular monthly meetings in March and April 2021.

Small Group Discussions

In an effort to increase participation from a diverse cross-section of the Milwaukie community, City planning staff held virtual meetings advertised to target audiences.

- Spanish language small group meeting

On April 14, 2021, city staff and a professional Spanish language interpreter facilitated a virtual small group discussion for people who preferred to engage in Spanish. The meeting included a PowerPoint presentation (in Spanish) that summarized the project goals and processes, and the entire discussion was held in Spanish, with city staff providing answers to questions in English, which were then translated into Spanish. Twelve people participated in the meeting, including a member of CPIC.

- Black, Indigenous, people of color (BIPOC) small group meeting

On April, 2021 city staff, including the City's Equity Manager, facilitated a virtual small group discussion for BIPOC community members. The meeting included a PowerPoint presentation that summarized the project goals and processes as part of a larger open discussion. Three people participated in the meeting.

In addition, City planning staff facilitated an open meeting via Zoom advertised on Nextdoor and the city's Facebook and Instagram sites.

Feedback from these small group discussions were incorporated into the draft code amendments.

Planning Commission and City Council Updates

City staff conducted worksessions with the City's Planning Commission and City Council throughout the project to review the status of the work and solicit feedback on key issues. When the draft code amendments were made available for public review, the City conducted

three worksessions with the Planning Commission to discuss specific code language for refinement and to see direction for the final proposed code language. These meetings also were open to the public and were recorded and available for public viewing after the meetings.

The specific proposed code language was posted on the Engage Milwaukie webpage on June 25, 2021 as part of an informative virtual open house. Prior to the public hearings the Planning Commission had 3 worksessions about the proposed code amendment language in July and August 2021. Specific notice of the draft amendments and the October 12, 2021 public hearing was as follows: notice was sent to all residential addresses in the city via a mailed postcard on September 14, 2021; email notices were sent to all city committee members and the project email subscription list on September 1, 2021; posts were made to city social media on September 1, 2021. The current version of the draft amendments have been posted on the application webpage since August 31, 2021. On September 1, 2021 staff e-mailed NDA leaders with information about the hearing and a link to the draft proposed amendments.

Based on the findings above, the Comprehensive Plan Update is consistent with Oregon Statewide Planning Goal 1.

Goal 2: Land Use Planning

Goal 2. To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: Goal 2 requires the City to establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The proposed plan and code amendments are related directly to implementation of the city's comprehensive plan as it relates to the provision of middle housing throughout the city's residential zones. No changes are proposed that impact the land use planning process or policy framework within the city.

Goal 2 does not apply to the proposed amendments.

Goal 5: Natural and Historic Resources

Goal 5. To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: Goal 5 directs the City to inventory, evaluate, and develop conservation programs for specific natural and cultural resources.

The proposed code amendments do not propose any changes to the City’s habitat protection program or inventory of habitat resources. Further the amendments strengthen the City’s approach to habitat conservation with a new tree code that applies to residential properties.

The proposed code amendments do not propose any changes to the City’s historic resources code or inventory of historic resources. Pursuant to Oregon House Bill 2001, the proposed code amendments do not prohibit the development of middle housing on historic properties that otherwise permit detached single unit dwellings.

Goal 5 does not directly apply to the proposed ordinance because no new Goal 5 program is advanced by this ordinance and no existing Goal 5 program is changed by this ordinance.

Goal 6: Air, Water, and Land Resources Quality

Goal 6. To maintain and improve the quality of the air, water, and land resources of the state.

Finding: Goal 6 requires cities and counties to ensure that solid waste, thermal, noise, atmospheric, or water pollutant and contaminant process discharges from existing and future developments do not violate state or federal environment environmental quality standards or degrade the quality of air, water, or land resources. Implementing ordinances must demonstrate consistency with the administrative rules related to air, water, and land quality established by the Environmental Quality Commission (EQC).

The proposed code amendments do not propose any changes or impacts to mapped resources in the city. The proposed amendments strengthen the City’s approach to environmental quality through the efficient use and/or preservation of land and air resources through compact development patterns via middle housing and carbon emissions reductions as well as the new tree code requiring preservation and/or new plantings on residential properties.

Goal 6 does not directly apply to the proposed ordinance because no new Goal 6 program is advanced by this ordinance and no existing Goal 6 program is changed by this ordinance.

Goal 7: Natural Hazards

Goal 7. To protect people and property from natural hazards.

Finding: Goal 7 requires Comprehensive Plans to reduce the risk to people and property from natural hazards, including floods, landslides, earthquakes, tsunamis, coastal erosion, and wildfires.

The City of Milwaukie already complies with Goal 7 by regulating development in hazard-prone areas through the Municipal Code. Code sections address the following types of natural hazard conditions: seismic hazards (Chapter 16.12), weak foundation soils (Chapter 16.16), and flood hazard areas (Chapter 18.04). The proposed code amendments do not make any changes to these code sections.

Goal 7 does not apply to the proposed code amendments.

Goal 9: Economic Development

Goal 8. To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding: Goal 9 requires the City to maintain and plan for an adequate land supply to accommodate at least 20 years of future growth, ensuring citizens have adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of Oregon.

The proposed code amendments do not propose any changes to the City's mixed use, commercial, or industrial zones. All amendments related to middle housing are restricted to the city's existing residential zones.

Goal 9 does not apply to the proposed code amendments.

Goal 10: Housing

Goal 10: To provide for the housing needs of citizens of the state.

Finding: Goal 10 requires the City to maintain and plan for an adequate land supply to accommodate at least 20 years of future growth, providing flexibility in housing location, type, and density to ensure the availability and prices of housing units are commensurate with the needs and financial capabilities of Oregon households. Comprehensive plans are required to include an analysis of community housing needs by type and affordability, an assessment of housing development potential, and an inventory of residential land; contain policies for residential development and supportive services based on that analysis that increase the likelihood that needed housing types will be developed; and provide for an adequate supply of a variety of housing types consistent with identified policies and meeting minimum density and housing mix requirements (established by OAR 660, Division 007).

The City's 2016 Housing Needs Analysis (HNA), included findings that demonstrate that Milwaukie currently has a range of housing types, including single-family detached and attached homes, duplexes, multi-family, and mixed-use developments, and has sufficient capacity to provide for needed housing during the next 20 years.

In 2017 the City adopted its Community Vision which includes the following statement about housing:

"Milwaukie invests in housing options that provide affordability, high quality development and good design, promoting quality living environments. It maintains the small neighborhood feel through creative use of space with housing options that embrace community inclusion and promotes stability."

In order to realize the full vision for the community the next step was to complete a full overhaul of its Comprehensive Plan which was adopted in 2020. The housing component of the plan is critical to realizing the vision and Council has made housing a top priority of the City for the last several years.

In addition to the updated Comprehensive Plan policies supporting housing affordability, equity and choices, the City has conducted several recent planning efforts aimed at addressing similar goals, including the following.

The **Milwaukie Housing Affordability Strategy (MHAS)** was adopted by the Milwaukie City Council in 2018 after the Council identified housing affordability as its number one priority for the 2017–2018 biennium. The MHAS is a blueprint for providing equitable affordable housing opportunities and is intended to help increase the amount of affordable housing in the City. It serves as an overarching framework, combining existing land uses, needs assessments, housing policy analysis, and an analysis of best practices from peer cities. The MHAS includes a total of 31 proposed actions or programs focused around the following three goals:

- Develop New Units
- Prevent Displacement and Keep Affordable Units Affordable
- Connect People to Existing Affordable Housing

The **Milwaukie Housing Equity Policy Implementation Plan (EHPIP)** was prepared in 2019 with funding provided through a grant from the Oregon Department of Land Conservation and Development. The EHPIP builds on the work conducted for the MHAS, as well as other housing affordability and equity initiatives in Milwaukie. It identifies a variety of specific strategies to further these goals, with a strong focus on how they will promote geographic, racial, and income equity in Milwaukie. The EHPIP also includes a cross-referencing of EHPIP strategies with draft Comprehensive Plan goals and policies.

The **Accessory Dwelling Unit (ADU) Code Audit** was undertaken by the City in 2018-2019 as part of implementation of the MHAS. This project included an assessment of the existing zoning code standards and fees related to ADUs and develop recommendations aimed at enabling the development of more cost-effective ADUs in the City.

The **Cottage Cluster Feasibility Study** was conducted by the City in 2018-2019 and was funded through Metro's Equitable Housing Strategies grant. Cottage Cluster housing is a way to provide housing that is affordable for groups that have been identified by community partners as having a demonstrated need for equitable housing in Milwaukie. The purpose of the study was to understand what code changes might be needed to make cottage cluster housing possible in Milwaukie. The project team conducted a financial feasibility analysis and preliminary site design work for 4 real-world test sites to assess their potential to provide a cottage cluster development.

The proposed code amendments implement a variety of goals and policies related to housing and will support consistency with Statewide Planning Goal 10. By allowing middle housing in

all residential zones in the city, housing choice and opportunities to expand housing options are made possible.

HB 2001 requires that local governments consider ways to increase the affordability of middle housing. The city has made strides in this effort as follows:

- System Development Charges (SDCs)

The city controls approximately one-third for the total SDCs associated with development (Clackamas County controls the remainder). The city continues to have conversations with the County to address the issue of SDCs and their effect on the cost of development. The city has developed a Bancroft financing program which allows an applicant to finance the required SDCs over a period of 10 years to reduce the upfront cost of these charges. Further, the city has a program in place to reduce the city controlled SDCs for dwellings that are less than 1,500 sq ft in size.

- Construction Excise Tax (CET)

The development and retention of affordable housing is one of the city's priorities referenced in the Milwaukie Community Vision, the Comprehensive Plan, and the Milwaukie Housing Affordability Strategy (MHAS). To support this effort, Council established a CET in 2017, enabled by State Senate Bill 1533, and dedicated revenue to support the development of new affordable housing units in the city. The CET affordable housing grant program is designed to help offset the cost of developing new housing so that it can remain affordable.

Since adoption of the CET, the city has collected approximately \$500,000 in total CET revenue. The funds drawn from residential and commercial development are allocated in ways specified by state law and Milwaukie's local enabling ordinance. Over the last year, City staff have been implementing the program components to prepare for a request for proposals (RFP) process. The next step is for the city to issue an RFP to solicit grant applications for the development of income and rent restricted housing units.

Additionally, the City plans to update the HNA in 2022 when the city can further consider the impacts of the proposed code amendments related to middle housing on land capacity.

The intent of the proposed code amendments, in addition to implementing the city's comprehensive plan and policies supporting a diverse range of housing types, with a focus on housing affordability, equity, sustainability and livability, is to be in compliance with HB 2001. The proposed amendments implement comprehensive plan policies related to housing affordability and equity by allowing for a variety of housing options for households of all incomes, ages and living patterns. Housing is sited in a dispersed manner throughout the City to help ensure access to services, community amenities, and employment centers. A mix of housing types combined with the higher densities will support development of smaller units

with lower land costs and increased opportunities for transit, all of which can facilitate more affordable housing.

The city's Community Development Department will continue to work on ways to assist in the development of housing, provide incentives for regulated affordable housing development, provide incentives for the retention or conversion of existing affordable housing supply, and provide incentives and reduce barriers within the development code.

Based on the findings above, the Comprehensive Plan Amendment is consistent with Statewide Planning Goal 10.

Goal 11: Public Facilities

Goal 11: To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Goal 11 requires the City to “plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.” The City of Milwaukie coordinates with several other local service providers to ensure timely, orderly and efficient arrangement and provision of public services to serve development within the City of Milwaukie and its planning area between the city limits and UGB. The City of Milwaukie provides planning and zoning services inside the city limits, as well as provision of water, conveyance of wastewater, transportation facilities on city-owned facilities, law enforcement, and library services. The City is already in compliance with Goal 11 and the preparation and adoption of updated specific facility master plans for water, wastewater and stormwater are underway at this time.

Goal 11 is not applicable to the proposed code amendments related to middle housing.

Goal 12: Transportation

Goal 12: To provide and encourage a safe, convenient and economic transportation system.

Finding: Goal 12 and the State Transportation Planning Rule (TPR; OAR 660, Division 012) require cities to provide and encourage a safe, convenient, and economic transportation system. Together, they require the City to develop and maintain a Transportation System Plan (TSP), which must be incorporated as part of the Comprehensive Plan. A local TSP acts as a guiding policy document for long-term transportation planning and presents the City's goals and policies while outlining and prioritizing proposed improvements for pedestrian, bicycle, public transit, motor vehicle, and freight systems; downtown parking; and neighborhood traffic management.

The city was in compliance with Goal 12 prior to these code amendments and with the planned update to the TSP in 2022-2023 reflecting the proposed code amendments for middle housing, the proposal is consistent with Goal 12 Transportation and the Transportation Planning Rule.

Goal 13: Energy

Goal 13: To conserve energy.

Finding: Goal 13 requires that any spatial changes to future patterns of allowed land uses must conserve energy.

The city's Comprehensive Plan is already in compliance with Goal 13 and the proposed code amendments provide greater opportunities for more compact development and efficient use of land which will result in a reduction in energy consumption, including in transportation and utilities.

The proposed code amendments, related to middle housing, are consistent with Statewide Planning Goal 13.

Goal 14: Growth Management

Goal 14: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

The entirety of the city and its Municipal Planning Area (MPA) is located within the Urban Growth Boundary (UGB). As such, the proposed amendments will not result in the transition of any land from rural to urban uses or result in population or employment growth outside of the UGB.

The proposed amendments are directly related to the provision of middle housing opportunities in all residential zones in the city which will enhance community livability, environmental sustainability, social interaction, and multimodal connectivity and support the unique function of Milwaukie neighborhoods as the centers of daily life.

Goal 14 does not directly apply to the proposal but the amendments are consistent with Goal 14.

Goal 15: Willamette Greenway

Goal 15. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: Goal 15 requires cities and counties to maintain and implement local greenway plans. This includes applying a local review process and criteria to review intensifications of use, changes of use and new development that are consistent with criteria in the goal. Greenway compatibility reviews are intended to insure, "the best possible appearance, landscaping and public access" is achieved for development along the river.

House Bill 2001 requires applicable cities to amend development codes governing the development of housing in areas that allow for the development of single-family detached dwellings to allow the development of middle housing. The proposed amendments do not include significant amendments to the city's Willamette Greenway code, but the city has plans in the future to review this code section in the future to ensure consistency with the intent and purpose of ORS 197.307.

As proposed, the code amendments are consistent with Goal 15.

Underline/Strikeout Amendments

COMPREHENSIVE PLAN

Comprehensive Plan Land Use Map

Updated to show two residential designations reflecting changes to zoning map per 19.107.
(Attachment 1)

Comprehensive Plan Residential Land Use Designations

~~Low Density Residential: Zones R-10 (3.5-4.4 units/acre) & R-7 (5.0-6.2 units/acre) – 50% of City~~

- ~~–a. Permitted housing types include single-unit detached, accessory dwelling units, and duplexes on large lots.~~
- ~~–b. Transportation routes are limited primarily to collectors and local streets.~~
- ~~–c. Sites with natural resource or natural hazard overlays may require a reduction in density.~~

Moderate Density Residential: Zones R-5 (7.0-8.7 units/acre) Zone R-MD (5.0 – 34.8 units/acre)

- a. Permitted housing types include single-unit detached on moderate to small lots, accessory dwelling units, and duplexes, triplexes, quadplexes, townhouses, and cottage clusters.
- b. Transportation routes are limited primarily to collectors and local streets.
- c. Sites with natural resource or natural hazard overlays may require a reduction in density.
- b. Convenient walking distance to a transit stop or close proximity to commercial and employment areas distinguish moderate density residential from low density residential.

~~Medium Density Residential: Zones R-3 (11.6-14.5 units/acre) & R-2.5, R-2 (11.6-17.4 units/acre)~~

- ~~–a. Permitted housing types include single-unit detached on small lots, duplexes, accessory dwelling units, cottage clusters, and in limited areas, multi-unit development.~~
- ~~–b. These areas typically have access to major or minor arterials. Siting should not result in increased traffic through Low Density Residential areas.~~
- ~~–c. Medium Density areas are to be located near or adjacent to commercial areas, employment areas or transit stops.~~

High Density: High Density: Zones R-1 & R-1-B (25.0-32.0 units/acre) Zones R-3 (11.6-14.5 units/acre), R-2.5 and R-2 (11.6-17.4 units/acre), and R-1 and R-1-B (25-32 units/acre)

- a. A wide variety of housing types are permitted including single-unit detached on moderate to small lots, accessory dwelling units, and duplexes, triplexes, quadplexes, townhouses, and cottage clusters, with the predominant housing type being multi-unit development.
- b. These areas should be adjacent to or within close proximity to downtown or district shopping centers, employment areas and/or major transit centers or transfer areas.
- c. Access to High Density areas should be primarily by major or minor arterials.
- d. Office uses are outright permitted, and commercial uses are conditionally permitted in limited areas within close proximity of downtown.

Title 19 Zoning Ordinance

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-10
Residential	R-7
Residential	R-5 R-MD
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

19.107.2 Zoning Map

Updated to show six residential designations reflecting changes to zoning map per 19.107.1 (Attachment 2).

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

Refer to individual chapters of this title for chapter-specific definitions.

As used in this title:

~~“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.~~

“Lot” means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of 1 distinct ownership. When 1 owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with 1 or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

“Back lot” means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

“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.

“Corner lot” means a lot abutting 2 or more streets, other than an alley, at their intersection.

“Interior lot” means a lot other than a corner lot.

“Legal lot” means a unit of land other than a tract created through a subdivision or partition approved by the City.

“Lot of record” means a unit of land for which a deed or other instrument dividing the land was filed with the Clackamas County Recorder, which was not created through a partition or subdivision approved by the City, and which was created prior to October 5, 1973.

“Through lot” means an interior lot having frontage on 2 streets.

“Allowed By Right” means any land use permitted without land use approval by the City’s Planning Department or Planning Commission, such as is required by a Type I – V review process.

“Owner” means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner’s written consent includes an authorized agent of the owner.

“Planning Manager” means the person who is the manager/supervisor of the city’s Planning Department, or the City Manager’s designee to fill this position. This position can also be described as the Planning Director.

“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, shrub, or other woody vegetation on land within the right-of-way.

“Tree” means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity a woody plant characterized by one main stem or trunk of at least 6-in diameter, according to the measurement standards established in Subsection 19.202.3.

Residential Uses and Structures

“Duplex” means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU. means a structure on 1 lot that contains 2 dwelling units. The units in a duplex must share a common structural wall or a common floor/ceiling. In instances where a second dwelling unit within a structure can meet the definition for both a duplex and an accessory dwelling unit, the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached accessory dwelling unit.

“Cottage” means a structure containing one dwelling unit on one lot within an area that was divided to create a cottage cluster development, per Subsection 19.505.4.

“Cottage Cluster” means a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard per Subsection 19.505.4. Cottage Cluster units may be located on a single lot or parcel, or on individual lots or parcels.

“Cottage Cluster Project” means two or more cottage clusters constructed, or proposed to be constructed.

“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 Section 5401 et seq.) as amended on August 22, 1981.

“Middle Housing” means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.

“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.

“Multifamily Multi-unit development” means a structure that contains five or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-unit development includes structures commonly called garden apartments, apartments, and condominiums. means 3 or more dwelling units on 1 lot Condominium lots do not count as separate lots for purposes of this definition. The dwelling units may be located in 1 or more structures on the lot. The dwelling units may be arranged with 1 dwelling unit per structure or with multiple dwelling units within a structure that are separated vertically and/or horizontally. Multifamily developments

~~include the forms of housing that are typically called apartments and condominiums. Multifamily Multi-unit developments may include structures that are similar in form to rowhouses, cottage clusters, duplexes, or single family dwellings.~~

“Quadplex” means four dwelling units on a lot or parcel in any configuration.

~~“Single-family detached dwelling” means a structure, or manufactured home, containing 1 dwelling unit with no structural connection to adjacent units.~~

~~“Rowhouse-Townhouse” means a residential structure on its own lot that shares 1 or more common or abutting walls with at least 1 or more dwelling units on adjoining lots. The common or abutting wall must be shared for at least 25% of the length of the side of the building. The shared or abutting wall may be the wall of an attached garage. A Townhouse does not share common floors/ceilings with other primary dwelling units.~~

“Triplex” means three dwelling units on a lot or parcel in any configuration.

19.202 MEASUREMENTS

19.202.4 Density Calculations

Minimum required and maximum allowed dwelling unit density will be calculated as described below, except that residential cluster development on lands containing natural resource areas are subject to the density calculations in Subsection 19.402.14.C. The purpose of these calculations is to ensure that properties develop at densities consistent with the densities in the Comprehensive Plan. The area deductions for minimum required density allow properties to utilize land that can be built upon. The area deductions for maximum allowed density include sensitive lands where development should be avoided.

C. Discrepancy between Minimum Required and Maximum Allowed Density

~~In situations where the calculation of maximum allowed density results in a number smaller than the calculation of minimum required density, the result from the minimum allowed density is both the minimum required and maximum allowed density. If the calculation results are that minimum density is equal to maximum density, then the minimum required density is reduced by one. If the calculation results are that minimum density is larger than maximum density, then the minimum required density is reduced to one less than the maximum. If the calculation results are that the maximum density calculation is equal to zero, then the minimum density is one.~~

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

The moderate density residential zone is Residential Zone R-MD. This zone implements the Moderate Density residential land use designation in the Milwaukie Comprehensive Plan.

19.301.1 Purpose

The moderate density residential zone is intended to create, maintain, and promote neighborhoods with larger lot sizes while allowing a broad range of housing types. Some non-household living uses are allowed, but overall the character is one of residential neighborhoods.

19.301.2 Allowed Uses in Moderate Density Residential Zones

Uses allowed, either allowed by right or conditionally, in the moderate density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.301.2 Moderate Density Residential Uses Allowed		
<u>Use</u>	<u>R-MD</u>	<u>Standards/Additional Provisions</u>
<u>Residential Uses</u>		
<u>Single detached dwelling</u>	<u>P</u>	<u>Subsection 19.505.1</u> Single Detached and Middle Housing Residential Development
<u>Duplex</u>	<u>P</u>	<u>Subsection 19.505.1</u> Single Detached and Middle Housing Residential Development
<u>Triplex</u>	<u>P</u>	<u>Subsection 19.505.1</u> Single Detached and Middle Housing Residential Development
<u>Quadplex</u>	<u>P</u>	<u>Subsection 19.505.1</u> Single Detached and Middle Housing Residential Development
<u>Townhouse</u>	<u>P</u>	<u>Subsection 19.505.1</u> Single Detached and Middle Housing Residential Development <u>Subsection 19.505.5</u> Standards for Townhouses
<u>Cottage Cluster</u>	<u>P</u>	<u>Subsection 19.505.1</u> Single Detached and Middle Housing Residential Development <u>Subsection 19.505.4</u> Cottage Cluster Housing
<u>Residential home</u>	<u>P</u>	<u>Subsection 19.505.1</u> Single Detached and Middle Housing Residential Development
<u>Accessory dwelling unit</u>	<u>P</u>	<u>Subsection 19.910.1</u> Accessory Dwelling Units
<u>Manufactured dwelling park</u>	<u>N</u>	<u>Subsection 19.910.3</u> Manufactured Dwelling Parks.
<u>Senior and retirement housing</u>	<u>CU</u>	<u>Subsection 19.905.9.G</u> Senior and Retirement Housing
<u>Commercial Uses</u>		
<u>Bed and breakfast or Vacation rental</u>	<u>CU</u>	<u>Section 19.905</u> Conditional Uses
<u>Accessory and Other Uses</u>		
<u>Accessory use</u>	<u>P</u>	<u>Section 19.503</u> Accessory Uses
<u>Agricultural or horticultural use</u>	<u>P</u>	<u>Subsection 19.301.3</u> Use Limitations and Restrictions
<u>Community service use</u>	<u>CSU</u>	<u>Section 19.904</u> Community Service Uses
<u>Home occupation</u>	<u>P</u>	<u>Section 19.507</u> Home Occupation Standards
<u>Short-term rental</u>	<u>P</u>	<u>Section 19.507</u> Home Occupation Standards

P = Permitted/allowed by right

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

II = Type II review required.

III = Type III review required.

19.301 LOW DENSITY RESIDENTIAL ZONES

The low density residential zones are Residential Zone R-10, Residential Zone R-7, and Residential Zone R-5. These zones implement the Low Density and Moderate Density residential land use designations in the Milwaukie Comprehensive Plan.

19.301.1 Purpose

The low density residential zones are intended to create, maintain, and promote neighborhoods with larger lot sizes where the land use is primarily single family dwellings. They allow for some nonhousehold living uses but maintain the overall character of a single family neighborhood.

19.301.2 Allowed Uses in Low Density Residential Zones

Uses allowed, either outright or conditionally, in the low density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.301.2 Low Density Residential Uses Allowed				
Use	R-10	R-7	R-5	Standards/Additional Provisions
Residential Uses				
Single-family detached dwelling	P	P	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes
Duplex	P/II	P/II	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes Subsection 19.910.2 Duplexes
Residential home	P	P	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	Subsection 19.910.1 Accessory Dwelling Units
Manufactured dwelling park	N	III	III	Subsection 19.910.3 Manufactured Dwelling Parks.
Senior and retirement housing	CU	CU	CU	Subsection 19.905.9.G Senior and Retirement Housing
Commercial Uses				
Bed and breakfast or Vacation rental	CU	CU	CU	Section 19.905 Conditional Uses

Accessory and Other Uses				
Accessory use	P	P	P	Section 19.503 Accessory Uses
Agricultural or horticultural use	P	P	P	Subsection 19.301.3 Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	Section 19.904 Community Service Uses
Home occupation	P	P	P	Section 19.507 Home Occupation Standards
Short-term rental	P	P	P	Section 19.507 Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

II = Type II review required.

III = Type III review required.

19.301.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Marijuana production is not permitted in ~~low~~ moderate density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.301.4 Development Standards

In the moderate density residential zones, the development standards in Table 19.301.4 apply. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column. Additional standards are provided in Subsection 19.301.5.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

**Table 19.301.4
Moderate Density Residential Development Standards**

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
A. Permitted Dwelling Type					
	Townhouse, Cottage ¹	Single Detached Dwelling, Single Detached Dwelling, with ADU, Duplex	Single Detached Dwelling, Single Detached Dwelling, with ADU, Duplex, Triplex	Single Detached Dwelling, Single Detached Dwelling, with ADU, Duplex, Triplex, Quadplex, Cottage Cluster,	Subsection 19.501.1 Lot Size Exceptions
B. Lot Standards					
1. Minimum lot width (ft)	20	30	50	60	
2. Minimum lot depth (ft)	70	80	80	80	
3. Minimum street frontage requirements (ft)					
a. Townhouse	20				
b. Standard lot	35	30	35	35	
c. Flag lot	NA ²	25	25	25	
d. Double flag lot	NA ²	35	35	35	
C. Development Standards					
1. Minimum yard requirements for primary structures (ft)					Subsection 19.301.5.A Side Yards
a. Front yard	20 ³	20	20	20	Subsection 19.501.2 Yard Exceptions
b. Side yard	5 ³	5	5	5/10	Subsection

¹ For a Cottage within a Cottage Cluster only

² Townhouses are not permitted on flag lots

³ For lots 3,000 sq ft and smaller: Where a newly created small lot abuts a larger or pre-existing lot, when abutting a 5,000-sq-ft lot, rear and side yard setback standards for 5,000-sq-ft lots apply; when abutting a 7,000-sq-ft lot, rear and side yard setback standards for 7,000-sq-ft lots apply, and when abutting a 10,000-sq-ft lot, rear and side yard setback standards for 10,000-sq-ft lots apply.

**Table 19.301.4
Moderate Density Residential Development Standards**

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
<u>c. Street side yard</u>	<u>15</u> ³	<u>15</u>	<u>15</u>	<u>20</u>	19.504.8 Flag Lot and Back Lot Design and Development Standards Subsection 19.505.4 Cottage Cluster Housing Subsection 19.505.5 Townhouses
<u>d. Rear yard</u>	<u>15</u> ³	<u>20</u>	<u>20</u>	<u>20</u>	
<u>2. Maximum building height for primary structures</u>	<u>2.5 stories or 35 ft, whichever is less</u>				Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
<u>3. Side yard height plane limit</u>					Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
<u>a. Height above ground at minimum required side yard depth (ft)</u>	<u>20</u>				
<u>b. Slope of plane (degrees)</u>	<u>45</u>				
<u>4. Maximum lot coverage(percent of total lot area)</u>	<u>45%</u>	<u>35%</u>	<u>35%</u>	<u>30%</u>	Section 19.201 "Lot coverage" definition Subsection 19.301.5.B Lot Coverage
<u>5. Minimum vegetation(percent of total lot area)</u>	<u>15%</u>	<u>25%</u>	<u>25%</u>	<u>30%</u>	Subsection 19.301.5.C Front Yard Minimum Vegetation Subsection 19.504.7 Minimum Vegetation
C. Other Standards					
<u>1. Density requirements(dwelling units per acre)</u>					Subsection 19.301.5.D Residential Densities
<u>a. Minimum</u>	<u>25</u>	<u>7.0</u>	<u>7.0</u>	<u>5.0</u>	

**Table 19.301.4
Moderate Density Residential Development Standards**

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
b. Maximum	34.8 ⁴	8.7 ⁵	8.7 ⁵	6.2 ⁵	Subsection 19.501.4 Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4

19.301.5 Additional Development Standards

A. Side Yards

On lots greater than 7,000 sq ft in the R-MD Zone, one side yard shall be at least 5 ft and one side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

B. Lot Coverage

The lot coverage standards in Subsection 19.301.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for properties that are described by more than one of the situations below.

1. Decreased Lot Coverage for Large Lots

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a ~~single-family~~ detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for ~~Single-Family~~ Detached Dwellings

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a ~~single-family detached dwelling~~, or an addition to an existing ~~single-family detached dwelling~~, provided that the portions of the structure that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than one story are allowed to exceed

⁴ Represents the maximum density of townhouses permitted on this lot size. Cottage clusters are exempt from this density maximum.

⁵ Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.301.5.B.2
Increased Lot Coverage for Single-Family Detached Dwellings**

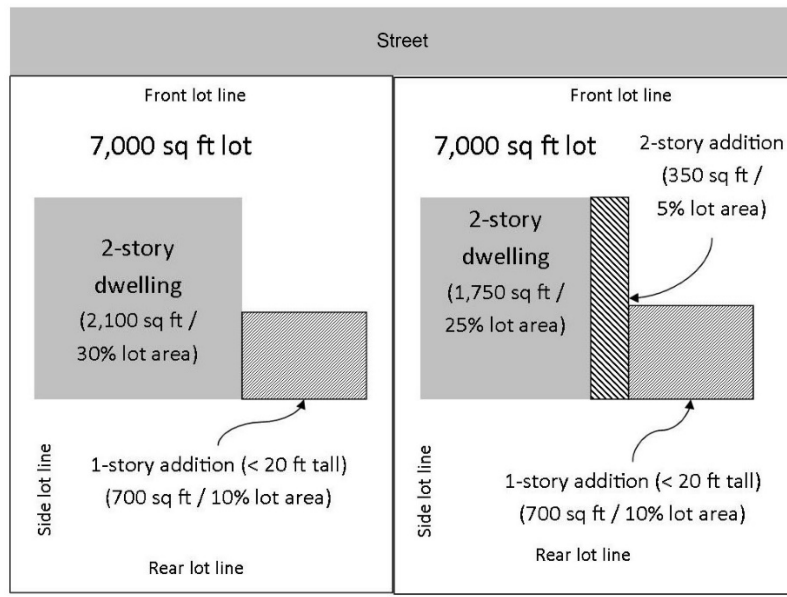
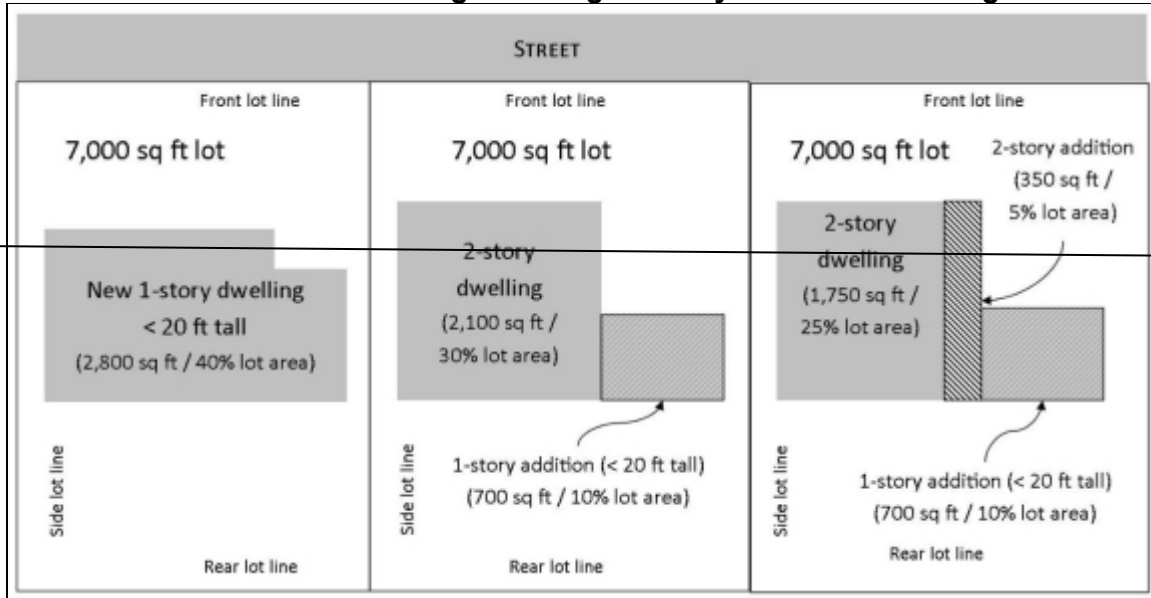


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone R-MD. R-7 based on 7,000 sq-ft lot area.

3. Increased Lot Coverage for Duplexes-Middle Housing

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by ~~2010~~ percentage points for a ~~duplex~~ One to Four Dwelling Units, provided that the portions of the structure(s) that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4.

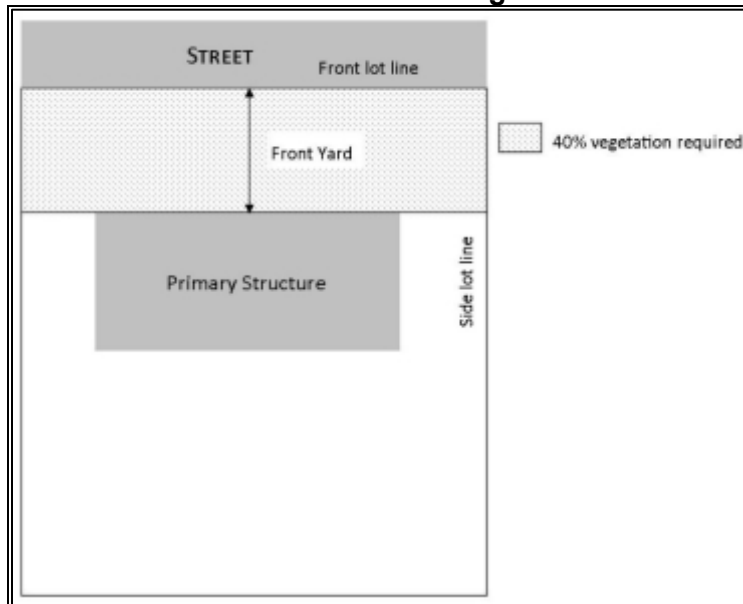
4. Increased Lot Coverage for Detached Accessory Dwelling Units

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

C. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

Figure 19.301.5.C
Front Yard Minimum Vegetation



D. Residential Densities

The minimum ~~and maximum~~ development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots. Maximum densities apply to single detached dwellings; middle housing is exempt from maximum density.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The

inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

~~F. Number of Dwelling Structures~~

~~In the low density residential zones, 1 primary building designed for dwelling purposes shall be permitted per lot. See Subsection 19.504.4.~~

~~F. G. Off-Street Parking and Loading~~

Off-street parking and loading is required as specified in Chapter 19.600.

~~G. H. Public Facility Improvements~~

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

~~H. I. Additional Standards~~

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.505.1 ~~Single-Family Dwellings and Duplexes~~ One to Four Dwelling Units
4. Subsection 19.505.2 Garages and Carports
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

(Ord. 2134 § 2, 2016; Ord. 2120 § 2, 2016; Ord. 2110 § 2 (Exh. G), 2015; Ord. 2051 § 2, 2012)

~~19.301.4 Development Standards~~

~~In the low density residential zones, the development standards in Table 19.301.4 apply. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column. Additional standards are provided in Subsection 19.301.5.~~

~~See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.~~

Table 19.301.4 Low Density Residential Development Standards				
Standard	R-10	R-7	R-5	Standards/ Additional Provisions

A. Lot Standards				
1. Minimum lot size (sq ft)				Subsection 19.501.1 Lot Size Exceptions
a. Single-family detached	10,000	7,000	5,000	
b. Duplex	14,000	14,000	10,000	
2. Minimum lot width (ft)	70	60	50	
3. Minimum lot depth (ft)	100		80	
4. Minimum street frontage requirements (ft)				
a. Standard lot			35	

Table 19.301.4 CONTINUED
Low Density Residential Development Standards

Standard	R-10	R-7	R-5	Standards/ Additional Provisions
A. Lot Standards CONTINUED				
b. Flag lot			25	
c. Double flag lot			35	
B. Development Standards				
1. Minimum yard requirements for primary structures (ft)				Subsection 19.301.5.A Side Yards Subsection 19.501.2 Yard Exceptions Subsection 19.504.8 Flag Lot Design and Development Standards
a. Front yard	20	20	20	
b. Side yard	10	5/10	5	
c. Street side yard	20	20	15	
d. Rear yard	20	20	20	

Table 19.301.4 CONTINUED
Low Density Residential Development Standards

Standard	R-10	R-7	R-5	Standards/ Additional Provisions
B. Development Standards CONTINUED				
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less			Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit				Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)			20	
b. Slope of plane (degrees)			45	
4. Maximum lot coverage (percent of total lot area)		30%	35%	Section 19.201 "Lot coverage" definition Subsection 19.301.5.B Lot Coverage
5. Minimum vegetation (percent of total lot area)	35%	30%	25%	Subsection 19.301.5.C Front Yard Minimum Vegetation Subsection 19.504.7 Minimum Vegetation

C. Other Standards					
1. Density requirements(dwelling units per acre)					Subsection 19.301.5.D Residential Densities Subsection 19.501.4 Density Exceptions
a. Minimum	3.5	5.0	7.0		
b. Maximum	4.4	6.2	8.7		

19.302 HIGH DENSITY RESIDENTIAL ZONES

The high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1-B. These zones implement the High Density residential land use designations in the Milwaukee Comprehensive Plan.

19.302.1 Purpose

The high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

19.302.2 Allowed Uses in Medium and High Density Residential Zones

Uses allowed, either allowed by right or conditionally, in the high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.302.2 Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses						
Single-family detached dwelling	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.1 Single-Family Dwellings and Duplexes
Duplex	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.1 Single-Family Dwellings and Duplexes

						<u>Duplexes</u>
<u>Triplex</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
<u>Quadplex</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.1 Single-Family Dwellings and Duplexes
Accessory dwelling unit	P#	P#	P#	P#	P#	Subsection 19.910.1 Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	Subsection 19.910.3 Manufactured Dwelling Parks
<u>Rowhouse</u> <u>Townhouse</u>	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.1 Single-Family Dwellings and Duplexes Subsection 19.505.5 Standards for Rowhouses -Townhouses
Cottage cluster housing	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.4 Cottage Cluster Housing Cottage cluster land division requires Type III review

Table 19.302.2 CONTINUED						
Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses CONTINUED						
Multifamily <u>Multi-unit</u>	CU	CU	P	P	P	Subsection 19.505.3 Multifamily Housing <u>Multi Unit Housing</u> Subsection 19.302.5.F Residential Densities Subsection 19.302.5.H Building Limitations

Congregate housing facility	CU	CU	P	P	P	Subsection 19.505.3 Multifamily Housing Multi Unit Housing Subsection 19.302.5.F Residential Densities Subsection 19.302.5.H Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	Subsection 19.905.9.G Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	Section 19.905 Conditional Uses
Commercial Uses						
Office	CU	CU	CU	CU	P	Subsection 19.302.3 Use Limitations and Restrictions
Hotel or motel	N	N	N	N	CU	Section 19.905 Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	Section 19.905 Conditional Uses
Accessory and Other Uses						
Accessory use	P	P	P	P	P	Section 19.503 Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	Subsection 19.302.3 Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	Section 19.904 Community Service Uses
Home occupation	P	P	P	P	P	Section 19.507 Home Occupation Standards
Short-term rental	P	P	P	P	P	Section 19.507 Home Occupation Standards

19.302.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Office uses allowed in the ~~medium~~ and high density zones are offices, studios, clinics, and other similar professional offices. Corporate offices for marijuana businesses are permitted provided that no marijuana or marijuana products associated

with the business are on-site. Marijuana testing labs and research facilities are not permitted office uses in these zones.

C. Marijuana production is not permitted in ~~medium and~~ high density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.302.4 Development Standards

In the ~~medium and~~ high density residential zones, the development standards in Table 19.302.4 apply. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column. Additional standards are provided in Section 19.302.5.

The standards in Subsection 19.302.4 are not applicable to cottage cluster development except where specifically referenced by Subsection 19.505.4.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

In the high density residential zones the following housing types are permitted on lot sizes as follows:

Between 1,500 to 2,999 sq ft: Townhouse, Cottage, Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 3,000 to 4,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, and Triplex.

7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, Triplex, Quadplex, Cottage Cluster, Multi Unit Housing.

Table 19.302.4						
<u>Medium and High Density Residential Development Standards</u>						
<u>Standard</u>	<u>R-3</u>	<u>R-2.5</u>	<u>R-2</u>	<u>R-1</u>	<u>R-1-B</u>	<u>Standards/ Additional Provisions</u>
A. Lot Standards						
1. Minimum lot size (sq ft)	1,500					<u>Subsection 19.501.1</u> Lot Size Exceptions <u>Subsection 19.505.4</u> Cottage Cluster Housing

			Subsection 19.505.5 Rowhouses
2. <u>Minimum lot width (ft)</u>	-	<u>20</u>	-
3. <u>Minimum lot depth (ft)</u>	-	<u>70</u>	-
4. <u>Minimum street frontage requirements (ft)</u>	-	-	-
a. <u>Rowhouse</u>		<u>20</u>	
b. <u>Standard lot</u>		<u>35</u>	
c. <u>Flag lot</u>		<u>25</u>	
d. <u>Double flag lot</u>		<u>35</u>	
B. Development Standards			
1. <u>Minimum yard requirements for primary structures (ft)</u>	-	-	Subsection 19.302.5.A Side Yards
a. <u>Front yard</u>		<u>20</u>	Subsection 19.501.2 Yard Exceptions
b. <u>Side yard</u>		<u>See Subsection 19.302.5.A</u>	
c. <u>Street side yard</u>		<u>15</u>	Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
d. <u>Rear yard</u>		<u>15</u>	
2. <u>Maximum building height for primary structures</u>	<u>2.5 stories or 35 ft,whichever is less</u>	<u>3 stories or 45 ft,whichever is less</u>	Subsection 19.302.5.E Height Exceptions Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions Subsection 19.302.5.I Transition Measures
3. <u>Side yard height plane limit</u>	-	-	Subsection 19.501.3 Building Height and Side Yard
a. <u>Height above ground at</u>	-	-	

<u>minimum required side yard depth (ft)</u>	-	20	-	25	<u>Height Plane Exceptions</u>	
<u>b. Slope of plane (degrees)</u>	-	45	-	45		
4. <u>Maximum lot coverage (percent of total lot area)</u>		40%		45%	50%	Section 19.201 “Lot coverage” definition
5. <u>Minimum vegetation (percent of total lot area)</u>		35%			15%	Subsection 19.504.7 Minimum Vegetation Subsection 19.302.5.D Front Yard Minimum Vegetation Subsection 19.302.5.C Minimum Vegetation
C. Other Standards						
1. <u>Density requirements (dwelling units per acre)</u>	-	-	-	-	-	Subsection 19.202.4 Density Calculations
<u>a. Minimum</u>	11.6	11.6		25.0		Subsection 19.302.5.F Residential Densities
<u>b. Maximum⁵</u>	14.5	17.4		32.0		Subsection 19.501.4 Density Exceptions

⁵ Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

Table 19.302.4						
Medium and High-Density Residential Development Standards						
Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
A. Lot Standards						
1. <u>Minimum lot size (sq ft)</u>	-	-	-	-	-	Subsection 19.501.1 Lot Size Exceptions
<u>a. Rowhouse</u>	3,000	2,500	2,500		1,400	Subsection 19.505.4 Cottage Cluster
	6,000	5,000	7,000		6,400	

b. Duplex c. All other lots	5,000	5,000	5,000	5,000	Housing Subsection 19.505.5 Rowhouses
2. Minimum lot width (ft) a. Rowhouse b. All other lots	- 30 50	- 25 50	- 20 50	-	-
3. Minimum lot depth (ft) a. Rowhouse b. All other lots	- 80 80	- 75 75	- 80 80	- 70 80	-
4. Minimum street frontage requirements (ft) a. Rowhouse b. Standard lot c. Flag lot d. Double flag lot	- 30 35 25 35	- 25 35 25 35	- 20 35 25 35	-	-
B. Development Standards					
1. Minimum yard requirements for primary structures (ft) a. Front yard b. Side yard c. Street side yard d. Rear yard	-	-	-	- 15 See Subsection 19.302.5.A 15 15	Subsection 19.302.5.A Side Yards Subsection 19.501.2 Yard Exceptions Subsection 19.504.8 Flag Lot Design and Development Standards
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less	3 stories or 45 ft, whichever is less			Subsection 19.302.5.E Height Exceptions Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions Subsection 19.302.5.I Transition Measures
3. Side yard height	-	-	-	-	Subsection

plane limit	-	-	-	19.501.3 Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum	20		25	
required side yard depth (ft)	45		45	
b. Slope of plane (degrees)				
4. Maximum lot coverage (percent of total lot area)	40%	45%	50%	Section 19.201 "Lot coverage" definition
5. Minimum vegetation (percent of total lot area)	35%		15%	Subsection 19.504.7 Minimum Vegetation Subsection 19.302.5.D Front Yard Minimum Vegetation Subsection 19.302.5.C Minimum Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre)	-	-	-	Subsection 19.202.4 Density Calculations Subsection 19.302.5.F Residential Densities Subsection 19.501.4 Density Exceptions
a. Minimum	11.6	11.6	25.0	
b. Maximum	14.5	17.4	32.0	

19.302.5 Additional Development Standards

A. Side Yards

In the ~~medium~~ and high density zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a ~~row~~townhouse shall be at least 5 ft.
2. There is no required side yard for townhouses that share 2 common walls. The required side yard for an exterior ~~row~~townhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior ~~row~~townhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

B. Lot Coverage

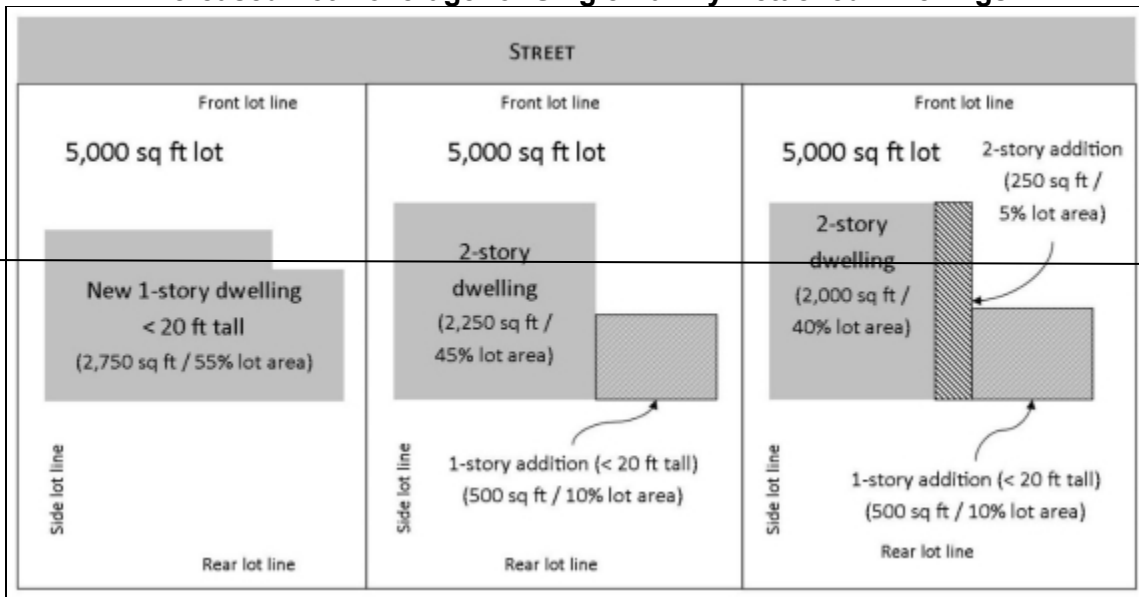
The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

1. Increased Lot Coverage for Single-Family Detached Dwellings

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for development of a single-family detached dwelling, or an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft high, and no taller than 1 story, are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

Figure 19.302.5.B.1
Increased Lot Coverage for Single-Family Detached Dwellings



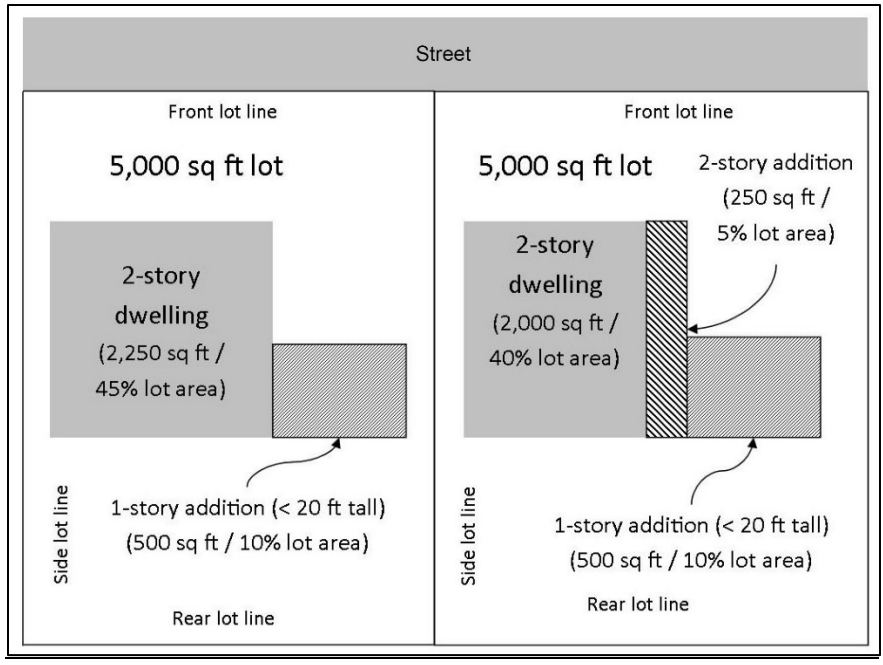


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for One to Four Dwelling Units-Duplexes-and Townhouses. Rowhouses.

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 20 10 percentage points for One to Four Dwelling Units-a duplex or Townhouse rowhouse.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

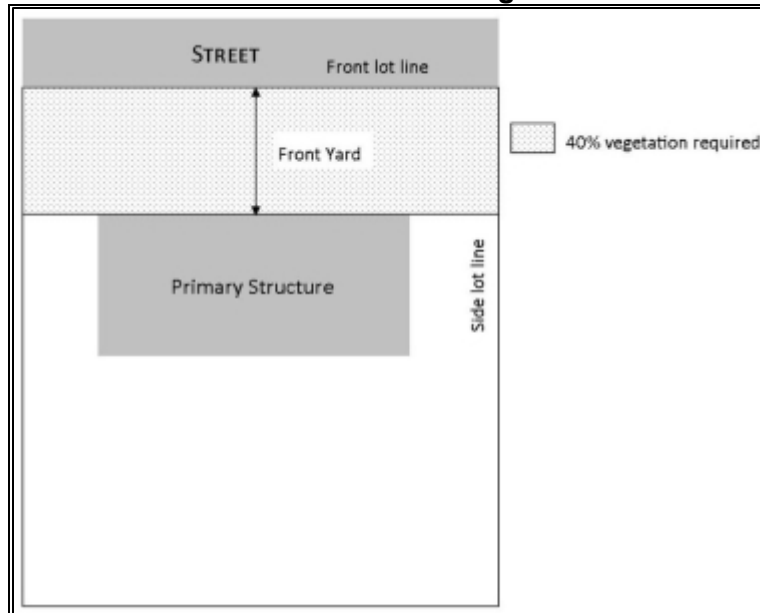
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.302.5.D
Front Yard Minimum Vegetation**



E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For ~~the each~~ additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of ~~a One to Four Dwelling Units, Cottage Clusters, single-family detached dwelling~~ or an accessory dwelling is are exempt from the minimum and maximum density requirements.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

Table 19.302.5.F.2 Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones		
Units	R-2 Zone	R-1 and R-1-B Zone

First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	2,500 1,500 sq ft per unit	1,400 sq ft per unit

G. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

H. Building Limitations

- ~~1. In the R-3 Zone, 1 single family detached dwelling or 1 duplex is permitted per lot. See Subsection 19.504.4. A detached accessory dwelling may be permitted in addition to a single family detached dwelling, per Subsection 19.910.1.~~
- ~~2. Multifamily Multi-unit buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.~~

I. Transition Measures

~~The following transition measures apply to multifamily development that abuts an R-10, R-7, or R-5 zoned property.~~

- ~~1. In the portion of the site within 25 ft of the lower density residential zone, the building height limits are equal to those of the adjacent residential zone.~~
- ~~2. Where the boundary of the lower density zone lies within, or on the edge of, a right-of-way; the building height limit, for the portion of the site within 15 ft of the lot line bordering the right-of-way, is equal to the height limit of the lower density residential zone.~~

J. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

K. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

L. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.504.9 On-Site Walkways and Circulation
4. Subsection 19.504.10 Setbacks Adjacent to Transit
5. Subsection 19.505.1 ~~Single Family Dwellings and Duplexes~~ Single Detached and Middle Housing Residential Development
6. Subsection 19.505.2 Garages and Carports
7. Subsection 19.505.3 Multifamily Unit Housing
8. Subsection 19.505.4 Cottage Cluster Housing
9. Subsection 19.505.5 Townhouses

10. Subsection 19.505.8 Building Orientation to Transit

11. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

~~19.302 MEDIUM AND HIGH DENSITY RESIDENTIAL ZONES~~

~~The medium and high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential Business Office Zone R-1-B. These zones implement the Medium Density and High Density residential land use designations in the Milwaukee Comprehensive Plan.~~

~~19.302.1 Purpose~~

~~The medium and high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood scale commercial, office, and institutional uses.~~

~~19.302.2 Allowed Uses in Medium and High Density Residential Zones~~

~~Uses allowed, either outright or conditionally, in the medium and high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director's Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the "Standards/Additional Provisions" column.~~

~~See Section 19.201 Definitions for specific descriptions of the uses listed in the table.~~

**Table 19.302.2
Medium and High Density Residential Uses Allowed**

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses						
Single family detached dwelling	P	P	P	P	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes
Duplex	P	P	P	P	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes
Residential home	P	P	P	P	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes
Accessory dwelling unit	P/II	P/II	P/II	P/II	P/II	Subsection 19.910.1 Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	Subsection 19.910.3 Manufactured Dwelling Parks
Rowhouse	P	P	P	P	P	Subsection 19.505.1 Single-Family Dwellings and Duplexes Subsection 19.505.5 Standards for Rowhouses
Cottage cluster housing	P	P	P	P	P	Subsection 19.505.4 Cottage Cluster Housing Cottage cluster land division requires Type III review

Table 19.302.2 CONTINUED
Medium and High Density Residential Uses Allowed

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses – CONTINUED						
Multifamily	CU	CU	P	P	P	Subsection 19.505.3 Multifamily Housing Subsection 19.302.5.F Residential Densities Subsection 19.302.5.H Building Limitations
Congregate housing facility	CU	CU	P	P	P	Subsection 19.505.3 Multifamily Housing Subsection 19.302.5.F Residential Densities Subsection 19.302.5.H Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	Subsection 19.905.9.G Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	Section 19.905 Conditional Uses
Commercial Uses						
Office	CU	CU	CU	CU	P	Subsection 19.302.3 Use Limitations and Restrictions
Hotel or motel	N	N	N	N	CU	Section 19.905 Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	Section 19.905 Conditional Uses
Accessory and Other Uses						
Accessory use	P	P	P	P	P	Section 19.503 Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	Subsection 19.302.3 Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	Section 19.904 Community Service Uses
Home occupation	P	P	P	P	P	Section 19.507 Home Occupation Standards
Short term rental	P	P	P	P	P	Section 19.507 Home Occupation Standards

P = Permitted.

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

II = Type II review required.

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

“Diameter at breast height” means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured from the ground level on the lower side of the tree. If a tree splits into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

“Large trees” means trees with at least a 6-in diameter at breast height (DBH) caliper at 5 ft of height.

19.401.8 Vegetation Buffer Requirements

A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of Subsection 19.401.8.B below.

B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:

1. Riverbank Stabilization

The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.

2. Scenic View Protection (Screening)

The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.

3. Retain Existing Native Vegetation and Large Trees

The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. The regulations in Chapter 16.32 Tree Code apply in addition to the regulations in this chapter. Removal of native vegetation and large trees is allowed pursuant to the following standards:

- a. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.
 - b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.
 - c. Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.
4. Restore Native Vegetation
- The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.
5. Enhance Vegetation Buffer Area
- The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed in accordance with the regulations in Chapter 16.32. New plant materials in the buffer strip shall be native vegetation.
6. Security that the Plan will be Carried Out
- The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.
- C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

19.402 NATURAL RESOURCES NR

19.402.2 Coordination with Other Regulations

- A. Implementation of Section 19.402 is in addition to, and shall be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, and Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.
- B. For properties along the Willamette River, Section 19.402 shall not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.
- C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision shall be controlling.
- D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming

solely because of Section 19.402, shall not be subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons shall be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, State, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, State, and federal regulations, the requirements of Section 19.402 shall govern.

19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective date of Ordinance #2036, which have already been approved through Water Quality Resource Review.
2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a State or federal agency.
3. Emergency procedures or activities undertaken that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.
4. The planting or propagation of plants categorized as native species on the Milwaukie Native Plant List.
5. Removal of plants categorized as nuisance species on the Milwaukie Native Plant List. After removal, all open soil areas shall be replanted and/or protected from erosion.
6. Removal of trees under any of the following circumstances:
 - a. The tree is a “downed tree” as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.
 - b. The tree is categorized as a nuisance species on the Milwaukie Native Plant List, no more than 3 such trees will be removed from 1 property during any 12-month period,

the requirements in Chapter 16.32 are met, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree(s).

c. The tree presents an emergency situation with immediate danger to persons or property, as described in Subsection 19.402.4.A.3. Emergency situations may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged, or is damaging, structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples are trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. This exemption is limited to removal of the tree or portion of the tree as necessary to eliminate the hazard. Any damage or impacts to the designated natural resource shall be repaired after the emergency has been resolved. The requirements in Chapter 16.32 must also be met after the emergency has been resolved.

d. Removal of the tree is in accordance with the requirements in Chapter 16.32 and an approved natural resource management plan per Subsection 19.402.10.

e. Major pruning of trees within 10 ft of existing structures in accordance with the requirements in Chapter 16.32.

Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a nuisance species on the Milwaukie Native Plant List, or anything that produces an increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees of larger than 6-in diameter or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland.

17. Establishment and maintenance of trails in accordance with the following standards:

- a. Trails shall be confined to a single ownership or within a public trail easement.
- b. Trails shall be no wider than 30 in. Where trails include stairs, stair width shall not exceed 50 in and trail grade shall not exceed 20%, except for the portion of the trail containing stairs.
- c. Trails shall be unpaved and constructed with nonhazardous, pervious materials.
- d. Trails shall be located at least 15 ft from the top of bank of all water bodies.
- e. Plants adjacent to trails may be trimmed, but trimming clearances shall not exceed a height of 8 ft and a width of 6 ft.
- f. Native trees of larger than 6-in diameter, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, shall not be removed.

18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

19.402.6 Activities Requiring Type I Review

Within either WQRs or HCAs, the following activities and items are subject to Type I review per Section 19.1004:

A. Limited Tree Removal

1. The Planning ~~Manager~~ Director may approve an application for limited tree removal or major pruning within WQRs and HCAs when the applicable requirements in Chapter 16.32 are met, except where exempted by Subsection 19.402.6.A.2, under any of the following circumstances:

a. The tree removal is necessary to eliminate a hazardous, nonemergency situation, as determined by the Planning ~~Manager~~ Director. A situation may be deemed hazardous if a tree, or portion of a tree, has undergone a recent change in health or condition in a manner that may pose a danger to people, to structures on private property, to public or private utilities, or to travel on private property or in the public right-of-way. Examples of imminent hazards may include, but are not limited to, trees that are broken, split, cracked, uprooted, or otherwise in danger of collapse. Approval shall be limited to removal of the tree, or portion of the tree, as necessary to eliminate the hazard.

3. The Planning ~~Manager~~ Director shall require the application to comply with all of the following standards:

a. A construction management plan shall be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the approved removal or pruning, all open soil areas that result from the disturbance shall be replanted and/or protected from erosion.

b. All pruning and/or tree removal shall be done in accordance with the standards of the International Society of Arboriculture (ISA) and complies with the applicable requirements in Chapter 16.32.

19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:

8. Tree removal in excess of that permitted under Subsections 19.402.4 or 19.402.6. Tree removal must also comply with the requirements in Chapter 16.32.

19.402.9 Construction Management Plans

A. Construction management plans are not subject to Type I review per Section 19.1004 but shall be reviewed in similar fashion to an erosion control permit (MMC Chapter 16.28).

B. Construction management plans shall provide the following information:

1. Description of work to be done.
2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.
3. Location of site access and egress that construction equipment will use.
4. Equipment and material staging and stockpile areas.
5. Erosion and sediment control measures.
6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.F. ~~A root protection zone shall be established around each tree in the WQR or HCA that is adjacent to any approved work area. The root protection zone shall extend from the trunk to the outer edge of the tree's canopy, or as close to the outer edge of the canopy as is practicable for the approved project. The perimeter of the root protection zone shall be flagged, fenced, or otherwise marked and shall remain undisturbed. Material storage and construction access is prohibited within the perimeter. The root protection zone shall be maintained until construction is complete.~~

When required for a property that does not include a designated natural resource, the construction management plan shall show the protective measures that will be established on the applicant's property.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

11. The applicable provisions of Chapter 16.32 shall be met.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

4. Plant Spacing

Trees shall be planted between 8 and 12 ft on center. Shrubs shall be planted between 4 and 5 ft on center or clustered in single-species groups of no more than 4 plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements. Note that in meeting the Tree Canopy Requirements in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the spacing and setback requirements in Table 16.32.042.H. The additional trees required by this subsection may be excluded from contributing to the Tree Canopy Requirements in subsection 16.32.042.C.

19.402.11.D.Nondiscretionary Standards for HCAs

The following nondiscretionary standards may be applied to proposals that are subject to Type I review and located within HCAs only. These standards do not apply to activities proposed within WQRs.

1. Disturbance Area Limitations in HCAs

To avoid or minimize impacts to HCAs, activities that are not otherwise exempt from the requirements of Section 19.402, and that would disturb an HCA, are subject to the following disturbance area limitations, as applicable:

a. ~~Detached and Attached Single-Family~~ Single Detached and Middle Housing Residential Uses

The amount of disturbance allowed within an HCA for ~~detached and attached single-family residential uses~~, including any related public facilities as required by Section 19.700 Public Facility Improvements, shall be determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated per Figure 19.402.11.D.1.a. Such disturbance shall be subject to the mitigation requirements described in Subsection 19.402.11.D.2.

**Figure 19.402.11.D.1.a
Method for Calculating Allowable Disturbance within an HCA
for ~~Detached and Attached Single-Family~~ Single-unit and Middle Housing Residential Uses**

<p>X = The maximum potential disturbance area within the HCA , which is 50% of the total HCA, up to a maximum of 5,000 sq ft.</p> <p>Y = The area of the lot or parcel outside the total resource area (WQR and HCA).</p> <p>Z = The net amount of disturbance area allowed within the HCA ($Z = X - Y$)</p> <p>If (Y) is greater than (X), development shall not be permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.</p> <p><u>Example 1:</u> 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR</p> <p>X = 1,500 sq ft (50% of HCA)</p> <p>Y = 5,000 sq ft outside of HCA/WQR</p> <p>Z = - 3,500 sq ft (1,500 sq ft – 5,000 sq ft)</p> <p>Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.</p> <p><u>Example 2:</u> 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR</p>

X = 3,000 sq ft (50% of HCA)

Y = 2,000 sq ft outside of HCA/WQR

Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)

Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4 or approvable through Type I review.

An applicant shall meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is 1 acre or more, the applicant shall comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in subsection 16.32.042 shall be met when applicable.

C. Limitations and Mitigation for Disturbance of HCAs

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs), but who will comply with all other applicable provisions of Subsection 19.402.11, shall be subject to the following process:

a. The applicant shall submit the following information:

(5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.

b. Approval of the request shall be based on consideration of the following:

(1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.

(2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.

(3) Whether the applicable requirements in Chapter 16.32 will also be met.

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

19.403.8 Uses Permitted

A. Primary Uses

A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this section.

B. Conditional Uses

Except within ~~low and~~ moderate density residential designations, uses identified in Subsection 19.403.8.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of Subsection 19.403.6. Such uses may also be allowed in the ~~low and~~ moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on any street. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 19.905 Conditional Uses.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.1 Lot Size Exceptions

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, ~~with the following limitations:~~ provided the

~~A. The development must conform to~~ with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

~~B. Single family detached dwellings shall not be built on a lot with less than 3,000 sq ft of lot area.~~

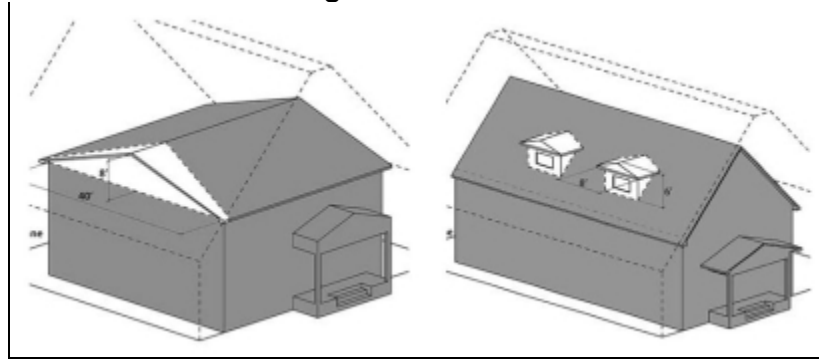
19.501.3 Yard Exceptions

B. The following encroachments into a side yard height plane are allowed:

1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.
- ~~2. The gable end of a roof, provided that the encroachment is not more than 8 ft high above the side yard height plane or more than 40 ft wide.~~
- ~~3. Dormers, with the following limitations:~~
 - ~~a. The highest point of any dormer is at or below the height of the primary roof ridge.~~

- b. ~~The encroachment is not more than 6 ft high above the side yard height plane or more than 8 ft wide.~~
- c. ~~The combined width of all dormers does not exceed 50% of the length of the roof on which they are located.~~

**Figure 19.501.3.B
Allowed Height Plane Encroachments**



19.504.4 Buildings on the Same Lot

- A. ~~In R-10, R-7, and R-5 Zones, 1 primary dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1.~~
- B. ~~In the R-3 Zone, 1 single-family detached dwelling shall be permitted per lot. A detached accessory dwelling unit may be permitted per Subsection 19.910.1. Multifamily housing, with multiple structures designed for dwelling purposes, may be permitted as a conditional use per Section 19.905.~~

19.504.8 Flag Lot and Back Lot Design and Development Standards

A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

B. Development Standards – Flag Lots

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward 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 a single detached dwelling on a flag lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

~~C.~~ 3. Variances ~~Prohibited~~

Variances of lot area, lot width, and lot depth standards for flag lots are subject to a Type III variance per MMC 19.911. ~~are prohibited for flag lots.~~

~~D.~~ 4. Frontage, Accessway, and Driveway Design

~~1.~~ a. Flag lots shall have frontage ~~and~~ or access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

~~2.~~ b. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

~~3.~~ c. Driveway Design and Emergency Vehicle Access

~~(1)~~ a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

~~(2)~~ b. ~~Driveways serving single flag lots shall have a minimum paved width of 12 ft.~~

~~(2)~~ 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 subsection.

~~(3)~~ d. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

~~e.~~ ~~Driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft.~~

~~(4)~~ f. The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

~~(5)~~ g. Design standards for shared driveways ~~more than 3 or more~~ lots shall be specified by the ~~Engineering Director~~ City Engineer after consultation with the Fire Marshal.

~~(6)~~ 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.

C. Development Standards – Back Lots

1. Yard Setbacks for Back Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a back lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in back lots is 10 ft.

2. Variances

Variances of lot area, lot width, and lot depth standards for back lots are subject to a Type III variance per MMC 19.911.

3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft, subject to the requirements of the Fire Marshal and Chapters 12.16 and 12.24 and the Public Works Standards.

2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.

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 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 subsection.

c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

e. The back lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

f. Design standards for shared driveways serving more than 3 lots shall be specified by the City Engineer after consultation with the Fire Marshal.

g. 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.

ED. Protection Screening of Adjoining Properties

Flag lots and back 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 Subsection 19.502.2.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

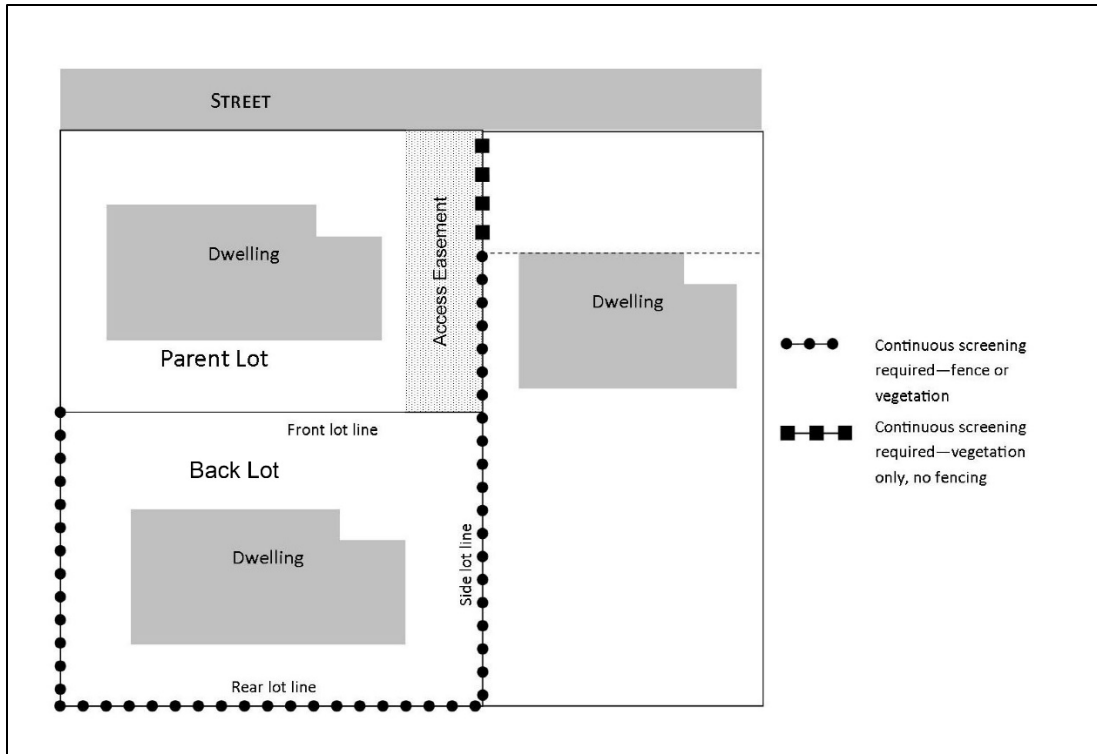
required screening and planting in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Driveways on flag lots and back lots must be screened to the greatest extent practicable. Impacts to neighboring lots due to use of the flag lot, or back lot, driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figures 19.504.8.E. and 19.504.8.F.

- 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 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, or back 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.

-

Figure 19.504.8.F
Back Lot Screening



FE. Landscaping Plan Required – Flag Lots and Back Lots

A landscaping plan shall be submitted to the Planning Manager 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.

F. ~~Tree Mitigation~~

~~All trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed~~

for site development, at least 1 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 in caliper and evergreen trees shall be a minimum of 5 ft tall.

19.504.9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single-family detached and multi-unit 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, where sidewalks exist, or to the edge of the paved public street, where sidewalks do not exist. 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.

route.

19.505.1 ~~Single-Family Dwellings and Duplexes~~ Single Detached and Middle Housing Residential Development

A. Purpose

The design standards for ~~single-family dwellings and duplexes~~ one to four (1 - 4) unit dwellings (including single detached dwellings, duplexes, triplexes, and quadplexes), cottage clusters, and townhouses require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

Dwellings must address the following design objectives:

- Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
- Eyes on the street – A certain percentage of the area of each street-facing façade must be windows or entrance doors.
- Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
- Detailed design – All street-facing buildings must include several features selected from a menu.

In addition, site design standards are intended to facilitate the development of attractive housing that encourages multimodal transportation. They encourage good site design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

Site design must meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukee.
3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 ft of a front or street side lot line.

1. ~~New single-family detached dwellings, residential homes, duplexes, and rowhouses on individual lots.~~ Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.

Table 19.505.1.B.1 Applicability by Housing Type

<u>Design Standard</u>	<u>Applicability</u>		
	<u>1-4 units</u>	<u>cottage clusters</u>	<u>townhouses</u>
<u>Articulation</u>	[2]	[2]	[2]
<u>Eyes on the street</u>	[2] [3]	[2] [3]	[2] [3]
<u>Main entrance</u>	[2] [3]	[2] [3]	[2] [3]
<u>Detailed design</u>	[2]	[2]	[2]
<u>Common open space</u>		[1]	
<u>Pedestrian circulation</u>	[1] [5]	[1] [5]	
<u>Off-street parking</u>		[1] [4]	
<u>Privacy and screening</u>	[1]	[1]	[1]

<u>Recycling areas</u>	[4]	[4]	[4]
<u>Sustainability</u>	[6]	[6]	[6]

1. Applicable to the entire site
2. Applicable to dwellings facing the street
3. Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
4. Applicable to clustered parking where parking spaces exceed 4
5. Applicable only for additions or new buildings
6. Applicable only for new buildings

2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:

- a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
- b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
- c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
 - (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
 - (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
 - (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
- d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
- e. ~~Expansions to street-facing façades of less than 200 sq ft are limited to no more than 1 expansion every 5 years, calculated from the date of issuance for the development permit.~~ Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.

3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:

- a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
- b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Dwelling Standards

All buildings that meet the applicability provisions in Subsection 19.505.1.B shall meet the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

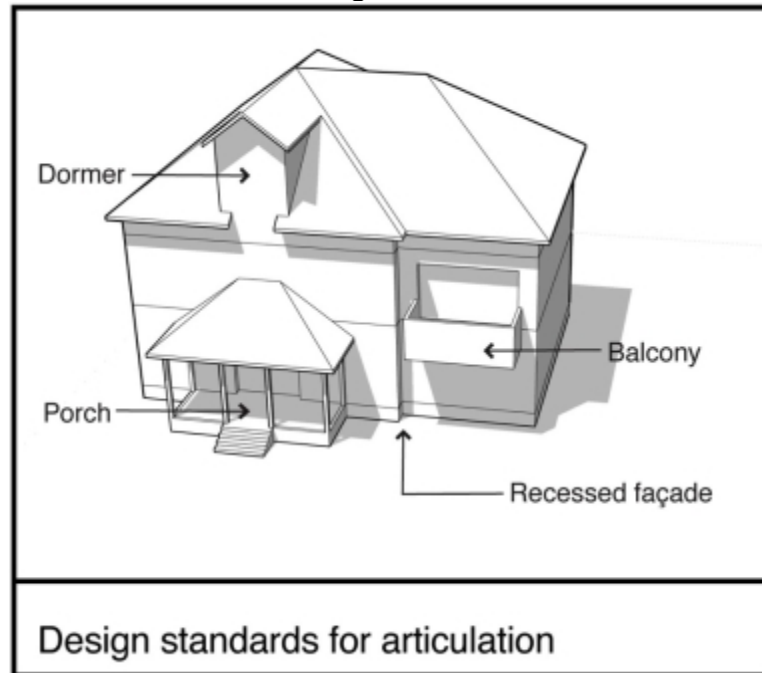
An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III review, per Subsection 19.911.3.C.

1. Articulation

All buildings ~~shall~~ must incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

- a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements ~~shall~~ must be provided along the street-facing façades.
 - (1) A porch at least 5 ft deep.
 - (2) A balcony that is at least 2 ft deep and is accessible from an interior room.
 - (3) A bay window that extends at least 2 ft wide.
 - (4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.
 - (5) A gabled dormer.
- b. For buildings with over 60 ft of street frontage, at least 1 element in Subsection 19.505.1.C.1.a(1)-(4) above ~~shall~~ must be provided for every 30 ft of street frontage. Elements ~~shall~~ must be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.
- c. For buildings with less than 30 ft of street frontage, the building articulation standard is not applicable.

**Figure 19.505.1.C.1
Building Articulation**

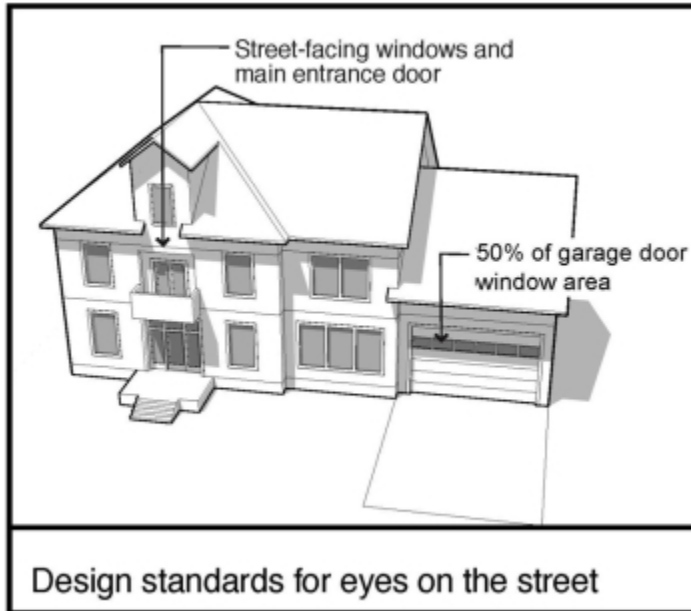


2. Eyes on the Street

At least ~~12%~~ 15% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

- a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.
- b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.
- c. Window area is considered the entire area within the outer window frame, including any interior window grid.
- d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.
- e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

**Figure 19.505.1.C.2
Eyes on the Street**

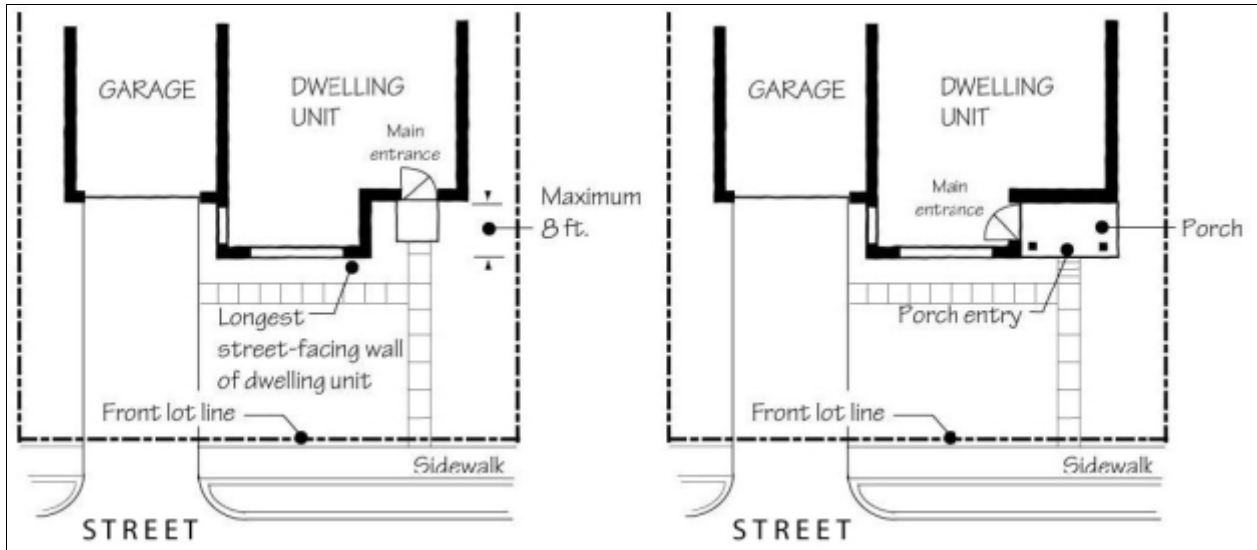


3. Main Entrance

At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances. Dwellings on flag lots or back lots are exempt from these main entrance design standards.

- a. Be no further than 8 ft behind the longest street-facing wall of the building.
- b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.
 - (1) Be at least 25 sq ft in area with a minimum 4-ft depth.
 - (2) Have at least 1 porch entry facing the street.
 - (3) Have a roof that is no more than 12 ft above the floor of the porch.
 - (4) Have a roof that covers at least 30% of the porch area.

**Figure 19.505.1.C.3
Main Entrances**



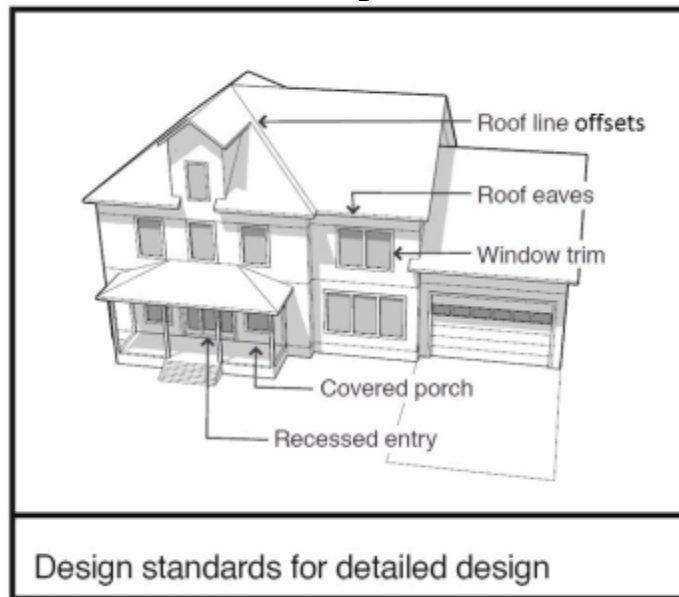
4. Detailed Design

All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

- a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
- b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
- c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.
- d. Dormer that is at least 4 ft wide and integrated into the roof form.
- e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
- f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.
- g. Tile or wood shingle roofs.
- h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
- i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.
- j. Gable roof, hip roof, or gambrel roof design.
- k. Window trim around all windows at least 3 in wide and 5/8 in deep.
- l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.
- m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.

- n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- o. Bay window at least 2 ft deep and 5 ft long.
- p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade

**Figure 19.505.1.C.4
Detailed Design Elements**



D. Site Design Standards

Minimum separation between detached units is 6 feet.

1. Common Open Space

Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards:

- a. The common courtyard must be a single, contiguous piece.
- b. Cottages must abut the common courtyard on at least two sides of the courtyard.
- c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (C)).
- d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
- e. The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include

recreational amenities. Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.

- f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

2. Pedestrian circulation

The on-site pedestrian circulation system must include the following:

- a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.
- b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.
- c. Pedestrian walkways must be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.
- d. Walkways must be constructed with a hard surface material, must be permeable for stormwater, and must be no less than 3 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided. The walkways must be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.

3. Off-Street Parking

- a. Off-street parking may be arranged in clusters, subject to the following standards:
 - i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.
 - ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.
 - iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
 - iv. Clustered parking areas may be covered.
- b. Off-street parking spaces and vehicle maneuvering areas must not be located:
 - i. Within of 20 feet from any street property line, except alley property lines;
 - ii. Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
 - iii. Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines.

Driveways and drive aisles are permitted within 10 feet of other property lines.

- c. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.
- d. Garages and carports (whether shared or individual) must not abut common courtyards.
- e. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.
- f. Individual detached garages must not exceed 400 square feet in floor area.
- g. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

4. Privacy and screening

- a. Mechanical and communication equipment and outdoor garbage and recycling areas must be screened so they are not visible from streets and common open spaces.
- b. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment must not be located within 5 ft of a front entrance and must be screened with sight-obscuring materials.
- c. All fences on the interior of the development must be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

5. Sustainability

In order to promote more sustainable development, developments must incorporate the following elements.

- 4. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.
- 5. Windows that are operable by building occupants.
- 6. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.

~~5. Standards for Duplexes~~

~~In addition to the other standards in Subsection 19.505.1, duplexes shall also comply with the following standards.~~

- ~~a. The exterior finish of the structure must be the same for both units.~~
- ~~b. The eaves must be uniform for the entire structure.~~
- ~~c. The window and door trim must be the same in type, size, and location for the entire structure.~~
- ~~d. Windows must match in proportion and orientation for the entire structure.~~

- e. ~~For duplexes or corner lots, each entrance is required to face a separate street frontage. Where an existing house is being converted, 1 main entrance with internal access to both units is allowed.~~
- f. ~~For duplexes facing 1 frontage, the following standards apply:~~
 - (1) ~~Only 1 entrance is required to face the frontage.~~
 - (2) ~~Where more than 1 entrance to the structure faces the street, each separate entrance is required to meet the standards of Subsection 19.505.1.C.3.~~
 - (3) ~~A second entrance from a side or rear yard is not allowed within 10 ft of the side or rear property line.~~

19.505.3 Multifamily-unit Housing

A. Purpose

The purpose of these design standards is to facilitate the development of attractive multi-unit family housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multi-unit family development:

1. Livability

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukee.

3. Safety and Functionality

Development should be safe and functional, by providing visibility into and within a multi-unit family development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

4. Sustainability

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit family and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3.

Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multi-unit family or congregate housing development is subject to the design elements in this subsection.
2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.
 - a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.
 - b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.
 - c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.
 - d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.
 - e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.
 - f. Subsection 19.505.3.D.8 Landscaping, for the entire site.
 - g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.
 - h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.
 - i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.
 - j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.
3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.
4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit family or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.
2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.

3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multi-unit family and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

Table 19.505.3.D Multi-unit family Design Guidelines and Standards		
Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
8. Landscaping	<p>Landscaping of multi-unit family developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent properties. Existing, healthy trees should be preserved whenever possible.</p> <p>Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management</p>	<p>a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved. Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List.</p> <p>b. Trees shall be planted to provide, within 5 years, canopy coverage for at least 1/3 of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees.</p> <p>c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting.</p> <p>d. For projects with more than 20 units:</p> <p>(1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system.</p> <p>(2) To reduce the "heat island" effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.</p>

<p>10. Recycling Areas</p>	<p>Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.</p>	<p>A recycling area or recycling areas within a multi-unit family development shall meet the following standards.</p> <ol style="list-style-type: none"> 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 by either a roof or weatherproof lids. d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof. e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m. f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants. g. Fire Department approval will be required for the recycling collection area. h. Review and comment for the recycling collection area will be required from the appropriate franchise collection service.
<p>11. Sustainability</p>	<p>Multi-unit family development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment.</p> <p>When appropriate to the context, buildings should be</p>	<p>In order to promote more sustainable development, multi-unit family developments shall incorporate the following elements.</p> <ol style="list-style-type: none"> a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces. b. Windows that are operable by building occupants. c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration. d. Projects with more than 20 units shall incorporate at least 2 of the following elements: <ol style="list-style-type: none"> (1) A vegetated ecoroof for a minimum of 30% of the total roof surface. (2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch

	placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.	<p>greater than 3/12.</p> <p>(3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface.</p> <p>(4) An integrated solar panel system for a minimum of 30% of the total roof or building surface.</p> <p>(5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof.</p> <p>(6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.</p>
12. Privacy Considerations	Multi-unit family development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.	<p>In order to protect the privacy of adjacent properties, multi-unit family developments shall incorporate the following elements:</p> <p>a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties.</p> <p>b. Where windows on a multi-unit family development are within 30 ft of windows on adjacent residences, windows on the multi-unit family development shall be offset so the panes do not overlap windows on adjacent residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multi-unit family unit.</p>
13. Safety	Multi-unit family development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design:	<p>a. At least 70% of the street or common open space frontage shall be visible from the following areas on 1 or more dwelling units: a front door; a ground-floor window (except a garage window); or a second-story window placed no higher than 3.5 ft from the floor to the bottom of the windowsill.</p> <p>b. All outdoor common open spaces and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room—such as a kitchen, living room and dining room, but not bedroom or bathroom—faces a common open space or street.</p> <p>c. Uses on the site shall be illuminated as follows:</p> <p>(1) Parking and loading areas: 0.5 footcandle</p>

	<ul style="list-style-type: none"> • Natural Surveillance: Areas where people and their activities can be readily observed. • Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. • Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control. 	<p>minimum.</p> <p>(2) Walkways: 0.5 footcandle minimum and average of 1.5 footcandles.</p> <p>(3) Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles.</p> <p>d. Maximum illumination at the property line shall not exceed 0.5 footcandles. However, where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed 1 footcandle. This standard applies to adjacent properties across a public right-of-way.</p> <p>e. Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.</p>
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19.505.4 Cottage Cluster Housing

A. Purpose

Cottage clusters provide a type of housing that includes the benefits of a single detached dwelling while also being an affordable housing type for new homeowners and households that do not require as much living space. These standards are intended to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300.

C. ~~Land Division~~

- ~~1. A subdivision or replat is required prior to the development of cottage cluster housing, to create the lots and tracts that will comprise the cottage cluster development. The subdivision or replat shall be reviewed per the procedures in Title 17 and be subject to the requirements of Chapter 19.700.~~
- ~~2. Cottage cluster development is exempt from the lot size and dimension standards in Section 19.302.~~
- ~~3. The minimum and maximum density standards in Section 19.302 apply to the subdivision or replat that creates the cottage cluster development. Areas proposed for commonly owned tracts, including off-street parking areas, shall be included in calculations for minimum and maximum density.~~

4. ~~Cottage cluster development in the R-2, R-1, or R-1-B Zone is also subject to the site size standards in Table 19.302.5.F.2.~~
5. ~~Access easements shall be required, to provide adequate access rights for units of land within the cottage cluster that do not have frontage on a public street, and to provide adequate vehicle and pedestrian circulation through the site.~~

DC. Development Standards

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1. The base zone development standards for height, yards, lot coverage, and minimum vegetation, and the design standards in Subsection 19.505.1 are not applicable to cottage cluster housing.

Figure 19.505.4 illustrates the basic layout of a typical cottage cluster development.

<u>Table 19.505.4.C.1</u>		
<u>Cottage Cluster Development Standards</u>		
<u>Standards</u>	<u>R-MD</u>	<u>R-1, R-2, R-2.5, R-3, R-1-B</u>
<u>A. Home Types</u>		
1. <u>Building types allowed, minimum and maximum number per cluster</u>	<u>Detached cottages</u> 3 minimum <u>12 maximum dwelling units</u>	<u>Detached and Attached</u> 3 minimum <u>8 maximum dwelling units</u>
<u>B. Home Size</u>		
1. <u>Max building footprint per home</u>	<u>900 sf</u>	
b. <u>Max average floor area per dwelling unit</u>	<u>1,400 sf</u>	
<u>C. Height</u>		
a. <u>Max height</u>	<u>25 feet or two (2) stories, whichever is greater</u>	
b. <u>Max structure height between 5 & 10 ft of rear lot line</u>	<u>15 ft</u>	

3. Max height to eaves facing common green	1.618 times the narrowest average width between two closest buildings	
<u>D. Setbacks, Separations, and Encroachments</u>		
a. Separation between structures (minimum) ⁶	6 ft ⁷	
b. Side and rear site setbacks	5 ft ⁸	
3. Front site setback (minimum)	10 ft	
4. Front site setback (maximum)	10 ft	
<u>E. Impervious Area, Vegetated Area</u>		
1. Impervious area (maximum)	60%	65%
2. Vegetated site area (minimum)	35%	35%
<u>F. Community and Common Space</u>		
1. Community building footprint (maximum)	1,000 sf	1,000 sf
2. Common Space	19.505.1.D	19.505.1.D
<u>G. Parking (see also 19.505.1.D.3)</u>		
1. Automobile parking spaces per primary home (minimum)	1	0.5
2. Dry, secure bicycle parking spaces per home (minimum)	1.5	

⁶ If the structure has eaves, the 6-foot minimum separation applies between eaves.

⁷ For lots 20,000 square feet and over, when there is more than one cottage cluster, the minimum space between clusters is 20 feet.

⁸ Lots 20,000 square feet and over must have 10 feet side and rear setbacks.

3. <u>Guest bicycle parking spaces perhome (minimum)</u>	<u>0.5</u>
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4. D. Cottage Standards

1. Size

The total footprint of a cottage unit ~~shall~~ must not exceed ~~700~~ 900 sq ft, and the ~~the total floor area of each cottage unit shall not exceed 1,000 sq ft.~~ maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit.

2. Height

The height for all structures ~~shall~~ must not exceed 25 feet or two (2) stories, whichever is greater. ~~18 ft. Cottages or amenity buildings having pitched roofs with a minimum slope of 6/12 may extend up to 25 ft at the ridge of the roof.~~

3. Orientation

a. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards:

- (1) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.
- (2) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:
 - (a) Have a main entrance facing the common courtyard;
 - (b) Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and
 - (c) Be connected to the common courtyard by a pedestrian path.
- (3) Cottages within 20 feet of a street property line may have their entrances facing the street.
- (4) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

~~The front of a cottage is the façade with the main entry door and front porch. This façade shall be oriented toward either a common open space or public street. If a cottage is not contiguous to either of these, it shall be oriented toward an internal pedestrian circulation path.~~

~~(2) At least half of the cottages in a cottage cluster shall be oriented toward a common open space.~~

~~d. Required Yards~~

- ~~(1) The yard depth between the cottage dwelling structure and either the public street, common open space, or internal pedestrian circulation path~~

shall be at least 10.5 ft. The front porch of a cottage is allowed to encroach into this yard.

- ~~(2) The required rear yard depth from the rear of the cottage to the rear lot line shall be at least 7.5 ft. The rear yard is the yard on the opposite side of the cottage as the front porch.~~
- ~~(3) The required yard depth for all yards other than a front or rear yard is 5 ft.~~
- ~~(4) There shall be a minimum of 10 ft of space between cottages. Architectural features and minor building projections—such as eaves, overhangs, or chimneys—may project into this required separation by 18 in.~~
- ~~(5) All structures in the cottage cluster shall comply with the perimeter setback areas in Subsection 19.505.4.D.2.f. This requirement may increase the required yard depths listed above.~~

e. ~~Cottage Design Standards~~

~~The intent of the cottage cluster design standards is to create cottages consistent with traditional northwest cottage design and small home craftsmanship.~~

- ~~(1) Cottages fronting a street shall avoid blank walls by including at least one of the following:
 - ~~(a) Changes in exterior siding material.~~
 - ~~(b) Bay windows with a minimum depth of 2 ft and minimum width of 5 ft.~~
 - ~~(c) Wall offsets of at least 1 ft deep.~~~~
- ~~(2) Trim around windows and doors shall be at least 3 in wide and $\frac{5}{8}$ in deep.~~
- ~~(3) All roofs shall have a minimum roof pitch of 4/12.~~
- ~~(4) Windows and doors shall account for at least 15% of the façade area for façades oriented toward a public street or common open space.~~
- ~~(5) At least 60% of the siding material on each wall shall be either horizontal lap siding, between 3 to 7 in wide once installed, or shake siding.~~

f. ~~Front Porches~~

~~Each cottage shall have a porch on the front of the cottage. The porch is intended to function as an outdoor room that extends the living space of the cottage into the semipublic area between the cottage and the open space.~~

- ~~(1) The minimum porch depth shall be 6.5 ft.~~
- ~~(2) The width of the porch shall be at least 60% of the width of the overall length of the front façade.~~
- ~~(3) The front door of the dwelling must open onto the porch.~~

- ~~(4) The entire area of the front porch must be covered.~~
- ~~(5) The surface of the front porch may not exceed 24 in above grade, as measured from the average ground level at the front of the porch.~~

~~2.E. Site Design and Other Standards~~

~~a. 1. Number of Cottages Allowed~~

~~The number of cottages allowed shall not exceed the dwelling unit maximum of the base zone in which the cottage cluster development is located, as specified in Subsection 19.505.4.C.4. A cottage cluster development shall must include a minimum of ~~4~~ 3 cottages and a maximum of 12 cottages, subject to Table 19.505.4.B.1.~~

~~b. Common Open Space~~

~~An adequately sized and centrally located common open space is a key component of cottage cluster developments. A common open space shall meet the following standards:~~

- ~~(1) The common open space shall have at least 100 sq ft of area for each cottage in the cottage cluster development.~~
- ~~(2) The minimum dimension for the common open space is 20 ft on 1 side.~~

~~c. Private Open Space~~

~~Each cottage shall have a private open space on the same lot as the cottage. The space shall be at least 100 sq ft with no dimension of less than 10 ft on 1 side. It shall be contiguous to each cottage for the exclusive use of the cottage residents.~~

~~d. Maximum Lot Coverage and Impervious Area~~

~~The total footprint of all structures shall not exceed 40% of the site area. Impervious surfaces, including all structures, shall not exceed 60% of the site area.~~

~~e. Internal Pedestrian Circulation~~

~~The cottage cluster development shall include continuous pedestrian paths for internal circulation on site. The minimum width for pedestrian paths shall be ~~3~~ 6 ft. Paths must provide a continuous connection between the front porch of each cottage, common open space, adjoining rights-of-way, parking areas, and any other areas of common use within the development.~~

~~f. Perimeter Setback Areas~~

~~All structures within a cottage cluster development shall be located at least 15 ft from the rear lot line(s) and at least 5 ft from the side lot line(s) of the site on which the cottage cluster is developed,~~

~~g. 2. Off-Street Parking~~

- ~~a. There shall be at least 1 off-street parking space per dwelling unit in the R-MD zone and 0.5 spaces per dwelling unit in the high density zones, per Table 19.505.4.B.1. The parking space shall be located together with parking spaces for other cottages in a common area, and not located on the same lot as an individual cottage unit.~~

- b. A cottage cluster parking area shall must be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.
- c. If there are more than 8 units in a cottage cluster, there shall must be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.
- d. Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high, unless a modification is requested for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height. This modification would be requested per 19.911 Variances.
- e. Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

h. 3. Fences

All fences on the interior of the development shall be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

4. Conversions

A preexisting single-detached dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:

- a. The preexisting single-detached dwelling may be nonconforming with respect to the requirements of the applicable code;
- b. The preexisting single-detached dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single-detached dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;
- c. The preexisting single-detached dwelling shall count as a unit in the Cottage Cluster;
- d. The floor area of the preexisting single-detached dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits.

Figure 19.505.4
Cottage Cluster Development

19.505.5 Rowhouses Townhouses

A. Purpose

Townhouses Rowhouses provide a type of housing that includes the benefits of a single-family detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. ~~The purpose of these standards is to allow rowhouses in medium to high density residential zones. Townhouses Rowhouses are allowed at four times the maximum density allowed for single detached dwelling in the same zone or 25 dwelling units per acre, whichever is less, the same density as single family detached and multifamily dwellings,~~ and the general design requirements are very similar to the design requirements for single-family detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of Townhouses Rowhouses.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single-family dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a townhouse rowhouse lot in both Section 19.302 and Subsection 19.505.5.E. Townhouse Rowhouse development may take place on existing lots that meet the lot standards for townhouse rowhouse lots or on land that has been divided to create new townhouse rowhouse lots.
2. Development standards for townhouses rowhouses are in Subsections 19.301.4 and 19.302.4.
3. Design standards for single-family detached dwellings in Subsections 19.505.1-2 are also applicable to townhouses rowhouses.
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either One to Four Dwelling Units duplexes or multifamily unit housing.

C. Townhouse Rowhouse Design Standards

1. Townhouses Rowhouses are subject to the design standards for single detached dwelling family housing in Subsection 19.505.1.
2. Townhouses Rowhouses ~~shall~~ must include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
 - a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the bottom step must be at least 4 ft 5-ft from the front lot line.
 - b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it ~~shall~~ must be at least 4 ft 7-ft from the front lot line.

D. Number of Townhouses Rowhouses Allowed

In the High Density Zones , no more than 4 consecutive ~~townhouses rowhouses~~ that share a common wall(s) are allowed. A set of 4 ~~townhouses rowhouses~~ with common walls is allowed to be adjacent to a separate set of 4 ~~townhouses rowhouses~~ with common walls.

In the R-MD zone, the maximum width of attached townhouse frontage may not exceed 40 feet. the maximum number of consecutive townhouses is 2.

E. Townhouse Rowhouse Lot Standards

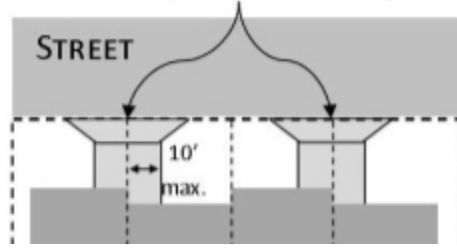
- ~~1. Townhouse Rowhouse development is not allowed on lots with a lot width of more than 35 ft.~~
1. 2. Townhouse Rowhouse development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Tables 19.301.4 and 19.302.4.
- ~~2. 3. Townhouse Rowhouse development in the R-3 and R-2.5 Zones must meet the minimum lot size of 1,500 sq ft. standards in Subsection 19.302.4.A.1.~~
- ~~4. Rowhouse development in the R-2, R-1 and R-1-B Zones must meet the minimum lot size standards in Subsection 19.302.4.A.1. In addition, the rowhouse development must meet the minimum site size requirements in Table 19.505.5.E.4.~~

Table 19.505.5.E.4 Minimum Site Size for Rowhouse Development in the R-2, R-1, and R-1-B Zones		
Number of Rowhouses	R-2 Zone	R-1 and R-1-B Zone
2	7,500 sq ft	6,400 sq ft
3	10,000 sq ft	7,800 sq ft
4	12,500 sq ft	9,200 sq ft

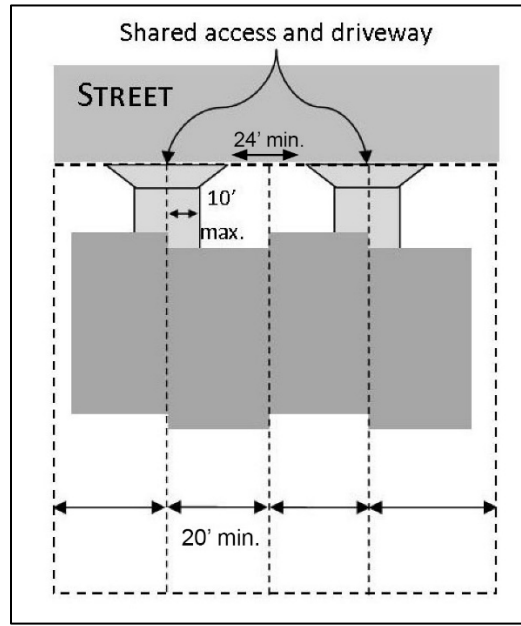
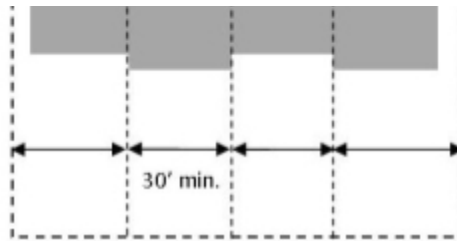
F. Driveway Access and Parking

1. Garages on the front façade of a ~~townhouse rowhouse~~, off-street parking areas in the front yard, and driveway accesses in front of a ~~townhouse rowhouse~~ are prohibited unless the following standards are met. See Figure 19.505.5.F.1.
 - ~~a. Each rowhouse lot has a street frontage of at least 30 ft on a street identified as a Neighborhood Route or Local Street in the Transportation System Plan Figure 8-3b.~~
 - b. Development of 2 or 3 ~~townhouses rowhouses~~ has at least 1 shared access between the lots, and development of 4 ~~townhouses rowhouses~~ has 2 shared accesses.
 - c. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.
 - d. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.
 - e. Shared accesses are spaced a minimum of 24 feet apart.

Figure 19.505.5.F.1
Townhouse Rowhouse Development with Front Yard Parking
 Shared access and driveway

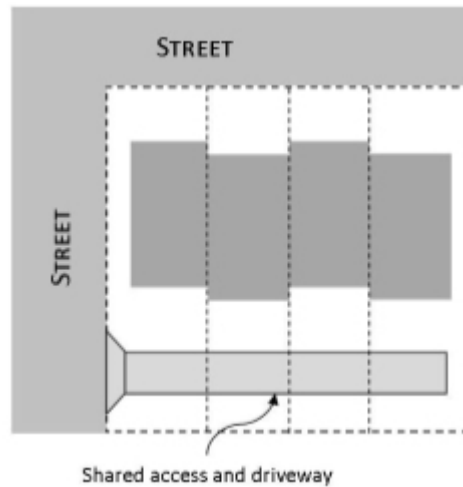


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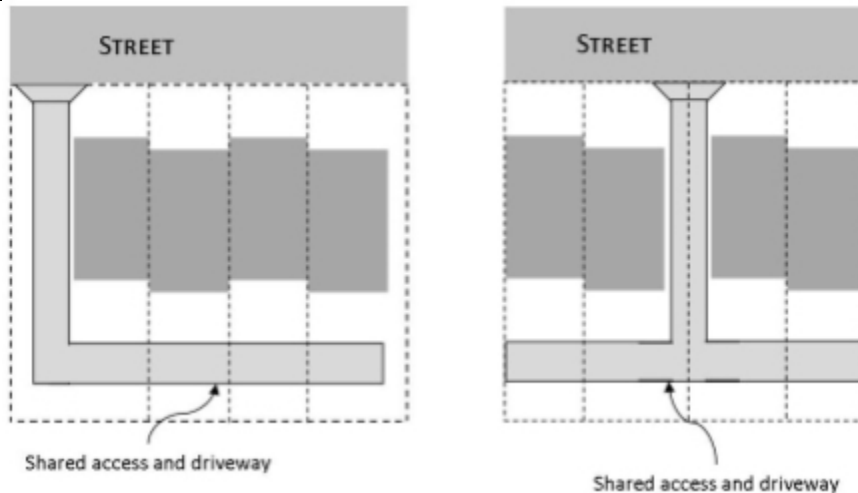
2. The following rules apply to driveways and parking areas for townhouse rowhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.
 - a. Off-street parking areas ~~shall~~ **must** be accessed on the back façade or located in the rear yard. ~~No off-street parking shall be allowed in the front yard or side yard of a rowhouse.~~
 - b. Townhouse Rowhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The ~~Engineering Director~~ **City Engineer** may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

Figure 19.505.5.F.2.b
Townhouse Rowhouse Development with Corner Lot Access



- c. Townhouse Rowhouse development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front façade and front lot line of any of the townhouse rowhouses. See Figure 19.505.5.F.2.c.

Figure 19.505.5.F.2.c
Townhouse Rowhouse Development with Consolidated Access



- d. A townhouse rowhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

G. Accessory Structure Setbacks

On townhouse rowhouse lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a townhouse rowhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

19.506 Manufactured Dwelling Siting and Design Standards

19.506.4 Siting Standards

Manufactured homes are allowed by right in any zone that allows single-family detached dwellings by right. Manufactured homes placed on individual lots shall meet the single-family design standards in Subsection 19.505.1 and the following standards:

~~A. The unit shall be multisectional (double wide or wider) and enclose a floor area of not less than 1,000 sq ft.~~

A. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in 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.

B. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.601 PURPOSE

Chapter 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of Chapter 19.600 is to: provide adequate, but not excessive, space for off-street parking; ~~avoid parking-related congestion~~ support efficient on the streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of parking areas; and minimize environmental impacts of parking areas.

Regulations governing the provision of on-street parking within the right-of-way are contained in Chapter 19.700. The management of on-street parking is governed by Chapter 10.20. Chapter 19.600 does not enforce compliance with the Americans with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official. (Ord. 2106 § 2 (Exh. F), 2015; Ord. 2025 § 2, 2011)

19.604.2 Parking Area Location

Accessory parking shall be located in one or more of the following areas:

- A. On the same site as the primary use for which the parking is accessory.
- B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.
- C. Where parking is approved in conformance with Subsection 19.605.2
- ~~C-D.~~ Where shared parking is approved in conformance with Subsection 19.605.4.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

Table 19.605.1 Off-street Parking Requirements

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. <u>Single-family detached dwellings, including rowhouses and manufactured homes.</u>	1 space per dwelling unit.	No maximum.
2. <u>Multi-Unit Dwellings</u> a. Dwelling units with 800 sq ft of floor area or less and all units located in the DMU Zone. b. Dwelling units with more than 800 sq ft of floor area.	1 space per dwelling unit. 1.25 spaces per dwelling unit.	2 spaces per dwelling unit. 2 spaces per dwelling unit.
3. <u>Middle Housing</u> a. <u>Duplexes</u> b. <u>Triplexes</u> c. <u>Quadplexes</u> d. <u>Town Houses</u> e. <u>Cottage Clusters</u>	<u>1 space per dwelling unit</u> <u>1 space per dwelling unit</u> <u>1 space per dwelling unit</u> <u>1 space per dwelling unit</u> <u>1 space per dwelling unit</u>	<u>1 space per dwelling unit</u> <u>1 space per dwelling unit</u> <u>1 space per dwelling unit</u> <u>1 space per dwelling unit</u> <u>1 space per dwelling unit</u>
3 4. <u>Residential homes and similar facilities allowed by right in residential zones.</u>	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
4. 5 <u>Accessory dwelling units (ADU)—Types I and II.</u>	No additional space required unless used as a vacation rental, which requires 1 space per rental unit	No maximum.

19.605.2 Quantity Modifications and Required Parking Determinations

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with large parking demands that are either lower than the minimum required or higher than the maximum allowed.

A. Applicability

The procedures of Subsection 19.605.2 shall apply in the following situations:

1. If the proposed use is not listed in Table 19.605.1 and the quantity requirements for a similar listed use cannot be applied.
2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.605.1.

B. Application

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1005 Type II Review. The application for a determination must include the following:

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, residents, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.605.2.B.3 to support the determination request. The Planning ~~Director~~ Manager may waive requirements of Subsection 19.605.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
 - a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
 - b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
 - c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
 - d. For middle housing, provide occupancy and use data quantifying conditions of the on-street parking system within a one block of the middle housing development.
 - e. Identify factors specific to the site, such as the preservation of a priority tree or trees, or planting of new trees to achieve 40% canopy, as identified in MMC 16.32.
4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.
5. Address the approval criteria in Subsection 19.605.2.C.

C. Approval Criteria

The Planning ~~Manager~~ Director shall consider the following criteria in deciding whether to approve the determination or modification. The Planning ~~Manager~~ Director, based on the applicant's materials and other data the Planning ~~Manager~~ Director deems relevant, shall set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.

1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.
2. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria:
 - a. The use, frequency, and proximity of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.
 - b. The reduction of off-street parking will not adversely affect available on-street parking.
 - c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site, or is otherwise consistent with city or comprehensive plan policy.
3. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria:
 - a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
 - b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.605.3.A.
 - c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.605.2.

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.605 and not to the other requirements of Chapter 19.600. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required parking is increased to 30% in the Downtown Mixed Use Zone DMU. The total reduction in required parking is increased to 50% for affordable housing units as defined in Subsection 19.605.3.8. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

The minimum parking requirements of Table 19.605.1 shall be reduced by 50% for the properties described below:

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.
- d. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

2. Proximity to Public Transit

- a. Parking for commercial and industrial uses may be reduced by up to 10% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- b. Parking for ~~multifamily~~ multi-unit dwellings and middle housing may be reduced by up to 20% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- c. Parking for all uses except single-family ~~attached and detached~~ dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a light rail transit stop, or if it is located in the Downtown Mixed Use Zone DMU.
- d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Manager ~~Director~~ shall have the authority to determine when multiple uses exist on a site.

- a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.
- b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10%. This reduction may be taken whether the carpool/vanpool space is required pursuant to Section 19.610 or voluntarily provided.

5. Bicycle Parking

The minimum amount of required parking for ~~all-non-single-family unit~~ residential uses, other than middle housing, may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Manager ~~Director~~, to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

The number of existing required parking spaces may be reduced by up to 10% for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

8. Affordable Housing

Parking minimums in Table 19.605.1 may be reduced for the following:

a. For any multiunit dwelling unit or middle housing dwelling unit that is affordable to households earning equal to or less than 80 percent of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development, adjusted for household size, and guaranteed affordable for a minimum term of 30 years through restrictive covenant or other similar guarantee, the minimum parking requirement for that unit may be reduced by 25 percent.

19.606 PARKING AREA DESIGN AND LANDSCAPING

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for ~~cottages, clusters, rowhouses, duplexes,~~ middle housing, ~~single-family detached dwellings,~~ and residential homes.

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to passenger vehicles and off-street parking areas for single detached dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, rowhouses, cottage clusters, duplexes, single family detached dwellings, and residential homes in all zones, unless specifically stated otherwise.

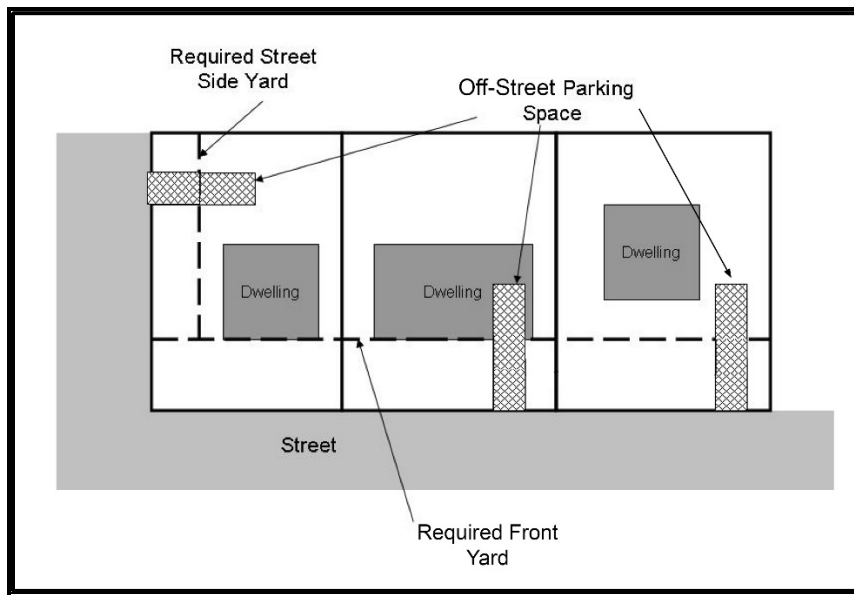
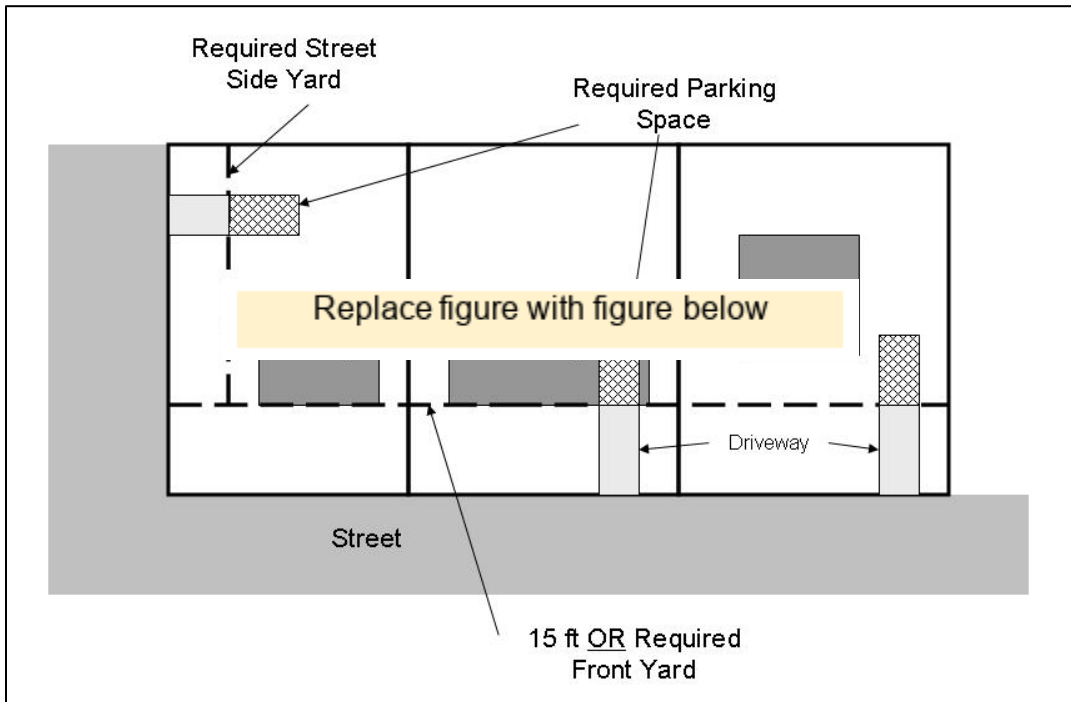
A. Dimensions

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4. Tandem (end-to-end) parking is allowed for individual units.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
 - a. ~~Within the required front yard or within 15 ft of the front lot line, whichever is greater~~ an adjacent public street right-of-way or access easement.
 - b. ~~Within a required street side yard~~ Over a public sidewalk.

**Figure 19.607.1.B.2
Required Parking Space Location**



C. Parking Surface Materials

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
 - a. Required parking space(s).
 - b. All vehicle parking spaces and maneuvering areas located within a ~~required~~ front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.
 - c. All off-street parking and maneuvering areas for a residential home.
2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

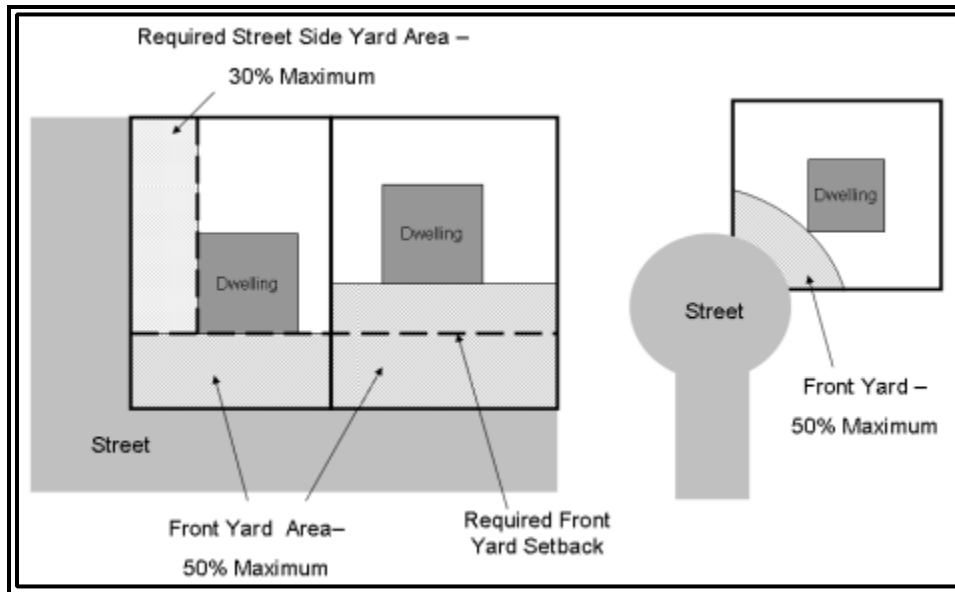
D. Parking Area Limitations

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to townhouses ~~rowhouses~~, which are subject to the standards in Subsection 19.505.5.

- a. Uncovered parking spaces and maneuvering areas cannot exceed 50% of the front yard area.
- b. Uncovered parking spaces and maneuvering areas cannot exceed 30% of the required street side yard area.
- c. No more than 3 residential parking spaces are allowed within the required front yard. A residential parking space in the required front yard is any 9- x 18-ft rectangle that is entirely within the required front yard that does not overlap with another 9- x 18-ft rectangle within the required front yard.

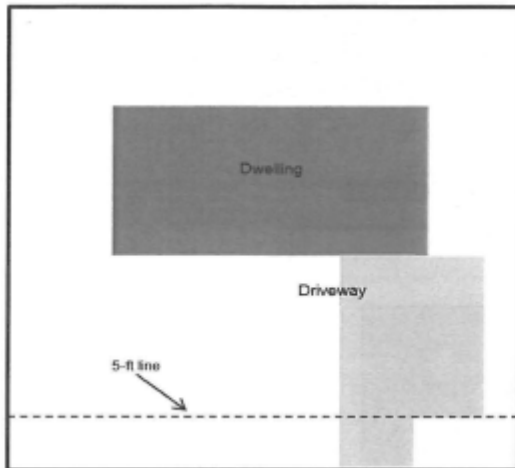
**Figure 19.607.1.D
Front and Street Side Yard Parking Area Limits**



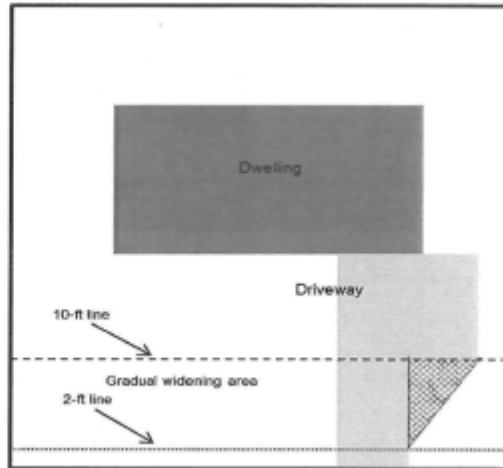
E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 5 ft of the right-of-way boundary (Option 1—see Figure 19.607.1.E.1). Alternately, a gradual widening of the onsite driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width: distance onto property), starting 2 ft behind the front property line right-of-way boundary (Option 2—see Figure 19.607.1.E.2).

**Figure 19.607.1.E.1
Driveway Widening Limitation—Option 1**



**Figure 19.607.1.E.2
Driveway Widening Limitation—Option 2**



2. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right-of-way in a forward motion.

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
- B. Subdivisions.
- C. Replats.
- D. New construction.
- E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for ~~single-family~~ detached residential development and development in downtown zones.
 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~~ City Engineer.

19.702.2 ~~Single-Family~~ Detached Residential Expansions

Chapter 19.700 applies to ~~single-family~~ detached residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from ~~single-family~~ detached residential expansions.

- A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 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~~ 800 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.
- 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~~ 800 sq ft, none of Chapter 19.700 applies.
- D. ~~single-family~~ detached residential expansions shall provide adequate public utilities as determined by the ~~Engineering Director~~ City Engineer pursuant to Section 19.709.

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.

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

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

19.703 REVIEW PROCESS

19.703.4 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 19.703.4. In making these determinations, the ~~Engineering Director~~ City Engineer 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 19.700 per Subsection 19.702.1, the ~~Engineering Director~~ City Engineer will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the ~~Engineering Director~~ City Engineer will also determine whether a ~~transportation impact study~~ Transportation Impact Study (TIS) is required, or for smaller developments, if an Access Study or Transportation Memo is sufficient. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there ~~are~~ could be impacts to the transportation system if the proposed single-family detached residential expansion/conversion is greater than ~~200~~ 800 sq ft.

- 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~~ City Engineer will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708 or in conformance to the Public Works Standards. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

C. Proportional Improvements

When transportation facility improvements are required pursuant to this chapter, the ~~Engineering Director~~ City Engineer will conduct a proportionality analysis pursuant to Section 19.705 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 19.705.2.

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~~ City Engineer will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction.

19.704 TRANSPORTATION IMPACT EVALUATION

19.704.4 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. With phased developments, transportation impacts must be mitigated at the time that particular phase of development identified in the TIS creates the need for the improvements to occur.

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~~ City Engineer 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.

(Ord. 2025 § 2, 2011)

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.2 Street Design Standards

A. Additional Street Design Standards

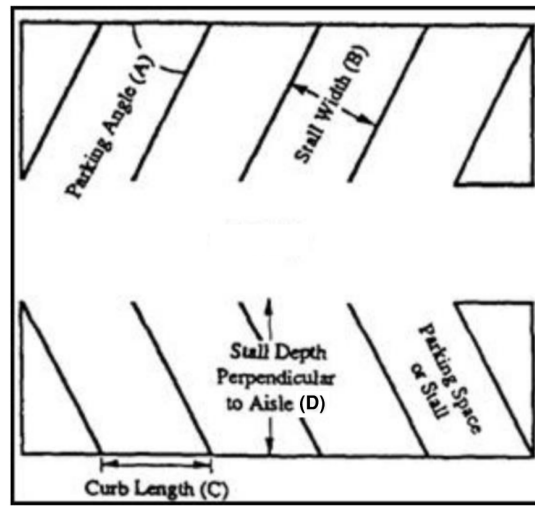
These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum 10-ft 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 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.
3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.
4. Bike lane widths may be reduced to a minimum of 4 ft 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~~ must 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~~ must have a minimum width of 8 ft.
8. On-street parking in commercial zones ~~shall~~ must have a minimum width of 7 ft.
9. On-street parking in residential zones ~~shall~~ must have a minimum width of 6 ft.
10. On-street parking on local streets in residential zones adjacent to Middle Housing, Community Service Use, or other uses as allowed by code and as approved by the City Engineer may include diagonal parking, with minimum dimensions as provided in Table 19.708.3. Diagonal parking would be allowed as determined by the City Engineer, where sufficient right-of-way exists outside of the paved street area, and where it would not result in a safety hazard.

TABLE 19.708.3			
Full and Mid-Size Vehicles			
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	8	22	8
30 °	8	16	16.5
45 °	8	11.5	18.5
60 °	8	9.5	19
90 ° (perpendicular)	8	8	18
Compact Size Vehicles			
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	7	20	7
30 °	7	14	14.5
45 °	7	10	16.5
60 °	7	8.5	17
90 ° (perpendicular)	7	7	16

Figure 19.708.1

Parking Dimension Factors



11. The dimension and number of vehicle parking spaces provided for disabled persons must be according to federal and State requirements.

12.-40. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.

13.-44. Landscape strip widths shall be measured from back of curb to front of sidewalk.

14.-42. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.

15.~~43.~~ 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.

16.~~44.~~ A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 CONTINUED Land Use Applications		
Application Type	Municipal Code Location	Review Types
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, V
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II
Shared Parking	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311	IV
Residential Dwellings:	Section 19.910	
Accessory Dwelling Unit	Subsection 19.910.1	I, II
Duplex	Subsection 19.910.2	II
Manufactured Dwelling Park	Subsection 19.910.3	III
Temporary Dwelling Unit	Subsection 19.910.4	I, III
Sign Review	Title 14	Varies

Transportation Facilities Review	Chapter 19.700	II
Variances:	Section 19.911	
Use Exception	Subsection 19.911.5	III
Variance	Subsection 19.911.1-4	II, III
Willamette Greenway Review	Section 19.401	III

CHAPTER 19.900 LAND USE APPLICATIONS

19.906 DEVELOPMENT REVIEW

19.906.2 Applicability

A. Type I Review

The following development proposals must submit a development review application and are subject to the requirements of this section, unless explicitly stated otherwise in an applicable land use approval, waived by the Planning ~~Manager~~ Director at the time of development permit submittal, allowed by right, or exempted per Subsection 19.906.2.C.

1. New development and expansions or modifications of existing development that require review against standards and criteria that are either clear and objective, or that require the application of limited professional judgment.
2. A change in primary use.
3. Parking lot expansions or modifications that change the number of parking spaces by 5 spaces or more.

C. Exemptions

The following development proposals are not required to submit a development review application and are exempt from the requirements of this section. Proposals that are exempt from this section must still comply with all applicable development and design standards. For proposals that require a development permit, compliance with standards will be reviewed during the permit review process.

1. New or expanded ~~single-family~~ single detached dwelling or middle housing detached or attached residential dwellings.
 2. ~~Single-family r~~ Residential accessory uses and structures including accessory dwelling units.
 3. Interior modifications to existing buildings that do not involve a change of use.
 4. Construction of public facilities in the public right-of-way.
 5. Temporary events as allowed in Chapter 11.04.
-

19.910 RESIDENTIAL DWELLINGS

19.910.1 Accessory Dwelling Units

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock. ~~It is the intent of this subsection that development of accessory dwelling units not diminish the single-family character of a neighborhood.~~

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit must be ~~evaluated through a Type I review, per Section 19.1004, or a Type II review, per Section 19.1005, as per allowed by right.~~ Accessory dwelling units shall be subject to the standards of Table 19.910.1.E.4.B.

~~Where a detached accessory dwelling unit is proposed that would undergo a Type I review, properties adjoining the site shall receive mailed notice of the proposed development. The notice shall include a site plan, building elevations, and a description of the standards and review process for the development. The notice shall be mailed within 7 days of the date that the application is deemed complete per Subsection 19.1003.3.~~

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit is allowed by right provided reviewed through a Type I review shall be approved each of the following standards are met.
 - a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
 - b. The primary use of property for the proposed accessory dwelling unit is a single-family detached dwelling.
 - c. ~~One accessory dwelling unit per lot is allowed.~~ Up to two accessory dwelling units are allowed on a site with a single detached dwelling. If there are two accessory dwelling units on the site, only one may be attached to or within the primary structure.
 - d. The development standards of Subsection 19.910.1.E are met.
 - e. The proposal complies with all other applicable standards of this title.
2. ~~An application for an accessory dwelling unit reviewed through a Type II review shall be approved if the following criteria are met.~~
 - a. ~~The standards in Subsection 19.910.1.D.1 are met.~~
 - b. ~~The accessory dwelling unit is not incompatible with the existing development on the site, and on adjacent lots, in terms of architectural style, materials, and colors.~~

- ~~e. The massing of the accessory dwelling unit and its placement on the site maximizes privacy for, and minimizes impacts to, adjacent properties.~~
- ~~d. There will be an appropriate level of screening for nearby yards and dwellings, provided by the design of the accessory dwelling unit and existing and proposed vegetation and other screening.~~

E. Standards

1. Creation

An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

~~The more restrictive provisions shall be applicable in~~ In the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, the more restrictive provisions are applicable except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

The standards listed below apply to accessory dwelling units that are part of the primary structure on the property. ~~An attached accessory dwelling unit shall be reviewed by a Type I review per Subsection 19.1004.~~

a. Maximum Allowed Floor Area

The floor area of an attached accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit. This maximum size standard does not apply when the basement of a primary dwelling unit is converted to an accessory dwelling unit and the primary dwelling unit has been on the site for at least 5 years.

b. Design Standards

- (1) The façade of the structure that faces the front lot line ~~shall~~ must have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.
- (2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.
- (3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.
 - (a) The exterior finish on the addition ~~shall~~ must match the exterior finish material of the primary dwelling unit in type, size, and placement.
 - (b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.

- (c) Windows on street-facing façades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).
- (d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

4. Standards for Detached Accessory Dwelling Units

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

a. Maximum Allowed Floor Area

The floor area of the accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

b. Footprint, Height, and Required Yards

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with a ~~Type I~~ Type B ADU review require Type II review. ~~Structures are not allowed to exceed any of the maximums associated with a Type II review without approval of a variance per Section 19.911.~~

Table 19.910.1.E.4.b Footprint, Height, and Required Yards for Detached Accessory Dwelling Units		
Standard	Type I Type A ADU	Type I Type B ADU
Maximum Structure Footprint	600 sq ft	800 sq ft
Maximum Structure Height	15', limited to 1 story	25', limited to 2 stories
Required Side and Rear Yard	5 ft Base zone requirement for side and rear yard	Base zone requirement for side and rear yard 5 ft
Required Front Yard	10' behind front yard as defined in Section 19.201, unless located at least 40' from the front lot line.	
Required Street Side Yard	Base zone requirement for street side yard	

c. Design Standards

- (1) A detached accessory structure ~~shall~~ must include at least 2 two of the design details listed below. An architectural feature may be used to comply with more than 4 one standard.
 - (a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.

- (b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
 - (c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
 - (d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
 - (e) Window trim around all windows at least 3 in wide and 5/8 in deep.
- (2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c(1) through a Type II variance review, pursuant to Subsection 19.911.3.B.
 - (3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.
 - (4) ~~A yurt may be used as a detached accessory dwelling unit and is exempt from the design standards of Subsection 19.901.1.E.4.c.(1). To be used as a detached accessory dwelling unit, a yurt must be approved as a dwelling by the Building Official, and must meet all other applicable development standards.~~

d. Privacy Standards

- (1) ~~Privacy standards are required for detached accessory dwelling units processed through a Type I review. A detached accessory dwelling unit permitted through a Type II review may be required to include privacy elements to meet the Type II review approval criteria.~~

Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.

- (a) The wall is within 20 ft of a side or rear lot line.
 - (b) The wall is at an angle of 45 degrees or less to the lot line.
 - (c) The wall faces an adjacent residential property.
- (2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.
 - (a) All windows on a wall shall must be placed in the upper third of the distance between a floor and ceiling.
 - (b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening shall must be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs shall must be no less than 5 ft above grade at time of planting, and they shall must reach a 6-ft high height within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure legally established less than three (3) years before the

~~time of the ADU permit submittal established on or after December 1, 2012, the effective date of Ordinance #2051, is required to meet all applicable standards for a new detached accessory dwelling unit.~~

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established a minimum of three (3) years before the time of the ADU permit submittal ~~prior to December 1, 2012, the effective date of Ordinance #2051,~~ is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c. and the maximum structure footprint. ~~However, the floor area of the ADU must not exceed the maximum floor area standard in Subsection 19.910.1.D.4.a.~~ However, the ~~The conversion shall~~ must not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

- ~~1. Either the primary or accessory dwelling unit shall be occupied by the owner of the property. At the time an accessory dwelling unit is established, the owner shall record a deed restriction on the property with the Clackamas County Recording Division that 1 of the dwellings on the lot shall be occupied by the property owner. A copy of the recorded deed restriction shall be provided to the Milwaukie Planning Department.~~

~~The Planning Director may require verification of compliance with this standard. Upon the request of the Planning Director, the property owner shall provide evidence, such as voter registration information or account information for utility services, to demonstrate residence in 1 of the dwelling units.~~

- ~~12. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.~~
- ~~23. Additional home occupations are allowed for a property with an accessory dwelling unit in accordance with the applicable standards of Section 19.507.~~

19.910.2 Duplexes

A. Purpose

~~This subsection is intended to allow duplexes in order to increase available housing in the city while maintaining the coherence of single family residential neighborhoods.~~

B. Applicability

~~The regulations of Subsection 19.910.2 apply to proposals to construct a new duplex or to convert, or add on to, an existing structure to create a duplex. They also apply to additions and modifications to existing duplexes.~~

C. Review Process

- ~~1. The following review process is required for proposals to establish a duplex, either by construction of a new structure or conversion of, or addition to, an existing structure.
 - ~~a. In Residential Zones R-5, R-3, R-2.5, R-2, R-1, R-1-B, and R-O-C, a duplex is allowed outright, subject to the lot size requirements for the zone. The review~~~~

~~of applicable development and design standards that occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.~~

~~b. A duplex in Residential Zone R-10 or R-7 is allowed outright, subject to the lot size requirements for the zone, in either of the following situations. The review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are not applicable.~~

~~(1) The property has frontage on a collector or arterial street, as identified by the Milwaukie Transportation System Plan.~~

~~(2) The property is a corner lot.~~

~~c. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use under Subsection 19.910.2.C.1.b is allowed through a Type II review per Section 19.1005.~~

~~d. A duplex in the Limited Commercial Zone C-L is allowed through a Type II review per Section 19.1005.~~

~~2. For additions or modifications to an existing duplex, the review of applicable development and design standards occurs during the review of a development permit. The approval criteria in Subsection 19.910.2.D are applicable.~~

~~D. Approval Criteria~~

~~1. A duplex in Residential Zone R-10 or R-7 that is not eligible as an outright allowed use, under Subsection 19.910.2.C.1.b, must meet the following criteria.~~

~~a. The location of a duplex at the proposed site will not have a substantial impact on the existing pattern of single-family detached dwellings within the general vicinity of the site.~~

~~b. The design of the proposed duplex is generally consistent with the surrounding development.~~

~~c. The proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling.~~

~~2. A duplex in the Limited Commercial Zone C-L must meet the following criteria.~~

~~a. The proposed residential use will not be incompatible with existing and outright-allowed commercial uses in the Limited Commercial Zone.~~

~~b. The approval of a duplex will not significantly diminish the ability of the area zoned as Limited Commercial to provide goods and services to the surrounding neighborhoods.~~

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

1. A variance of up to 40% to a side yard width standard.
 2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.
 3. A variance of up to 10% to lot coverage or minimum vegetation standards.
 4. A variance of up to 10% to lot width or depth standards.
 5. A variance of up to 10% to a lot frontage standard.
 6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.
 7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.
 8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.
 9. A variance of up to a 25% increase in the size of a Type B Accessory Dwelling unit as identified in Subsection 19.910.1.E.4.
 10. A variance to interior height of a garage in a cottage cluster to allow up to a maximum of 15 ft for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height.
-

19.911.4 Approval Criteria

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.
2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.
3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.
4. Impacts from the proposed variance will be mitigated to the extent practicable.
5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by MMC 16.32.

CHAPTER 19.1000 REVIEW PROCEDURES

19.1001 GENERAL PROVISIONS

19.1001.4 Review Types

All land use applications have both a review type and an application type. This chapter establishes the review procedures associated with each review type. Chapter 19.900 contains a list of application types and their associated review types.

A. Review Types

There are five types of review: Types I, II, III, IV, and V. Table 19.901 contains a list of the City's land use applications and their associated review types. In addition there are land uses that are allowed by right. These land uses do not require land use review and are only required to obtain a building permit.

19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning ~~Manager~~ Director and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in the R-MD zone single-family zones, except to the extent the ~~Director~~ Planning Manager finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

Title 17 Land Division

CHAPTER 17.28 DESIGN STANDARDS

17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot and back 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 or back lots. The creation of flag lots or back 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 or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots 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. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.070 FLAG LOT AND BACK LOT LIMITATIONS

Flag lots and back lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907. (Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

Title 12 Streets, Sidewalks, and Public Places

CHAPTER 12.16 ACCESS MANAGEMENT

12.16.020 APPLICABILITY

A. New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing

accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the ~~Engineering Director~~ City Engineer. (Ord. 2004 § 1, 2009)

12.16.030 ACCESS PERMITTING

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley, or other property owned by, dedicated to, or used by the public, and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

- A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the ~~Engineering Director~~ City Engineer on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.
- B. The access permit application shall include ~~three (3) copies of an~~ electronic copy (AutoCAD, Adobe PDF, Bluebeam, or other acceptable format) of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.
- C. The ~~Engineering Director~~ City Engineer shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

12.16.040 ACCESS REQUIREMENTS AND STANDARDS

A. Access

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing

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.

1. Standards

Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

- a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of six hundred (600) feet.

b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of three hundred (300) feet.

c. For Middle Housing development, access spacing requirements may be modified by the City Engineer per MMC 12.16.040.B.2 based on a variety of factors, including average daily traffic, anticipated increase of traffic to and from the proposed development, crash history at or near the access point, sight distance, and/or other safety elements.

2. Modification of Access Spacing

Access spacing may be modified with submission of an access study prepared and certified by a registered ~~professional traffic engineer~~ Professional Traffic Operations Engineer (PTOE) in the State of Oregon. The ~~access study~~ Access Study shall assess transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within six hundred (600) feet of the adjacent property. The access study shall include the following:

- a. Review of site access spacing and design;
- b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;
- c. Review of all modes of transportation to the site;
- d. Mitigation measures where access spacing standards are not met that include, but are not limited to, assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the ~~Engineering Director~~ City Engineer.

C. Accessway Location

1. Double Frontage

When a lot has frontage on 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.

2. Location Limitations

Individual access to single-family detached residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the ~~Engineering Director~~ City Engineer only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line

The nearest edge of the driveway apron shall be at least ~~seven and one-half (7½)~~ five (5) feet from the side property line in residential districts and at least ten

(10) feet from the side property line in all other districts. This standard does not apply to accessways shared between two (2) or more properties.

4. Distance from Intersection

To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of driveway apron shall be maintained. Where intersecting streets do not have curbs, the distance shall be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified with a modification as described in MMC Section 12.16.040.B.2.

- a. At least forty-five (45) feet for ~~single-family~~ detached residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.
- b. At least one hundred (100) feet for multi-unit family residential properties and all other uses accessing local and neighborhood streets.
- c. At least three hundred (300) feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.
- d. At least six hundred (600) feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access

Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access

The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multi-unit family areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. ~~Single-Family~~ Detached Residential

One accessway per property is allowed for ~~single-family~~ detached residential uses.

- a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.
- b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced fifty (50) feet apart, upon review and approval by

the ~~Engineering Director~~ City Engineer. The spacing is measured between the nearest edges of the driveway aprons. Where the fifty (50) foot spacing cannot be met, an additional accessway shall not be granted.

c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single-Family Detached Residential

The number of accessways for uses other than single-family detached residential is subject to the following provisions:

a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B;

b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced one hundred fifty (150) feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines

Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act, U.S. Access Board guidelines or requirements, and Milwaukie Public Works Standards.

2. Authority to Restrict Access

The ~~Engineering Director~~ City Engineer may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

a. Cause or increase existing hazardous traffic conditions;

b. Provide inadequate access for emergency vehicles; or

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

3. Backing into the Right-of-Way Prohibited

Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single-family detached residential uses on local streets and neighborhood routes.

F. Accessway Size

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The ~~Engineering Director~~ City Engineer may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.

2. Single-family ~~detached~~ attached and detached residential uses shall have a minimum driveway apron width of nine (9) feet and a maximum width of twenty (20) feet.
3. Multi-unit ~~family~~ residential Middle Housing units ~~uses~~ comprised of up to four (4) units, with three (3) dwellings shall have a minimum driveway apron width of twelve feet on local or neighborhood streets and sixteen (16) feet on collector or arterial streets, and a maximum driveway apron width of twenty (20) feet on all streets.
4. Multi-unit ~~family~~ residential uses comprised of a combination of Middle Housing units or other multi-unit uses with between ~~four (4)~~ five (5) and seven (7) ~~eight (8) dwellings~~ units shall have a minimum driveway apron width of sixteen (16) feet on local or neighborhood streets and twenty (20) feet on collector or arterial streets, and a maximum driveway apron width of twenty-four (24) feet.
5. Multi-unit ~~family~~ residential uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway apron width of twenty (20) feet on local or neighborhood streets and twenty-four (24) feet on collector or arterial streets, and a maximum driveway apron width of thirty (30) feet.
6. Commercial, office, and institutional uses shall have a minimum driveway apron width of ~~twelve (12)~~ sixteen (16) feet and a maximum width of thirty-six (36) feet.
7. Industrial uses shall have a minimum driveway apron width of ~~fifteen (15)~~ twenty-four (24) feet and a maximum width of forty-five (45) feet.
8. Maximum driveway apron widths for commercial and industrial uses may be increased if the ~~Engineering Director~~ City Engineer determines that more than two (2) lanes are required based on the number of trips anticipated to be generated or the need for on-site turning lanes.

(Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

CHAPTER 12.24 CLEAR VISION AT INTERSECTIONS

12.24.040 COMPUTATION

- A. The clear vision area for all driveway accessways to streets, street intersections and all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets." ~~The clear vision area for all street and driveway or accessway intersections shall be that area within a twenty (20) foot radius from where the lot line and the edge of a driveway intersect.~~
- B. Modification of this computation may be made by the ~~Engineering Director~~ City Engineer after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" and taking into

consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area. (Ord. 2004 § 1, 2009; Ord. 1679 § 4, 1990)

Title 13 Public Services

CHAPTER 13.30 REIMBURSEMENT DISTRICTS

13.30.010 DEFINITIONS

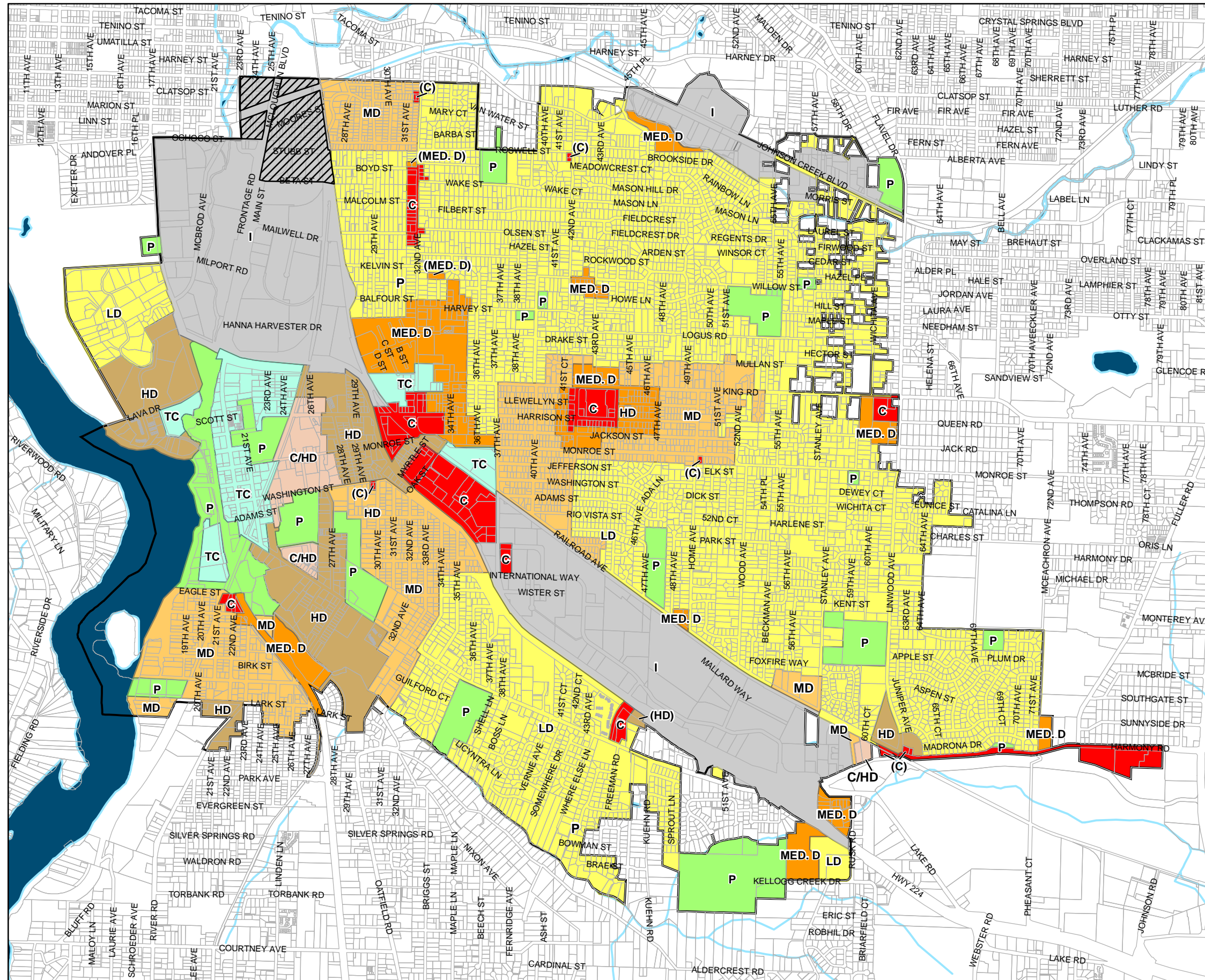
The following terms are definitions for the purposes of this chapter.

“Applicant” means a person, as defined in this section, who is required or chooses to finance some or all of the cost of a street, water, storm sewer, or sanitary sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The applicant may be the City.

“City” means the City of Milwaukie.










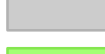
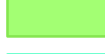

~~“Engineering Director~~ City Engineer” means the person who is the manager/supervisor of the city’s Engineering Department, or the City Manager’s designee to fill this position. This position can also be described as the Engineering Director or Engineering Manager. ~~holding the position of Engineering Director or any officer or employee designated by that person to perform duties stated within this chapter.~~

“Front footage” means the linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner’s portion of the reimbursement may be calculated. Front footage shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the ~~Engineering Director~~ City Engineer for calculating front footage. Front footage does not include property owned by the City, including rights-of-way.



LAND USE (EXISTING)

Milwaukie Comprehensive Plan Map 8

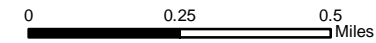
-  City Boundary
-  Tacoma Station Area
-  LD - Low Density
-  MD - Moderate Density
-  MED. D - Medium Density
-  HD - High Density
-  C - Commercial
-  C/HD - Mixed Use
-  I - Industrial
-  P - Public
-  TC - Town Center
-  Water Body












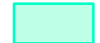
Rev. as of Ord. #2194 , effective August 28th, 2020

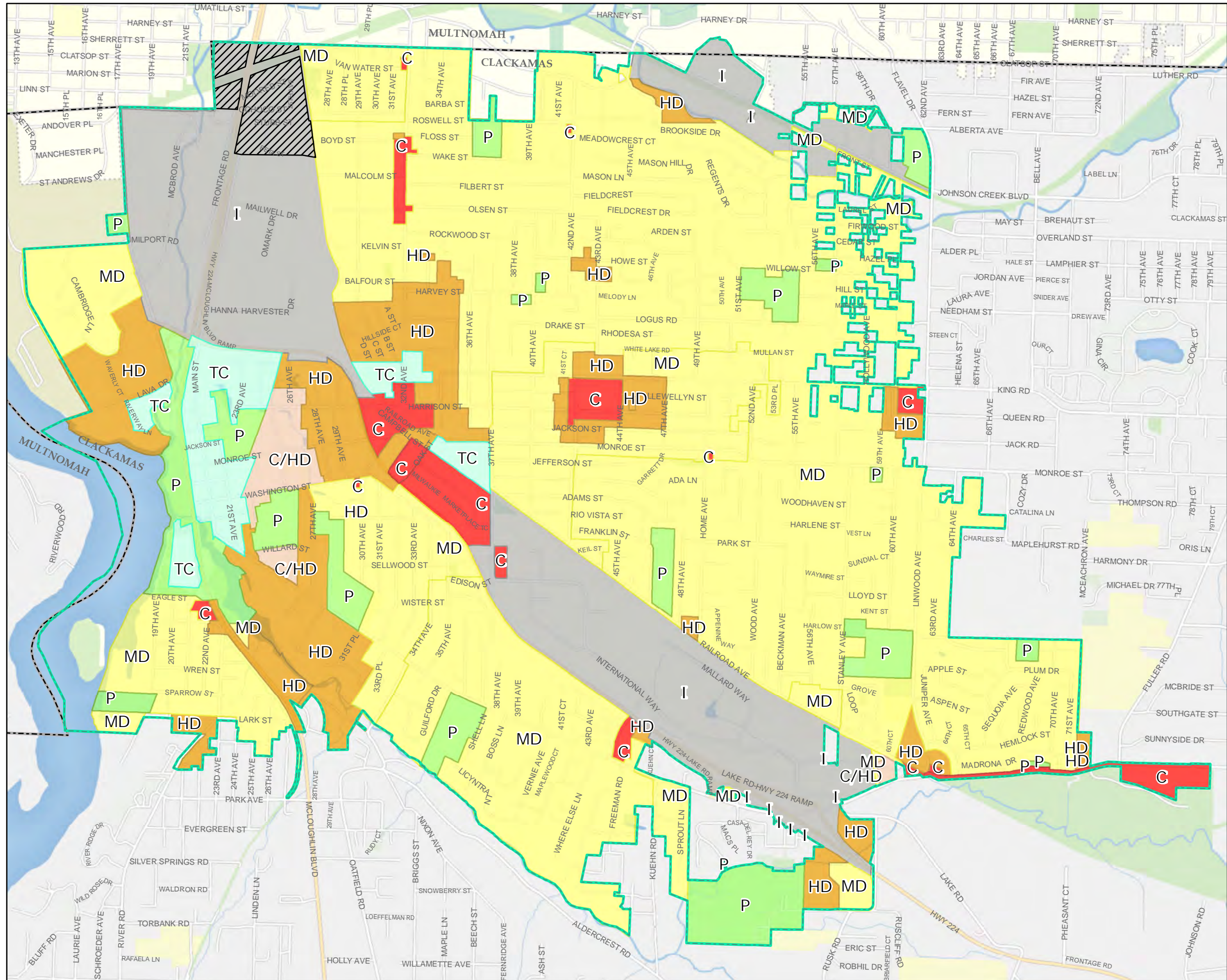
Data Sources: City of Milwaukie GIS, Metro Data Resource Center
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Please check with Planning Department for most up-to-date information.
 503-786-7630
 planning@milwaukieoregon.gov



Milwaukie Comprehensive Plan Proposed Landuse

-  City of Milwaukie
-  County Boundary
-  Tacoma Station Area
-  C - Commercial
-  C/HD - Mixed Use
-  HD - High Density
-  I - Industrial
-  MD - Moderate Density
-  P - Public
-  TC - Town Center

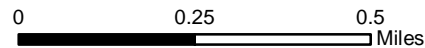


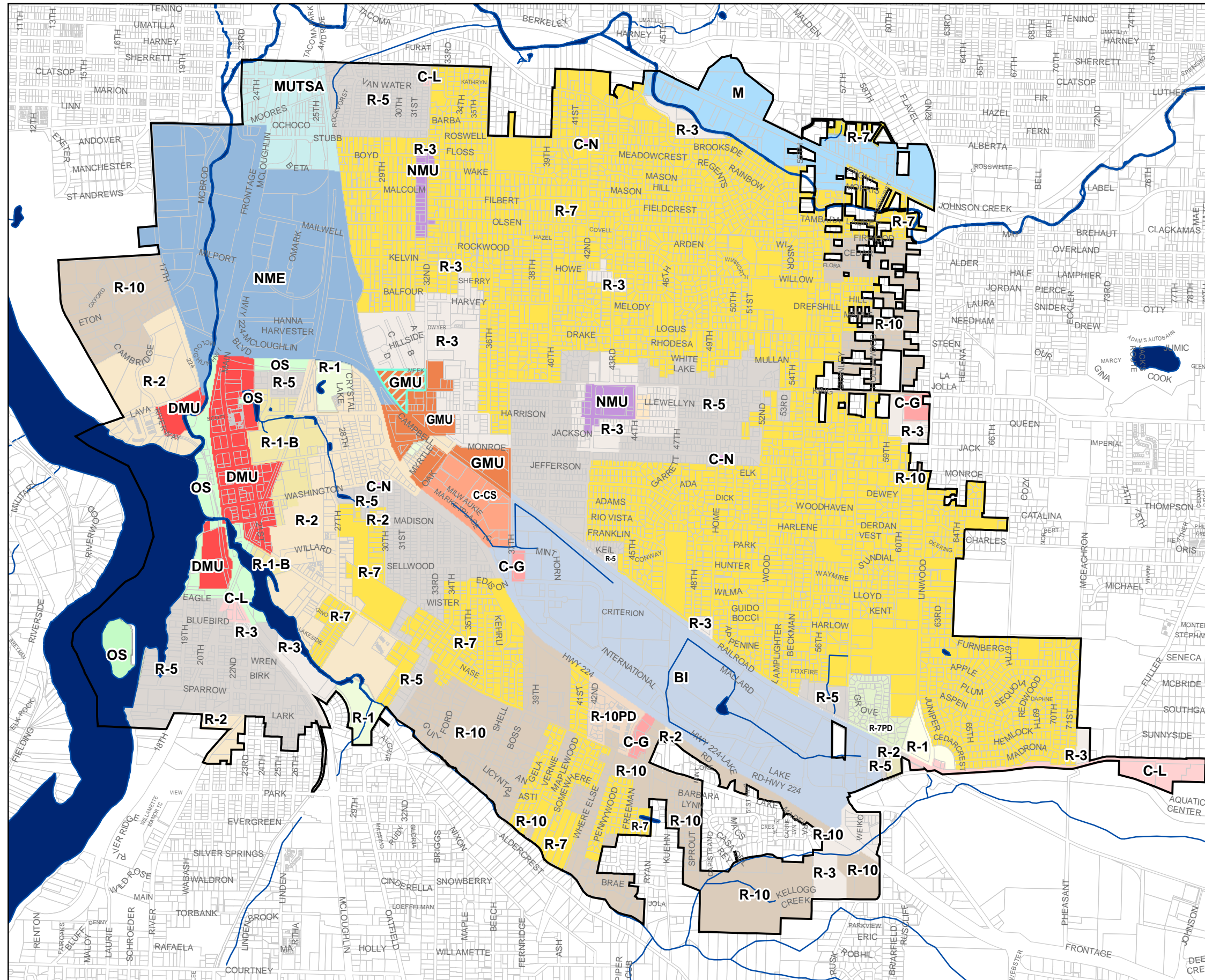
Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Wednesday, June 9, 2021

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GIS Coordinator
City of Milwaukie
6101 SE Johnson Creek Blvd.
Milwaukie, OR 97206
(503) 786-7687





ZONING

(EXISTING)

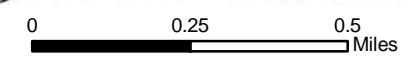
- | | |
|--------------------|---------------------------------|
| Industrial | Commercial and Mixed Use |
| BI | NMU |
| M | C-N |
| MUTSA | C-L |
| NME | C-G |
| | C-CS |
| | GMU |
| Residential | Downtown |
| R-1 | DMU |
| R-1-B | OS |
| R-2 | |
| R-2.5 | |
| R-3 | |
| R-5 | |
| R-7 | |
| R-7PD | |
| R-10 | |
| R-10PD | |
| | Flex Space Overlay |
| | City Boundary |
| | Water Body |




















Adopted by Ord. #1438, effective Dec. 5, 1979
 Rev. as of Ord. #2194, effective August 28th, 2020

Data Sources: City of Milwaukee GIS, Metro Data Resource Center
 9/10/2020
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 503-786-7630
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Milwaukie Comprehensive Plan Zoning Proposed Designations

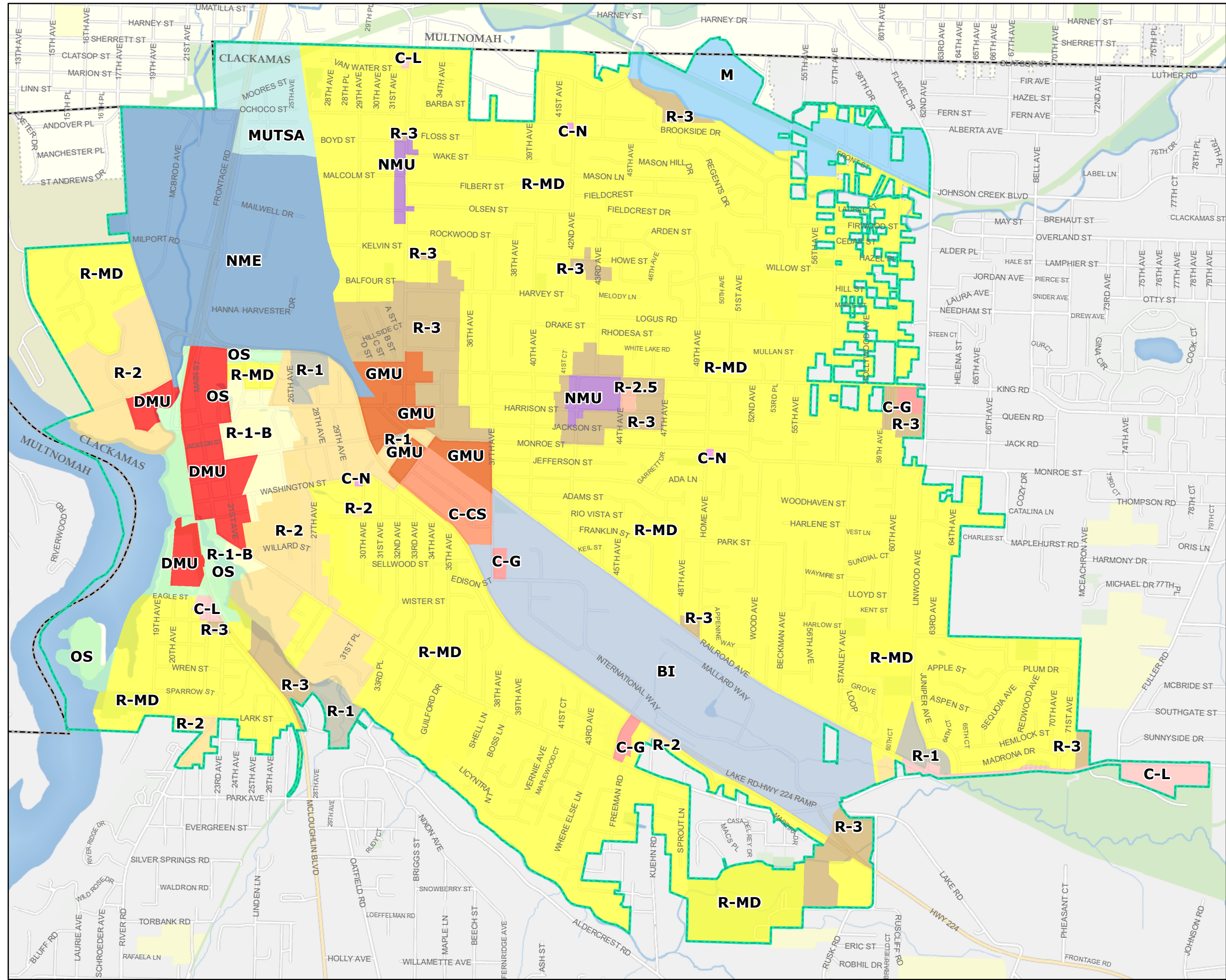
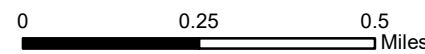
-  City of Milwaukie
-  County Boundary
-  MUTSA
-  BI
-  GMU
-  C-CS
-  DMU
-  C-G
-  C-L
-  C-N
-  NMU
-  OS
-  M
-  NME
-  R-MD
-  R-1
-  R-1-B
-  R-2
-  R-2.5
-  R-3



Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
Date: Thursday, July 22, 2021

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CHAPTER 16.32 TREE CODE

16.32.005 PURPOSE

The purpose of this chapter is to establish processes and standards that ensure the City maximizes the environmental, economic, health, community, and aesthetic benefits provided by its urban forest. It is the intent of this code to establish, maintain, and increase the quantity and quality of tree cover in residential zones and on land owned or maintained by the City and within rights-of-way, and to ensure our urban forest is healthy, abundant, and climate resilient.

This code is designed to:

1. Foster urban forest growth to achieve 40% canopy coverage by 2040.
2. Maintain trees in a healthy condition through best management practices.
3. Manage the urban forest for a diversity of tree ages and species.
4. Manage street trees appropriately to maximize benefits and minimize hazards and conflicts with infrastructure.
5. Ensure the preservation and planting of priority tree canopy with development and redevelopment of housing in residential zones.
6. Regulate the removal, replanting, and management of trees prior to and following development and redevelopment in residential zones.
7. Implement applicable urban forest goals, policies, objectives, and action items in the Comprehensive Plan, Climate Action Plan, and Urban Forest Management Plan.

16.32.010 DEFINITIONS

The following definitions shall apply for terminology, used in this chapter. If a definition is not listed in this chapter, the definition in Title 19 will apply. Where definitions are not provided in this chapter or Title 19, their normal dictionary meaning will apply:

“Arbor Day/Week” means a day/week designated by the City to celebrate and acknowledge the importance of trees in the urban environment.

“Arboriculture” means the practice and study of the care of trees and other woody plants in the landscape.

“City” means the City of Milwaukie.

“City Engineer” means the city engineer of the City of Milwaukie or designee.

“City Manager” means the city manager or the city manager’s authorized representative or designee.

“Council of Tree and Landscape Appraisers (CTLA)” means the publishers of the Guide for Plant Appraisal.

“Crown” means area of the tree above the ground, measured in mass, ~~or~~ volume, or area and including the trunk and branches.

“Cutting” means the felling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. Cutting does not include normal trimming or pruning but does include topping of trees.

“DBH” means the diameter at breast height.

“Dead tree” means a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life.

“Diameter at breast height” means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured from the ground level on the lower side of the tree. If a tree splits into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

“Drip line” means the perimeter measured on the ground at the outermost crown by drawing an imaginary vertical line from the circumference of the crown, straight down to the ground below.

“Dying tree” means a tree that is diseased, infested by insects, deteriorating, or rotting, as determined by a professional certified in the appropriate field, and that cannot be saved by reasonable treatment or pruning, or a tree that must be removed to prevent the spread of infestation or disease to other trees.

“Hazardous tree” means a tree or tree part the condition or location of which presents a public safety hazard or an imminent danger of property damage as determined by an ISA Qualified Tree Risk Assessor, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

“Invasive species” means a tree, shrub, or other woody vegetation that is on the Oregon State Noxious Weed List or listed on the City of Milwaukie Invasive Tree List in the Public Works Standards.

“ISA” means the International Society of Arboriculture.

“ISA Best Management Practices” means the guidelines established by ISA for arboricultural practices for use by arborists, tree workers, and the people who employ their services.

“Major tree pruning” means removal of over 20% of the live crown, or removal of or injury to over 15% of the root system during any 12-month period.

“Master Fee Schedule” is the schedule of City fees and charges adopted by City Council for the services provided by the City.

“Minor tree pruning” means the trimming or removal of less than 20% of any part of the branching structure of a tree in either the crown or trunk, or less than 10% of the root area during a 12-month period.

“NDA” means Neighborhood District Association.

“Noxious weed” means a terrestrial, aquatic, or marine plant designated by the State Weed Board under ORS 569.615.

“Owner” means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner’s written consent.

“Park tree” means a tree, shrub, or other woody vegetation within a City park.

“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~~ means any individual, firm, association, corporation, agency, or organization of any kind.

“Planning Director” means the planning director of the City of Milwaukie or designee.

“Public agency” means any public agency or public utility as defined in ORS 757.005, or a drainage district organized under ORS Chapter 547.

“Public tree” means a tree, shrub, or other woody vegetation on land owned or maintained by the City, but does not include a tree, shrub, or other woody vegetation in the right-of-way.

“Public Works Director” means the public works director of the City of Milwaukie or designee.

“Right-of-way” ~~means the area between boundary lines of a public 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.

“Shrub” means any plant with multiple woody stems that does not have a defined crown and does not grow taller than a height of 16 feet.

“Street tree” means a tree, shrub, or other woody vegetation on land within the right-of-way.

“Street Tree List” is the list of tree and shrub species approved by the City for planting within the right-of-way.

“Topping” means a pruning technique that cuts branches and/or the main stem of a tree to reduce its height or width.

“Tree” means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

“Tree Board” means the city of Milwaukie Tree Board.

“Tree Canopy” means the aggregate or collective tree crowns.

“Tree Fund” means the Tree Fund as created by this chapter.

“Tree removal” means the cutting or removal of 50% or more of the crown, trunk, or root system of a plant, the uprooting or severing of the main trunk of the tree, or any act that causes, or may reasonably be expected to cause the tree to die as determined by an ISA Certified Arborist.

“Urban forest” means the trees that exist within the City.

“Urban Forester” means the Urban Forester of the City of Milwaukie, or designee.

“Urban Forest Management Plan” is the management plan adopted by City Council for the management of the City’s urban forest.

"Utility" is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service, and other telecommunication technologies, sewage disposal and treatment, and other operations for public service.

16.32.014 ADMINISTRATION.

- A. The City Manager is authorized to administer and enforce the provisions of this chapter.
- B. The City Manager is authorized to adopt procedures and forms to implement the provisions of this chapter.
- C. The City Manager may delegate as needed any authority granted by this chapter to the Public Works Director, the Urban Forester, the Planning Director, the City Engineer, or such other designee as deemed appropriate by the City Manager.

16.32.015 CREATION AND ESTABLISHMENT OF THE TREE BOARD

A. Tree Board Composition

The Tree Board will consist of seven members, at least five of which must be residents of the City, one must be an ISA Certified Arborist, and all seven must be appointed by the Mayor with approval of the City Council.

B. Term of Office

The term of the seven persons appointed by the Mayor will be three years except that the term of two of the members appointed to the initial Tree Board will serve a term of only one year, and two members of the initial Tree Board will be for two years. In the event that a vacancy occurs during the term of any member, their successor will be appointed for the unexpired portion of the term. Tree Board members will be limited to serving three consecutive terms.

C. Compensation

Members of the Tree Board will serve without compensation.

D. Duties and Responsibilities

The Tree Board will serve in an advisory capacity to the City Council. Its responsibilities include the following:

1. Study, investigate, develop, update, and help administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of the Urban Forest. The plan will be presented to the City Council for approval every five years and will constitute the official Urban Forestry Management Plan for the City;
2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;
3. Provide outreach and education to the community on tree-related issues and concerns;
4. Organize and facilitate the City's tree planting events and other public events involving trees and Urban Forestry education;
5. Assist City staff in preparing recommendations regarding the application, membership, and ongoing participation by the City in the Tree City USA Program;
6. Provide leadership in planning the City's Arbor Day/Week proclamation and celebration; and
7. Provide recommendations to City Council on the allocation of funds from the Tree Fund.

The Tree Board, when requested by the City Council, will consider, investigate, make findings, report, and make recommendations on any special matter or question coming within the scope of its work.

E. Operation

The Tree Board will choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

16.32.016 CREATION OF A TREE FUND

A. Establishment

A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth by this chapter.

B. Funding Sources

The following funding sources may be allocated to the Tree Fund:

1. Tree permit revenue;
2. Payments received in lieu of required and/or supplemental plantings;
3. Civil penalties collected pursuant to this chapter;
4. Agreed-upon restoration payments or settlements in lieu of penalties;
5. Sale of trees or wood from City property;
6. Donations and grants for tree purposes;
7. Sale of seedlings by the City; and
8. Other monies allocated by City Council.

C. Funding Purposes

The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:

1. Expanding, maintaining, and preserving the urban forest within the City;
2. Planting and maintaining trees within the City;
3. Establishing a public tree nursery;
4. Supporting public education related to urban forestry;
5. Assessing urban forest canopy coverage; or
6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

16.32.017 TREE PLANTING ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Species

Any tree, shrub, or other woody vegetation to be planted on land owned or maintained by the City or within the public right-of-way must be a species listed on the Street Tree List unless otherwise approved by the Urban Forester.

B. Spacing, size and placement

The spacing, size, and placement of street trees, shrubs, and other woody vegetation must be in accordance with a permit issued by the City under this section. The City may approve special plantings designed or approved by a landscape architect, or for ecological restoration projects where trees are likely to be planted at a much higher density to mimic natural conditions in forest regeneration and account for expected mortality.

C. Permit

No person may plant a street tree without first obtaining a permit from the City. A permit application must be submitted in writing or electronically on a form provided by the City. This permit is at no cost.

16.32.018 STREET AND PUBLIC TREE CARE

The City will have the right to plant, prune, maintain and remove trees, shrubs, and other woody vegetation on land owned or maintained by the City and within the right-of-way as may be necessary to ensure public safety or that poses a risk to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest as determined by the Urban Forester. Unless otherwise exempted in this chapter, the City must obtain a permit for any activities performed under this section.

16.32.019 TREE TOPPING

No person will top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or trees existing under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Urban Forester.

16.32.020 PRUNING, CORNER CLEARANCE

Subject to enforcement under MMC_ 12.12.010, any tree, shrub, or other woody vegetation overhanging any street or right-of-way within the City must be maintained by the owner to ensure that no vegetation obstructs the right-of-way.

16.32.021 DEAD OR DISEASED TREE REMOVAL ON PRIVATE LAND

The City may require the removal of any tree, shrub, or other woody vegetation that is dead, diseased, or infested and that poses a significant risk to the public or the urban forest as determined by the Urban Forester. The City or its agents will notify the owners of such trees in writing.

Removal under this section must be completed within the time period specified in the written notice unless extended in writing by the Urban Forester. The owner must notify the City in writing when the required removal has been completed. If the owner does not remove the dead, diseased, or infested vegetation within the time period specified in the notice or extension granted in writing by the Urban Forester, the City will have the right to remove the dead, diseased, or infested vegetation and charge the cost of removal to the owner pursuant to MMC

Chapter 8.04. In cases where the owner demonstrates extreme financial hardship, the City Manager may grant a cost waiver in accordance with MMC 16.32.038.

16.32.022 REMOVAL OF STUMPS

All stumps of street trees must be removed by the adjacent property owner below the surface of the ground so that the top of the stump does not project above the surface of the ground.

16.32.023 INTERFERENCE WITH CITY

No person will prevent, delay, or interfere with the Urban Forester or designee while they are engaged in work activities including, but not limited to inspection of trees subject to the provisions of this chapter, planting, cultivating, mulching, pruning, spraying, or removing any street trees, park trees, or dead, diseased, or infested trees on private land, as authorized in this chapter.

16.32.024 ARBORISTS LICENSE

All businesses doing arboricultural work within the City must have a current business license with the City, and at least one staff member who is an ISA Certified Arborist. The Certified Arborist must be on site for the duration of any arboricultural work being performed and is responsible for certifying that all arboricultural work is performed in accordance with ISA Best Management Practices.

16.32.026 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES ON LAND OWNED OR MAINTAINED BY THE CITY

A. Applicability

1. No person will perform major tree pruning or remove any tree in a public right-of-way or on public land, without first obtaining a permit issued by the City.

- a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
- b. For street trees, the applicant must be the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
- c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.

2. For trees on land owned or maintained by the City, this chapter shall be applied in conjunction with any applicable standards in Title 19 Zoning.

B. Permit Review Process

1. Application

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee as established in the Master Fee Schedule.

2. Public Notice and Permit Meeting

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the public right-of-way. The applicant must mark each tree, shrub, or other woody vegetation proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the vegetation. The City will provide the applicant with at least one sign containing adequate notice for posting, tagging tape, and instructions for posting the notice. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the vegetation marked by orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 14 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit.

If a meeting is requested, it must be held within 14 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

3. Declaration

The applicant will file a declaration on a form provided by the City stating that notice has been posted and that the vegetation proposed for major pruning or removal has been marked.

Once a declaration is filed with the City, the City will provide notice of the application to the appropriate NDA.

4. Exemptions from Public Notice

The following trees, shrubs, or other woody vegetation may be removed without public notice subject to the City's review of the application:

- a. A tree, shrub, or other woody vegetation that is considered an unreasonable risk to the occupants of the property, the adjacent property, or the general public as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
- b. A tree, shrub, or other woody vegetation that is an invasive species and that is less than 8 inches in diameter at breast height.
- c. A street tree or public tree that is less than 2 inches in diameter at breast height.

C. Review Criteria and Approval Standards

The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one year after issuance unless a different time period is specified in the permit. Nothing prevents an application from requesting an amendment to an unexpired permit if the conditions and circumstances have changed.

1. Review Criteria

The City will not permit the major pruning or removal of a healthy, functioning Street Tree or Public Tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding major pruning or removal of healthy, functioning Street Trees or Public Trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

- a. Whether the species of tree is appropriate for its location,
- b. Whether the species of tree is an invasive species;
- c. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
- d. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
- e. Whether the major pruning or removal will have a negative impact on the neighborhood streetscape and any adopted historic or other applicable design guidelines.

2. Approval Standards

A permit will be issued only if the following criteria are met as determined by the Urban Forester:

- a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices and an ISA Certified Arborist will be on site for the duration of the tree work.
- b. The tree, shrub, or other woody vegetation proposed for major pruning or removal meets one or more of the following criteria:
 - (1) The tree, shrub, or other woody vegetation is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.
 - (2) The tree, shrub, or other woody vegetation is having an adverse effect on adjacent infrastructure that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.
 - (3) The tree, shrub, or other woody vegetation has sustained physical damage that will cause the vegetation to die or enter an advanced state

of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

- (4) The tree, shrub, or other woody vegetation poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
 - (5) Major pruning or removal of the tree, shrub, or other woody vegetation is necessary to accommodate improvements in the right-of-way or on City-owned land, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.
 - (6) The tree, shrub, or other woody vegetation is on the Oregon State Noxious Weed List.
 - (7) The tree, shrub, or other woody vegetation is part of a stormwater management system and has grown too large to remain an effective part of the system.
- c. Any approval for the removal of a healthy tree, shrub, or other woody vegetation must require the applicant to pay a fee as established in the Master Fee Schedule.

D. Performance of Permitted Work

All work performed pursuant to a permit issued by the Urban Forester must be completed within the time period specified in the permit unless a different time period is authorized in writing by the Urban Forester.

E. Replanting

The City will require replanting as a condition of permit approval for the major pruning or removal of a street tree or public tree.

1. The replanted tree must be a species included on the Street Tree List unless otherwise approved by the Urban Forester.
2. The City will consider alternative planting locations for street trees when replanting at the location of removal conflicts with surrounding infrastructure and the interference would impair the replanted tree.
 - a. For street trees, replanted trees must be planted within the right-of-way fronting the property for which the permit was issued or, subject to the approval of the Urban Forester and with permission in writing from the adjacent property owner, within the right-of-way fronting the adjacent property.
 - b. In lieu of replanting and subject to approval of the Urban Forester, the City can require the owner to pay a fee as established in the Master Fee Schedule.
 - c. For public trees, replanted trees must be planted on the land from which the tree was removed unless a different location is approved by the Urban Forester.

3. The optimal time of year for planting is from September through November. If planting is necessary in other months, the City may condition permit approval to require extra measures to ensure survival of the newly planted tree.

16.32.028 PROGRAMMATIC PERMITS

Programmatic permits may be issued by the Urban Forester for routine public facility or utility operation, planned repair and replacement, and on-going maintenance programs on public properties and rights-of-way. The purpose of a programmatic permit is to eliminate the need for individual permits for tree removal, pruning, or for ongoing activities that cover a wide geographic area and may include the pruning or removal of numerous public and street trees. Programmatic permits are evaluated to prevent cumulative adverse impacts to the urban forest and ensure that any permitted activities meet the goals and objectives of the Urban Forest Management Plan.

A. Application Requirements

Applications for programmatic permits must be submitted in writing or electronically on forms provided by the City and be accompanied by the correct fee.

B. Applicability

Programmatic permits may only be issued to a public agency or a utility as defined in this chapter.

C. Completeness

1. If the Urban Forester determines an application is incomplete, the Urban Forester will provide written notice to the applicant that describes the additional information needed.
2. The applicant must submit the additional information within 30 days from the date of the notice unless extended in writing by the Urban Forester.
3. If the applicant does not furnish the additional information within 30 days from the date of the notice or any extension granted in writing by the Urban Forester, the application will be denied.

D. Notice of Complete Application

When the Urban Forester determines that the application is complete, the Urban Forester must provide written notice that the application is complete to the applicant and the Tree Board. The notice must provide instructions for how to obtain additional information about the application, comment on the application, and request notification of the Urban Forester's decision.

E. Review Criteria

The Urban Forester may approve a programmatic permit upon a determination that the following criteria are satisfied or will be satisfied with conditions:

1. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement in MMC 16.32.005 considering the applicant's proposed performance measures, proposed tree planting, and other activities proposed to improve the overall health of the urban forest.
2. The applicant's proposed outreach and notification program, provides adequate notice to residents, businesses, and the City prior to performing work authorized under the programmatic permit.

F. Decision

The Urban Forester must issue the permit, deny the permit, or may issue the permit subject to conditions of approval within 120 days of determining the application is complete. The Urban Forester's decision will be final and, if approved, the permit will be valid for a period of up to two years. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The Urban Forester's decision will be based on an evaluation of the application against the applicable review criteria in MMC 16.32.028 F.

G. Permit

Approved permits must include the following required information. The Urban Forester may modify the permit at any time to respond to any questions, changes in regulations, or previously unforeseen issues, provided the applicant is notified in writing.

1. Duration. The Urban Forester may approve a programmatic permit for a period of up to 2 years;
2. Geographic area covered by the permit;
3. Permitted activities and any restrictions on the method, number, type, location, or timing of activities;
4. Procedures and thresholds for providing notice to residents, businesses, and the City impacted by the performance of work under the permit;
5. Monitoring, performance tracking, and reporting requirements. The Urban Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur; and
6. Traffic control requirements.

7. Annual Report

On the anniversary of permit issuance, the applicant must submit an annual report on a form supplied by the City detailing any work performed under the permit and any work scheduled to be performed.

8. Tree Size Limits

- a. The programmatic permit will not allow the removal of trees 6 or more inches in diameter, except as provided in this section.
- b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment shall be provided in accordance with MMC 16.32.026 B.2
- c. For any request, the Urban Forester may further limit allowed tree removal in order to meet the review criteria in MMC 16.32.028F.

9. Tree Work

All work performed under a programmatic permit must be performed in accordance with ISA arboricultural practices.

H. Revocation

1. The Urban Forester may revoke a programmatic permit upon a determination that the applicant is not adhering to the terms of the permit or is acting beyond the activities authorized by permit.

16.32.030 PERMIT AND FEE EXEMPTIONS ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Hazardous Tree

If a tree on public properties and rights-of-way is determined to be a hazardous tree by the Urban Forester, the City may issue an emergency removal permit. The removal shall be in accordance with ISA best management practices, and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

A permit for trees on public properties and rights-of-way is not required for regular maintenance or minor tree pruning that does not require removal of over 20% of the crown, tree topping, or disturbance of more than 10% of the root system during any 12-month period.

C. Public Infrastructure Improvements

Any tree on land owned or maintained by the City and requires removal or pruning to accommodate a city public infrastructure improvement project will require a permit and must meet replanting requirements imposed by this chapter. If it is demonstrated that tree planting,

establishment, and tree care-related project costs exceed the tree removal fee costs, the permit will not be subject to a removal fee.

D. Private Utility Services and Dwelling Units

If the Urban Forester determines that a tree, shrub, or other woody vegetation proposed for removal on public properties and rights-of-way has an adverse effect on adjacent private utility services or threatens the structural integrity of a dwelling unit that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices, the permit will not be subject to a removal fee.

16.32.038 LOW INCOME ASSISTANCE

To the extent that City funds are available, the City Manager may grant a property owner an exemption or a reduction in permit fees, removal fees, replanting fees and/or may provide assistance in removing a dead or diseased tree within ~~in~~ the right of way and residential zones. Eligibility and extent of assistance will be based on a percentage of the property owner's median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area. A schedule of different fee reduction and exemption will be determined by the City Manager.

16.32.040 PENALTY

A person who removes a street tree or public tree without first obtaining the necessary permit from the City, removes a tree in violation of an approved permit, or violates a condition of an approved permit must pay a fine in an amount established in the Master Fee Schedule. Any fine imposed under this section must not be less than the cost of the permit and the associated removal fee for which a permit should have been obtained.

16.32.042 TREE PRESERVATION AND PLANTING IN RESIDENTIAL ZONES

A. Applicability

The tree preservation and planting standards in this subsection apply to the following types of development in residential zones:

1. Land Divisions.
2. Construction of New Residential Dwellings Units.

B. Tree Preservation Standards

Trees are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 33 percent of existing tree canopy can be removed from a development site unless mitigation is provided according to MMC 16.32.042.D. Trees listed on the City of Milwaukie Rare and Threatened Tree

List must be prioritized for preservation and will incur an additional fee if removed as listed on the Master Fee Schedule.. When the trunk of a tree crosses a property line at ground level it is considered an onsite tree for the purposes of these tree preservation standards. Required yard setbacks may be reduced and building heights may be exceeded the minimum amount needed to preserve trees as determined by the Urban Forester.

C. Tree Canopy Standards

In addition to the preservation of existing trees, at least 40 percent tree canopy is required for a development site unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way is not considered part of the development site for the purposes of these calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

1. Seventy-five percent (75%) of the mature crown area of planted onsite trees from the City of Milwaukie Street Tree List or as otherwise approved by the Urban Forester.
2. Fifty percent (50%) of the mature crown area of planted street trees in the public right-of-way directly abutting the development site.
3. The existing or mature crown area of onsite priority trees that are preserved, whichever is greater. In cases where a portion of the crown area of onsite trees extends offsite, the entire crown area is eligible for credit towards the tree canopy requirements. In cases where a portion of the crown area of offsite trees extends onsite, the crown area is not eligible for credit towards the tree canopy requirements.
4. Fifty percent (50%) of the existing crown area of street trees that are preserved in the public right-of-way directly abutting the development site.

When the trunk of a tree crosses a property line at ground level it is considered an onsite tree except when the trunk crosses a public right-of-way line at ground level it is considered a street tree for the purposes of these tree canopy standards.

D. Mitigation Standards

If the Tree Preservation and/or Tree Canopy Standards are not practicable to meet, mitigation fees must be provided to the Tree Fund as follows:

1. The per-inch tree preservation fee in the Master Fee Schedule based on the largest diameter priority tree or trees that if preserved would meet the 33 percent minimum tree canopy preservation standard.
2. The per-square foot tree canopy fee in the Master Fee Schedule based on the square footage of tree canopy that would be required to meet the 40 percent tree canopy standard.

E. Discretionary Review Alternative

1. As an alternative to the mitigation fee payment, an applicant may apply for a Type III variance according to MMC 19.911. The applicant is required to demonstrate that the alternative proposal provides equivalent or greater environmental benefits as preserving

or planting the required tree canopy. The proposal must be approved by the Urban Forester or designee. Discretionary alternatives may include but are not limited to:

- a. Techniques that minimize hydrological impacts beyond regulatory requirements (e.g. porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA (low impact development approach) swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands).
- b. Techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies, on-site energy production technologies, and green buildings standards (MMC 19.510).
- c. Techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.
- d. Techniques that preserve open space for sustainable urban agriculture through the use of conservation easements or other protective instruments at sites that are not compatible with tree canopy preservation or planting.

F. Tree Protection Standards

Trees to be retained must be protected from development impacts according to the standards in this subsection to be eligible for tree preservation and tree canopy credit. A tree protection plan by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as determined by the Urban Forester or designee is required. Tree protection methods and specifications must be consistent with ISA best management practices using either the following prescriptive path or performance path tree protection methods:

1. Prescriptive Path for Tree Protection.

a. Establish a root protection zone:

(1) For onsite trees and offsite trees with root protection zones that extend into the site - a minimum of 1 foot radius (measured horizontally away from the center of the tree trunk) for each inch of trunk diameter at breast height. Root protection zones for offsite trees may be estimated.

(2) For street trees – the Urban Forester may prescribe greater or lesser protection than required for onsite and offsite trees.

(3) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain. New encroachments into the root protection zone are allowed provided:

(a) the area of all new encroachments is less than 25 percent of the remaining root protection zone area when existing encroachments are subtracted; and

(b) no new encroachment is closer than 1/2 the required radius distance (see Figure 16.32.042.F);

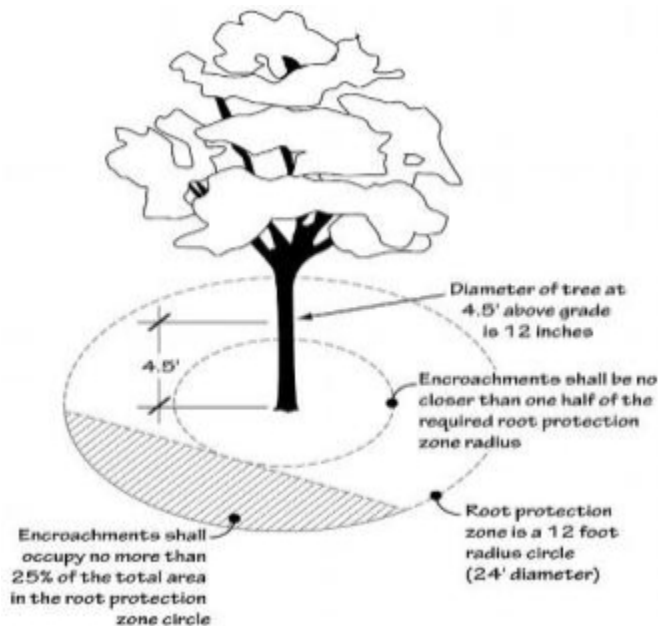


Figure 16.32.042.F - Permissible RPZ Encroachments

b. Protection fencing:

(1) Protection fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts must be established at the edge of the root protection zone and permissible encroachment area on the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(2) When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

c. Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

d. Installation of landscaping is not an encroachment. Any in-ground irrigation systems are considered encroachments.

e. The following is prohibited within the root protection zone of each tree: ground disturbance or construction activity including vehicle or equipment access (but

excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities.

f. The fence is required to be installed before any ground disturbing activities including clearing and grading, or construction starts; and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path is not practicable as determined by the Urban Forester, the applicant may propose alternative measures to modify the prescriptive root protection zone, provided the following standards are met:

a. The alternative root protection zone is prepared by an ISA certified arborist who has examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impact based on its species and health, and identified any past impacts that have occurred within the root zone.

b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit.

c. The protection zone is marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist.

d. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used must be provided by the arborist.

G. Soil Volume Standards

Trees to be planted must be provided access to at least 1,000 cubic feet of soil volume according to the standards in this subsection to be eligible for tree canopy credit. A soil volume plan by an ISA certified arborist is required that demonstrates 1,000 cubic feet of soil volume is available per tree as determined by the Urban Forester or designee. Soil volume methods and specifications must be consistent with ISA best management practices using either the prescriptive path or performance path soil volume methods. The project arborist must verify the soil volume plan was successfully implemented prior to tree planting.

1. Prescriptive Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the project arborist or Urban Forester to be adequate to support healthy tree growth to maturity based on factors including but not limited to compaction levels, drainage, fertility, pH, and potential contaminants, the existing soils may be used to meet the soil volume requirements.

b. The assumed soil depth will be three feet unless otherwise determined by the project arborist or Urban Forester.

c. A soil volume area of at least 333 square feet must be accessible to each tree when the assumed soil volume depth is three feet.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least three feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. Soil volume areas must be protected from construction impacts through any combination of the following methods:

(1) Protection fencing:

(a) Fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts established at the edge of the soil volume area on the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(b) When a soil volume area extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(c) Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

(2) Compaction prevention options for encroachment into soil volume areas:

(a) Steel plates placed over the soil volume area.

(b) A 12-inch layer of coarse wood chips over geotextile fabric continuously maintained over the soil volume area.

(c) A 6-inch layer of crushed gravel over geotextile fabric continuously maintained over the soil volume area.

g. Soil contaminants are prohibited from the soil volume areas.

2. Performance Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined to be inadequate to support healthy tree growth to maturity based on factors such as compaction levels, drainage, fertility, pH, and potential contaminants prior to or resulting from development, a performance path soil volume plan is required.

b. Soils in areas of construction access that do not receive compaction prevention treatment and soils in areas of grading, paving, and construction are

considered inadequate for tree growth unless a performance path soil volume plan is provided.

c. The performance path soil volume plan is required to demonstrate the methods that will be used to provide at least 1,000 cubic feet of soil volume with the capacity to support healthy growth to maturity per tree to be planted.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least three feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. The following items may be addressed in performance path soil volume plans but are dependent on specific site conditions and should be verified on a project basis in coordination with other professionals such as civil and geotechnical engineers, landscape architects, and soil scientists as needed:

(1) Compaction Reduction

- (a) tilling
- (b) backhoe turning
- (c) subsoiling

(2) Soil Amendments

- (a) organic amendments
- (b) mineral amendments
- (c) biological amendments
- (d) chemical amendments

(3) Topsoil Replacement (when soil contamination or soil removal occurs)

(4) Soil Under Pavement

- (a) structural soil cells
- (b) structural tree soils
- (c) soil vaults
- (d) soils under suspended pavement

H. Submittal Requirements

An ISA certified arborist that is also tree risk assessment qualified (TRAQ) must demonstrate compliance with the applicable provisions of MMC 16.32.042.B through H. Other professionals such as engineers, landscape architects, soil scientists, and surveyors may assist the project arborist as needed in preparing the required information, but the arborist must organize, review, and approve the final product. The minimum submittal requirements include an inventory of existing trees, tree preservation plan, tree canopy plan, and arborist report with the following elements:

1. Tree Inventory Requirements

a. Survey the locations of all trees at least 6-inch DBH, and trees less than 6-inch DBH as specified on the City of Milwaukee rare or threatened tree list. Trees that must be surveyed include those that are onsite, within abutting public rights-

of-way, and on abutting sites with root protection zones that extend into the site. The locations and information for trees on abutting sites may be estimated.

b. Number each tree for identification at the site and on the plans.

c. Identify the common name and scientific name of each tree.

d. Measure the DBH of each tree in inches according to accepted ISA standards.

e. Measure the approximate average crown radius of each tree in feet.

f. Provide the crown area of each tree using the formula: $(\text{crown radius})^2 \times \pi$.

g. Assess the health condition of each tree using the following categories:

(1) Good (no significant health issues)

(2) Fair (moderate health issues but likely viable for the foreseeable future)

(3) Poor (significant health issues and likely in decline)

(4) Very Poor or Dead (in severe decline or dead)

h. Identify whether the tree is a priority tree and list the applicable priority tree number as described in MMC 16.32.042.B and the City of Milwaukie priority tree list.

i. Identify whether the tree will be removed or retained.

j. Organize the tree inventory information in a table or other approved format.

2. Tree Preservation Plan Requirements

a. Provide a site plan drawn to scale.

b. Include the existing tree locations and corresponding tree numbers from the tree inventory.

c. Identify priority trees and list the applicable priority tree number as described in MMC 16.32.042.B and the City of Milwaukie priority tree list.

d. Identify the following site disturbances:

(1) demolition

(2) tree removal

(3) staging, storage, and construction access

(4) grading and filling

(5) paving

(6) construction of structures, foundations, and walls

(7) utility construction

(8) trenching and boring

(9) excavation

(10) any other demolition or construction activities that could result in ground disturbances and/or tree damage

e. Locate tree and soil protection fencing to scale.

- f. Locate soil compaction prevention methods to scale.
- g. Identify performance path tree protection and soil volume areas.
- h. Include tree and soil volume protection specifications from the arborist report on the plans including a detail of tree and soil volume protection fencing and signage.
- i. The elements of the tree preservation plan may be included on multiple plan sheets for clarity.
- j. The final approved set of construction drawings must include the tree preservation plan to ensure contractors, inspectors, and other professionals have access to the information.

3. Tree Canopy Plan

- a. Provide a site plan drawn to scale.
- b. Include the existing trees to be retained and their crown areas to scale.
- c. Include the trees to be planted and their mature crown areas to scale based on the City of Milwaukie tree canopy list.
- d. Identify the soil volume areas for each tree to be planted to scale.
- e. For performance path soil volume areas, identify the methods and specifications as applicable for:
 - (1) Compaction Reduction;
 - (2) Soil Amendments;
 - (3) Topsoil Replacement; and/or
 - (4) Soil Under Pavement
- f. Include a tree planting detail that is consistent with ISA best management practices.
- g. The minimum size of planted trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.
- h. The minimum spacing and setback requirements in Table 16.32.042.H must be met based on the mature size class of the tree from the City of Milwaukie tree canopy list unless otherwise approved by the Urban Forester:

Table 16.32.042.H

<u>Spacing/Setback</u>	<u>Small Stature</u>	<u>Medium Stature</u>	<u>Large Stature</u>
<u>between existing and new trees</u>	<u>15 feet</u>	<u>25 feet</u>	<u>35 feet</u>
<u>from habitable buildings</u>	<u>10 feet</u>	<u>15 feet</u>	<u>20 feet</u>
<u>from pavement</u>	<u>2 feet</u>	<u>3 feet</u>	<u>4 feet</u>

i. Root barriers must be installed according to the manufacturer's specifications when a tree is planted within 5 feet of pavement or an underground utility box unless otherwise approved by the Urban Forester.

j. Where there are overhead high voltage utility lines, the tree species selected must be of a type which, at full maturity, will not require pruning to avoid interference with the lines.

k. Where there is existing mature tree canopy or other areas with significant shade, the species selected must be capable of growing as an understory tree according to available scientific literature. However, understory trees can only be planted when the planting of non-understory trees is precluded due to site constraints.

l. The elements of the tree canopy plan may be included on multiple plan sheets for clarity.

m. The final approved set of construction drawings must include the tree canopy plan to ensure contractors, inspectors, and other professionals have access to the information.

4. Arborist Report

a. Provide a written narrative that summarizes the information from the tree inventory, tree preservation plan, and tree canopy plan.

b. Provide findings and calculations that demonstrate whether the priority tree preservation standards in MMC 16.32.042.B have been met.

c. Provide findings and calculations that demonstrate whether the tree canopy standards in MMC 16.32.042.C have been met.

d. If the tree preservation and/or tree canopy standards have not been met, provide calculations for the applicable tree mitigation fees as required by MMC 16.32.042.D.

e. If a discretionary review alternative is proposed in place of providing mitigation fees, provide findings that demonstrate the alternative proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy consistent as required by MMC 16.32.042.E.

f. Provide findings that demonstrate compliance with the tree protection standards in MMC 16.32.042.F.

g. Provide findings that demonstrate compliance with the soil volume standards in MMC 16.32.042.G.

I. Non-Development Tree Permit Requirements

1. Applicability: A permit is required prior to the removal of the following trees in residential zones on property that is outside the right-of-way and not owned or maintained by the City:

- a. Trees that are at least 6-inch DBH.
- b. Trees that are less than 6-inch DBH as specified on the City of Milwaukee threatened tree list.
- c. Trees that were planted to meet any requirements in MMC 16.32.042.

Permits are not required in residential zones when tree removal is approved with development listed in MMC 16.32.042.A. Permits are also not required in residential zones for the removal of trees that are grown for commercial agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

2. Type 1 Tree Removal Permit: The following review criteria and approval standards will be applied to type 1 tree removal permits by the Urban Forester:

a. Review Criteria: The City will not issue a type 1 permit for the removal of a healthy, functioning tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

- (1) Whether the species of tree is appropriate for its location;
- (2) Whether the species of tree is an invasive species;
- (3) Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
- (4) Whether maintenance of the tree creates an unreasonable burden for the property owner; and
- (5) Whether the removal will have a negative impact on any adopted historic or other applicable design guidelines.

b. Approval Standards: A type 1 permit will be issued only if the following criteria are met as determined by the Urban Forester:

- (1) The proposed tree removal will be performed according to current ISA Best Management Practices.
- (2) The tree proposed for removal meets one or more of the following criteria:
 - (a) The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

(b) The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.

(c) The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.

(d) The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.

(e) The tree is on the Oregon State Noxious Weed List.

(f) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(g) The tree location conflicts with areas of public street widening, construction or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(h) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(i) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that results in tree retention.

(j) An ISA certified arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80 percent canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(3) Unless removed for thinning purposes (criterion j) the Urban Forester will condition the removal of each tree upon the planting of a replacement tree as follows:

(a) The minimum size of replacement trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

(b) Replacement trees must be planted in a manner consistent with ISA best management practices.

(c) The replacement tree must substantively replace the function and values of the tree that was removed wherever practicable. For example, a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone must be replaced with a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone.

(d) If planting a replacement tree is not practicable, the Urban Forester may allow a tree replacement fee in lieu according to the Master Fee Schedule based on the cost of planting and maintaining a replacement tree for three years.

3. Type 2 Tree Removal Permit: A type 2 tree removal permit may be approved by the Urban Forester or designee if the type 1 tree removal approval standards cannot be met. The type 2 process is more discretionary than the type 1 process and may consider a range of options in approving, approving with conditions, or denying a tree removal permit application. Type 2 tree removal permit considerations may include but are not limited to:

- a. Solar access for urban agriculture and renewable energy systems;
- b. Landscape redesign;
- c. Quality of tree species, condition, and location;
- d. Contribution to the environment;
- e. Contribution to the community;
- f. Aesthetics;
- g. Mitigation proposals such as tree replacement, restoration or preservation of wildlife habitat, and wood repurposing.

J. Enforcement

1. City Authority: The City has the ultimate authority to:

- a. Interpret the provisions of MMC 16.32.042 and determine whether code criteria have been met.
- b. Establish conditions of permit and land use approval to ensure MMC 16.32.042 is properly implemented.
- c. Create rules and procedures as needed to implement MMC 16.32.042. Rules and procedures may include but are not limited to:
 - (1) Priority tree lists.
 - (2) Tree protection standards, specifications, and procedures.
 - (3) Tree planting standards, specifications, and procedures.
 - (4) Tree establishment and maintenance standards, specifications, and procedures.

- (5) Performance bonding, letters of credit, and cash assurances to help ensure proper tree protection, planting, and establishment.
- (6) Tree protection inspections and oversight.
- (7) Soil protection inspections and oversight.
- (8) Performance path tree protection standards and specifications.
- (9) Performance path soil volume standards and specifications.
- (10) Fees for permit applications, reviews, mitigation, inspections, and violations.

2. Penalties: The following penalties may apply to violations of the provisions of 16.32.042:

a. Illegal tree removal:

- (1) Not less than the amount established in the Master Fee Schedule and up to the appraised value of the illegally removed tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.
- (2) Revocation, suspension, or ineligibility for a building or land use permit for a period of up to 3 years when the tree removal was to potentially facilitate development as determined by the Urban Forester.
- (3) Revocation, suspension, or ineligibility for a City business license for a period of up to 3 years for the owner or responsible party.

b. Topping, pruning, or otherwise incurring willful and negligent damage to a tree crown or roots in a manner that is inconsistent with ISA best management practices:

- (1) Up to the amount established in the Master Fee Schedule or up to the appraised loss in value of the illegally topped or pruned tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.
- (2) Restoration of the tree crown, trunk, or root system as prescribed by an ISA certified arborist and approved by the Urban Forester.
- (3) Revocation, suspension, or ineligibility for a City business license for a period of up to 3 years for the owner or responsible party.

c. Tree protection zone violations:

- (1) Up to the amount established in the Master Fee Schedule.
- (2) Restoration of the tree protection zone as prescribed by an ISA certified arborist and approved by the Urban Forester.

Clean Amendments

COMPREHENSIVE PLAN

Comprehensive Plan Land Use Map

Updated to show two residential designations reflecting changes to zoning map per 19.107.
(Attachment 1)

Comprehensive Plan Residential Land Use Designations

Moderate Density Residential: Zone R-MD (5.0 – 34.8 units/acre)

- a. Permitted housing types include single-unit detached on moderate to small lots, accessory dwelling units, duplexes, triplexes, quadplexes, townhouses, and cottage clusters.
- b. Transportation routes are limited primarily to collectors and local streets.
- c. Sites with natural resource or natural hazard overlays may require a reduction in density.

High Density: Zones R-3 (11.6-14.5 units/acre), R-2.5 and R-2 (11.6-17.4 units/acre), and R-1 and R-1-B (25-32 units/acre)

- a. A wide variety of housing types are permitted including single-unit detached on moderate to small lots, accessory dwelling units, and duplexes, triplexes, quadplexes, townhouses, and cottage clusters, with the predominant housing type being multi-unit development.
- b. These areas should be adjacent to or within close proximity to downtown or district shopping centers, employment areas and/or major transit centers or transfer areas.
- c. Access to High Density areas should be primarily by major or minor arterials.
- d. Office uses are outright permitted, and commercial uses are conditionally permitted in limited areas within close proximity of downtown.

Title 19 Zoning Ordinance

CHAPTER 19.100 INTRODUCTORY PROVISIONS

19.107.1 Zone Classifications

For the purposes of this title, the following base zones and overlay zones are established in the City per Table 19.107.1:

Table 19.107.1 Classification of Zones	
Zone Description	Abbreviated Description
Base Zones	
Residential	R-MD
Residential	R-3
Residential	R-2.5
Residential	R-2
Residential	R-1
Residential-Business Office	R-1-B
Downtown Mixed Use	DMU
Open Space	OS
Neighborhood Commercial	C-N
Limited Commercial	C-L
General Commercial	C-G
Community Shopping Commercial	C-CS
Manufacturing	M
Business Industrial	BI
Planned Development	PD
Tacoma Station Area Manufacturing	M-TSA
General Mixed Use	GMU
Neighborhood Mixed Use	NMU
Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F
Tacoma Station Area	TSA

19.107.2 Zoning Map

Updated to show six residential designations reflecting changes to zoning map per 19.107.1 (Attachment 2).

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

Refer to individual chapters of this title for chapter-specific definitions.

As used in this title:

“Lot” means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of 1 distinct ownership. When 1 owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may

define a lot boundary coterminous with 1 or more legal lots or lots of record within the distinct ownership. Figure 19.201-1 illustrates some of the lot types defined below.

“Back lot” means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

“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.

“Corner lot” means a lot abutting 2 or more streets, other than an alley, at their intersection.

“Interior lot” means a lot other than a corner lot.

“Legal lot” means a unit of land other than a tract created through a subdivision or partition approved by the City.

“Lot of record” means a unit of land for which a deed or other instrument dividing the land was filed with the Clackamas County Recorder, which was not created through a partition or subdivision approved by the City, and which was created prior to October 5, 1973.

“Through lot” means an interior lot having frontage on 2 streets.

“Allowed By Right” means any land use permitted without land use approval by the City’s Planning Department or Planning Commission, such as is required by a Type I – V review process.

“Owner” means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner’s written consent.

“Planning Manager” means the person who is the manager/supervisor of the city’s Planning Department, or the City Manager’s designee to fill this position. This position can also be described as the Planning Director.

“Street tree” means a tree, shrub, or other woody vegetation on land within the right-of-way.

“Tree” means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

Residential Uses and Structures

“Duplex” means two dwelling units on a lot or parcel in any configuration. In instances where a development can meet the definition of a duplex and also meets the definition of a primary dwelling unit with an accessory dwelling unit (ADU), the applicant shall specify at the time of application review whether the development is considered a duplex or a primary dwelling unit with an ADU.

“Cottage” means a structure containing one dwelling unit on one lot within an area that was divided to create a cottage cluster development, per Subsection 19.505.4.

“Cottage Cluster” means a grouping of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard per

Subsection 19.505.4. Cottage Cluster units may be located on a single lot or parcel, or on individual lots or parcels.

“Cottage Cluster Project” means two or more cottage clusters constructed or proposed to be constructed.

“Manufactured home” means a single detached 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 Section 5401 et seq.) as amended on August 22, 1981.

“Middle Housing” means Duplexes, Triplexes, Quadplexes, Cottage Clusters, and Townhouses.

“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.

“Multi-unit development” means a structure that contains five or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots. Multi-unit development includes structures commonly called garden apartments, apartments, and condominiums.

“Quadplex” means four dwelling units on a lot or parcel in any configuration.

“Single detached dwelling” means a structure, or manufactured home, containing 1 dwelling unit with no structural connection to adjacent units.

“Townhouse” means a residential structure on its own lot that shares 1 or more common or abutting walls with at least 1 or more dwelling units on adjoining lots. The common or abutting wall must be shared for at least 25% of the length of the side of the building. The shared or abutting wall may be the wall of an attached garage. A Townhouse does not share common floors/ceilings with other primary dwelling units.

“Triplex” means three dwelling units on a lot or parcel in any configuration.

19.202 MEASUREMENTS

19.202.4 Density Calculations

Minimum required and maximum allowed dwelling unit density will be calculated as described below, except that residential cluster development on lands containing natural resource areas are subject to the density calculations in Subsection 19.402.14.C. The purpose of these calculations is to ensure that properties develop at densities consistent with the densities in the Comprehensive Plan. The area deductions for minimum required density allow properties to utilize land that can be built upon. The area deductions for maximum allowed density include sensitive lands where development should be avoided.

C. Discrepancy between Minimum Required and Maximum Allowed Density

If the calculation results are that minimum density is equal to maximum density, then the minimum required density is reduced by one. If the calculation results are that minimum density is larger than maximum density, then the minimum required density is reduced to one less than the maximum. If the calculation results are that the maximum density calculation is equal to zero, then the minimum density is one.

CHAPTER 19.300 BASE ZONES

19.301 MODERATE DENSITY RESIDENTIAL ZONES

The moderate density residential zone is Residential Zone R-MD. This zone implements the Moderate Density residential land use designation in the Milwaukie Comprehensive Plan.

19.301.1 Purpose

The moderate density residential zone is intended to create, maintain, and promote neighborhoods with larger lot sizes while allowing a broad range of housing types. Some non-household living uses are allowed, but overall the character is one of residential neighborhoods.

19.301.2 Allowed Uses in Moderate Density Residential Zones

Uses allowed, either allowed by right or conditionally, in the moderate density residential zones are listed in Table 19.301.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.301.2 Moderate Density Residential Uses Allowed		
Use	R-MD	Standards/Additional Provisions
Residential Uses		
Single detached dwelling	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Duplex	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Triplex	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Quadplex	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Townhouse	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.5 Standards for Townhouses
Cottage Cluster	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.4 Cottage Cluster Housing
Residential home	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development

Accessory dwelling unit	P	Subsection 19.910.1 Accessory Dwelling Units
Manufactured dwelling park	N	Subsection 19.910.3 Manufactured Dwelling Parks.
Senior and retirement housing	CU	Subsection 19.905.9.G Senior and Retirement Housing
Commercial Uses		
Bed and breakfast or Vacation rental	CU	Section 19.905 Conditional Uses
Accessory and Other Uses		
Accessory use	P	Section 19.503 Accessory Uses
Agricultural or horticultural use	P	Subsection 19.301.3 Use Limitations and Restrictions
Community service use	CSU	Section 19.904 Community Service Uses
Home occupation	P	Section 19.507 Home Occupation Standards
Short-term rental	P	Section 19.507 Home Occupation Standards

P = Permitted/allowed by right

N = Not permitted.

CSU = Permitted with Community Service Use approval subject to provisions of Section 19.904. Type III review required to establish a new CSU or for major modification of an existing CSU. Type I review required for a minor modification of an existing CSU.

CU = Permitted with conditional use approval subject to the provisions of Section 19.905. Type III review required to establish a new CU or for major modification of an existing CU. Type I review required for a minor modification of an existing CU.

II = Type II review required.

III = Type III review required.

19.301.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than one acre, nor having less than 10,000 sq ft per head of livestock.
3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Marijuana production is not permitted in moderate density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.301.4 Development Standards

In the moderate density residential zones, the development standards in Table 19.301.4 apply. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column. Additional standards are provided in Subsection 19.301.5.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

Table 19.301.4 Moderate Density Residential Development Standards					
Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
A. Permitted Dwelling Type					
	Townhouse, Cottage ¹	Single Detached Dwelling, Single Detached Dwelling, with ADU, Duplex	Single Detached Dwelling, Single Detached Dwelling, with ADU, Duplex, Triplex	Single Detached Dwelling, Single Detached Dwelling, with ADU, Duplex, Triplex, Quadplex, Cottage Cluster,	Subsection 19.501.1 Lot Size Exceptions
B. Lot Standards					
1. Minimum lot width (ft)	20	30	50	60	
2. Minimum lot depth (ft)	70	80	80	80	
3. Minimum street frontage requirements (ft)					
a. Townhouse	20				
b. Standard lot	35	30	35	35	
c. Flag lot	NA ²	25	25	25	
d. Double flag lot	NA ²	35	35	35	
C. Development Standards					
1. Minimum yard requirements for primary structures (ft)					Subsection 19.301.5.A Side Yards

¹ For a Cottage within a Cottage Cluster only

² Townhouses are not permitted on flag lots

**Table 19.301.4
Moderate Density Residential Development Standards**

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
a. Front yard	20 ³	20	20	20	Subsection 19.501.2 Yard Exceptions Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards Subsection 19.505.4 Cottage Cluster Housing Subsection 19.505.5 Townhouses
b. Side yard	5 ³	5	5	5/10	
c. Street side yard	15 ³	15	15	20	
d. Rear yard	15 ³	20	20	20	
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less				Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
3. Side yard height plane limit					Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
a. Height above ground at minimum required side yard depth (ft)	20				
b. Slope of plane (degrees)	45				
4. Maximum lot coverage(percent of total lot area)	45%	35%	35%	30%	Section 19.201 “Lot coverage” definition Subsection 19.301.5.B Lot Coverage
5. Minimum vegetation(percent of total lot area)	15%	25%	25%	30%	Subsection 19.301.5.C Front Yard Minimum Vegetation

³ For lots 3,000 sq ft and smaller: Where a newly created small lot abuts a larger or pre-existing lot, when abutting a 5,000-sq-ft lot, rear and side yard setback standards for 5,000-sq-ft lots apply; when abutting a 7,000-sq-ft lot, rear and side yard setback standards for 7,000-sq-ft lots apply, and when abutting a 10,000-sq-ft lot, rear and side yard setback standards for 10,000-sq-ft lots apply.

**Table 19.301.4
Moderate Density Residential Development Standards**

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
					Subsection 19.504.7 Minimum Vegetation
C. Other Standards					
1. Density requirements(dwelling units per acre)					Subsection 19.301.5.D Residential Densities
a. Minimum	25	7.0	7.0	5.0	Subsection 19.501.4 Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4
b. Maximum	34.8 ⁴	8.7 ⁵	8.7 ⁵	6.2 ⁵	

19.301.5 Additional Development Standards

A. Side Yards

On lots greater than 7,000 sq ft in the R-MD Zone, one side yard shall be at least 5 ft and one side yard shall be at least 10 ft, except on a corner lot the street side yard shall be 20 ft.

B. Lot Coverage

The lot coverage standards in Subsection 19.301.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are combined for properties that are described by more than one of the situations below.

1. Decreased Lot Coverage for Large Lots

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is reduced by 10 percentage points for a single-detached dwelling, duplex, or residential home on a lot that is more than 2.5 times larger than the minimum lot size in Subsection 19.301.4.A.1.

2. Increased Lot Coverage for Single Detached Dwellings

⁴ Represents the maximum density of townhouses permitted on this lot size. Cottage clusters are exempt from this density maximum.

⁵ Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of an addition to an existing single-family detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4. Only portions of the structure that are less than 20 ft and no taller than one story are allowed to exceed the listed lot coverage standard. See Figure 19.301.5.B.2 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.301.5.B.2
Increased Lot Coverage for Single Detached Dwellings**

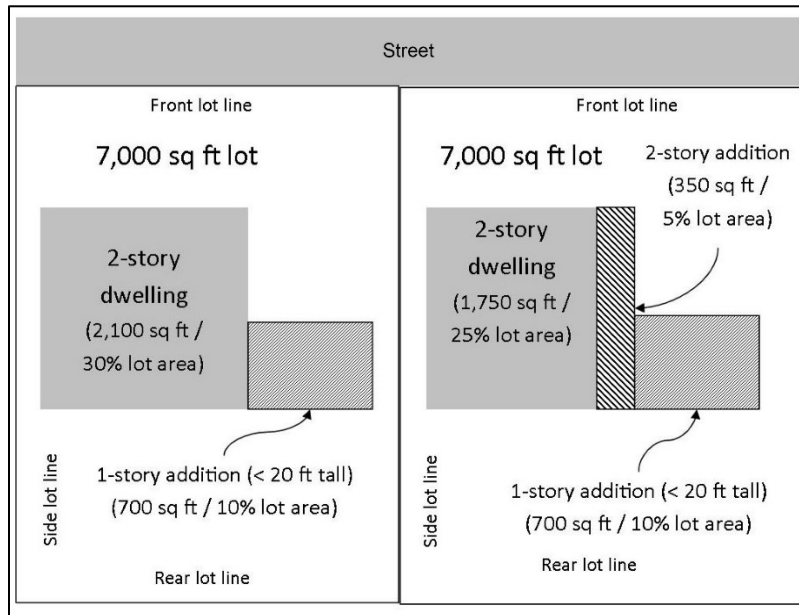


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone R-MD, based on a 7,000-sq-ft lot.

3. Increased Lot Coverage for Middle Housing

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for One to Four Dwelling Units, provided that the portions of the structure(s) that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4.

4. Increased Lot Coverage for Detached Accessory Dwelling Units

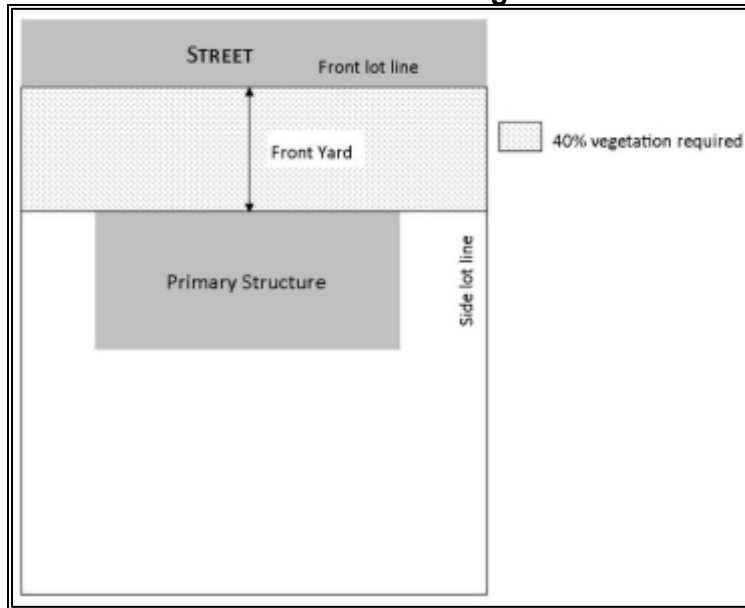
The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not

allow for the primary structure or other accessory structures to exceed lot coverage standards.

C. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.301.5.C
Front Yard Minimum Vegetation**



D. Residential Densities

The minimum development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots. Maximum densities apply to single detached dwellings; middle housing is exempt from maximum density.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

E. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

F. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

G. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

H. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
3. Subsection 19.505.1 Single Detached and Middle Housing Residential Development
4. Subsection 19.505.2 Garages and Carports
5. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards

(Ord. 2134 § 2, 2016; Ord. 2120 § 2, 2016; Ord. 2110 § 2 (Exh. G), 2015; Ord. 2051 § 2, 2012)

19.302 HIGH DENSITY RESIDENTIAL ZONES

The high density residential zones are Residential Zone R-3, Residential Zone R-2.5, Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1-B. These zones implement the High Density residential land use designations in the Milwaukie Comprehensive Plan.

19.302.1 Purpose

The high density residential zones are intended to create and maintain higher density residential neighborhoods that blend a range of housing types with a limited mix of neighborhood-scale commercial, office, and institutional uses.

19.302.2 Allowed Uses in High Density Residential Zones

Uses allowed, either allowed by right or conditionally, in the high density residential zones are listed in Table 19.302.2 below. Similar uses not listed in the table may be allowed through a Director’s Determination pursuant to Section 19.903. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column.

See Section 19.201 Definitions for specific descriptions of the uses listed in the table.

Table 19.302.2						
Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/

Proposed Code Amendment

						Additional Provisions
Residential Uses						
Single detached dwelling	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Duplex	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
<u>Triplex</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
<u>Quadplex</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P#	P#	P#	P#	P#	Subsection 19.910.1 Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	Subsection 19.910.3 Manufactured Dwelling Parks
Townhouse	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.5 Standards for Townhouses
Cottage cluster	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.4 Cottage Cluster Housing

Table 19.302.2 CONTINUED						
Medium and High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
Residential Uses CONTINUED						
Multi-unit	CU	CU	P	P	P	Subsection 19.505.3 Multi Unit Housing Subsection 19.302.5.F Residential Densities

						Subsection 19.302.5.H Building Limitations
Congregate housing facility	CU	CU	P	P	P	Subsection 19.505.3 Multi Unit Housing Subsection 19.302.5.F Residential Densities Subsection 19.302.5.H Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	Subsection 19.905.9.G Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	Section 19.905 Conditional Uses
Commercial Uses						
Office	CU	CU	CU	CU	P	Subsection 19.302.3 Use Limitations and Restrictions
Hotel or motel	N	N	N	N	CU	Section 19.905 Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	Section 19.905 Conditional Uses
Accessory and Other Uses						
Accessory use	P	P	P	P	P	Section 19.503 Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	Subsection 19.302.3 Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	Section 19.904 Community Service Uses
Home occupation	P	P	P	P	P	Section 19.507 Home Occupation Standards
Short-term rental	P	P	P	P	P	Section 19.507 Home Occupation Standards

19.302.3 Use Limitations and Restrictions

A. Agricultural or horticultural uses are permitted, provided that the following conditions are met.

1. Retail or wholesale sales associated with an agricultural or horticultural use are limited to the allowances for a home occupation per Section 19.507.
2. Livestock, other than usual household pets, are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre, nor having less than 10,000 sq ft per head of livestock.
3. Poultry kept for the production of meat or for commercial sale of eggs are not housed or kept within 100 ft of any dwelling not on the same lot, nor on a lot less than 1 acre. Poultry kept for other purposes are not subject to these limitations and are allowed per Subsection 19.503.1.C.

B. Office uses allowed in the high density zones are offices, studios, clinics, and other similar professional offices. Corporate offices for marijuana businesses are permitted

provided that no marijuana or marijuana products associated with the business are on-site. Marijuana testing labs and research facilities are not permitted office uses in these zones.

C. Marijuana production is not permitted in high density residential zones except as follows:

1. State-licensed production for medical marijuana patients is permitted provided the operation is entirely indoors and meets the security and odor control standards set forth in Subsection 19.509.2.
2. Growing marijuana indoors or outdoors for personal use is permitted consistent with state laws.

19.302.4 Development Standards

In the high density residential zones, the development standards in Table 19.302.4 apply. Notes and/or cross references to other applicable code sections are listed in the “Standards/Additional Provisions” column. Additional standards are provided in Section 19.302.5.

The standards in Subsection 19.302.4 are not applicable to cottage cluster development except where specifically referenced by Subsection 19.505.4.

See Sections 19.201 Definitions and 19.202 Measurements for specific descriptions of standards and measurements listed in the table.

In the high density residential zones the following housing types are permitted on lot sizes as follows:

Between 1,500 to 2,999 sq ft: Townhouse, Cottage, Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 3,000 to 4,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, and Duplex.

Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, and Triplex.

7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, Triplex, Quadplex, Cottage Cluster, Multi Unit Housing.

Table 19.302.4						
Medium and High Density Residential Development Standards						
Standard	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
A. Lot Standards						
1. Minimum lot size (sq ft)	1,500					Subsection 19.501.1 Lot Size Exceptions

			<p>Subsection 19.505.4 Cottage Cluster Housing</p> <p>Subsection 19.505.5 Rowhouses</p>
2. Minimum lot width (ft)		20	
3. Minimum lot depth (ft)		70	
4. Minimum street frontage requirements (ft)			
a. Rowhouse		20	
b. Standard lot		35	
c. Flag lot		25	
d. Double flag lot		35	
B. Development Standards			
1. Minimum yard requirements for primary structures (ft)		20	<p>Subsection 19.302.5.A Side Yards</p>
a. Front yard		See Subsection 19.302.5.A	<p>Subsection 19.501.2 Yard Exceptions</p>
b. Side yard		15	
c. Street side yard		15	
d. Rear yard			<p>Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards</p>
2. Maximum building height for primary structures	2.5 stories or 35 ft, whichever is less	3 stories or 45 ft, whichever is less	<p>Subsection 19.302.5.E Height Exceptions</p> <p>Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions</p> <p>Subsection 19.302.5.I Transition Measures</p>

<p>3. Side yard height plane limit</p> <p>a. Height above ground at minimum required side yard depth (ft)</p> <p>b. Slope of plane (degrees)</p>	<p>20</p> <p>45</p>	<p>25</p> <p>45</p>	<p>Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions</p>
<p>4. Maximum lot coverage (percent of total lot area)</p>	<p>40%</p>	<p>45%</p>	<p>50%</p> <p>Section 19.201 “Lot coverage” definition</p>
<p>5. Minimum vegetation (percent of total lot area)</p>	<p>35%</p>	<p>15%</p>	<p>Subsection 19.504.7 Minimum Vegetation</p> <p>Subsection 19.302.5.D Front Yard Minimum Vegetation</p> <p>Subsection 19.302.5.C Minimum Vegetation</p>
<p>C. Other Standards</p>			
<p>1. Density requirements (dwelling units per acre)</p> <p>a. Minimum</p> <p>b. Maximum⁵</p>	<p>11.6</p> <p>14.5</p>	<p>11.6</p> <p>17.4</p>	<p>25.0</p> <p>32.0</p> <p>Subsection 19.202.4 Density Calculations</p> <p>Subsection 19.302.5.F Residential Densities</p> <p>Subsection 19.501.4 Density Exceptions</p>

⁵ Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

19.302.5 Additional Development Standards

A. Side Yards

In the high density zones, the required side yard is determined as described below. These measurements apply only to required side yards and do not apply to required street side yards.

1. The side yard for development other than a townhouse shall be at least 5 ft.
2. There is no required side yard for townhouses that share 2 common walls. The required side yard for an exterior townhouse that has only 1 common wall is 0 ft for the common wall and 5 ft for the opposite side yard. An exterior townhouse on a corner lot shall meet the required street side yard setback in Subsection 19.302.4.B.1.b.

B. Lot Coverage

The lot coverage standards in Subsection 19.302.4.B.4 are modified for specific uses and lot sizes as described below. The reductions and increases are additive for lots that are described by one or more of the situations below.

1. Increased Lot Coverage for Single Detached Dwellings

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for development of an addition to an existing single detached dwelling, provided that the portions of the structure that are in excess of 20 ft high, or in excess of 1 story, are limited to the lot coverage standard listed in Subsection 19.302.4.B.4. Only portions of the structure that are less than 20 ft high, and no taller than 1 story, are allowed to exceed the listed lot coverage standard. See Figure 19.302.5.B.1 for an illustration of this allowance.

A Type II variance per Subsection 19.911.4.A, to further increase this lot coverage allowance, is prohibited.

**Figure 19.302.5.B.1
Increased Lot Coverage for Single Detached Dwellings**

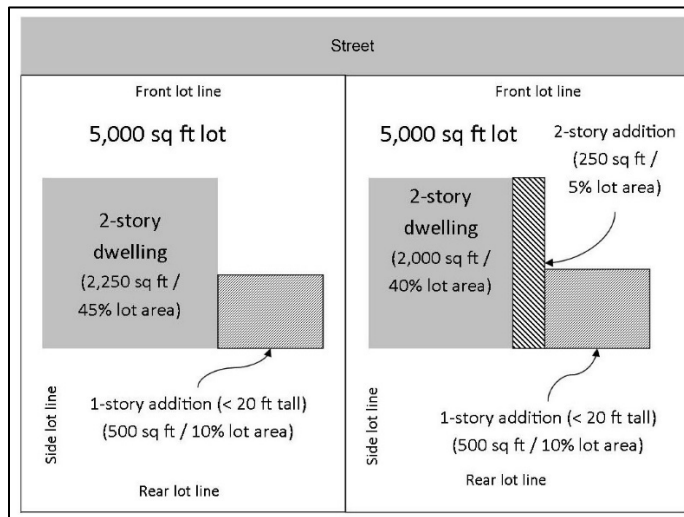


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

2. Increased Lot Coverage for One to Four Dwelling Units and Townhouses.

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 10 percentage points for One to Four Dwelling Units or Townhouse.

3. Increased Lot Coverage for Detached Accessory Dwelling Units

The maximum lot coverage percentage in Subsection 19.302.4.B.4 is increased by 5 percentage points for the development of a new detached accessory dwelling unit. This allowance applies only to the detached accessory structure and does not allow for the primary structure or other accessory structures to exceed lot coverage standards.

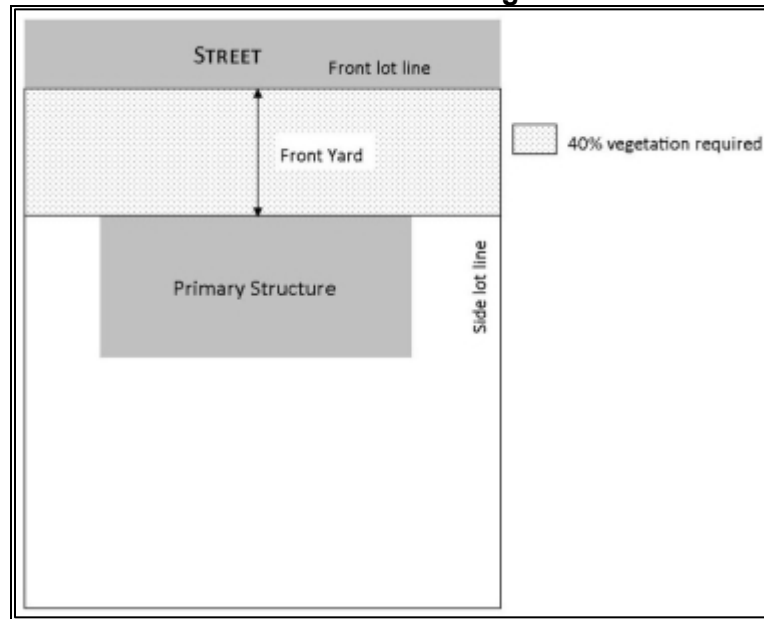
C. Minimum Vegetation

At least half of the minimum required vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

D. Front Yard Minimum Vegetation

At least 40% of the front yard shall be vegetated. The front yard vegetation area required by this subsection counts toward the minimum required vegetation for the lot. A property may provide less than the 40% of the front yard vegetation requirement if it is necessary to provide a turnaround area so that vehicles can enter a collector or arterial street in a forward motion.

**Figure 19.302.5.D
Front Yard Minimum Vegetation**



E. Height Exceptions

1 additional story may be permitted in excess of the required maximum standard. For the additional story, an additional 10% of site area beyond the minimum is required to be retained in vegetation.

F. Residential Densities

1. The minimum and maximum development densities in Subsection 19.302.4.C.1 are applicable for land divisions, replats that change the number of lots, and any development that would change the number of dwelling units on a lot. Development of One to Four Dwelling Units, Cottage Clusters, or an accessory dwelling are exempt from the minimum and maximum density requirements.

If a proposal for a replat or land division is not able to meet the minimum density requirement—due to the dimensional requirements for lot width, lot depth, or lot frontage—the minimum density requirement shall instead be equal to the maximum number of lots that can be obtained from the site given its dimensional constraints. The inability of new lot lines to meet required yard dimensions from existing structures shall not be considered as a basis for automatically lowering the minimum density requirement.

2. Multifamily development in the R-2, R-1, and R-1-B Zones is subject to the minimum site size requirements in Table 19.302.5.F.2. In the event that the minimum site size requirements conflict with the development densities in Subsection 19.302.4.C.1, the site size requirements in Table 19.302.F.2 shall prevail.

Table 19.302.5.F.2 Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones		
Units	R-2 Zone	R-1 and R-1-B Zone
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	1,500 sq ft per unit	1,400 sq ft per unit

G. Accessory Structure Standards

Standards specific to accessory structures are contained in Section 19.502.

H. Building Limitations

Multi-unit buildings shall not have an overall horizontal distance exceeding 150 linear ft as measured from end wall to end wall.

I. Off-Street Parking and Loading

Off-street parking and loading is required as specified in Chapter 19.600.

J. Public Facility Improvements

Transportation requirements and public facility improvements are required as specified in Chapter 19.700.

K. Additional Standards

Depending upon the type of use and development proposed, the following sections of Chapter 19.500 Supplementary Development Regulations may apply. These sections are referenced for convenience, and do not limit or determine the applicability of other sections within the Milwaukie Municipal Code.

1. Subsection 19.504.4 Buildings on the Same Lot
2. Subsection 19.504.8 Flag Lot and Back Lot_Design and Development Standards

3. Subsection 19.504.9 On-Site Walkways and Circulation
 4. Subsection 19.504.10 Setbacks Adjacent to Transit
 5. Subsection 19.505.1 Single Detached and Middle Housing Residential Development
 6. Subsection 19.505.2 Garages and Carports
 7. Subsection 19.505.3 Multi-Unit Housing
 8. Subsection 19.505.4 Cottage Cluster Housing
 9. Subsection 19.505.5 Townhouses
 10. Subsection 19.505.8 Building Orientation to Transit
 11. Subsection 19.506.4 Manufactured Dwelling Siting and Design Standards, Siting Standards
-

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

“Diameter at breast height” means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured from the ground level on the lower side of the tree. If a tree splits into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

“Large trees” means trees with at least a 6-in diameter at breast height (DBH).

19.401.8 Vegetation Buffer Requirements

A. A buffer strip of native vegetation shall be identified along the river, which shall include the land area between the river and a location 25 ft upland from the ordinary high water line. This area shall be preserved, enhanced, or reestablished, except for development otherwise allowed in this title, and subject to the requirements of Subsection 19.401.8.B below.

B. Prior to development (e.g., removal of substantial amounts of vegetation or alteration of natural site characteristics) within the buffer, a vegetation buffer plan for the buffer area shall be submitted for review and approval. The plan shall address the following areas and is subject to the following requirements:

1. Riverbank Stabilization

The plan shall identify areas of riverbank erosion, and provide for stabilization. Bioengineering methods for erosion control shall be used when possible. When other forms of bank stabilization are used, pocket plantings or other means shall be used to provide vegetative cover.

2. Scenic View Protection (Screening)

The plan shall identify the impact of the removal or disturbance of vegetation on scenic views from the river, public parks, public trails, and designed public overlooks.

3. Retain Existing Native Vegetation and Large Trees

The plan shall provide for the retention of existing large trees and existing native vegetation, including small trees, ground covers, and shrubs, within the vegetation buffer area. The regulations in Chapter 16.32 Tree Code apply in addition to the regulations in this chapter. Removal of native vegetation and large trees is allowed pursuant to the following standards:

- a. Large trees that are diseased, dead, or in danger of falling down may be removed if there is a clear public safety hazard or potential for property damage.
- b. Grading or tree removal is allowed in conjunction with establishing a permitted use. Only the area necessary to accommodate the permitted use shall be altered.
- c. Tree and vegetation removal may be allowed to create 1 view window from the primary residential structure to the river when suitable views cannot be achieved through pruning or other methods. The width of a view window may not exceed 100 ft or 50% of lineal waterfront footage, whichever is lesser. The applicant must clearly demonstrate the need for removal of trees and vegetation for this purpose.

4. Restore Native Vegetation

The plan shall provide for restoring lands within the buffer area which have been cleared of vegetation during construction with native vegetation.

5. Enhance Vegetation Buffer Area

The plan may provide for enhancing lands within the buffer area. Regular pruning and maintenance of native vegetation shall be allowed. Vegetation that is not native, except large trees, may be removed in accordance with the regulations in Chapter 16.32. New plant materials in the buffer strip shall be native vegetation.

6. Security that the Plan will be Carried Out

The approved vegetation buffer shall be established, or secured, prior to the issuance of any permit for development.

C. The vegetation buffer requirements shall not preclude ordinary pruning and maintenance of vegetation in the buffer strip.

19.402 NATURAL RESOURCES NR

19.402.2 Coordination with Other Regulations

A. Implementation of Section 19.402 is in addition to, and shall be coordinated with, Title 19 Zoning, Title 18 Flood Hazard Regulations, and Chapter 16.28 Erosion Control, and Chapter 16.32 Tree Code.

B. For properties along the Willamette River, Section 19.402 shall not prohibit the maintenance of view windows, as allowed by Section 19.401 Willamette Greenway Zone WG.

C. Except as provided for in Subsection 19.402.2.B, when applicable provisions of Sections 19.402 and 19.401 or Chapter 16.32 are in conflict, the more restrictive provision shall be controlling.

D. Nonconforming development that was legally existing for WQRs as of January 16, 2003, the effective date of Ordinance #1912, or that was legally existing for HCAs as of September 15, 2011, the effective date of Ordinance #2036, and that is nonconforming solely because of Section 19.402, shall not be subject to the provisions of Chapter 19.800 Nonconforming Uses and Development. However, development that is nonconforming for other reasons shall be subject to the provisions of Chapter 19.800.

E. The requirements of Section 19.402 apply in addition to all applicable local, regional, State, and federal regulations, including those for wetlands, trees, and flood management areas. Where Section 19.402 imposes restrictions that are more stringent than regional, State, and federal regulations, the requirements of Section 19.402 shall govern.

19.402.4 Exempt Activities

A. Outright Exemptions

The following activities in WQRs or HCAs are exempt from the provisions of Section 19.402:

1. Action taken on a building permit for any portion of a phased development project for which the applicant has previously met the applicable requirements of Section 19.402, including the provision of a construction management plan per Subsection 19.402.9. This exemption applies so long as the building site for new construction was identified on the original application, no new portion of the WQR and/or HCA will be disturbed, and no related land use approvals have expired per Subsection 19.1001.7. This exemption also extends to projects initiated prior to September 15, 2011, the effective date of Ordinance #2036, which have already been approved through Water Quality Resource Review.
2. Stream, wetland, riparian, and upland enhancement or restoration projects and development in compliance with a natural resource management plan or mitigation plan approved by the City or by a State or federal agency.
3. Emergency procedures or activities undertaken that are necessary to remove or abate hazards to person or property, provided that the time frame for such remedial or preventative action is too short to allow for compliance with the requirements of Section 19.402. After the emergency, the person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the emergency action; e.g., remove any temporary flood protection such as sandbags, restore hydrologic connections, or replant disturbed areas with native vegetation.
4. The planting or propagation of plants categorized as native species on the Milwaukie Native Plant List.

5. Removal of plants categorized as nuisance species on the Milwaukie Native Plant List. After removal, all open soil areas shall be replanted and/or protected from erosion.

6. Removal of trees under any of the following circumstances:

a. The tree is a “downed tree” as defined in Section 19.201, the tree has been downed by natural causes, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree.

b. The tree is categorized as a nuisance species on the Milwaukie Native Plant List, no more than 3 such trees will be removed from 1 property during any 12-month period, the requirements in Chapter 16.32 are met, and no more than 150 sq ft of earth disturbance will occur in the process of removing the tree(s).

c. The tree presents an emergency situation with immediate danger to persons or property, as described in Subsection 19.402.4.A.3. Emergency situations may include, but are not limited to, situations in which a tree or portion of a tree has been compromised and has damaged, or is damaging, structures or utilities on private or public property, or where a tree or portion of a tree is prohibiting safe passage in the public right-of-way. Examples are trees that have fallen into or against a house or other occupied building, or trees downed across power lines or roadways. This exemption is limited to removal of the tree or portion of the tree as necessary to eliminate the hazard. Any damage or impacts to the designated natural resource shall be repaired after the emergency has been resolved. The requirements in Chapter 16.32 must also be met after the emergency has been resolved.

d. Removal of the tree is in accordance with the requirements in Chapter 16.32 and an approved natural resource management plan per Subsection 19.402.10.

e. Major pruning of trees within 10 ft of existing structures in accordance with the requirements in Chapter 16.32.

Landscaping and maintenance of existing landscaping and gardens. This exemption extends to the installation of new irrigation and drainage facilities and/or erosion control features, as well as to landscaping activities that do not involve the removal of native plants or plants required as mitigation, the planting of any vegetation identified as a nuisance species on the Milwaukie Native Plant List, or anything that produces an increase in impervious area or other changes that could result in increased direct stormwater discharges to the WQR.

8. Additional disturbance for outdoor uses, such as gardens and play areas, where the new disturbance area does not exceed 150 sq ft; does not involve the removal of any trees of larger than 6-in diameter or otherwise regulated by Chapter 16.32; and is located at least 30 ft from the top of bank of a stream or drainage and at least 50 ft from the edge of a wetland.

17. Establishment and maintenance of trails in accordance with the following standards:

a. Trails shall be confined to a single ownership or within a public trail easement.

b. Trails shall be no wider than 30 in. Where trails include stairs, stair width shall not exceed 50 in and trail grade shall not exceed 20%, except for the portion of the trail containing stairs.

- c. Trails shall be unpaved and constructed with nonhazardous, pervious materials.
 - d. Trails shall be located at least 15 ft from the top of bank of all water bodies.
 - e. Plants adjacent to trails may be trimmed, but trimming clearances shall not exceed a height of 8 ft and a width of 6 ft.
 - f. Native trees of larger than 6-in diameter, other trees regulated by Chapter 16.32, and native shrubs or conifers larger than 5 ft tall, shall not be removed.
18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

19.402.6 Activities Requiring Type I Review

Within either WQRs or HCAs, the following activities and items are subject to Type I review per Section 19.1004:

A. Limited Tree Removal

1. The Planning Manager may approve an application for limited tree removal or major pruning within WQRs and HCAs when the applicable requirements in Chapter 16.32 are met, except where exempted by Subsection 19.402.6.A.2, under any of the following circumstances:

a. The tree removal is necessary to eliminate a hazardous, nonemergency situation, as determined by the Planning Manager. A situation may be deemed hazardous if a tree, or portion of a tree, has undergone a recent change in health or condition in a manner that may pose a danger to people, to structures on private property, to public or private utilities, or to travel on private property or in the public right-of-way. Examples of imminent hazards may include, but are not limited to, trees that are broken, split, cracked, uprooted, or otherwise in danger of collapse. Approval shall be limited to removal of the tree, or portion of the tree, as necessary to eliminate the hazard.

3. The Planning Manager ~~Director~~ shall require the application to comply with all of the following standards:

a. A construction management plan shall be prepared in accordance with Subsection 19.402.9. When earth disturbance is necessary for the approved removal or pruning, all open soil areas that result from the disturbance shall be replanted and/or protected from erosion.

b. All pruning and/or tree removal shall be done in accordance with the standards of the International Society of Arboriculture (ISA) and complies with the applicable requirements in Chapter 16.32.

19.402.8 Activities Requiring Type III Review

Within either WQRs or HCAs, the following activities are subject to Type III review and approval by the Planning Commission under Section 19.1006, unless they are otherwise exempt or permitted as a Type I or II activity.

A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:

8. Tree removal in excess of that permitted under Subsections 19.402.4 or 19.402.6. Tree removal must also comply with the requirements in Chapter 16.32.

19.402.9 Construction Management Plans

A. Construction management plans are not subject to Type I review per Section 19.1004 but shall be reviewed in similar fashion to an erosion control permit (MMC Chapter 16.28).

B. Construction management plans shall provide the following information:

1. Description of work to be done.
2. Scaled site plan showing a demarcation of WQRs and HCAs and the location of excavation areas for building foundations, utilities, stormwater facilities, etc.
3. Location of site access and egress that construction equipment will use.
4. Equipment and material staging and stockpile areas.
5. Erosion and sediment control measures.
6. Measures to protect trees and other vegetation located within the potentially affected WQR and/or HCA. Tree protection must be consistent with the requirements in Section 16.32.042.F.

When required for a property that does not include a designated natural resource, the construction management plan shall show the protective measures that will be established on the applicant's property.

19.402.11 Development Standards

A. Protection of Natural Resources During Site Development

During development of any site containing a designated natural resource, the following standards shall apply:

11. The applicable provisions of Chapter 16.32 shall be met.

B. General Standards for Required Mitigation

Where mitigation is required by Section 19.402 for disturbance to WQRs and/or HCAs, the following general standards shall apply:

4. Plant Spacing

Trees shall be planted between 8 and 12 ft on center. Shrubs shall be planted between 4 and 5 ft on center or clustered in single-species groups of no more than 4 plants, with each cluster planted between 8 and 10 ft on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements. Note that in meeting the Tree Canopy Requirements in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the spacing and setback requirements in Table 16.32.042.H. The additional trees required by this subsection may be excluded from contributing to the Tree Canopy Requirements in subsection 16.32.042.C.

19.402.11.D.Nondiscretionary Standards for HCAs

The following nondiscretionary standards may be applied to proposals that are subject to Type I review and located within HCAs only. These standards do not apply to activities proposed within WQRs.

1. Disturbance Area Limitations in HCAs

To avoid or minimize impacts to HCAs, activities that are not otherwise exempt from the requirements of Section 19.402, and that would disturb an HCA, are subject to the following disturbance area limitations, as applicable:

a. Single Detached and Middle Housing Residential Uses

The amount of disturbance allowed within an HCA for residential uses, including any related public facilities as required by Section 19.700 Public Facility Improvements, shall be determined by subtracting the area of the lot or parcel outside of the HCA from the maximum disturbance area calculated per Figure 19.402.11.D.1.a. Such disturbance shall be subject to the mitigation requirements described in Subsection 19.402.11.D.2.

**Figure 19.402.11.D.1.a
Method for Calculating Allowable Disturbance within an HCA
for Single Detached and Middle Housing Residential Uses**

X = The maximum potential disturbance area within the HCA , which is 50% of the total HCA, up to a maximum of 5,000 sq ft.

Y = The area of the lot or parcel outside the total resource area (WQR and HCA).

Z = The net amount of disturbance area allowed within the HCA ($Z = X - Y$)

If (Y) is greater than (X), development shall not be permitted within the HCA; otherwise, the applicant may disturb up to the net amount of disturbance area allowed (Z) within the HCA.

Example 1: 8,000-sq-ft lot with 3,000 sq ft of HCA and 5,000 sq ft outside of HCA/WQR

X = 1,500 sq ft (50% of HCA)

Y = 5,000 sq ft outside of HCA/WQR

Z = - 3,500 sq ft (1,500 sq ft – 5,000 sq ft)

Conclusion: Y is greater than X; therefore, development is not permitted within the HCA.

Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR

X = 3,000 sq ft (50% of HCA)

Y = 2,000 sq ft outside of HCA/WQR

Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)

Conclusion: Y is not greater than X; therefore, the applicant may disturb up to the value of Z (1,000 sq ft) within the HCA.

2. Mitigation Requirements for Disturbance in HCAs

To achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Subsection 19.402.1, when development intrudes into an HCA, tree replacement and vegetation planting are required according to the following standards, unless the planting is also subject to wetlands mitigation requirements imposed by state and federal law.

These mitigation options apply to tree removal and/or site disturbance in conjunction with development activities that are otherwise permitted by Section 19.402. They do not apply to situations in which tree removal is exempt per Subsection 19.402.4 or approvable through Type I review.

An applicant shall meet the requirement of Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is 1 acre or more, the applicant shall comply with Mitigation Option 2. The Urban Forester may allow the mitigation requirements in this subsection to satisfy the mitigation requirements in Chapter 16.32 except that the mitigation requirements in subsection 16.32.042 shall be met when applicable.

C. Limitations and Mitigation for Disturbance of HCAs

2. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs within an HCA

An applicant seeking discretionary approval to proportionally vary the number and size of trees and shrubs required to be planted under Subsection 19.402.11.D.2 (e.g., to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs), but who will comply with all other applicable provisions of Subsection 19.402.11, shall be subject to the following process:

- a. The applicant shall submit the following information:
 - (5) An explanation of how the applicable requirements in Chapter 16.32 will also be met.
- b. Approval of the request shall be based on consideration of the following:
 - (1) Whether the proposed planting will achieve, at the end of the third year after initial planting, comparable or better mitigation results than would be achieved if the applicant complied with all of the requirements of Subsection 19.402.11.D.2.
 - (2) Whether the proposed mitigation adequately addresses the plant diversity, plant survival, and monitoring practices established in Subsection 19.402.11.B.
 - (3) Whether the applicable requirements in Chapter 16.32 will also be met.

19.403 HISTORIC PRESERVATION OVERLAY ZONE HP

19.403.8 Uses Permitted

A. Primary Uses

A resource may be used for any use which is allowed in the underlying district, subject to the specific requirements for the use, and all other requirements of this section.

B. Conditional Uses

Except within moderate density residential designations, uses identified in Subsection 19.403.8.C below which would not be allowed in the underlying zones may be allowed when such use would preserve or improve a resource which would probably not be preserved or improved otherwise, subject to the provisions of Subsection 19.403.6. Such uses may also be allowed in the moderate density residential designations if located along minor or major arterial streets, with the exception of bed and breakfast establishments, which may be located on any street. Approval of such uses shall include conditions mitigating adverse impact of the use on neighboring properties and other requirements as per Section 19.905 Conditional Uses.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.501 GENERAL EXCEPTIONS

19.501.1 Lot Size Exceptions

Any legal lot or lot of record that does not meet the area or dimensional requirements specified in Chapter 19.300 may be put to a use permitted by the requirements of the Zoning Ordinance, provided the development conforms with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

19.501.3 Yard Exceptions

B. The following encroachments into a side yard height plane are allowed:

1. Roof overhangs or eaves, provided that they do not extend more than 30 in horizontally beyond the side yard height plane.

19.504.8 Flag Lot and Back Lot Design and Development Standards

A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

B. Development Standards – Flag Lots

1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward 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 a single detached dwelling on a flag lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.
- b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

3. Variances

Variances of lot area, lot width, and lot depth standards for flag lots are subject to a Type III variance per MMC 19.911.

4. Frontage, Accessway, and Driveway Design

a. Flag lots shall have frontage or access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

b. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

c. Driveway Design and Emergency Vehicle Access

(1) Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

(2) 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 subsection.

(3) A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

(4) The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

(5) Design standards for shared driveways serving 3 or more lots shall be specified by the City Engineer after consultation with the Fire Marshal.

(6) 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.

C. Development Standards – Back Lots

1. Yard Setbacks for Back Lots

a. Front and rear yard: The minimum front and rear yard requirement for a single detached dwelling on a back lot is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in back lots is 10 ft.

2. Variances

Variances of lot area, lot width, and lot depth standards for back lots are subject to a Type III variance per MMC 19.911.

3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft, subject to the requirements of the Fire Marshal and Chapters 12.16 and 12.24 and the Public Works Standards.
2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.
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 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 subsection.
 - c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.
 - e. The back lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.
 - f. Design standards for shared driveways serving more than 3 lots shall be specified by the City Engineer after consultation with the Fire Marshal.
 - g. 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.

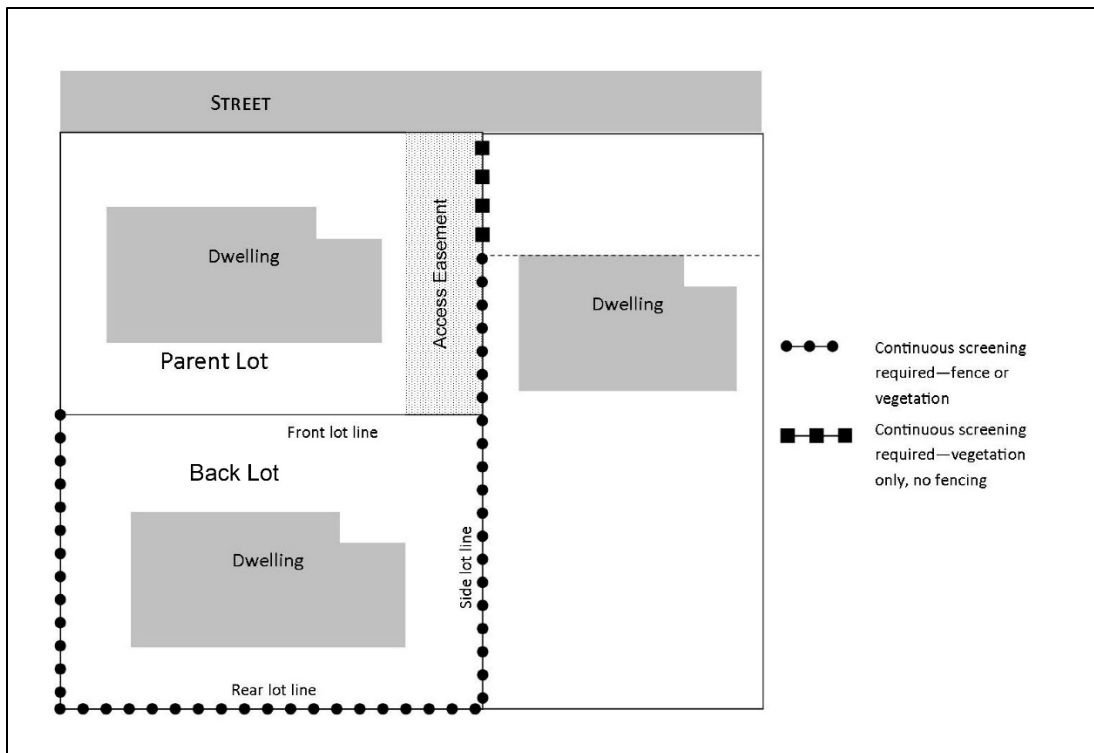
D. Screening of Adjoining Properties

Flag lots and back lots must be screened in accordance with this subsection. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.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. Driveways on flag lots and back lots must be screened to the greatest extent practicable. Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figures 19.504.8.E. and 19.504.8.F.

- 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 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, or back 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.

**Figure 19.504.8.F
Back Lot Screening**



E. Landscaping Plan Required – Flag Lots and Back Lots

A landscaping plan shall be submitted to the Planning Manager 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.

19.504.9 On-Site Walkways and Circulation

A. Requirement

All development subject to Chapter 19.700 (excluding single detached and multi-unit 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, where sidewalks exist, or to the edge of the paved public street, where sidewalks do not exist. 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.

route.

19.505.1 Single Detached and Middle Housing Residential Development

A. Purpose

The design standards for one to four (1 - 4) unit dwellings (including single detached dwellings, duplexes, triplexes, and quadplexes), cottage clusters, and townhouses require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

Dwellings must address the following design objectives:

1. Articulation – All street-facing buildings must incorporate design elements that break up façades into smaller planes.
2. Eyes on the street – A certain percentage of the area of each street-facing façade must be windows or entrance doors.
3. Main entrance – On street-facing façades, at least 1 main entrance must meet standards for location, orientation, and visibility.
4. Detailed design – All street-facing buildings must include several features selected from a menu.

In addition, site design standards are intended to facilitate the development of attractive housing that encourages multimodal transportation. They encourage good site design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

Site design must meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.
3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design standards in this subsection apply to the types of development listed below when the closest wall of the street-facing façade is within 50 ft of a front or street side lot line.

1. Placement of a new manufactured home on a lot outside of a manufactured home park is subject to the requirements of Section 19.506 and the standards of Subsection 19.505.1.

Table 19.505.1.B.1 Applicability by Housing Type

Design Standard	Applicability		
	1-4 units	cottage clusters	townhouses
Articulation	[2]	[2]	[2]
Eyes on the street	[2] [3]	[2] [3]	[2] [3]
Main entrance	[2] [3]	[2] [3]	[2] [3]
Detailed design	[2]	[2]	[2]
Common open space		[1]	
Pedestrian circulation	[1] [5]	[1] [5]	
Off-street parking		[1] [4]	
Privacy and screening	[1]	[1]	[1]

Recycling areas	[4]	[4]	[4]
Sustainability	[6]	[6]	[6]

1. Applicable to the entire site
2. Applicable to dwellings facing the street
3. Applicable to dwellings in a cluster or grouping, either facing a shared open space (e.g. a common courtyard) or a pedestrian path.
4. Applicable to clustered parking where parking spaces exceed 4
5. Applicable only for additions or new buildings
6. Applicable only for new buildings

2. Expansions of structures in Subsection 19.505.1.B.1 that add area to any street-facing façade. The design standards for such expansions are applicable as follows:
 - a. Expansions that add 75 sq ft or less of street-facing façade area are exempt from all design standards in Subsection 19.505.1.
 - b. Expansions that add more than 75 sq ft and less than 200 sq ft of street-facing façade area are subject to Subsection 19.505.1.C.2 Eyes on the Street. The expanded façade area must meet the standards of Subsection 19.505.1.C.2 without consideration of the original street-facing façade area.
 - c. Expansions that add 200 sq ft or more of street-facing façade area are subject to the following design standards:
 - (1) The entire street-facing façade shall comply with Subsection 19.505.1.C.2 Eyes on the Street.
 - (2) Subsection 19.505.1.C.3 Main Entrance is applicable if an expansion would create a new main entrance. No expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
 - (3) Subsection 19.505.1.C.1 Articulation is applicable for expansions that add 20 lineal ft or more to the length of the street-facing façade.
 - d. Subsection 19.505.1.C.4 Detailed Design is not applicable for expansions. However, no expansion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the Detailed Design standards.
 - e. Multiple expansions are allowed within a 5-year period if the street-facing façade will comply with the design standards that would have been applicable if the expansions occurred at the same time.
3. Remodels that convert an attached garage to a habitable residential space. When applicable, the design standards apply only to the street-facing façade of the garage being converted. The following design standards are applicable:

- a. Subsection 19.505.1.C.3 Main Entrance is applicable if the garage conversion would create a new main entrance. No conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.
- b. Subsection 19.505.1.C.4 Detailed Design is not applicable. However, no conversion shall bring the street-facing façade out of conformance, or further out of conformance if already nonconforming, with the design standard.

C. Dwelling Standards

All buildings that meet the applicability provisions in Subsection 19.505.1.B shall meet the following design standards. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

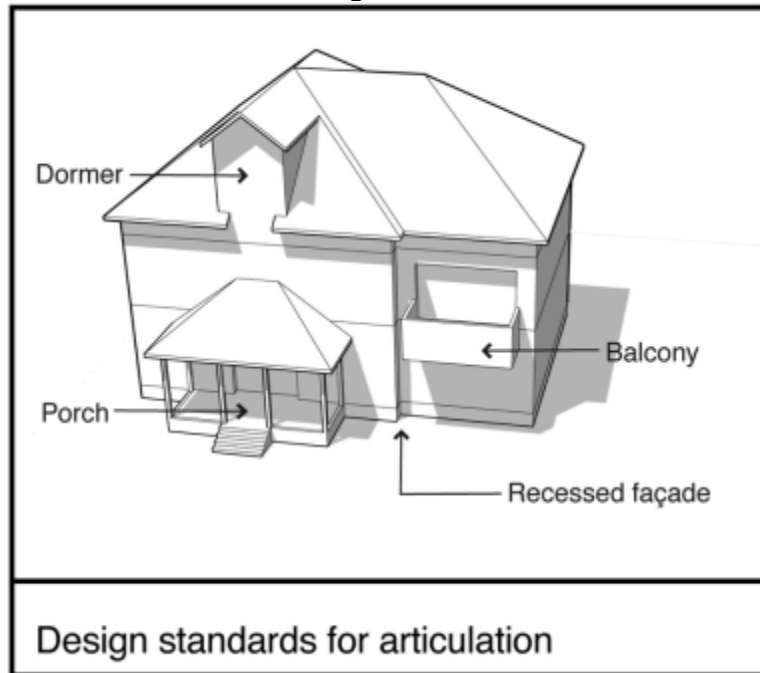
An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III review, per Subsection 19.911.3.C.

1. Articulation

All buildings must incorporate design elements that break up all street-facing façades into smaller planes as follows. See Figure 19.505.1.C.1 for illustration of articulation.

- a. For buildings with 30-60 ft of street frontage, a minimum of 1 of the following elements must be provided along the street-facing façades.
 - (1) A porch at least 5 ft deep.
 - (2) A balcony that is at least 2 ft deep and is accessible from an interior room.
 - (3) A bay window that extends at least 2 ft wide.
 - (4) A section of the façade that is recessed by at least 2 ft deep and 6 ft long.
 - (5) A gabled dormer.
- b. For buildings with over 60 ft of street frontage, at least 1 element in Subsection 19.505.1.C.1.a(1)-(4) above must be provided for every 30 ft of street frontage. Elements must be distributed along the length of the façade so that there are no more than 30 ft between 2 elements.
- c. For buildings with less than 30 ft of street frontage, the building articulation standard is not applicable.

**Figure 19.505.1.C.1
Building Articulation**

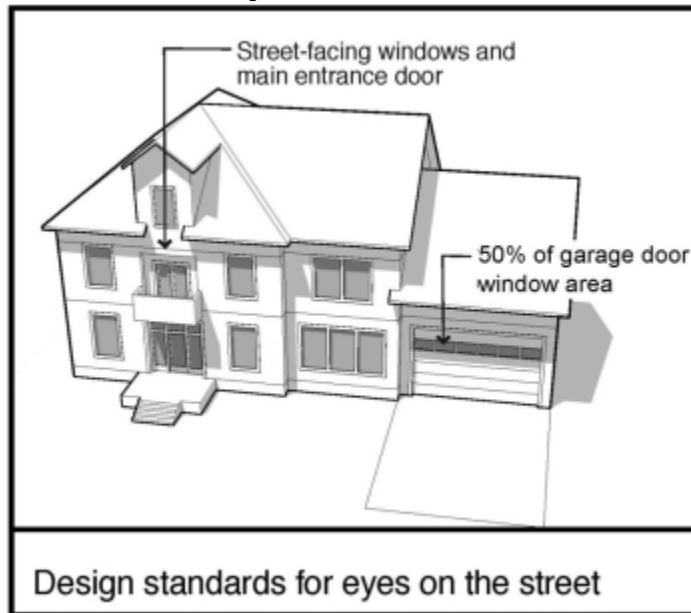


2. Eyes on the Street

At least 15% of the area of each street-facing façade must be windows or entrance doors. See Figure 19.505.1.C.2 for illustration of eyes on the street.

- a. Windows used to meet this standard must be transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not meet this standard.
- b. Half of the total window area in the door(s) of an attached garage counts toward the eyes on the street standard. All of the window area in the street-facing wall(s) of an attached garage count toward meeting this standard.
- c. Window area is considered the entire area within the outer window frame, including any interior window grid.
- d. Doors used to meet this standard must face the street or be at an angle of no greater than 45 degrees from the street.
- e. Door area is considered the portion of the door that moves. Door frames do not count toward this standard.

**Figure 19.505.1.C.2
Eyes on the Street**

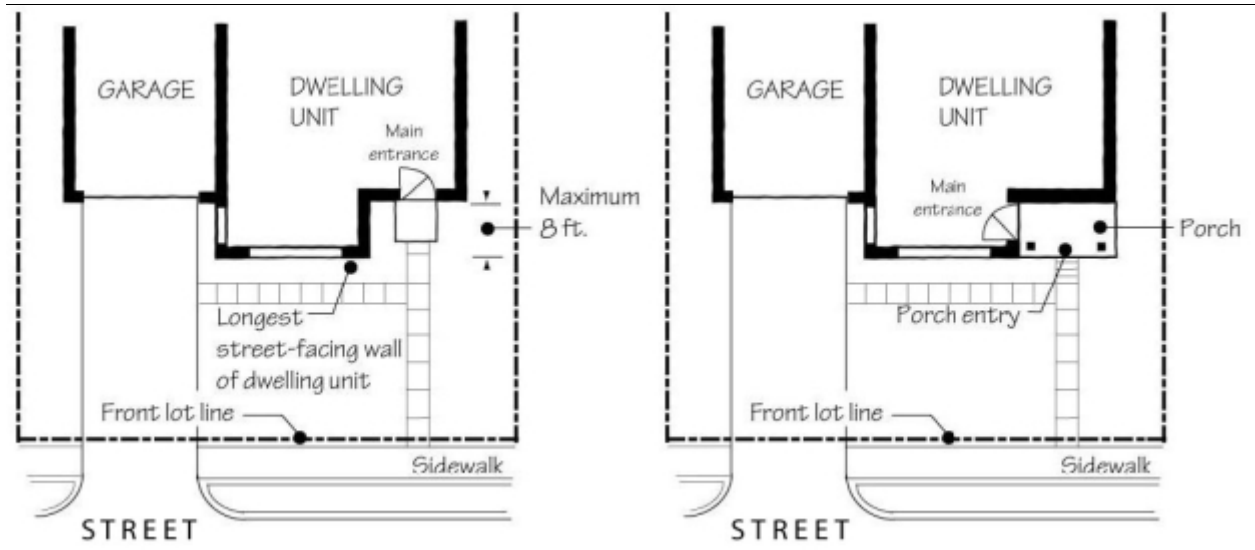


3. Main Entrance

At least 1 main entrance must meet both of the following standards. See Figure 19.505.1.C.3 for illustration of main entrances. Dwellings on flag lots or back lots are exempt from these main entrance design standards.

- a. Be no further than 8 ft behind the longest street-facing wall of the building.
- b. Face the street, be at an angle of up to 45 degrees from the street, or open onto a porch. If the entrance opens up onto a porch, the porch must meet all of these additional standards.
 - (1) Be at least 25 sq ft in area with a minimum 4-ft depth.
 - (2) Have at least 1 porch entry facing the street.
 - (3) Have a roof that is no more than 12 ft above the floor of the porch.
 - (4) Have a roof that covers at least 30% of the porch area.

**Figure 19.505.1.C.3
Main Entrances**



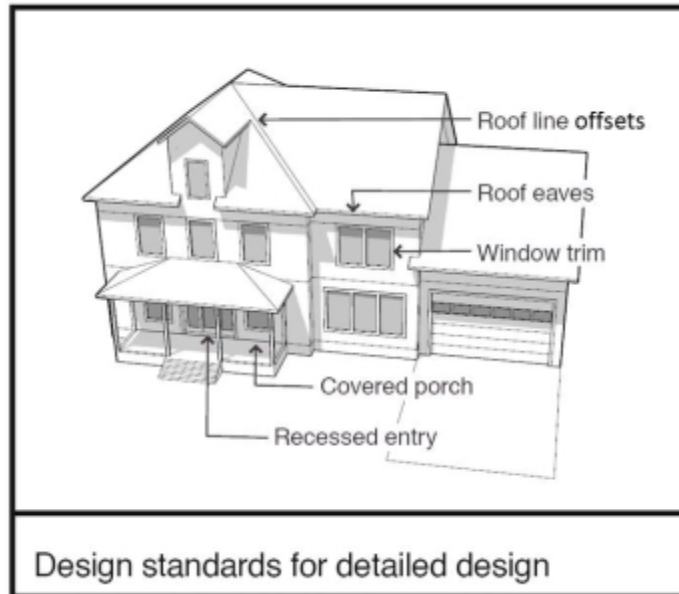
4. Detailed Design

All buildings shall include at least 5 of the following features on any street-facing façade. See Figure 19.505.1.C.4 for illustration of detailed design elements.

- a. Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
- b. Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
- c. Offset on the building face of at least 16 in from 1 exterior wall surface to the other.
- d. Dormer that is at least 4 ft wide and integrated into the roof form.
- e. Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
- f. Roof line offsets of at least 2 ft from the top surface of 1 roof to the top surface of the other.
- g. Tile or wood shingle roofs.
- h. Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
- i. Brick, cedar shingles, stucco, or other similar decorative materials covering at least 40% of the street-facing façade.
- j. Gable roof, hip roof, or gambrel roof design.
- k. Window trim around all windows at least 3 in wide and 5/8 in deep.
- l. Window recesses, in all windows, of at least 3 in as measured horizontally from the face of the building façade.

- m. Balcony that is at least 3 ft deep, 5 ft wide, and accessible from an interior room.
- n. One roof pitch of at least 500 sq ft in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- o. Bay window at least 2 ft deep and 5 ft long.
- p. Attached garage width, as measured between the inside of the garage door frame, of 35% or less of the length of the street-facing façade

**Figure 19.505.1.C.4
Detailed Design Elements**



D. Site Design Standards

Minimum separation between detached units is 6 feet.

1. Common Open Space

Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards:

- a. The common courtyard must be a single, contiguous piece.
- b. Cottages must abut the common courtyard on at least two sides of the courtyard.
- c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster (as defined in subsection (1) of this section (C)).
- d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.
- e. The common courtyard must be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include

recreational amenities. Impervious elements of the common courtyard must not exceed 75 percent of the total common courtyard area.

- f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard must count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

2. Pedestrian circulation

The on-site pedestrian circulation system must include the following:

- a. Continuous connections between the primary buildings, streets abutting the site, ground level entrances, common buildings, common open space, and vehicle and bicycle parking areas.
- b. At least 1 pedestrian connection to an abutting street frontage for each 200 linear ft of street frontage.
- c. Pedestrian walkways must be separated from vehicle parking and maneuvering areas by physical barriers such as planter strips, raised curbs, or bollards.
- d. Walkways must be constructed with a hard surface material, must be permeable for stormwater, and must be no less than 3 ft wide. If adjacent to a parking area where vehicles will overhang the walkway, a 7-ft-wide walkway must be provided. The walkways must be separated from parking areas and internal driveways using curbing, landscaping, or distinctive paving materials.

3. Off-Street Parking

- a. Off-street parking may be arranged in clusters, subject to the following standards:
 - i. Cottage cluster projects with fewer than 16 cottages are permitted parking clusters of not more than five (5) contiguous spaces.
 - ii. Cottage cluster projects with 16 cottages or more are permitted parking clusters of not more than eight (8) contiguous spaces.
 - iii. Parking clusters must be separated from other spaces by at least four (4) feet of landscaping.
 - iv. Clustered parking areas may be covered.
- b. Off-street parking spaces and vehicle maneuvering areas must not be located:
 - i. Within of 20 feet from any street property line, except alley property lines;
 - ii. Between a street property line and the front façade of cottages located closest to the street property line. This standard does not apply to alleys.
 - iii. Off-street parking spaces must not be located within 10 feet of any other property line, except alley property lines.

Driveways and drive aisles are permitted within 10 feet of other property lines.

- c. Landscaping, fencing, or walls at least three feet tall must separate clustered parking areas and parking structures from common courtyards and public streets.
- d. Garages and carports (whether shared or individual) must not abut common courtyards.
- e. Individual attached garages up to 200 square feet must be exempted from the calculation of maximum building footprint for cottages.
- f. Individual detached garages must not exceed 400 square feet in floor area.
- g. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

4. Privacy and screening

- a. Mechanical and communication equipment and outdoor garbage and recycling areas must be screened so they are not visible from streets and common open spaces.
- b. Utilities such as transformers, heating and cooling, electric meters, and other utility equipment must be not be located within 5 ft of a front entrance and must be screened with sight-obscuring materials.
- c. All fences on the interior of the development must be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

5. Sustainability

In order to promote more sustainable development, developments must incorporate the following elements.

- 4. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces.
- 5. Windows that are operable by building occupants.
- 6. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration.

19.505.3 Multi-unit Housing

A. Purpose

The purpose of these design standards is to facilitate the development of attractive multi-unit housing that encourages multimodal transportation. They encourage good site and building design, which contributes to livability, safety, and sustainability; helps create a stronger community; and fosters a quality environment for residents and neighbors.

The guidelines and standards are intended to achieve the following principles that the City encourages for multi-unit development:

1. Livability

Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.

2. Compatibility

Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukee.

3. Safety and Functionality

Development should be safe and functional, by providing visibility into and within a multi-unit development and by creating a circulation system that prioritizes bicycle and pedestrian safety.

4. Sustainability

Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit and congregate housing developments with 3 or more dwelling units on a single lot. Cottage cluster housing and rowhouses on their own lots are subject to separate standards and are therefore exempt from Subsection 19.505.3. Housing development that is on a single lot and emulates the style of cottage cluster housing or rowhouses is subject to the standards of this subsection.

1. All new multi-unit or congregate housing development is subject to the design elements in this subsection.
2. The following design elements are applicable for work that would construct a new building or increase the floor area on the site by more than 1,000 sq ft. Elements that are applicable only to additions do not apply to the site's existing development.
 - a. Subsection 19.505.3.D.1 Private Open Space, for the entire site.
 - b. Subsection 19.505.3.D.2 Public Open Space, for the entire site.
 - c. Subsection 19.505.3.D.5 Building Orientation and Entrances, only for additions or new buildings.
 - d. Subsection 19.505.3.D.6 Building Façade Design, only for additions or new buildings.
 - e. Subsection 19.505.3.D.7 Building Materials, only for additions or new buildings.
 - f. Subsection 19.505.3.D.8 Landscaping, for the entire site.
 - g. Subsection 19.505.3.D.9 Screening, only for additions or new buildings.
 - h. Subsection 19.505.3.D.11 Sustainability, only for new buildings.

- i. Subsection 19.505.3.D.12 Privacy Considerations, only for additions or new buildings.
 - j. Subsection 19.505.3.D.13 Safety, only for additions or new buildings.
3. Table 19.505.3.D.7 Building Materials is applicable for work that would replace more than 50% of the façade materials on a building within a 12-month period. The element applies only to the building on which the new façade materials are installed.
4. Any activity not described in Subsections 19.505.3.D.2.a-c is exempt from the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit or congregate housing development: objective and discretionary. An applicant may choose which process to use. The objective process uses clear objective standards that do not require the use of discretionary decision-making. The discretionary process uses design guidelines that are more discretionary in nature and are intended to provide the applicant with more design flexibility. Regardless of the review process, the applicant must demonstrate how the applicable standards or guidelines are being met.

- 1. Projects reviewed through the objective process will be evaluated through a Type I development review, pursuant to Chapter 19.906.
- 2. Projects reviewed through the discretionary process will be evaluated through a Type II development review, pursuant to Chapter 19.906.
- 3. A project can be reviewed using only one of the two review processes. For example, a project may not use some of the objective standards and some of the discretionary guidelines in one application.

D. Design Guidelines and Standards

Applicable guidelines and standards for multi-unit and congregate housing are located in Table 19.505.3.D. These standards should not be interpreted as requiring a specific architectural style.

Table 19.505.3.D Multi-unit Design Guidelines and Standards		
Design Element	Design Guideline (Discretionary Process)	Design Standard (Objective Process)
8. Landscaping	Landscaping of multi-unit developments should be used to provide a canopy for open spaces and courtyards, and to buffer the development from adjacent	a. For every 2,000 sq ft of site area, 1 tree shall be planted or 1 existing tree shall be preserved. Preserved tree(s) must be at least 6 inches in diameter at breast height (DBH) and cannot be listed as a nuisance species in the Milwaukie Native Plant List.

	<p>properties. Existing, healthy trees should be preserved whenever possible. Landscape strategies that conserve water shall be included. Hardscapes shall be shaded where possible, as a means of reducing energy costs (heat island effect) and improving stormwater management</p>	<p>b. Trees shall be planted to provide, within 5 years, canopy coverage for at least 1/3 of any common open space or courtyard. Compliance with this standard is based on the expected growth of the selected trees.</p> <p>c. On sites with a side or rear lot line that abuts an R-10, R-7, or R-5 Zone, landscaping, or a combination of fencing and landscaping, shall be used to provide a sight-obscuring screen 6 ft high along the abutting property line. Landscaping used for screening must attain the 6 ft height within 24 months of planting.</p> <p>d. For projects with more than 20 units:</p> <p>(1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system.</p> <p>(2) To reduce the “heat island” effect, highly reflective paving materials with a solar reflective index of at least 29 shall be used on at least 25% of hardscape surfaces.</p>
<p>10. Recycling Areas</p>	<p>Recycling areas should be appropriately sized to accommodate the amount of recyclable materials generated by residents. Areas should be located such that they provide convenient access for residents and for waste and recycling haulers. Recycling areas located outdoors should be appropriately screened or located so that they are not prominent features viewed from the street.</p>	<p>A recycling area or recycling areas within a multi-unit development shall meet the following standards.</p> <p>a. The recycling collection area must provide containers to accept the following recyclable materials: glass, newspaper, corrugated cardboard, tin, and aluminum.</p> <p>b. The recycling collection area must be located at least as close to the dwelling units as the closest garbage collection/container area.</p> <p>c. Recycling containers must be covered by either a roof or weatherproof lids.</p> <p>d. The recycling collection area must have a collection capacity of at least 100 cu ft in size for every 10 dwelling units or portion thereof.</p> <p>e. The recycling collection area must be accessible to collection service personnel between the hours of 6:00 a.m. and 6:00 p.m.</p> <p>f. The recycling collection area and containers must be labeled, to indicate the type and location of materials accepted, and properly maintained to ensure continued use by tenants.</p> <p>g. Fire Department approval will be required for the recycling collection area.</p> <p>h. Review and comment for the recycling collection area will be required from the appropriate franchise collection service.</p>

<p>11. Sustainability</p>	<p>Multi-unit development should optimize energy efficiency by designing for building orientation for passive heat gain, shading, day-lighting, and natural ventilation. Sustainable materials, particularly those with recycled content, should be used whenever possible. Sustainable architectural elements shall be incorporated to increase occupant health and maximize a building's positive impact on the environment.</p> <p>When appropriate to the context, buildings should be placed on the site giving consideration to optimum solar orientation. Methods for providing summer shading for south-facing walls, and the implementation of photovoltaic systems on the south-facing area of the roof, are to be considered.</p>	<p>In order to promote more sustainable development, multi-unit family developments shall incorporate the following elements.</p> <ol style="list-style-type: none"> a. Building orientation that does not preclude utilization of solar panels, or an ecoroof on at least 20% of the total roof surfaces. b. Windows that are operable by building occupants. c. Window orientation, natural shading, and/or sunshades to limit summer sun and to allow for winter sun penetration. d. Projects with more than 20 units shall incorporate at least 2 of the following elements: <ol style="list-style-type: none"> (1) A vegetated ecoroof for a minimum of 30% of the total roof surface. (2) For a minimum of 75% of the total roof surface, a white roof with a Solar Reflectance Index (SRI) of 78 or higher if the roof has a 3/12 roof pitch or less, or SRI of 29 or higher if the roof has a roof pitch greater than 3/12. (3) A system that collects rainwater for reuse on-site (e.g., site irrigation) for a minimum of 50% of the total roof surface. (4) An integrated solar panel system for a minimum of 30% of the total roof or building surface. (5) Orientation of the long axis of the building within 30 degrees of the true east-west axis, with unobstructed solar access to the south wall and roof. (6) Windows located to take advantage of passive solar collection and include architectural shading devices (such as window overhangs) that reduce summer heat gain while encouraging passive solar heating in the winter.
<p>12. Privacy Considerations</p>	<p>Multi-unit development should consider the privacy of, and sight lines to, adjacent residential properties, and be oriented and/or screened to maximize the privacy of surrounding residences.</p>	<p>In order to protect the privacy of adjacent properties, multi-unit developments shall incorporate the following elements:</p> <ol style="list-style-type: none"> a. The placement of balconies above the first story shall not create a direct line of sight into the living spaces or backyards of adjacent residential properties. b. Where windows on a multi-unit development are within 30 ft of windows on adjacent residences, windows on the multi-unit development shall be offset so the panes do not overlap windows on adjacent

		<p>residences, when measured at right angles. Windows are allowed to overlap if they are opaque, such as frosted windows, or placed at the top third of the wall, measured from floor to ceiling height in the multi-unit unit.</p>
<p>13. Safety</p>	<p>Multi-unit development should be designed to maximize visual surveillance, create defensible spaces, and define access to and from the site. Lighting should be provided that is adequate for safety and surveillance, while not imposing lighting impacts to nearby properties. The site should be generally consistent with the principles of Crime Prevention Through Environmental Design:</p> <ul style="list-style-type: none"> • Natural Surveillance: Areas where people and their activities can be readily observed. • Natural Access Control: Guide how people come to and from a space through careful placement of entrances, landscaping, fences, and lighting. • Territorial Reinforcement: Increased definition of space improves proprietary concern and reinforces social control. 	<p>a. At least 70% of the street or common open space frontage shall be visible from the following areas on 1 or more dwelling units: a front door; a ground-floor window (except a garage window); or a second-story window placed no higher than 3.5 ft from the floor to the bottom of the windowsill.</p> <p>b. All outdoor common open spaces and streets shall be visible from 50% of the units that face it. A unit meets this criterion when at least 1 window of a frequently used room—such as a kitchen, living room and dining room, but not bedroom or bathroom—faces a common open space or street.</p> <p>c. Uses on the site shall be illuminated as follows:</p> <ol style="list-style-type: none"> (1) Parking and loading areas: 0.5 footcandle minimum. (2) Walkways: 0.5 footcandle minimum and average of 1.5 footcandles. (3) Building entrances: 1 footcandle minimum with an average of 3.5 footcandles, except that secondary entrances may have an average of 2.0 footcandles. <p>d. Maximum illumination at the property line shall not exceed 0.5 footcandles. However, where a site abuts a nonresidential district, maximum illumination at the property line shall not exceed 1 footcandle. This standard applies to adjacent properties across a public right-of-way.</p> <p>e. Developments shall use full cut-off lighting fixtures to avoid off-site lighting, night sky pollution, and shining lights into residential units.</p>

19.505.4 Cottage Cluster Housing

A. Purpose

Cottage clusters provide a type of housing that includes the benefits of a single detached dwelling while also being an affordable housing type for new homeowners and households that do not require as much living space. These standards are intended

to: support the growth management goal of more efficient use of urban residential land; support development of diverse housing types in accordance with the Comprehensive Plan; increase the variety of housing types available for smaller households; provide opportunities for small, detached dwelling units within existing neighborhoods; increase opportunities for home ownership; and provide opportunities for creative and high-quality infill development that is compatible with existing neighborhoods.

B. Applicability

These standards apply to cottage cluster housing, as defined in Section 19.201, wherever this housing type is allowed by the base zones in Chapter 19.300.

C. Development Standards

The standards listed below in Table 19.505.4.C.1 are the applicable development and design standards for cottage cluster housing. Additional design standards are provided in Subsection 19.505.1.

Table 19.505.4.C.1 Cottage Cluster Development Standards		
Standards	R-MD	R-1, R-2, R-2.5, R-3, R-1-B
A. Home Types		
1. Building types allowed, minimum and maximum number per cluster	Detached cottages 3 minimum 12 maximum dwelling units	Detached and Attached 3 minimum 8 maximum dwelling units
B. Home Size		
1. Max building footprint per home	900 sf	
b. Max average floor area per dwelling unit	1,400 sf	
C. Height		
a. Max height	25 feet or two (2) stories, whichever is greater	
b. Max structure height between 5 & 10 ft of rear lot line	15 ft	

3. Max height to eaves facing common green	1.618 times the narrowest average width between two closest buildings	
D. Setbacks, Separations, and Encroachments		
a. Separation between structures (minimum) ⁶	6 ft ⁷	
b. Side and rear site setbacks	5 ft ⁸	
3. Front site setback (minimum)	10 ft	
4. Front site setback (maximum)	10 ft	
E. Impervious Area, Vegetated Area		
1. Impervious area (maximum)	60%	65%
2. Vegetated site area (minimum)	35%	35%
F. Community and Common Space		
1. Community building footprint (maximum)	1,000 sf	1,000 sf
2. Common Space	19.505.1.D	19.505.1.D
G. Parking (see also 19.505.1.D.3)		
1. Automobile parking spaces per primary home (minimum)	1	0.5
2. Dry, secure bicycle parking spaces per	1.5	

⁶ If the structure has eaves, the 6-foot minimum separation applies between eaves.

⁷ For lots 20,000 square feet and over, when there is more than one cottage cluster, the minimum space between clusters is 20 feet.

⁸ Lots 20,000 square feet and over must have 10 feet side and rear setbacks.

home (minimum)	
3. Guest bicycle parking spaces perhome (minimum)	0.5

D. Cottage Standards

1. Size

The total footprint of a cottage unit must not exceed 900 sq ft, and the maximum average floor area for a cottage cluster is 1,400 square feet per dwelling unit.

2. Height

The height for all structures must not exceed 25 feet or two (2) stories, whichever is greater.

3. Orientation

a. Cottages must be clustered around a common courtyard, meaning they abut the associated common courtyard or are directly connected to it by a pedestrian path, and must meet the following standards:

- (1) Each cottage within a cluster must either abut the common courtyard or must be directly connected to it by a pedestrian path.
- (2) A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:
 - (a) Have a main entrance facing the common courtyard;
 - (b) Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and
 - (c) Be connected to the common courtyard by a pedestrian path.
- (3) Cottages within 20 feet of a street property line may have their entrances facing the street.
- (4) Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is directly connected to the common courtyard.

E. Site Design and Other Standards

1. Number of Cottages Allowed

A cottage cluster must include a minimum of 3 cottages and a maximum of 12 cottages, subject to Table 19.505.4.B.1.

2. Off-Street Parking

a. There shall be at least 1 off-street parking space per dwelling unit in the R-MD zone and 0.5 spaces per dwelling unit in the high density zones, per Table 19.505.4.B.1. The parking space shall be located together with parking spaces for

other cottages in a common area, and not located on the same lot as an individual cottage unit.

- b. A cottage cluster parking area must be set back from the street. The distance of the setback is dependent on the orientation of the structure or lot. If the axis of the longest dimension of the parking area has an angle of 45 degrees or more to the lot line, the narrow dimension may be within 5 ft of the street. If the angle is less than 45 degrees, the parking area must be at least 20 ft from the street.
- c. If there are more than 8 units in a cottage cluster, there must be at least 2 separate parking areas with a minimum of 4 parking spaces in each area. A drive aisle connecting the 2 areas is permitted if a separate driveway access for each area is not permitted per Chapter 12.16 Access Management.
- d. Parking spaces may be located within a garage. Garages in a cottage cluster may not contain more than 4 parking spaces, must be at least 10 ft from any cottage dwelling; and must match the materials, trim, and roof pitch of the cottages. The interior height of a garage shall not exceed 8 ft high, unless a modification is requested for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height. This modification would be requested per 19.911 Variances.
- e. Parking spaces that are not in a garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen, such as a fence. Chain-link fencing with slats shall not be allowed as a screen.

3. Fences

All fences on the interior of the development shall be no more than 3 ft high. Fences along the perimeter of the development may be up to 6 ft high, except as restricted by Chapter 12.24 Clear Vision at Intersection. Chain-link fences are prohibited.

4. Conversions

A preexisting single-detached dwelling may remain on a Lot or Parcel with a Cottage Cluster as described below:

- a. The preexisting single-detached dwelling may be nonconforming with respect to the requirements of the applicable code;
- b. The preexisting single-detached dwelling may be expanded up to the maximum height, footprint, or unit size required by the applicable code; however, a preexisting single-detached dwelling that exceeds the maximum height, footprint, or unit size of the applicable code may not be expanded;
- c. The preexisting single-detached dwelling shall count as a unit in the Cottage Cluster;
- d. The floor area of the preexisting single-detached dwelling shall not count towards any Cottage Cluster average or Cottage Cluster project average or total unit size limits.

19.505.5 Townhouses

A. Purpose

Townhouses provide a type of housing that includes the benefits of a single detached dwelling, such as fee simple ownership and private yard area, while also being an affordable housing type for new homeowners and households that do not require as much living space. Townhouses are allowed at four times the maximum density allowed for single detached dwelling in the same zone or 25 dwelling units per acre, whichever is less, and the general design requirements are very similar to the design requirements for single detached dwellings. Two important aspects of these standards are to include a private-to-public transition space between the dwelling and the street and to prevent garage and off-street parking areas from being prominent features on the front of Townhouses.

B. Applicability

1. The standards of Subsection 19.505.5 apply to single dwellings on their own lot, where the dwelling shares a common wall across a side lot line with at least 1 other dwelling, and where the lots meet the standards for a townhouse lot in both Section 19.302 and Subsection 19.505.5.E. Townhouse development may take place on existing lots that meet the lot standards for townhouse lots or on land that has been divided to create new townhouse lots.
2. Development standards for townhouses are in Subsections 19.301.4 and 19.302.4.
3. Design standards for single-family detached dwellings in Subsections 19.505.1-2 are also applicable to townhouses.
4. Dwelling units that share a common side wall and are not on separate lots are subject to the standards for either One to Four Dwelling Units or multi-unit housing.

C. Townhouse Design Standards

1. Townhouses are subject to the design standards for single detached dwelling housing in Subsection 19.505.1.
2. Townhouses must include an area of transition between the public realm of the right-of-way and the entry to the private dwelling. The entry may be either vertical or horizontal, as described below.
 - a. A vertical transition shall be an uncovered flight of stairs that leads to the front door or front porch of the dwelling. The stairs must rise at least 3 ft, and not more than 8 ft, from grade. The flight of stairs may encroach into the required front yard, and the bottom step must be at least 4 ft from the front lot line.
 - b. A horizontal transition shall be a covered porch with a depth of at least 6 ft. The porch may encroach into the required front yard, but it must be at least 4 ft from the front lot line.

D. Number of Townhouses Allowed

In the High Density Zones, no more than 4 consecutive townhouses that share a common wall(s) are allowed. A set of 4 townhouses with common walls is allowed to be adjacent to a separate set of 4 townhouses with common walls.

In the R-MD zone, the maximum width of attached townhouse frontage may not exceed 40 feet.

E. Townhouse Lot Standards

1. Townhouse development is allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area

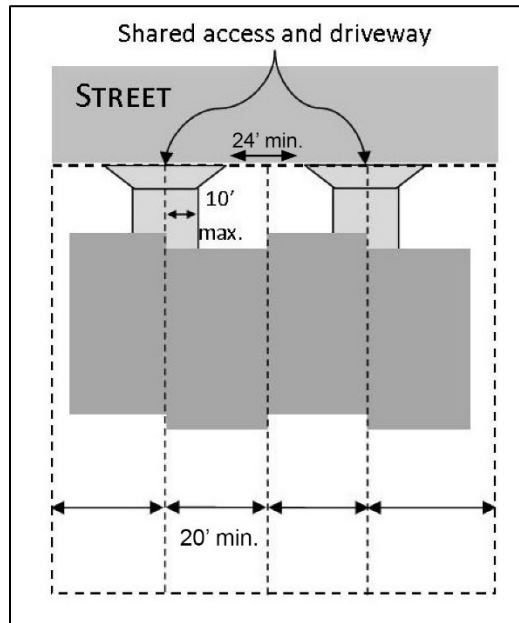
meet or exceed the base zone requirements listed in Tables 19.301.4 and 19.302.4.

2.. Townhouse development must meet the minimum lot size of 1,500 sq ft.

F. Driveway Access and Parking

1. Garages on the front façade of a townhouse, off-street parking areas in the front yard, and driveway accesses in front of a townhouse are prohibited unless the following standards are met. See Figure 19.505.5.F.1.
 - a. Development of 2 or 3 townhouses has at least 1 shared access between the lots, and development of 4 townhouses has 2 shared accesses.
 - b. Outdoor on-site parking and maneuvering areas do not exceed 10 ft wide on any lot.
 - c. The garage width does not exceed 10 ft, as measured from the inside of the garage door frame.
 - d. Shared accesses are spaced a minimum of 24 feet apart.

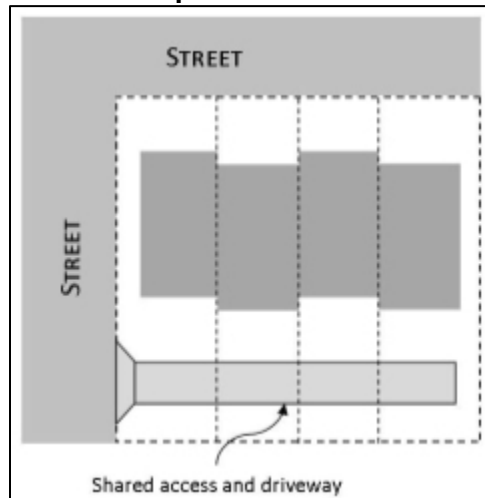
**Figure 19.505.5.F.1
Townhouse Development with Front Yard Parking**



2. The following rules apply to driveways and parking areas for townhouse developments that do not meet all of the standards in Subsection 19.505.5.F.1.
 - a. Off-street parking areas must be accessed on the back façade or located in the rear yard.
 - b. Townhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The City Engineer may alter this

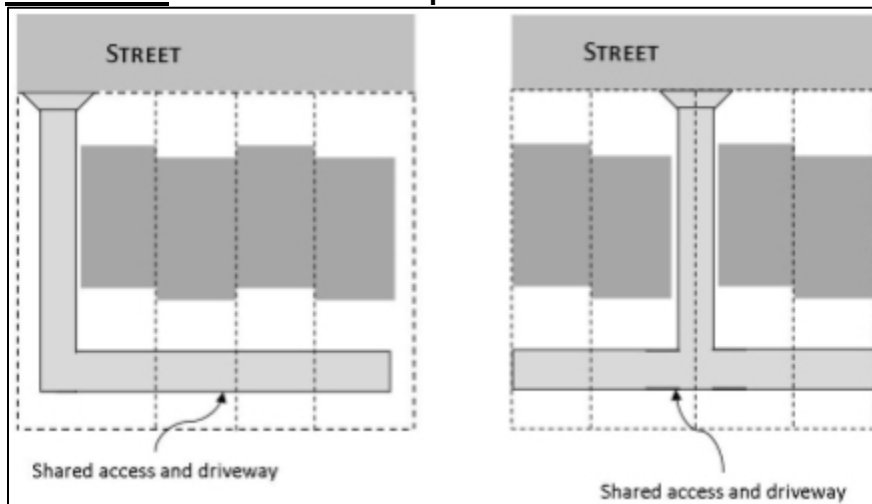
requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. See Figure 19.505.5.F.2.b.

**Figure 19.505.5.F.2.b
Townhouse Development with Corner Lot Access**



- c. Townhouse development that does not include a corner lot shall consolidate access for all lots into a single driveway. The access and driveway are not allowed in the area directly between the front façade and front lot line of any of the townhouse. See Figure 19.505.5.F.2.c.

**Figure 19.505.5.F.2.c
Townhouse Rowhouse Development with Consolidated Access**



- d. A townhouse development that includes consolidated access or shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access.

G. Accessory Structure Setbacks

On townhouse lots with a lot width of 25 ft or less, there is no required side yard between an accessory structure and a side lot line abutting a townhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

19.506 Manufactured Dwelling Siting and Design Standards

19.506.4 Siting Standards

Manufactured homes are allowed by right in any zone that allows single-family detached dwellings by right. Manufactured homes placed on individual lots shall meet the single-family design standards in Subsection 19.505.1 and the following standards:

- A. The unit shall be placed on an excavated and backfilled foundation with the bottom no more than 12 in 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.
- B. Bare metal shall not be allowed as a roofing material and shall not be allowed on more than 25% of any façade of the unit.

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.601 PURPOSE

Chapter 19.600 regulates off-street parking and loading areas on private property outside the public right-of-way. The purpose of Chapter 19.600 is to: provide adequate, but not excessive, space for off-street parking; support efficient streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of parking areas; and minimize environmental impacts of parking areas.

Regulations governing the provision of on-street parking within the right-of-way are contained in Chapter 19.700. The management of on-street parking is governed by Chapter 10.20. Chapter 19.600 does not enforce compliance with the Americans with Disabilities Act (ADA). ADA compliance on private property is reviewed and enforced by the Building Official. (Ord. 2106 § 2 (Exh. F), 2015; Ord. 2025 § 2, 2011)

19.604.2 Parking Area Location

Accessory parking shall be located in one or more of the following areas:

- A. On the same site as the primary use for which the parking is accessory.
- B. On a site owned by the same entity as the site containing the primary use that meets the standards of Subsection 19.605.4.B.2. Accessory parking that is located in this manner shall not be considered a parking facility for purposes of the base zones in Chapter 19.300.
- C. Where parking is approved in conformance with Subsection 19.605.2
- D. Where shared parking is approved in conformance with Subsection 19.605.4.

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

Table 19.605.1 Off-street Parking Requirements

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
A. Residential Uses		
1. Single detached dwellings, including manufactured homes.	1 space per dwelling unit.	No maximum.
2. Multi-Unit Dwellings	1 space per dwelling unit.	2 spaces per dwelling unit.
3. Middle Housing a. Duplexes b. Triplexes c. Quadplexes d. Town Houses e. Cottage Clusters	1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit	1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit 1 space per dwelling unit
4. Residential homes and similar facilities allowed by right in residential zones.	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.
5. Accessory dwelling units	No additional space required unless used as a vacation rental, which requires 1 space per rental unit	No maximum.

19.605.2 Quantity Modifications and Required Parking Determinations

Subsection 19.605.2 allows for the modification of minimum and maximum parking ratios from Table 19.605.1 as well as the determination of minimum and maximum parking requirements. Parking determinations shall be made when the proposed use is not listed in Table 19.605.1 and for developments with parking demands that are either lower than the minimum required or higher than the maximum allowed.

A. Applicability

The procedures of Subsection 19.605.2 shall apply in the following situations:

1. If the proposed use is not listed in Table 19.605.1 and the quantity requirements for a similar listed use cannot be applied.
2. If the applicant seeks a modification from the minimum required or maximum allowed quantities as calculated per Table 19.605.1.

B. Application

Determination of parking ratios in situations listed above shall be reviewed as a Type II land use decision, per Section 19.1005 Type II Review. The application for a determination must include the following:

1. Describe the proposed uses of the site, including information about the size and types of the uses on site, and information about site users (employees, customers, residents, etc.).
2. Identify factors specific to the proposed use and/or site, such as the proximity of transit, parking demand management programs, availability of shared parking, and/or special characteristics of the customer, client, employee or resident population that affect parking demand.
3. Provide data and analysis specified in Subsection 19.605.2.B.3 to support the determination request. The Planning Manager may waive requirements of Subsection 19.605.2.B.3 if the information is not readily available or relevant, so long as sufficient documentation is provided to support the determination request.
 - a. Analyze parking demand information from professional literature that is pertinent to the proposed development. Such information may include data or literature from the Institute of Transportation Engineers, American Planning Association, Urban Land Institute, or other similar organizations.
 - b. Review parking standards for the proposed use or similar uses found in parking regulations from other jurisdictions.
 - c. Present parking quantity and parking use data from existing developments that are similar to the proposed development. The information about the existing development and its parking demand shall include enough detail to evaluate similarities and differences between the existing development and the proposed development.
 - d. For middle housing, provide occupancy and use data quantifying conditions of the on-street parking system within a one block of the middle housing development.
 - e. Identify factors specific to the site, such as the preservation of a priority tree or trees, or planting of new trees to achieve 40% canopy, as identified in MMC 16.32.
4. Propose a minimum and maximum parking ratio. For phased projects, and for projects where the tenant mix is unknown or subject to change, the applicant may propose a range (low and high number of parking spaces) for each development phase and both a minimum and maximum number of parking spaces to be provided at buildout of the project.
5. Address the approval criteria in Subsection 19.605.2.C.

C. Approval Criteria

The Planning Manager shall consider the following criteria in deciding whether to approve the determination or modification. The Planning Manager, based on the applicant's materials and other data the Planning Manager deems relevant, shall set the minimum parking requirement and maximum parking allowed. Conditions of approval may be placed on the decision to ensure compliance with the parking determination.

1. All modifications and determinations must demonstrate that the proposed parking quantities are reasonable based on existing parking demand for similar use in other

locations; parking quantity requirements for the use in other jurisdictions; and professional literature about the parking demands of the proposed use.

2. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to decrease the amount of minimum required parking shall meet the following criteria:
 - a. The use, frequency, and proximity of transit, parking demand management programs, and/or special characteristics of the site users will reduce expected vehicle use and parking space demand for the proposed use or development, as compared with the standards in Table 19.605.1.
 - b. The reduction of off-street parking will not adversely affect available on-street parking.
 - c. The requested reduction is the smallest reduction needed based on the specific circumstances of the use and/or site, or is otherwise consistent with city or comprehensive plan policy.
3. In addition to the criteria in Subsection 19.605.2.C.1, requests for modifications to increase the amount of maximum allowed parking shall meet the following criteria:
 - a. The proposed development has unique or unusual characteristics that create a higher-than-typical parking demand.
 - b. The parking demand cannot be accommodated by shared or joint parking arrangements or by increasing the supply of spaces that are exempt from the maximum amount of parking allowed under Subsection 19.605.3.A.
 - c. The requested increase is the smallest increase needed based on the specific circumstances of the use and/or site.

19.605.3 Exemptions and By-Right Reductions to Quantity Requirements

The following exemptions and by-right reductions cannot be used to further modify any parking modification or determination granted under Subsection 19.605.2.

A. Exemptions to Maximum Quantity Allowance

The following types of parking do not count toward the maximum amount of parking allowed on a site. This exemption applies only to the quantity requirements of Section 19.605 and not to the other requirements of Chapter 19.600. The City may impose conditions to ensure that parking spaces associated with these parking types are appropriately identified and used for the intended purpose.

1. Spaces for a parking facility.
2. Spaces for a transit facility or park and ride facility.
3. Storage or display areas for vehicle sales.
4. Employee carpool parking, when spaces are dedicated or reserved for that use.
5. Fleet parking.
6. Truck loading areas.

B. Reductions to Minimum Parking Requirements

Applicants are allowed to utilize multiple reductions from Subsections 19.605.3.B.2-7, provided that the total reduction in required parking does not exceed 25% of the minimum quantity requirement listed in Table 19.605.1. The total reduction in required

parking is increased to 30% in the Downtown Mixed Use Zone DMU. The total reduction in required parking is increased to 50% for affordable housing units as defined in Subsection 19.605.3.8. Applicants may not utilize the reduction in Subsection 19.605.3.B.1 in conjunction with any other reduction in Subsection 19.605.3.B.

1. Reductions for Neighborhood Commercial Areas

The minimum parking requirements of Table 19.605.1 shall be reduced by 50% for the properties described below:

- a. Properties zoned Commercial Limited (C-L).
- b. Properties zoned Commercial Neighborhood (C-N).
- c. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, King Road, 40th Avenue, and Jackson Street.
- d. Properties in the Neighborhood Mixed-Use (NMU) Zone in the area bounded by 42nd Avenue, Harrison Street, 44th Avenue, and Jackson Street.

2. Proximity to Public Transit

- a. Parking for commercial and industrial uses may be reduced by up to 10% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- b. Parking for multi-unit dwellings and middle housing may be reduced by up to 20% if the development is within 500-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a transit stop with a peak hour service frequency of 30 minutes or less.
- c. Parking for all uses except single detached dwellings may be reduced by 25% if the development is within 1,000-ft walking distance, as defined in Subsection 19.605.3.B.2.d, of a light rail transit stop, or if it is located in the Downtown Mixed Use Zone DMU.
- d. In determining walking distance, the applicant shall measure the shortest route along sidewalks, improved pedestrian ways, or streets if sidewalks or improved pedestrian ways are not present. Walking distance shall be measured along the shortest course from the point on the development site that is nearest to the transit stop.

3. Multitenant Commercial Sites

Where multiple commercial uses occur on the same site, minimum parking requirements shall be calculated as described below. The Planning Manager shall have the authority to determine when multiple uses exist on a site.

- a. Use with highest parking requirement. The use that has the largest total number of minimum parking spaces required shall be required to provide 100% of the minimum number of parking spaces.
- b. All other uses. All other uses on the site shall be required to provide 80% of the minimum number of parking spaces.

4. Carpool/Vanpool

Commercial and industrial developments that provide at least 2 carpool/vanpool parking spaces may reduce the required number of parking spaces by up to 10%.

This reduction may be taken whether the carpool/vanpool space is required pursuant to Section 19.610 or voluntarily provided.

5. Bicycle Parking

The minimum amount of required parking for non-single unit residential uses, other than middle housing, may be reduced by up to 10% for the provision of covered and secured bicycle parking in addition to what is required by Section 19.609. A reduction of 1 vehicle parking space is allowed for every 6 additional bicycle parking spaces installed. The bicycle spaces shall meet all other standards of Section 19.609. If a reduction of 5 or more stalls is granted, then on-site changing facilities for bicyclists, including showers and lockers, are required. The area of an existing parking space in an off-street parking area may be converted to bicycle parking to utilize this reduction.

6. Car Sharing

Required parking may be reduced by up to 5% if at least 1 off-street parking space is reserved for a vehicle that is part of a car sharing program. The car sharing program shall be sufficiently large enough, as determined by the Planning Manager, to be accessible to persons throughout Milwaukie and its vicinity. The applicant must provide documentation from the car sharing program that the program will utilize the space provided.

7. Provision of Transit Facility Improvements

The number of existing required parking spaces may be reduced by up to 10% for developments that provide facilities such as bus stops and pull-outs, bus shelters, or other transit-related facilities. A reduction of 1 parking space is allowed for each 100 sq ft of transit facility provided on the site.

8. Affordable Housing

Parking minimums in Table 19.605.1 may be reduced for the following:

- a. For any multiunit dwelling unit or middle housing dwelling unit that is affordable to households earning equal to or less than 80 percent of the area median income (AMI) as defined by the U.S. Department of Housing and Urban Development, adjusted for household size, and guaranteed affordable for a minimum term of 30 years through restrictive covenant or other similar guarantee, the minimum parking requirement for that unit may be reduced by 25 percent.

19.606 PARKING AREA DESIGN AND LANDSCAPING

The purpose of Section 19.606 is to ensure that off-street parking areas are safe, environmentally sound, aesthetically pleasing, and that they have efficient circulation. These standards apply to all types of development except for middle housing, single detached dwellings, and residential homes.

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

Subsection 19.607.1 is intended to preserve residential neighborhood character by establishing off-street parking standards. The provisions of Subsection 19.607.1 apply to

passenger vehicles and off-street parking areas for single detached dwellings, duplexes, triplexes, quadplexes, townhouses, cottage clusters, and residential homes in all zones, unless specifically stated otherwise.

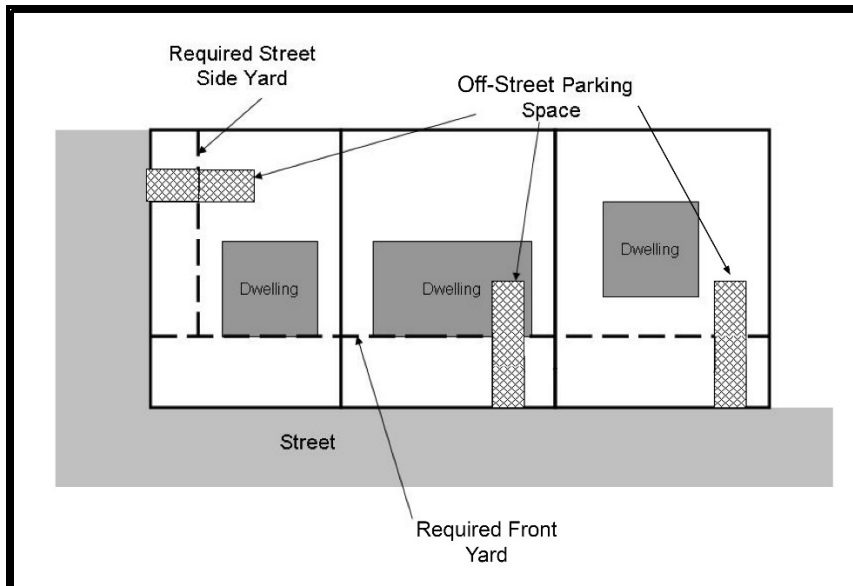
A. Dimensions

Off-street parking space dimensions for required parking spaces are 9 ft wide x 18 ft deep.

B. Location

1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved per Subsection 19.605.4. Tandem (end-to-end) parking is allowed for individual units.
2. No portion of the required parking space is allowed within the following areas. See Figure 19.607.1.B.2. These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.
 - a. Within an adjacent public street right-of-way or access easement.
 - b. Over a public sidewalk.

**Figure 19.607.1.B.2
Required Parking Space Location**



C. Parking Surface Materials

Parking of vehicles shall only be allowed on surfaces described in Subsection 19.607.1.C.

1. The following areas are required to have a durable and dust-free hard surface, and shall be maintained for all-weather use. The use of pervious concrete, pervious paving, driveway strips, or an in-ground grid or lattice surface is encouraged to reduce stormwater runoff.
 - a. Required parking space(s).

- b. All vehicle parking spaces and maneuvering areas located within a required front or side yard. Areas for boat or RV parking are exempt from this requirement and may be graveled.
 - c. All off-street parking and maneuvering areas for a residential home.
2. Maneuvering areas and unrequired parking areas that are outside of a required front or side yard are allowed to have a gravel surface.

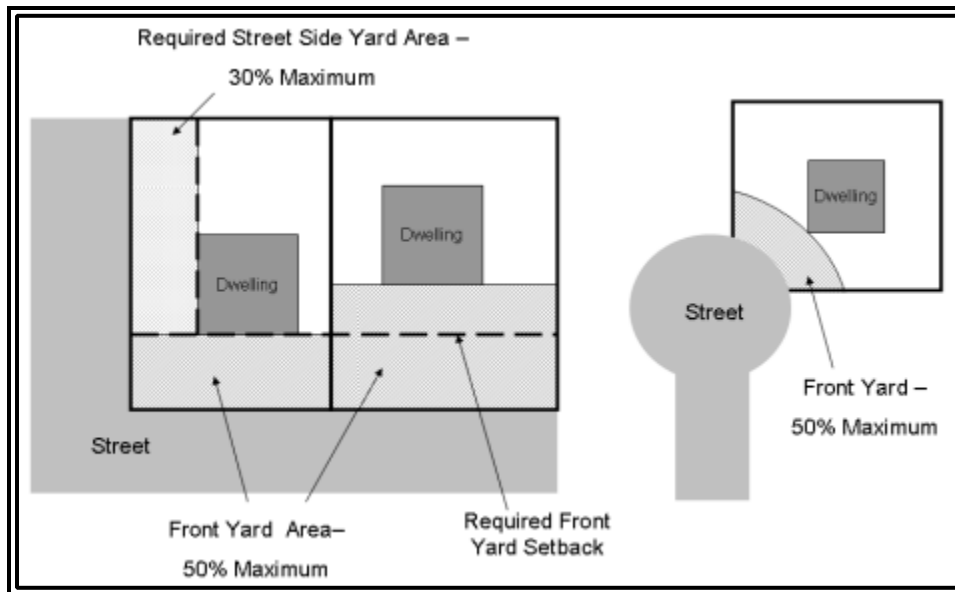
D. Parking Area Limitations

Uncovered parking spaces and maneuvering areas for vehicles, and for recreational vehicles and pleasure craft as described in Subsection 19.607.2.B, have the following area limitations. See Figure 19.607.1.D. The pole portion of a flag lot is not included in these area limitations.

These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4; nor to townhouses, which are subject to the standards in Subsection 19.505.5.

- a. Uncovered parking spaces and maneuvering areas cannot exceed 50% of the front yard area.
- b. Uncovered parking spaces and maneuvering areas cannot exceed 30% of the required street side yard area.
- c. No more than 3 residential parking spaces are allowed within the required front yard. A residential parking space in the required front yard is any 9- x 18-ft rectangle that is entirely within the required front yard that does not overlap with another 9- x 18-ft rectangle within the required front yard.

**Figure 19.607.1.D
Front and Street Side Yard Parking Area Limits**



E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 5 ft of the right-of-way boundary (Option 1—see Figure 19.607.1.E.1). Alternately, a gradual widening of the onsite driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width: distance onto property), starting 2 ft behind the front property line right-of-way boundary (Option 2—see Figure 19.607.1.E.2).

Figure 19.607.1.E.1

Driveway Widening Limitation—Option 1

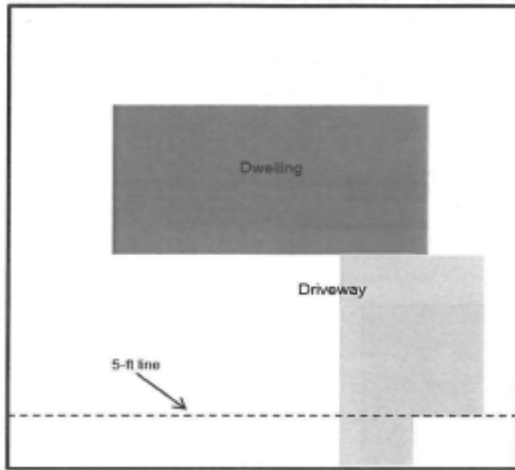
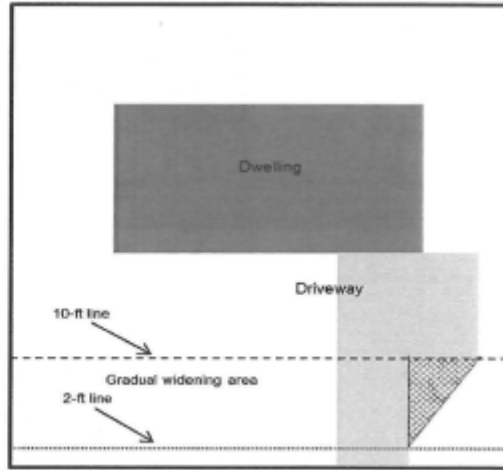


Figure 19.607.1.E.2

Driveway Widening Limitation—Option 2



2. Properties that take access from streets other than local streets and neighborhood routes shall provide a turnaround area on site that allows vehicles to enter the right-of-way in a forward motion.

CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

Chapter 19.700 applies to the following types of development in all zones:

- A. Partitions.
- B. Subdivisions.
- C. Replats.
- D. New construction.
- E. Modification or expansion of an existing structure or a change or intensification in use that results in any one of the following. See Subsections 19.702.2-3 for specific applicability provisions for single detached residential development and development in downtown zones.
 1. A new dwelling unit.

2. Any increase in gross floor area.
3. Any projected increase in vehicle trips, as determined by the City Engineer.

19.702.2 Single Detached Residential Expansions

Chapter 19.700 applies to single detached residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single detached residential expansions.

- A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 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 800 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.
- C. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by less than 800 sq ft, none of Chapter 19.700 applies.
- D. single detached residential expansions shall provide adequate public utilities as determined by the City Engineer pursuant to Section 19.709.
- 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.

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

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

19.703 REVIEW PROCESS

19.703.4 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 19.703.4. In making these determinations, the City Engineer

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 19.700 per Subsection 19.702.1, the City Engineer will determine whether the proposed development has impacts to the transportation system pursuant to Section 19.704. Pursuant to Subsection 19.704.1, the City Engineer will also determine whether a Transportation Impact Study (TIS) is required, or for smaller developments, if an Access Study or Transportation Memo is sufficient. If a TIS is required, a transportation facilities review land use application shall be submitted pursuant to Subsection 19.703.2.B.

For development that is subject to Chapter 19.700 per Subsection 19.702.2, the City has determined that there could be impacts to the transportation system if the proposed single detached residential expansion/conversion is greater than 800 sq ft.

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 City Engineer will determine the most appropriate street design cross section using the standards and guidelines contained in Section 19.708 or in conformance to the Public Works Standards. On-site frontage improvements are not required for downtown development that is exempt per Subsection 19.702.3.B.

C. Proportional Improvements

When transportation facility improvements are required pursuant to this chapter, the City Engineer will conduct a proportionality analysis pursuant to Section 19.705 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 19.705.2.

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 City Engineer will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction.

19.704 TRANSPORTATION IMPACT EVALUATION

19.704.4 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. With phased developments, transportation impacts must be mitigated at the time that particular phase of development identified in the TIS creates the need for the improvements to occur.

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 City Engineer 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.

(Ord. 2025 § 2, 2011)

19.708 TRANSPORTATION FACILITY REQUIREMENTS

19.708.2 Street Design Standards

A. Additional Street Design Standards

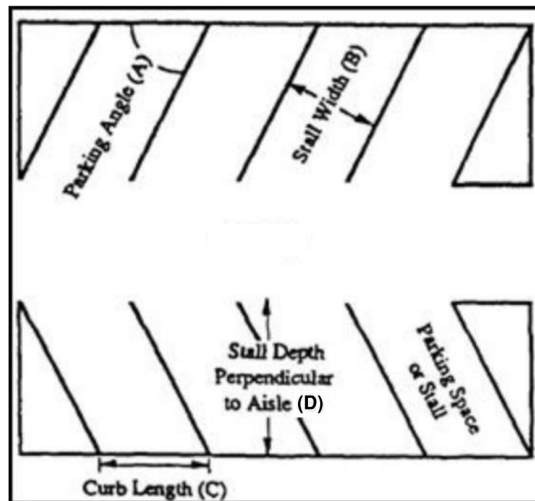
These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

1. Minimum 10-ft 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 1 ft of travel lane width shall be provided. Where a travel lane is located between curbs, an additional 2 ft of travel lane width shall be provided.
3. Where shared lanes or bicycle boulevards are planned, up to an additional 6 ft of travel lane width shall be provided.
4. Bike lane widths may be reduced to a minimum of 4 ft 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 must 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 must have a minimum width of 8 ft.
8. On-street parking in commercial zones must have a minimum width of 7 ft.
9. On-street parking in residential zones must have a minimum width of 6 ft.
10. On-street parking on local streets in residential zones adjacent to Middle Housing, Community Service Use, or other uses as allowed by code and as approved by the City Engineer may include diagonal parking, with minimum dimensions as provided in Table 19.708.3. Diagonal parking would be allowed as determined by the City Engineer, where sufficient right-of-way exists outside of the paved street area, and where it would not result in a safety hazard.

TABLE 19.708.3			
Full and Mid-Size Vehicles			
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	8	22	8
30 °	8	16	16.5
45 °	8	11.5	18.5
60 °	8	9.5	19
90 ° (perpendicular)	8	8	18
Compact Size Vehicles			
Angle (A)	Width (B)	Curb Length (C)	Depth (D)
0 ° (parallel)	7	20	7
30 °	7	14	14.5
45 °	7	10	16.5
60 °	7	8.5	17
90 ° (perpendicular)	7	7	16

Figure 19.708.1
Parking Dimension Factors



11. The dimension and number of vehicle parking spaces provided for disabled persons must be according to federal and State requirements.
12. Sidewalk widths may be reduced to a minimum of 4 ft for short distances for the purpose of avoiding obstacles within the public right-of-way including, but not limited to, trees and power poles.
13. Landscape strip widths shall be measured from back of curb to front of sidewalk.
14. Where landscape strips are required, street trees shall be provided a minimum of every 40 ft in accordance with the Public Works Standards and the Milwaukie Street Tree List and Street Tree Planting Guidelines.
15. 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.
16. A minimum of 6 in shall be required between a property line and the street element that abuts it; e.g., sidewalk or landscape strip.

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 CONTINUED Land Use Applications		
Application Type	Municipal Code Location	Review Types
Land Divisions:	Title 17	
Final Plat	Title 17	I
Lot Consolidation	Title 17	I
Partition	Title 17	II
Property Line Adjustment	Title 17	I, II
Replat	Title 17	I, II, III
Subdivision	Title 17	III
Miscellaneous:	Chapters 19.500	
Barbed Wire Fencing	Subsection 19.502.2.B.1.b-c	II
Modification to Existing Approval	Section 19.909	I, II, III
Natural Resource Review	Section 19.402	I, II, III, V
Nonconforming Use Alteration	Chapter 19.804	III
Parking:	Chapter 19.600	
Quantity Determination	Subsection 19.605.2	II
Quantity Modification	Subsection 19.605.2	II

Shared Parking Structured Parking	Subsection 19.605.4 Section 19.611	I II, III
Planned Development	Section 19.311	IV
Residential Dwellings: Manufactured Dwelling Park Temporary Dwelling Unit	Section 19.910 Subsection 19.910.3 Subsection 19.910.4	III I, III
Sign Review	Title 14	Varies
Transportation Facilities Review	Chapter 19.700	II
Variances: Use Exception Variance	Section 19.911 Subsection 19.911.5 Subsection 19.911.1-4	III II, III
Willamette Greenway Review	Section 19.401	III

CHAPTER 19.900 LAND USE APPLICATIONS

19.906 DEVELOPMENT REVIEW

19.906.2 Applicability

A. Type I Review

The following development proposals must submit a development review application and are subject to the requirements of this section, unless explicitly stated otherwise in an applicable land use approval, waived by the Planning Manager at the time of development permit submittal, allowed by right, or exempted per Subsection 19.906.2.C.

1. New development and expansions or modifications of existing development that require review against standards and criteria that are either clear and objective, or that require the application of limited professional judgment.
2. A change in primary use.
3. Parking lot expansions or modifications that change the number of parking spaces by 5 spaces or more.

C. Exemptions

The following development proposals are not required to submit a development review application and are exempt from the requirements of this section. Proposals that are exempt from this section must still comply with all applicable development and design standards. For proposals that require a development permit, compliance with standards will be reviewed during the permit review process.

1. New or expanded single detached dwelling or middle housing detached or attached residential dwellings.
2. Residential accessory uses and structures including accessory dwelling units.
3. Interior modifications to existing buildings that do not involve a change of use.
4. Construction of public facilities in the public right-of-way.

5. Temporary events as allowed in Chapter 11.04.

19.910 RESIDENTIAL DWELLINGS

19.910.1 Accessory Dwelling Units

A. Purpose

To provide the means for reasonable accommodation of accessory dwelling units, providing affordable housing, opportunity to house relatives, and a means for additional income for property owners, thereby encouraging maintenance of existing housing stock.

B. Applicability

The procedures and standards of this chapter apply to the establishment of any accessory dwelling unit.

C. Procedures

An application to establish an accessory dwelling unit must be allowed by right. Accessory dwelling units shall be subject to the standards of Table 19.910.1.E.4.B.

D. Approval Standards and Criteria

1. An application for an accessory dwelling unit is allowed by right provided each of the following standards are met.
 - a. An accessory dwelling unit is an allowed use in the base zones, and any applicable overlay zones or special areas, where the accessory dwelling unit would be located.
 - b. The primary use of property for the proposed accessory dwelling unit is a single detached dwelling.
 - c. Up to two accessory dwelling units are allowed on a site with a single detached dwelling. If there are two accessory dwelling units on the site, only one may be attached to or within the primary structure.
 - d. The development standards of Subsection 19.910.1.E are met.
 - e. The proposal complies with all other applicable standards of this title.

E. Standards

1. Creation

An accessory dwelling unit may be created by conversion of an existing structure, addition to an existing structure, or construction of a new structure. It is permissible to combine both an addition to an existing structure and conversion of space in the structure for the creation of an accessory dwelling unit.

2. Coordination of Standards

In the event of a conflict between standards in Subsection 19.910.1.E and other portions of this title, the more restrictive provisions are applicable except where specifically noted.

3. Standards for Attached Accessory Dwelling Units

The standards listed below apply to accessory dwelling units that are part of the primary structure on the property.

a. Maximum Allowed Floor Area

The floor area of an attached accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less. The measurements are based on the floor areas of the primary and accessory dwelling units after completion of the accessory dwelling unit. This maximum size standard does not apply when the basement of a primary dwelling unit is converted to an accessory dwelling unit and the primary dwelling unit has been on the site for at least 5 years.

b. Design Standards

- (1) The façade of the structure that faces the front lot line must have only 1 entrance. A secondary entrance for the accessory dwelling unit is allowed on any other façade of the structure.
- (2) Stairs, decks, landings, or other unenclosed portions of the structure leading to the entrance of the accessory dwelling unit are not allowed on the façade of the structure that faces the front lot line.
- (3) Proposals for attached accessory dwelling units that would increase floor area through new construction are subject to the following design standards.
 - (a) The exterior finish on the addition must match the exterior finish material of the primary dwelling unit in type, size, and placement.
 - (b) Trim must be the same in type, size, and location as the trim used on the primary dwelling unit.
 - (c) Windows on street-facing façades must match those in the primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical).
 - (d) Eaves must project from the building walls at the same proportion as the eaves on the primary dwelling unit.

4. Standards for Detached Accessory Dwelling Units

The standards in Subsection 19.901.1.E.4 apply to accessory dwelling units that are separate from the primary structure on the property. The design standards for detached accessory dwelling units require a minimum level of design. These standards are intended to promote attention to detail, while affording flexibility to use a variety of architectural styles.

a. Maximum Allowed Floor Area

The floor area of the accessory dwelling unit is limited to 800 sq ft or 75% of the floor area of the primary structure, whichever is less.

b. Footprint, Height, and Required Yards

The maximum structure footprint, height, and yard regulations for a detached accessory dwelling unit are listed in Table 19.910.1.E.4.b. Structures that exceed any of the maximums associated with a Type B ADU require Type II approval of a variance per Section 19.911.

Table 19.910.1.E.4.b Footprint, Height, and Required Yards for Detached Accessory Dwelling Units		
Standard	Type A ADU	Type B ADU
Maximum Structure Footprint	600 sq ft	800 sq ft
Maximum Structure Height	15', limited to 1 story	25', limited to 2 stories
Required Side and Rear Yard	5 ft	Base zone requirement for side and rear yard
Required Front Yard	10' behind front yard as defined in Section 19.201, unless located at least 40' from the front lot line.	
Required Street Side Yard	Base zone requirement for street side yard	

c. Design Standards

- (1) A detached accessory structure must include at least two of the design details listed below. An architectural feature may be used to comply with more than one standard.
 - (a) Covered porch at least 5 ft deep, as measured horizontally from the face of the main building façade to the edge of the deck, and at least 5 ft wide.
 - (b) Recessed entry area at least 2 ft deep, as measured horizontally from the face of the main building façade, and at least 5 ft wide.
 - (c) Roof eaves with a minimum projection of 12 in from the intersection of the roof and the exterior walls.
 - (d) Horizontal lap siding between 3 to 7 in wide (the visible portion once installed). The siding material may be wood, fiber-cement, or vinyl.
 - (e) Window trim around all windows at least 3 in wide and 5/8 in deep.
- (2) An applicant may request a variance to the design standards in Subsection 19.901.1.E.4.c(1) through a Type II variance review, pursuant to Subsection 19.911.3.B.
- (3) An accessory dwelling unit structure with a floor-to-ceiling height of 9 ft or more is required to have a roof pitch of at least 4/12.

d. Privacy Standards

- (1) Privacy standards are required for detached accessory dwelling units. Privacy standards are required on or along wall(s) of a detached accessory dwelling unit, or portions thereof, that meet all of the following conditions.
 - (a) The wall is within 20 ft of a side or rear lot line.
 - (b) The wall is at an angle of 45 degrees or less to the lot line.
 - (c) The wall faces an adjacent residential property.

- (2) A detached accessory dwelling unit meets the privacy standard if either of the following standards is met.
 - (a) All windows on a wall must be placed in the upper third of the distance between a floor and ceiling.
 - (b) Visual screening is in place along the portion of a property line next to the wall of the accessory dwelling unit, plus an additional 10 lineal ft beyond the corner of the wall. The screening must be opaque; shall be at least 6 ft high; and may consist of a fence, wall, or evergreen shrubs. Newly planted shrubs must be no less than 5 ft above grade at time of planting, and they must reach a 6-ft height within 1 year. Existing features on the site can be used to comply with this standard.

e. Conversion of Existing Structure

Creation of a detached accessory dwelling unit through conversion of an accessory structure legally established less than three (3) years before the time of the ADU permit submittal is required to meet all applicable standards for a new detached accessory dwelling unit.

Creation of a detached accessory dwelling unit through the conversion of an existing accessory structure that was legally established a minimum of three (3) years before the time of the ADU permit submittal is allowed. The conversion must meet all standards that apply to creation of a new detached accessory dwelling, except for the design standards in Subsection 19.910.1.E.4.c. and the maximum structure footprint. However, the floor area of the ADU must not exceed the maximum floor area standard in Subsection 19.910.1.D.4.a. The conversion must not bring the accessory structure out of conformance, or further out of conformance if already nonconforming, with any design standards in that subsection.

F. Additional Provisions

- 1. Accessory dwelling units are not counted in the calculation of minimum or maximum density requirements listed in this title.
- 2. Additional home occupations are allowed for a property with an accessory dwelling unit in accordance with the applicable standards of Section 19.507.

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

Type II variances allow for limited variations to numerical standards. The following types of variance requests shall be evaluated through a Type II review per Section 19.1005:

- 1. A variance of up to 40% to a side yard width standard.
- 2. A variance of up to 25% to a front, rear, or street side yard width standard. A front yard width may not be reduced to less than 15 ft through a Type II review.
- 3. A variance of up to 10% to lot coverage or minimum vegetation standards.

4. A variance of up to 10% to lot width or depth standards.
 5. A variance of up to 10% to a lot frontage standard.
 6. A variance to compliance with Subsection 19.505.1.C.4 Detailed Design, or with Subsection 19.901.1.E.4.c.(1) in cases where a unique and creative housing design merits flexibility from the requirements of that subsection.
 7. A variance to compliance with Subsection 19.505.7.C Building Design Standards in cases where a unique design merits flexibility from the requirements of that subsection.
 8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.
 9. A variance of up to a 25% increase in the size of a Type B Accessory Dwelling unit as identified in Subsection 19.910.1.E.4.
 10. A variance to interior height of a garage in a cottage cluster to allow up to a maximum of 15 ft for cases that would use space saving parking technology (e.g., interior car stacking) that might require additional interior height.
-

19.911.4 Approval Criteria

A. Type II Variances

An application for a Type II variance shall be approved when all of the following criteria have been met:

1. The proposed variance, or cumulative effect of multiple variances, will not be detrimental to surrounding properties, natural resource areas, or public health, safety, or welfare.
 2. The proposed variance will not interfere with planned future improvements to any public transportation facility or utility identified in an officially adopted plan such as the Transportation System Plan or Water Master Plan.
 3. Where site improvements already exist, the proposed variance will sustain the integrity of, or enhance, an existing building or site design.
 4. Impacts from the proposed variance will be mitigated to the extent practicable.
 5. The proposed variance would allow the development to preserve a priority tree or trees, or provide more opportunity to plant new trees to achieve 40% canopy, as required by MMC 16.32.
-

CHAPTER 19.1000 REVIEW PROCEDURES

19.1001 GENERAL PROVISIONS

19.1001.4 Review Types

All land use applications have both a review type and an application type. This chapter establishes the review procedures associated with each review type. Chapter 19.900 contains a list of application types and their associated review types.

A. Review Types

There are five types of review: Types I, II, III, IV, and V. Table 19.901 contains a list of the City's land use applications and their associated review types. In addition there are land uses that are allowed by right. These land uses do not require land use review and are only required to obtain a building permit.

19.1005 TYPE II REVIEW

Type II applications involve uses or development governed by subjective approval criteria and/or development standards that may require the exercise of limited discretion. Type II review provides for administrative review of an application by the Planning Manager and includes notice to nearby property owners to allow for public comment prior to the decision. The process does not include a public hearing.

CHAPTER 19.1200 SOLAR ACCESS PROTECTION

19.1203 SOLAR ACCESS FOR NEW DEVELOPMENT

19.1203.1 Purpose

The purposes of solar access provisions for new development are to ensure that land is divided so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and trees.

19.1203.2 Applicability

The solar design standards in Subsection 19.1203.3 shall apply to applications for a development to create lots in the R-MD zone, except to the extent the Planning Manager finds that the applicant has shown one or more of the conditions listed in Subsections 19.1203.4 and 5 exist, and exemptions or adjustments provided for therein are warranted.

Title 17 Land Division

CHAPTER 17.28 DESIGN STANDARDS

17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot and back 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 or back lots. The creation of flag lots or back 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 or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots 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. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

17.28.070 FLAG LOT AND BACK LOT LIMITATIONS

Flag lots and back lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907. (Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

Title 12 Streets, Sidewalks, and Public Places

CHAPTER 12.16 ACCESS MANAGEMENT

12.16.020 APPLICABILITY

A. New accessways are subject to all access management requirements of Chapter 12.16.

B. Modification of existing conforming accessways shall conform with the access management requirements of Chapter 12.16.

C. Modification of existing nonconforming accessways shall be brought into conformance with the access management requirements of Chapter 12.16. Where access management requirements cannot be met due to the location or configuration of an existing building that will remain as part of the development, the existing accessways shall be brought into conformance with the requirements of Chapter 12.16 to the greatest extent feasible as determined by the City Engineer. (Ord. 2004 § 1, 2009)

12.16.030 ACCESS PERMITTING

A permit from the City is required for establishing or constructing a new accessway to a public street and for modifying or reconstructing an existing driveway approach. No person, firm, or corporation shall remove, alter, or construct any curb, sidewalk, driveway approach, gutter, pavement, or other improvement in any public street, alley, or other property owned by, dedicated to, or used by the public, and over which the City has jurisdiction to regulate the matters covered by this chapter, without first obtaining a permit from the City.

- A. Application for permits for access to a street, construction of a new accessway, or modification or reconstruction of an existing driveway approach shall be made to the City Engineer on forms provided for that purpose. A permit fee, as approved by the City Council, shall accompany each application.
- B. The access permit application shall include an electronic copy (AutoCAD, Adobe PDF, Bluebeam, or other acceptable format) of a scaled drawing showing the location and size of all proposed improvements in the right-of-way.
- C. The City Engineer shall review access permits and drawings for conformance with the provisions and standards set forth in this chapter and the Milwaukie Public Works Standards.

12.16.040 ACCESS REQUIREMENTS AND STANDARDS

A. Access

Private property shall be provided street access with the use of accessways. Driveway approaches shall be constructed as set forth in the Milwaukie Public Works Standards.

B. Access Spacing

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.

1. Standards

Spacing between accessways is measured between the closest edges of driveway aprons where they abut the roadway. Spacing between accessways and street intersections is measured between the nearest edge of the driveway apron and the nearest face of curb of the intersecting street. Where intersecting streets do not have curb, the spacing is measured from the nearest edge of pavement.

- a. Spacing for accessways on arterial streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of six hundred (600) feet.
- b. Spacing for accessways on collector streets, as identified in the Milwaukie Transportation System Plan, shall be a minimum of three hundred (300) feet.
- c. For Middle Housing development, access spacing requirements may be modified by the City Engineer per MMC 12.16.040.B.2 based on a variety of

factors, including average daily traffic, anticipated increase of traffic to and from the proposed development, crash history at or near the access point, sight distance, and/or other safety elements,

2. Modification of Access Spacing

Access spacing may be modified with submission of an access study prepared and certified by a registered Professional Traffic Operations Engineer (PTOE) in the State of Oregon. The Access Study shall assess transportation impacts adjacent to the project frontage within a distance equal to the access spacing requirement established in Subsection 12.16.040.B.1. For example, for a site with arterial access, the access study would include evaluation of site access and capacity along the project frontage plus capacity and access issues within six hundred (600) feet of the adjacent property. The access study shall include the following:

- a. Review of site access spacing and design;
- b. Evaluation of traffic impacts adjacent to the site within a distance equal to the access spacing distance from the project site;
- c. Review of all modes of transportation to the site;
- d. Mitigation measures where access spacing standards are not met that include, but are not limited to, assessment of medians, consolidation of accessways, shared accessways, temporary access, provision of future consolidated accessways, or other measures that would be acceptable to the City Engineer.

C. Accessway Location

1. Double Frontage

When a lot has frontage on 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.

2. Location Limitations

Individual access to single detached residential lots from arterial and collector streets is prohibited. An individual accessway may be approved by the City Engineer only if there is no practicable alternative to access the site, shared access is provided by easement with adjacent properties, and the accessway is designed to contain all vehicle backing movements on the site and provide shared access with adjacent properties.

3. Distance from Property Line

The nearest edge of the driveway apron shall be at least five (5) feet from the side property line in residential districts and at least ten (10) feet from the side property line in all other districts. This standard does not apply to accessways shared between two (2) or more properties.

4. Distance from Intersection

To protect the safety and capacity of street intersections, the following minimum distance from the nearest intersecting street face of curb to the nearest edge of

driveway apron shall be maintained. Where intersecting streets do not have curbs, the distance shall be measured from the nearest intersecting street edge of pavement. Distance from intersection may be modified with a modification as described in MMC Section 12.16.040.B.2.

- a. At least forty-five (45) feet for single detached residential properties accessing local and neighborhood streets. Where the distance cannot be met on existing lots, the driveway apron shall be located as far from the nearest intersection street face of curb as practicable.
- b. At least one hundred (100) feet for multi-unit residential properties and all other uses accessing local and neighborhood streets.
- c. At least three hundred (300) feet for collectors, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.
- d. At least six hundred (600) feet for arterials, or beyond the end of queue of traffic during peak hour conditions, whichever is greater.

D. Number of Accessway Locations

1. Safe Access

Accessway locations shall be the minimum necessary to provide access without inhibiting the safe circulation and carrying capacity of the street.

2. Shared Access

The number of accessways on collector and arterial streets shall be minimized whenever possible through the use of shared accessways and coordinated on-site circulation patterns. Within commercial, industrial, and multi-unit areas, shared accessways and internal access between similar uses are required to reduce the number of access points to the higher-classified roadways, to improve internal site circulation, and to reduce local trips or movements on the street system. Shared accessways or internal access between uses shall be established by means of common access easements.

3. Single Detached Residential

One accessway per property is allowed for single detached residential uses.

- a. For lots with more than one street frontage on a local street and/or neighborhood route, one additional accessway may be granted. Under such circumstances, a street frontage shall have no more than one driveway approach.
- b. For lots with one street frontage on a local street and/or neighborhood route, one additional accessway may be granted where the driveway approaches can be spaced fifty (50) feet apart, upon review and approval by the City Engineer. The spacing is measured between the nearest edges of the driveway aprons. Where the fifty (50) foot spacing cannot be met, an additional accessway shall not be granted.
- c. No additional accessways shall be granted on collector and arterial streets.

4. All Uses Other than Single Detached Residential

The number of accessways for uses other than single detached residential is subject to the following provisions:

- a. Access onto arterial and collector streets is subject to the access spacing requirements of Subsection 12.16.040.B;
- b. One accessway is allowed on local streets and neighborhood routes. One additional accessway is allowed per frontage where the driveway approaches, including adjacent property accessways, can be spaced one hundred fifty (150) feet apart. The spacing is measured between the nearest edges of the driveway aprons.

E. Accessway Design

1. Design Guidelines

Driveway approaches shall meet all applicable standards of the Americans with Disabilities Act, U.S. Access Board guidelines or requirements, and Milwaukie Public Works Standards.

2. Authority to Restrict Access

The City Engineer may restrict the location of accessways on streets and require that accessways be placed on adjacent streets upon finding that the proposed access would:

- a. Cause or increase existing hazardous traffic conditions;
- b. Provide inadequate access for emergency vehicles; or
- c. Cause hazardous conditions that would constitute a clear and present danger to the public health, safety, and general welfare.

3. Backing into the Right-of-Way Prohibited

Accessways shall be designed to contain all vehicle backing movements on the site, except for detached or attached single detached residential uses on local streets and neighborhood routes.

F. Accessway Size

The following standards allow adequate site access while minimizing surface water runoff and reducing conflicts between vehicles, bicyclists, and pedestrians.

- 1. Accessways shall be the minimum width necessary to provide the required number of vehicle travel lanes. The City Engineer may require submission of vehicle turning templates to verify that the accessway is appropriately sized for the intended use.
- 2. Single detached attached and detached residential uses shall have a minimum driveway apron width of nine (9) feet and a maximum width of twenty (20) feet.
- 3. Multi-unit residential Middle Housing units comprised of up to four (4) units, shall have a minimum driveway apron width of twelve feet on local or neighborhood streets and sixteen (16) feet on collector or arterial streets, and a maximum driveway apron width of twenty (20) feet on all streets.

4. Multi-unit residential uses comprised of a combination of Middle Housing units or other multi-unit uses with between five (5) and eight (8) units shall have a minimum driveway apron width of sixteen (16) feet on local or neighborhood streets and twenty (20) feet on collector or arterial streets, and a maximum driveway apron width of twenty-four (24) feet.
5. Multi-unit residential uses with more than eight (8) dwelling units, and off-street parking areas with sixteen (16) or more spaces, shall have a minimum driveway apron width of twenty (20) feet on local or neighborhood streets and twenty-four (24) feet on collector or arterial streets, and a maximum driveway apron width of thirty (30) feet.
6. Commercial, office, and institutional uses shall have a minimum driveway apron width of sixteen (16) feet and a maximum width of thirty-six (36) feet.
7. Industrial uses shall have a minimum driveway apron width of twenty-four (24) feet and a maximum width of forty-five (45) feet.
8. Maximum driveway apron 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 anticipated to be generated or the need for on-site turning lanes.

(Ord. 2168 § 2, 2019; Ord. 2004 § 1, 2009)

CHAPTER 12.24 CLEAR VISION AT INTERSECTIONS

12.24.040 COMPUTATION

- A. The clear vision area for all driveway accessways to streets, street intersections and all street and railroad intersections shall be that area described in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets."
 - B. Modification of this computation may be made by the City Engineer after considering the standards set forth in the most recent edition of the "AASHTO Policy on Geometric Design of Highways and Streets" and taking into consideration the type of intersection, site characteristics, types of vehicle controls, vehicle speed, and traffic volumes adjacent to the clear vision area. (Ord. 2004 § 1, 2009; Ord. 1679 § 4, 1990)
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Title 13 Public Services

CHAPTER 13.30 REIMBURSEMENT DISTRICTS

13.30.010 DEFINITIONS

The following terms are definitions for the purposes of this chapter.










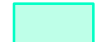
“Applicant” means a person, as defined in this section, who is required or chooses to finance some or all of the cost of a street, water, storm sewer, or sanitary sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The applicant may be the City.

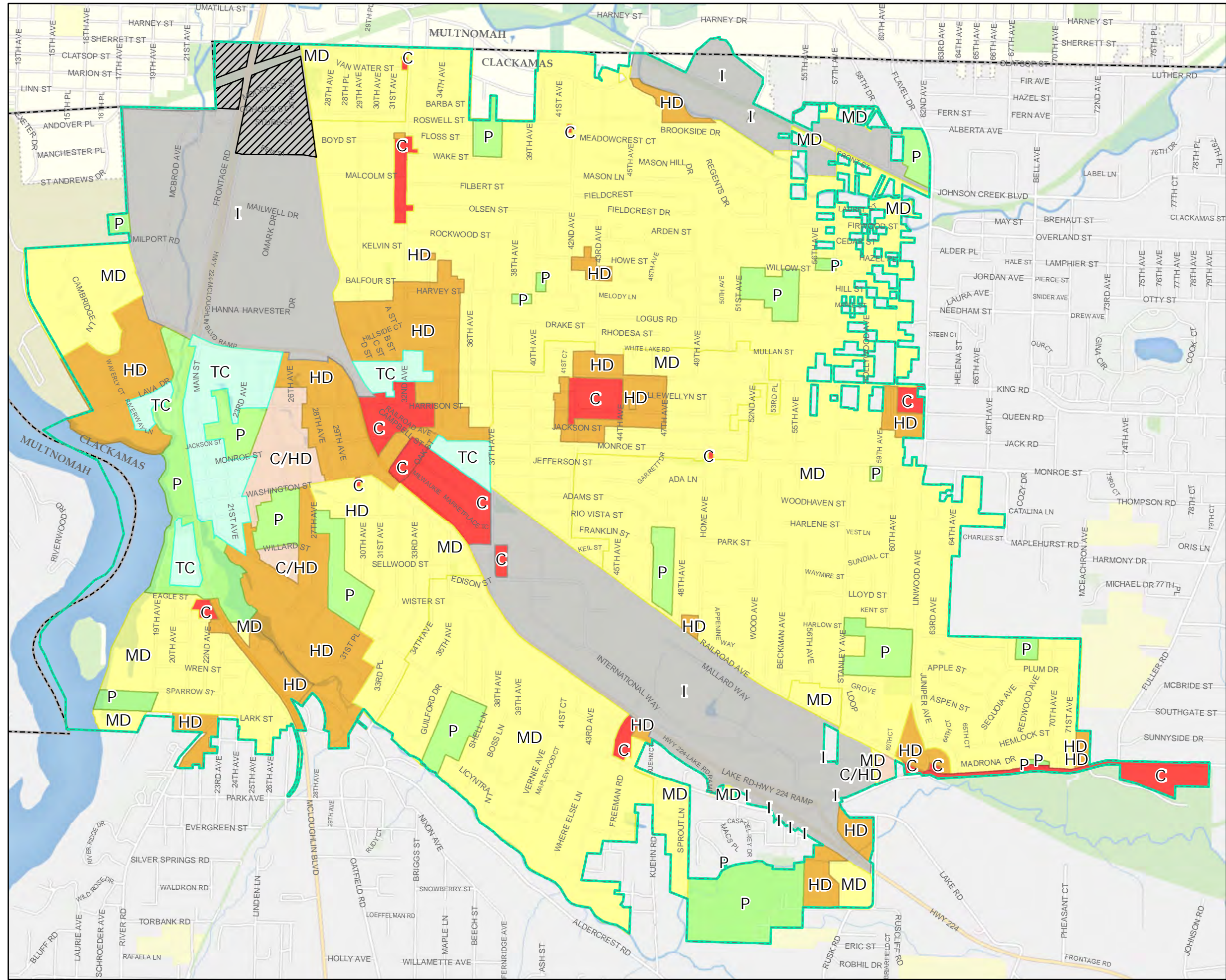
“City” means the City of Milwaukie.

“City Engineer” means the person who is the manager/supervisor of the city’s Engineering Department, or the City Manager’s designee to fill this position. This position can also be described as the Engineering Director or Engineering Manager.

“Front footage” means the linear footage of a lot or parcel owned by an intervening property owner which is served by a reimbursement district public improvement and on which the intervening property owner’s portion of the reimbursement may be calculated. Front footage shall be the amount shown on the most recent County Tax Assessor maps for the intervening property or, in the event such information is not available, any other reasonable method established by the City Engineer for calculating front footage. Front footage does not include property owned by the City, including rights-of-way.

Milwaukie Comprehensive Plan Landuse

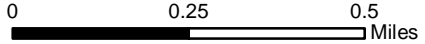
-  City of Milwaukie
-  County Boundary
-  Tacoma Station Area
-  C - Commercial
-  C/HD - Mixed Use
-  HD - High Density
-  I - Industrial
-  MD - Moderate Density
-  P - Public
-  TC - Town Center























Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
Date: Wednesday, June 9, 2021

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Milwaukie Zoning Designations

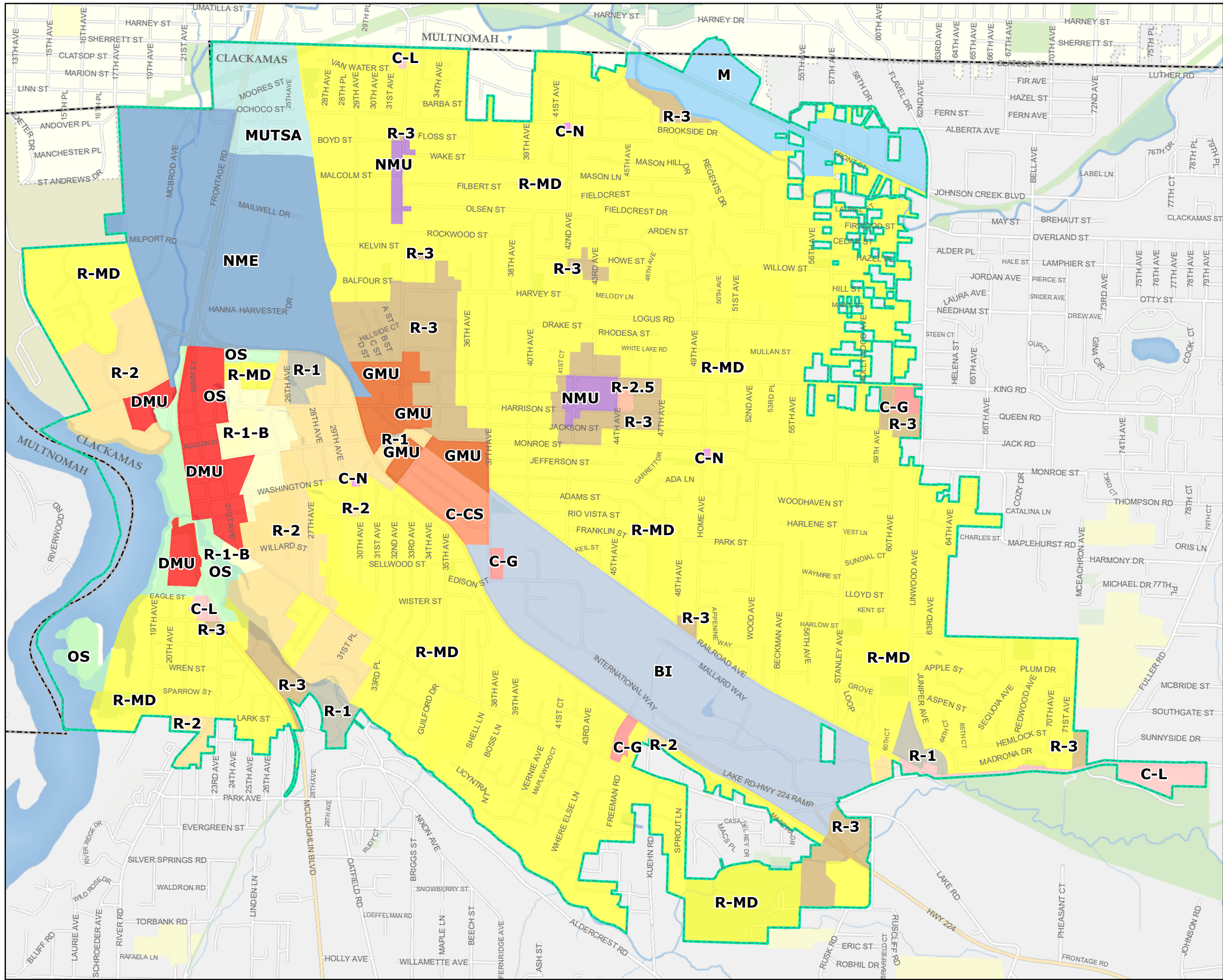
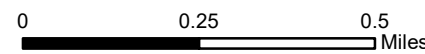
-  City of Milwaukie
-  County Boundary
-  MUTSA
-  BI
-  GMU
-  C-CS
-  DMU
-  C-G
-  C-L
-  C-N
-  NMU
-  OS
-  M
-  NME
-  R-MD
-  R-1
-  R-1-B
-  R-2
-  R-2.5
-  R-3



Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center
 Date: Thursday, July 22, 2021

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CHAPTER 16.32 TREE CODE

16.32.005 PURPOSE

The purpose of this chapter is to establish processes and standards that ensure the City maximizes the environmental, economic, health, community, and aesthetic benefits provided by its urban forest. It is the intent of this code to establish, maintain, and increase the quantity and quality of tree cover in residential zones and on land owned or maintained by the City and within rights-of-way, and to ensure our urban forest is healthy, abundant, and climate resilient.

This code is designed to:

1. Foster urban forest growth to achieve 40% canopy coverage by 2040.
2. Maintain trees in a healthy condition through best management practices.
3. Manage the urban forest for a diversity of tree ages and species.
4. Manage street trees appropriately to maximize benefits and minimize hazards and conflicts with infrastructure.
5. Ensure the preservation and planting of priority tree canopy with development and redevelopment of housing in residential zones.
6. Regulate the removal, replanting, and management of trees prior to and following development and redevelopment in residential zones.
7. Implement applicable urban forest goals, policies, objectives, and action items in the Comprehensive Plan, Climate Action Plan, and Urban Forest Management Plan.

16.32.010 DEFINITIONS

The following definitions shall apply for terminology, used in this chapter. If a definition is not listed in this chapter, the definition in Title 19 will apply. Where definitions are not provided in this chapter or Title 19, their normal dictionary meaning will apply:

“Arbor Day/Week” means a day/week designated by the City to celebrate and acknowledge the importance of trees in the urban environment.

“Arboriculture” means the practice and study of the care of trees and other woody plants in the landscape.

“City” means the City of Milwaukie.

“City Engineer” means the city engineer of the City of Milwaukie or designee.

“City Manager” means the city manager or the city manager’s authorized representative or designee.

“Council of Tree and Landscape Appraisers (CTLA)” means the publishers of the Guide for Plant Appraisal.

“Crown” means area of the tree above the ground, measured in mass, volume, or area and including the trunk and branches.

“Cutting” means the felling or removal of a tree, or any procedure that naturally results in the death or substantial destruction of a tree. Cutting does not include normal trimming or pruning but does include topping of trees.

“DBH” means the diameter at breast height.

“Dead tree” means a tree that is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, or branches exist to sustain life.

“Diameter at breast height” means the measurement of mature trees as measured at a height 4.5 feet above the mean ground level at the base of the tree. Trees existing on slopes are measured from the ground level on the lower side of the tree. If a tree splits into multiple trunks below 4.5 feet above ground level, the measurement is taken at its most narrow point below the split.

“Drip line” means the perimeter measured on the ground at the outermost crown by drawing an imaginary vertical line from the circumference of the crown, straight down to the ground below.

“Dying tree” means a tree that is diseased, infested by insects, deteriorating, or rotting, as determined by a professional certified in the appropriate field, and that cannot be saved by reasonable treatment or pruning, or a tree that must be removed to prevent the spread of infestation or disease to other trees.

“Hazardous tree” means a tree or tree part the condition or location of which presents a public safety hazard or an imminent danger of property damage as determined by an ISA Qualified Tree Risk Assessor, and such hazard or danger cannot reasonably be alleviated by treatment or pruning.

“Invasive species” means a tree, shrub, or other woody vegetation that is on the Oregon State Noxious Weed List or listed on the City of Milwaukie Invasive Tree List in the Public Works Standards.

“ISA” means the International Society of Arboriculture.

“ISA Best Management Practices” means the guidelines established by ISA for arboricultural practices for use by arborists, tree workers, and the people who employ their services.

“Major tree pruning” means removal of over 20% of the live crown, or removal of or injury to over 15% of the root system during any 12-month period.

“Master Fee Schedule” is the schedule of City fees and charges adopted by City Council for the services provided by the City.

“Minor tree pruning” means the trimming or removal of less than 20% of any part of the branching structure of a tree in either the crown or trunk, or less than 10% of the root area during a 12-month period.

“NDA” means Neighborhood District Association.

“Noxious weed” means a terrestrial, aquatic, or marine plant designated by the State Weed Board under ORS 569.615.

“Owner” means any person who owns land, or a lessee, agent, employee, or other person acting on behalf of the owner with the owner's written consent.

“Park tree” means a tree, shrub, or other woody vegetation within a City park.

“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.

“Planning Director” means the planning director of the City of Milwaukie or designee.

“Public agency” means any public agency or public utility as defined in ORS 757.005, or a drainage district organized under ORS Chapter 547.

“Public tree” means a tree, shrub, or other woody vegetation on land owned or maintained by the City, but does not include a tree, shrub, or other woody vegetation in the right-of-way.

“Public Works Director” means the public works director of the City of Milwaukie or designee.

“Right-of-way” means 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.

“Shrub” means any plant with multiple woody stems that does not have a defined crown and does not grow taller than a height of 16 feet.

“Street tree” means a tree, shrub, or other woody vegetation on land within the right-of-way.

“Street Tree List” is the list of tree and shrub species approved by the City for planting within the right-of-way.

“Topping” means a pruning technique that cuts branches and/or the main stem of a tree to reduce its height or width.

“Tree” means any living woody plant characterized by one main stem or trunk and many branches, or a multi-stemmed trunk system with a defined crown, that will obtain a height of at least 16 feet at maturity.

“Tree Board” means the city of Milwaukie Tree Board.

“Tree Canopy” means the aggregate or collective tree crowns.

“Tree Fund” means the Tree Fund as created by this chapter.

“Tree removal” means the cutting or removal of 50% or more of the crown, trunk, or root system of a plant, the uprooting or severing of the main trunk of the tree, or any act that causes, or may reasonably be expected to cause the tree to die as determined by an ISA Certified Arborist.

“Urban forest” means the trees that exist within the City.

“Urban Forester” means the Urban Forester of the City of Milwaukie, or designee.

“Urban Forest Management Plan” is the management plan adopted by City Council for the management of the City’s urban forest.

“Utility” is a public utility, business, or organization that supplies energy, gas, heat, steam, water, communications, or other services through or associated with telephone lines, cable service, and other telecommunication technologies, sewage disposal and treatment, and other operations for public service.

16.32.014 ADMINISTRATION.

- A. The City Manager is authorized to administer and enforce the provisions of this chapter.
- B. The City Manager is authorized to adopt procedures and forms to implement the provisions of this chapter.
- C. The City Manager may delegate as needed any authority granted by this chapter to the Public Works Director, the Urban Forester, the Planning Director, the City Engineer, or such other designee as deemed appropriate by the City Manager.

16.32.015 CREATION AND ESTABLISHMENT OF THE TREE BOARD

A. Tree Board Composition

The Tree Board will consist of seven members, at least five of which must be residents of the City, one must be an ISA Certified Arborist, and all seven must be appointed by the Mayor with approval of the City Council.

B. Term of Office

The term of the seven persons appointed by the Mayor will be three years except that the term of two of the members appointed to the initial Tree Board will serve a term of only one year, and two members of the initial Tree Board will be for two years. In the event that a vacancy occurs during the term of any member, their successor will be appointed for the unexpired portion of the term. Tree Board members will be limited to serving three consecutive terms.

C. Compensation

Members of the Tree Board will serve without compensation.

D. Duties and Responsibilities

The Tree Board will serve in an advisory capacity to the City Council. Its responsibilities include the following:

1. Study, investigate, develop, update, and help administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of the Urban Forest. The plan will be presented to the City Council for approval every five years and will constitute the official Urban Forestry Management Plan for the City;
2. Provide advice to City Council on policy and regulatory issues involving trees, including climate adaptation and mitigation efforts;
3. Provide outreach and education to the community on tree-related issues and concerns;
4. Organize and facilitate the City's tree planting events and other public events involving trees and Urban Forestry education;
5. Assist City staff in preparing recommendations regarding the application, membership, and ongoing participation by the City in the Tree City USA Program;

6. Provide leadership in planning the City's Arbor Day/Week proclamation and celebration; and
7. Provide recommendations to City Council on the allocation of funds from the Tree Fund.

The Tree Board, when requested by the City Council, will consider, investigate, make findings, report, and make recommendations on any special matter or question coming within the scope of its work.

E. Operation

The Tree Board will choose its own officers, make its own rules and regulations, and keep minutes of its proceedings. A majority of the members will constitute a quorum necessary for the transaction of business.

16.32.016 CREATION OF A TREE FUND

A. Establishment

A City Tree Fund is hereby established for the collection of any funds used for the purpose and intent set forth by this chapter.

B. Funding Sources

The following funding sources may be allocated to the Tree Fund:

1. Tree permit revenue;
2. Payments received in lieu of required and/or supplemental plantings;
3. Civil penalties collected pursuant to this chapter;
4. Agreed-upon restoration payments or settlements in lieu of penalties;
5. Sale of trees or wood from City property;
6. Donations and grants for tree purposes;
7. Sale of seedlings by the City; and
8. Other monies allocated by City Council.

C. Funding Purposes

The Tree Board will provide recommendations to the City Council during each budget cycle for how the fund will be allocated. The City will use the Tree Fund for the following purposes:

1. Expanding, maintaining, and preserving the urban forest within the City;
2. Planting and maintaining trees within the City;
3. Establishing a public tree nursery;
4. Supporting public education related to urban forestry;
5. Assessing urban forest canopy coverage; or
6. Any other purpose related to trees, woodland protection, and enhancement as determined by the City Council.

16.32.017 TREE PLANTING ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Species

Any tree, shrub, or other woody vegetation to be planted on land owned or maintained by the City or within the public right-of-way must be a species listed on the Street Tree List unless otherwise approved by the Urban Forester.

B. Spacing, size and placement

The spacing, size, and placement of street trees, shrubs, and other woody vegetation must be in accordance with a permit issued by the City under this section. The City may approve special plantings designed or approved by a landscape architect, or for ecological restoration projects where trees are likely to be planted at a much higher density to mimic natural conditions in forest regeneration and account for expected mortality.

C. Permit

No person may plant a street tree without first obtaining a permit from the City. A permit application must be submitted in writing or electronically on a form provided by the City. This permit is at no cost.

16.32.018 STREET AND PUBLIC TREE CARE

The City will have the right to plant, prune, maintain and remove trees, shrubs, and other woody vegetation on land owned or maintained by the City and within the right-of-way as may be necessary to ensure public safety or that poses a risk to sewers, electric power lines, gas lines, water lines, or other public improvements, or is infested with any injurious fungus, insect, or other pest as determined by the Urban Forester. Unless otherwise exempted in this chapter, the City must obtain a permit for any activities performed under this section.

16.32.019 TREE TOPPING

No person will top any street tree, park tree, or other tree on public property. Trees severely damaged by storms or other causes, or trees existing under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this section at the determination of the Urban Forester.

16.32.020 PRUNING, CORNER CLEARANCE

Subject to enforcement under MMC 12.12.010, any tree, shrub, or other woody vegetation overhanging any street or right-of-way within the City must be maintained by the owner to ensure that no vegetation obstructs the right-of-way.

16.32.021 DEAD OR DISEASED TREE REMOVAL ON PRIVATE LAND

The City may require the removal of any tree, shrub, or other woody vegetation that is dead, diseased, or infested and that poses a significant risk to the public or the urban forest as determined by the Urban Forester. The City or its agents will notify the owners of such trees in writing.

Removal under this section must be completed within the time period specified in the written notice unless extended in writing by the Urban Forester. The owner must notify the City in writing when the required removal has been completed. If the owner does not remove the dead, diseased, or infested vegetation within the time period specified in the notice or extension granted in writing by the Urban Forester, the City will have the right to remove the dead, diseased, or infested vegetation and charge the cost of removal to the owner pursuant to MMC Chapter 8.04. In cases where the owner demonstrates extreme financial hardship, the City Manager may grant a cost waiver in accordance with MMC 16.32.038.

16.32.022 REMOVAL OF STUMPS

All stumps of street trees must be removed by the adjacent property owner below the surface of the ground so that the top of the stump does not project above the surface of the ground.

16.32.023 INTERFERENCE WITH CITY

No person will prevent, delay, or interfere with the Urban Forester or designee while they are engaged in work activities including, but not limited to inspection of trees subject to the provisions of this chapter, planting, cultivating, mulching, pruning, spraying, or removing any street trees, park trees, or dead, diseased, or infested trees on private land, as authorized in this chapter.

16.32.024 ARBORISTS LICENSE

All businesses doing arboricultural work within the City must have a current business license with the City, and at least one staff member who is an ISA Certified Arborist. The Certified Arborist must be on site for the duration of any arboricultural work being performed and is responsible for certifying that all arboricultural work is performed in accordance with ISA Best Management Practices.

16.32.026 PERMIT FOR MAJOR PRUNING OR REMOVAL OF STREET TREES OR TREES ON LAND OWNED OR MAINTAINED BY THE CITY

A. Applicability

1. No person will perform major tree pruning or remove any tree in a public right-of-way or on public land, without first obtaining a permit issued by the City.

- a. For public trees, only the City, a public agency charged with maintaining the property, or a utility may submit a permit application.
- b. For street trees, the applicant must be the owner of the adjacent property, or be authorized in writing by the owner of the adjacent property, where the tree will be pruned or removed.
- c. No person can remove a street tree without first obtaining a permit from the City. Permit approval may be conditioned upon either replacement of the street tree with a tree listed on the Street Tree List or a requirement to pay to the City a fee as provided in the master fee schedule.

2. For trees on land owned or maintained by the City, this chapter shall be applied in conjunction with any applicable standards in Title 19 Zoning.

B. Permit Review Process

1. Application

A permit application must be submitted in writing or electronically on a form provided by the City and be accompanied by the correct fee as established in the Master Fee Schedule.

2. Public Notice and Permit Meeting

Upon the filing of a permit application, the applicant must post notice of the major pruning or tree removal permit application on the property in a location that is clearly visible from the public right-of-way. The applicant must mark each tree, shrub, or other woody vegetation proposed for major pruning or removal by tying or attaching orange plastic tagging tape to the vegetation. The City will provide the applicant with at least one sign containing adequate notice for posting, tagging tape, and instructions for posting the notice. The notice must state the date of posting and that a major pruning or tree removal permit application has been filed for the vegetation marked by orange plastic tagging tape. The notice must state that any person may request a meeting with the City within 14 days from the date of posting to raise questions or concerns about the proposed pruning or tree removal prior to issuance of the permit.

If a meeting is requested, it must be held within 14 days of the request. The City will consider all concerns raised at the meeting but will have final decision-making authority over issuance of the permit based on the criteria and approval standards set forth in subsection C below.

3. Declaration

The applicant will file a declaration on a form provided by the City stating that notice has been posted and that the vegetation proposed for major pruning or removal has been marked.

Once a declaration is filed with the City, the City will provide notice of the application to the appropriate NDA.

4. Exemptions from Public Notice

The following trees, shrubs, or other woody vegetation may be removed without public notice subject to the City's review of the application:

- a. A tree, shrub, or other woody vegetation that is considered an unreasonable risk to the occupants of the property, the adjacent property, or the general public as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
- b. A tree, shrub, or other woody vegetation that is an invasive species and that is less than 8 inches in diameter at breast height.
- c. A street tree or public tree that is less than 2 inches in diameter at breast height.

C. Review Criteria and Approval Standards

The City may issue the permit, deny the permit, or may issue the permit subject to conditions of approval. The City's decision will be final and valid for a period of one year after issuance unless a different time period is specified in the permit. Nothing prevents an application from requesting an amendment to an unexpired permit if the conditions and circumstances have changed.

1. Review Criteria

The City will not permit the major pruning or removal of a healthy, functioning Street Tree or Public Tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of sidewalks or curbs, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding major pruning or removal of healthy, functioning Street Trees or Public Trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

- a. Whether the species of tree is appropriate for its location,
- b. Whether the species of tree is an invasive species;
- c. Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
- d. Whether maintenance of the tree creates an unreasonable burden for the property owner; and
- e. Whether the major pruning or removal will have a negative impact on the neighborhood streetscape and any adopted historic or other applicable design guidelines.

2. Approval Standards

A permit will be issued only if the following criteria are met as determined by the Urban Forester:

- a. The proposed major pruning or tree removal will be performed according to current ISA Best Management Practices and an ISA Certified Arborist will be on site for the duration of the tree work.
- b. The tree, shrub, or other woody vegetation proposed for major pruning or removal meets one or more of the following criteria:
 - (1) The tree, shrub, or other woody vegetation is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.

- (2) The tree, shrub, or other woody vegetation is having an adverse effect on adjacent infrastructure that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.
 - (3) The tree, shrub, or other woody vegetation has sustained physical damage that will cause the vegetation to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.
 - (4) The tree, shrub, or other woody vegetation poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
 - (5) Major pruning or removal of the tree, shrub, or other woody vegetation is necessary to accommodate improvements in the right-of-way or on City-owned land, and it is not practicable to modify the proposed improvements to avoid major pruning or removal.
 - (6) The tree, shrub, or other woody vegetation is on the Oregon State Noxious Weed List.
 - (7) The tree, shrub, or other woody vegetation is part of a stormwater management system and has grown too large to remain an effective part of the system.
- c. Any approval for the removal of a healthy tree, shrub, or other woody vegetation must require the applicant to pay a fee as established in the Master Fee Schedule.

D. Performance of Permitted Work

All work performed pursuant to a permit issued by the Urban Forester must be completed within the time period specified in the permit unless a different time period is authorized in writing by the Urban Forester.

E. Replanting

The City will require replanting as a condition of permit approval for the major pruning or removal of a street tree or public tree.

1. The replanted tree must be a species included on the Street Tree List unless otherwise approved by the Urban Forester.
2. The City will consider alternative planting locations for street trees when replanting at the location of removal conflicts with surrounding infrastructure and the interference would impair the replanted tree.

- a. For street trees, replanted trees must be planted within the right-of-way fronting the property for which the permit was issued or, subject to the approval of the Urban Forester and with permission in writing from the adjacent property owner, within the right-of-way fronting the adjacent property.
 - b. In lieu of replanting and subject to approval of the Urban Forester, the City can require the owner to pay a fee as established in the Master Fee Schedule.
 - c. For public trees, replanted trees must be planted on the land from which the tree was removed unless a different location is approved by the Urban Forester.
3. The optimal time of year for planting is from September through November. If planting is necessary in other months, the City may condition permit approval to require extra measures to ensure survival of the newly planted tree.

16.32.028 PROGRAMMATIC PERMITS

Programmatic permits may be issued by the Urban Forester for routine public facility or utility operation, planned repair and replacement, and on-going maintenance programs on public properties and rights-of-way. The purpose of a programmatic permit is to eliminate the need for individual permits for tree removal, pruning, or for ongoing activities that cover a wide geographic area and may include the pruning or removal of numerous public and street trees. Programmatic permits are evaluated to prevent cumulative adverse impacts to the urban forest and ensure that any permitted activities meet the goals and objectives of the Urban Forest Management Plan.

A. Application Requirements

Applications for programmatic permits must be submitted in writing or electronically on forms provided by the City and be accompanied by the correct fee.

B. Applicability

Programmatic permits may only be issued to a public agency or a utility as defined in this chapter.

C. Completeness

1. If the Urban Forester determines an application is incomplete, the Urban Forester will provide written notice to the applicant that describes the additional information needed.

2. The applicant must submit the additional information within 30 days from the date of the notice unless extended in writing by the Urban Forester.
3. If the applicant does not furnish the additional information within 30 days from the date of the notice or any extension granted in writing by the Urban Forester, the application will be denied.

D. Notice of Complete Application

When the Urban Forester determines that the application is complete, the Urban Forester must provide written notice that the application is complete to the applicant and the Tree Board. The notice must provide instructions for how to obtain additional information about the application, comment on the application, and request notification of the Urban Forester's decision.

E. Review Criteria

The Urban Forester may approve a programmatic permit upon a determination that the following criteria are satisfied or will be satisfied with conditions:

1. The proposed activity will result in a net gain to the urban forest functions and benefits described in the purpose statement in MMC 16.32.005 considering the applicant's proposed performance measures, proposed tree planting, and other activities proposed to improve the overall health of the urban forest.
2. The applicant's proposed outreach and notification program, provides adequate notice to residents, businesses, and the City prior to performing work authorized under the programmatic permit.

F. Decision

The Urban Forester must issue the permit, deny the permit, or may issue the permit subject to conditions of approval within 120 days of determining the application is complete. The Urban Forester's decision will be final and, if approved, the permit will be valid for a period of up to two years. Nothing prevents an applicant from requesting an amendment to an unexpired permit if the conditions and circumstances have changed. The Urban Forester's decision will be based on an evaluation of the application against the applicable review criteria in MMC 16.32.028 F.

G. Permit

Approved permits must include the following required information. The Urban Forester may modify the permit at any time to respond to any questions, changes

in regulations, or previously unforeseen issues, provided the applicant is notified in writing.

1. Duration. The Urban Forester may approve a programmatic permit for a period of up to 2 years;
2. Geographic area covered by the permit;
3. Permitted activities and any restrictions on the method, number, type, location, or timing of activities;
4. Procedures and thresholds for providing notice to residents, businesses, and the City impacted by the performance of work under the permit;
5. Monitoring, performance tracking, and reporting requirements. The Urban Forester may prescribe rules or procedures that specify the manner in which such tracking and reporting occur; and
6. Traffic control requirements.
7. Annual Report

On the anniversary of permit issuance, the applicant must submit an annual report on a form supplied by the City detailing any work performed under the permit and any work scheduled to be performed.

8. Tree Size Limits
 - a. The programmatic permit will not allow the removal of trees 6 or more inches in diameter, except as provided in this section.
 - b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment shall be provided in accordance with MMC 16.32.026 B.2
 - c. For any request, the Urban Forester may further limit allowed tree removal in order to meet the review criteria in MMC 16.32.028F.

9. Tree Work

All work performed under a programmatic permit must be performed in accordance with ISA arboricultural practices.

H. Revocation

1. The Urban Forester may revoke a programmatic permit upon a determination that the applicant is not adhering to the terms of the permit or is acting beyond the activities authorized by permit.

16.32.030 PERMIT AND FEE EXEMPTIONS ON LAND OWNED OR MAINTAINED BY THE CITY AND WITHIN THE PUBLIC RIGHT-OF-WAY

A. Hazardous Tree

If a tree on public properties and rights-of-way is determined to be a hazardous tree by the Urban Forester, the City may issue an emergency removal permit. The removal shall be in accordance with ISA best management practices, and be undertaken with the minimum necessary disturbance to eliminate the imminent danger.

B. Maintenance

A permit for trees on public properties and rights-of-way is not required for regular maintenance or minor tree pruning that does not require removal of over 20% of the crown, tree topping, or disturbance of more than 10% of the root system during any 12-month period.

C. Public Infrastructure Improvements

Any tree on land owned or maintained by the City and requires removal or pruning to accommodate a city public infrastructure improvement project will require a permit and must meet replanting requirements imposed by this chapter. If it is demonstrated that tree planting, establishment, and tree care-related project costs exceed the tree removal fee costs, the permit will not be subject to a removal fee.

D. Private Utility Services and Dwelling Units

If the Urban Forester determines that a tree, shrub, or other woody vegetation proposed for removal on public properties and rights-of-way has an adverse effect on adjacent private utility services or threatens the structural integrity of a dwelling unit that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices, the permit will not be subject to a removal fee.

16.32.038 LOW INCOME ASSISTANCE

To the extent that City funds are available, the City Manager may grant a property owner an exemption or a reduction in permit fees, removal fees, replanting fees and/or may provide assistance in removing a dead or diseased tree within in the right of way and residential zones. Eligibility and extent of assistance will be based on a percentage of the property owner's median household income for the Portland-Vancouver-Hillsboro, OR-WA Metropolitan Statistical Area. A schedule of different fee reduction and exemption will be determined by the City Manager.

16.32.040 PENALTY

A person who removes a street tree or public tree without first obtaining the necessary permit from the City, removes a tree in violation of an approved permit, or violates a condition of an approved permit must pay a fine in an amount established in the Master Fee Schedule. Any fine imposed under this section must not be less than the cost of the permit and the associated removal fee for which a permit should have been obtained.

16.32.042 TREE PRESERVATION AND PLANTING IN RESIDENTIAL ZONES

A. Applicability

The tree preservation and planting standards in this subsection apply to the following types of development in residential zones:

1. Land Divisions.
2. Construction of New Residential Dwellings Units.

B. Tree Preservation Standards

Trees are required to be preserved except when their removal is required for construction, demolition, grading, utilities, and other development impacts. Not more than 33 percent of existing tree canopy can be removed from a development site unless mitigation is provided according to MMC 16.32.042.D. Trees listed on the City of Milwaukie Rare and Threatened Tree List must be prioritized for preservation and will incur an additional fee if removed as listed on the Master Fee Schedule.. When the trunk of a tree crosses a property line at ground level it is considered an onsite tree for the purposes of these tree preservation standards. Required yard setbacks may be reduced and building heights may be exceeded the minimum amount needed to preserve trees as determined by the Urban Forester.

C. Tree Canopy Standards

In addition to the preservation of existing trees, at least 40 percent tree canopy is required for a development site unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way is not considered part of the development site for the purposes of these calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

1. Seventy-five percent (75%) of the mature crown area of planted onsite trees from the City of Milwaukie Street Tree List or as otherwise approved by the Urban Forester.

2. Fifty percent (50%) of the mature crown area of planted street trees in the public right-of-way directly abutting the development site.
3. The existing or mature crown area of onsite priority trees that are preserved, whichever is greater. In cases where a portion of the crown area of onsite trees extends offsite, the entire crown area is eligible for credit towards the tree canopy requirements. In cases where a portion of the crown area of offsite trees extends onsite, the crown area is not eligible for credit towards the tree canopy requirements.
4. Fifty percent (50%) of the existing crown area of street trees that are preserved in the public right-of-way directly abutting the development site.

When the trunk of a tree crosses a property line at ground level it is considered an onsite tree except when the trunk crosses a public right-of-way line at ground level it is considered a street tree for the purposes of these tree canopy standards.

D. Mitigation Standards

If the Tree Preservation and/or Tree Canopy Standards are not practicable to meet, mitigation fees must be provided to the Tree Fund as follows:

1. The per-inch tree preservation fee in the Master Fee Schedule based on the largest diameter priority tree or trees that if preserved would meet the 33 percent minimum tree canopy preservation standard.
2. The per-square foot tree canopy fee in the Master Fee Schedule based on the square footage of tree canopy that would be required to meet the 40 percent tree canopy standard.

E. Discretionary Review Alternative

1. As an alternative to the mitigation fee payment, an applicant may apply for a Type III variance according to MMC 19.911. The applicant is required to demonstrate that the alternative proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy. The proposal must be approved by the Urban Forester or designee. Discretionary alternatives may include but are not limited to:

- a. Techniques that minimize hydrological impacts beyond regulatory requirements (e.g. porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA (low impact development approach) swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands).
- b. Techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of

- energy efficient building technologies, on-site energy production technologies, and green buildings standards (MMC 19.510).
- c. Techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.
- d. Techniques that preserve open space for sustainable urban agriculture through the use of conservation easements or other protective instruments at sites that are not compatible with tree canopy preservation or planting.

F. Tree Protection Standards

Trees to be retained must be protected from development impacts according to the standards in this subsection to be eligible for tree preservation and tree canopy credit. A tree protection plan by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as determined by the Urban Forester or designee is required. Tree protection methods and specifications must be consistent with ISA best management practices using either the following prescriptive path or performance path tree protection methods:

1. Prescriptive Path for Tree Protection.

a. Establish a root protection zone:

- (1) For onsite trees and offsite trees with root protection zones that extend into the site - a minimum of 1 foot radius (measured horizontally away from the center of the tree trunk) for each inch of trunk diameter at breast height. Root protection zones for offsite trees may be estimated.
- (2) For street trees – the Urban Forester may prescribe greater or lesser protection than required for onsite and offsite trees.
- (3) Existing encroachments into the root protection zone, including structures, paved surfaces and utilities, may remain. New encroachments into the root protection zone are allowed provided:
 - (a) the area of all new encroachments is less than 25 percent of the remaining root protection zone area when existing encroachments are subtracted; and
 - (b) no new encroachment is closer than 1/2 the required radius distance (see Figure 16.32.042.F);

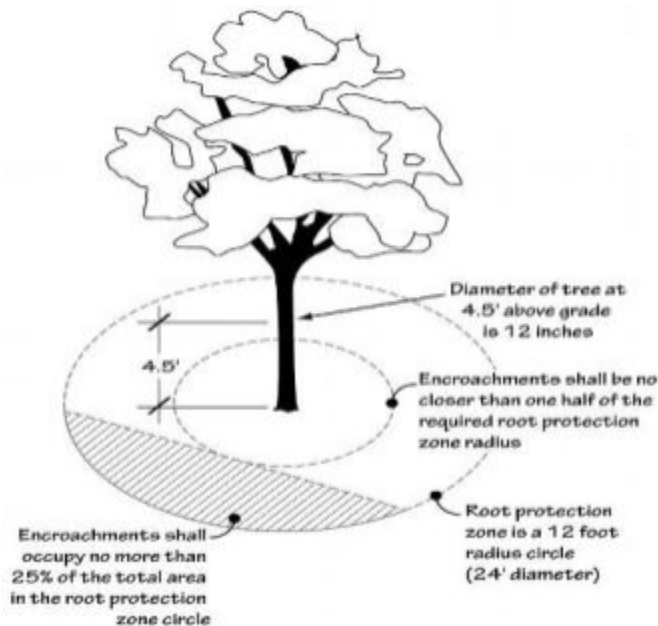


Figure 16.32.042.F - Permissible RPZ Encroachments

b. Protection fencing:

(1) Protection fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts must be established at the edge of the root protection zone and permissible encroachment area on the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(2) When a root protection zone extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing structures and/or existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

c. Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

d. Installation of landscaping is not an encroachment. Any in-ground irrigation systems are considered encroachments.

e. The following is prohibited within the root protection zone of each tree: ground disturbance or construction activity including vehicle or equipment access (but excluding access on existing streets or driveways), storage of equipment or materials including soil, temporary or permanent

stockpiling, proposed buildings, impervious surfaces, underground utilities, excavation or fill, trenching or other work activities.

f. The fence is required to be installed before any ground disturbing activities including clearing and grading, or construction starts; and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path is not practicable as determined by the Urban Forester, the applicant may propose alternative measures to modify the prescriptive root protection zone, provided the following standards are met:

a. The alternative root protection zone is prepared by an ISA certified arborist who has examined the specific tree's size, location, and extent of root cover, evaluated the tree's tolerance to construction impact based on its species and health, and identified any past impacts that have occurred within the root zone.

b. The arborist has prepared a plan providing the rationale used to demonstrate that the alternate method provides an adequate level of protection based on the findings from the site visit.

c. The protection zone is marked with signage, stating that penalties will apply for violations, and providing contact information for the arborist.

d. If the alternative tree protection method involves alternative construction techniques, an explanation of the techniques and materials used must be provided by the arborist.

G. Soil Volume Standards

Trees to be planted must be provided access to at least 1,000 cubic feet of soil volume according to the standards in this subsection to be eligible for tree canopy credit. A soil volume plan by an ISA certified arborist is required that demonstrates 1,000 cubic feet of soil volume is available per tree as determined by the Urban Forester or designee. Soil volume methods and specifications must be consistent with ISA best management practices using either the prescriptive path or performance path soil volume methods. The project arborist must verify the soil volume plan was successfully implemented prior to tree planting.

1. Prescriptive Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined by the project arborist or Urban Forester to be adequate to support healthy tree growth to maturity based on factors including but not limited to compaction levels, drainage, fertility, pH, and potential contaminants, the existing soils may be used to meet the soil volume requirements.

b. The assumed soil depth will be three feet unless otherwise determined by the project arborist or Urban Forester.

c. A soil volume area of at least 333 square feet must be accessible to each tree when the assumed soil volume depth is three feet.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least three feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. Soil volume areas must be protected from construction impacts through any combination of the following methods:

(1) Protection fencing:

(a) Fencing consisting of a minimum 4-foot high metal chain link or no-climb horse fence, secured with 6-foot metal posts established at the edge of the soil volume area on the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(b) When a soil volume area extends beyond the development site, protection fencing is not required to extend beyond the development site. Existing secured fencing at least 3.5 feet tall can serve as the required protective fencing.

(c) Signage designating the protection zone and penalties for violations must be secured in a prominent location on each protection fence.

(2) Compaction prevention options for encroachment into soil volume areas:

(a) Steel plates placed over the soil volume area.

(b) A 12-inch layer of coarse wood chips over geotextile fabric continuously maintained over the soil volume area.

(c) A 6-inch layer of crushed gravel over geotextile fabric continuously maintained over the soil volume area.

g. Soil contaminants are prohibited from the soil volume areas.

2. Performance Path for Soil Volume.

a. If the existing soils at the site and abutting sites are determined to be inadequate to support healthy tree growth to maturity based on factors

such as compaction levels, drainage, fertility, pH, and potential contaminants prior to or resulting from development, a performance path soil volume plan is required.

b. Soils in areas of construction access that do not receive compaction prevention treatment and soils in areas of grading, paving, and construction are considered inadequate for tree growth unless a performance path soil volume plan is provided.

c. The performance path soil volume plan is required to demonstrate the methods that will be used to provide at least 1,000 cubic feet of soil volume with the capacity to support healthy growth to maturity per tree to be planted.

d. The soil volume areas must be contiguous and within a 50-foot radius of the tree to be planted. Contiguous soil volumes must be at least three feet wide for the entire area.

e. Trees may share the same soil volume area provided that all spacing requirements are met.

f. The following items may be addressed in performance path soil volume plans but are dependent on specific site conditions and should be verified on a project basis in coordination with other professionals such as civil and geotechnical engineers, landscape architects, and soil scientists as needed:

(1) Compaction Reduction

- (a) tilling
- (b) backhoe turning
- (c) subsoiling

(2) Soil Amendments

- (a) organic amendments
- (b) mineral amendments
- (c) biological amendments
- (d) chemical amendments

(3) Topsoil Replacement (when soil contamination or soil removal occurs)

(4) Soil Under Pavement

- (a) structural soil cells
- (b) structural tree soils
- (c) soil vaults
- (d) soils under suspended pavement

H. Submittal Requirements

An ISA certified arborist that is also tree risk assessment qualified (TRAQ) must demonstrate compliance with the applicable provisions of MMC 16.32.042.B through H.

Other professionals such as engineers, landscape architects, soil scientists, and surveyors may assist the project arborist as needed in preparing the required information, but the arborist must organize, review, and approve the final product. The minimum submittal requirements include an inventory of existing trees, tree preservation plan, tree canopy plan, and arborist report with the following elements:

1. Tree Inventory Requirements

- a. Survey the locations of all trees at least 6-inch DBH, and trees less than 6-inch DBH as specified on the City of Milwaukie rare or threatened tree list. Trees that must be surveyed include those that are onsite, within abutting public rights-of-way, and on abutting sites with root protection zones that extend into the site. The locations and information for trees on abutting sites may be estimated.
- b. Number each tree for identification at the site and on the plans.
- c. Identify the common name and scientific name of each tree.
- d. Measure the DBH of each tree in inches according to accepted ISA standards.
- e. Measure the approximate average crown radius of each tree in feet.
- f. Provide the crown area of each tree using the formula: $(\text{crown radius})^2 \times \pi$.
- g. Assess the health condition of each tree using the following categories:
 - (1) Good (no significant health issues)
 - (2) Fair (moderate health issues but likely viable for the foreseeable future)
 - (3) Poor (significant health issues and likely in decline)
 - (4) Very Poor or Dead (in severe decline or dead)
- h. Identify whether the tree is a priority tree and list the applicable priority tree number as described in MMC 16.32.042.B and the City of Milwaukie priority tree list.
- i. Identify whether the tree will be removed or retained.
- j. Organize the tree inventory information in a table or other approved format.

2. Tree Preservation Plan Requirements

- a. Provide a site plan drawn to scale.
- b. Include the existing tree locations and corresponding tree numbers from the tree inventory.

c. Identify priority trees and list the applicable priority tree number as described in MMC 16.32.042.B and the City of Milwaukie priority tree list.

d. Identify the following site disturbances:

- (1) demolition
- (2) tree removal
- (3) staging, storage, and construction access
- (4) grading and filling
- (5) paving
- (6) construction of structures, foundations, and walls
- (7) utility construction
- (8) trenching and boring
- (9) excavation
- (10) any other demolition or construction activities that could result in ground disturbances and/or tree damage

e. Locate tree and soil protection fencing to scale.

f. Locate soil compaction prevention methods to scale.

g. Identify performance path tree protection and soil volume areas.

h. Include tree and soil volume protection specifications from the arborist report on the plans including a detail of tree and soil volume protection fencing and signage.

i. The elements of the tree preservation plan may be included on multiple plan sheets for clarity.

j. The final approved set of construction drawings must include the tree preservation plan to ensure contractors, inspectors, and other professionals have access to the information.

3. Tree Canopy Plan

a. Provide a site plan drawn to scale.

b. Include the existing trees to be retained and their crown areas to scale.

c. Include the trees to be planted and their mature crown areas to scale based on the City of Milwaukie tree canopy list.

d. Identify the soil volume areas for each tree to be planted to scale.

e. For performance path soil volume areas, identify the methods and specifications as applicable for:

- (1) Compaction Reduction;
- (2) Soil Amendments;
- (3) Topsoil Replacement; and/or
- (4) Soil Under Pavement

f. Include a tree planting detail that is consistent with ISA best management practices.

g. The minimum size of planted trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

h. The minimum spacing and setback requirements in Table 16.32.042.H must be met based on the mature size class of the tree from the City of Milwaukie tree canopy list unless otherwise approved by the Urban Forester:

Table 16.32.042.H

Spacing/Setback	Small Stature	Medium Stature	Large Stature
between existing and new trees	15 feet	25 feet	35 feet
from habitable buildings	10 feet	15 feet	20 feet
from pavement	2 feet	3 feet	4 feet

i. Root barriers must be installed according to the manufacturer's specifications when a tree is planted within 5 feet of pavement or an underground utility box unless otherwise approved by the Urban Forester.

j. Where there are overhead high voltage utility lines, the tree species selected must be of a type which, at full maturity, will not require pruning to avoid interference with the lines.

k. Where there is existing mature tree canopy or other areas with significant shade, the species selected must be capable of growing as an understory tree according to available scientific literature. However, understory trees can only be planted when the planting of non-understory trees is precluded due to site constraints.

l. The elements of the tree canopy plan may be included on multiple plan sheets for clarity.

m. The final approved set of construction drawings must include the tree canopy plan to ensure contractors, inspectors, and other professionals have access to the information.

4. Arborist Report

a. Provide a written narrative that summarizes the information from the tree inventory, tree preservation plan, and tree canopy plan.

- b. Provide findings and calculations that demonstrate whether the priority tree preservation standards in MMC 16.32.042.B have been met.
- c. Provide findings and calculations that demonstrate whether the tree canopy standards in MMC 16.32.042.C have been met.
- d. If the tree preservation and/or tree canopy standards have not been met, provide calculations for the applicable tree mitigation fees as required by MMC 16.32.042.D.
- e. If a discretionary review alternative is proposed in place of providing mitigation fees, provide findings that demonstrate the alternative proposal provides equivalent or greater environmental benefits as preserving or planting the required tree canopy consistent as required by MMC 16.32.042.E.
- f. Provide findings that demonstrate compliance with the tree protection standards in MMC 16.32.042.F.
- g. Provide findings that demonstrate compliance with the soil volume standards in MMC 16.32.042.G.

I. Non-Development Tree Permit Requirements

1. Applicability: A permit is required prior to the removal of the following trees in residential zones on property that is outside the right-of-way and not owned or maintained by the City:

- a. Trees that are at least 6-inch DBH.
- b. Trees that are less than 6-inch DBH as specified on the City of Milwaukie threatened tree list.
- c. Trees that were planted to meet any requirements in MMC 16.32.042.

Permits are not required in residential zones when tree removal is approved with development listed in MMC 16.32.042.A. Permits are also not required in residential zones for the removal of trees that are grown for commercial agricultural or horticultural purposes including fruit trees, nut trees, or holiday trees.

2. Type 1 Tree Removal Permit: The following review criteria and approval standards will be applied to type 1 tree removal permits by the Urban Forester:

- a. Review Criteria: The City will not issue a type 1 permit for the removal of a healthy, functioning tree without a demonstration by the applicant that extraordinary circumstances exist. Maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances. Decisions regarding removal of healthy, functioning trees are fact-specific and are made on a case-by-case basis by the Urban Forester. In determining whether extraordinary

circumstances exist that warrant the major pruning or removal of a healthy tree, the Urban Forester will consider:

- (1) Whether the species of tree is appropriate for its location;
- (2) Whether the species of tree is an invasive species;
- (3) Whether the crown, stem, or root growth has developed in a manner that would prevent continued healthy growth or is negatively impacting other trees;
- (4) Whether maintenance of the tree creates an unreasonable burden for the property owner; and
- (5) Whether the removal will have a negative impact on any adopted historic or other applicable design guidelines.

b. Approval Standards: A type 1 permit will be issued only if the following criteria are met as determined by the Urban Forester:

- (1) The proposed tree removal will be performed according to current ISA Best Management Practices.
- (2) The tree proposed for removal meets one or more of the following criteria:
 - (a) The tree is dead or dying and cannot be saved as determined by an ISA Certified Arborist in accordance with ISA standards.
 - (b) The tree is having an adverse effect on adjacent infrastructure or buildings that cannot be mitigated by pruning, reasonable alternative construction techniques, or accepted arboricultural practices.
 - (c) The tree has sustained physical damage that will cause it to die or enter an advanced state of decline. The City may require additional documentation from an ISA Certified Arborist to demonstrate that this criterion is met.
 - (d) The tree poses an unreasonable risk to the occupants of the property, the adjacent property, or the general public, as determined by an ISA Certified Arborist in accordance with current ISA Tree Risk Assessment standards.
 - (e) The tree is on the Oregon State Noxious Weed List.
 - (f) The tree is part of a stormwater management system and has grown too large to remain an effective part of the system.

(g) The tree location conflicts with areas of public street widening, construction or extension as shown in the Transportation System Plan and there is no practicable alternative to removing the tree.

(h) Tree removal is required for the purposes of a building or land use permit, utility or infrastructure installation or utility or infrastructure repair and there is no practicable alternative to removing the tree.

(i) The tree is recommended for removal by a designated fire marshal for Clackamas County because it presents a significant fire risk to habitable structures or limits emergency access for rescue workers, and the risk or access issue cannot be abated through pruning or other means that results in tree retention.

(j) An ISA certified arborist determines that thinning of interior trees within a stand of trees is necessary for overall stand health, the thinning will result in no less than 80 percent canopy cover at maturity for the area to be thinned, and that thinning of non-native trees is maximized prior to thinning of native trees.

(3) Unless removed for thinning purposes (criterion j) the Urban Forester will condition the removal of each tree upon the planting of a replacement tree as follows:

(a) The minimum size of replacement trees is 1.5-inch caliper for broadleaf trees and 5-foot tall for conifers unless otherwise approved by the Urban Forester. Nursery stock must be in good health with the size and quality consistent with ISA best management practices and ANSI Z60.1 standards.

(b) Replacement trees must be planted in a manner consistent with ISA best management practices.

(c) The replacement tree must substantively replace the function and values of the tree that was removed wherever practicable. For example, a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone must be replaced with a long-lived evergreen native tree that abuts a Natural Resources Overlay Zone.

(d) If planting a replacement tree is not practicable, the Urban Forester may allow a tree replacement fee in lieu

according to the Master Fee Schedule based on the cost of planting and maintaining a replacement tree for three years.

3. Type 2 Tree Removal Permit: A type 2 tree removal permit may be approved by the Urban Forester or designee if the type 1 tree removal approval standards cannot be met. The type 2 process is more discretionary than the type 1 process and may consider a range of options in approving, approving with conditions, or denying a tree removal permit application. Type 2 tree removal permit considerations may include but are not limited to:

- a. Solar access for urban agriculture and renewable energy systems;
- b. Landscape redesign;
- c. Quality of tree species, condition, and location;
- d. Contribution to the environment;
- e. Contribution to the community;
- f. Aesthetics;
- g. Mitigation proposals such as tree replacement, restoration or preservation of wildlife habitat, and wood repurposing.

J. Enforcement

1. City Authority: The City has the ultimate authority to:

- a. Interpret the provisions of MMC 16.32.042 and determine whether code criteria have been met.
- b. Establish conditions of permit and land use approval to ensure MMC 16.32.042 is properly implemented.
- c. Create rules and procedures as needed to implement MMC 16.32.042. Rules and procedures may include but are not limited to:

- (1) Priority tree lists.
- (2) Tree protection standards, specifications, and procedures.
- (3) Tree planting standards, specifications, and procedures.
- (4) Tree establishment and maintenance standards, specifications, and procedures.
- (5) Performance bonding, letters of credit, and cash assurances to help ensure proper tree protection, planting, and establishment.
- (6) Tree protection inspections and oversight.
- (7) Soil protection inspections and oversight.
- (8) Performance path tree protection standards and specifications.
- (9) Performance path soil volume standards and specifications.
- (10) Fees for permit applications, reviews, mitigation, inspections, and violations.

2. Penalties: The following penalties may apply to violations of the provisions of 16.32.042:

a. Illegal tree removal:

(1) Not less than the amount established in the Master Fee Schedule and up to the appraised value of the illegally removed tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

(2) Revocation, suspension, or ineligibility for a building or land use permit for a period of up to 3 years when the tree removal was to potentially facilitate development as determined by the Urban Forester.

(3) Revocation, suspension, or ineligibility for a City business license for a period of up to 3 years for the owner or responsible party.

b. Topping, pruning, or otherwise incurring willful and negligent damage to a tree crown or roots in a manner that is inconsistent with ISA best management practices:

(1) Up to the amount established in the Master Fee Schedule or up to the appraised loss in value of the illegally topped or pruned tree as determined by an ISA certified arborist plus the arborist's reasonable appraisal fee.

(2) Restoration of the tree crown, trunk, or root system as prescribed by an ISA certified arborist and approved by the Urban Forester.

(3) Revocation, suspension, or ineligibility for a City business license for a period of up to 3 years for the owner or responsible party.

c. Tree protection zone violations:

(1) Up to the amount established in the Master Fee Schedule.

(2) Restoration of the tree protection zone as prescribed by an ISA certified arborist and approved by the Urban Forester.

Comp Plan Implementation Project - Public Outreach tracking		
Date	Activity	Notes
7/30/2020	CP Imp email subscription created	https://www.milwaukieoregon.gov/subscribe
	CP Imp project website	https://www.milwaukieoregon.gov/planning/comprehensive-plan-implementation
	Worksessions	
9/15/2020	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-262
10/27/2020	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-61
11/24/2020	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-63
12/1/2020	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-289
1/12/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-meeting
1/19/2021	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-269
2/16/2021	Council (cancelled but packet posted)	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-271
3/23/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-69
4/6/2020	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-274
4/20/2021	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-275
4/27/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-71
5/11/2021	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-study-session-117
5/25/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-73
6/8/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-74
6/15/2021	City Council	https://www.milwaukieoregon.gov/citycouncil/city-council-work-session-279
8/5/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-special-meeting
8/10/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-78
8/24/2021	Planning Commission	https://www.milwaukieoregon.gov/bc-pc/planning-commission-82
	Pilot Articles	https://www.milwaukieoregon.gov/citymanager/city-newsletter-pilot
	Sep-20	
	Nov-20	
	Dec-20	
	Feb-21	
	Mar-21	
	Apr-21	
	May-21	
	Jun-21	
	Jul-21	
	Aug-21	
	Oct-21	
Nov 12 - 29, 2020	Open House #1	https://engage.milwaukieoregon.gov/
	Email blasts (x2) to: all boards and committees; project email list; comprehensive plan email list; NCSD; El Puente; MHS; Rowe Middle School	

	Printed packets distributed to: Ledding Library; Hillside Park; Wichita Center (English and Spanish)	
	Bookmarks provided at Ledding Library	
	Engage Milwaukie site: English and Spanish	
	Pilot Article	
	Social media posts	
March 22 - April 15, 2021	Open House #2	https://engage.milwaukieoregon.gov/
	Email blasts (x2) to: all boards and committees; project email list; comprehensive plan email list; NCSD; El Puente; MHS; Rowe Middle School; Axeltree Apts; Waverley Greens; Hillside Park; Northwest Housing	
	Email to Engage Milwaukie subscription list	
	BIPOC email (x2)	
	Spanish language group email (x2)	
	Presentations to all NDAs - meeting in a box	
4/8/2021	Open presentation to general public	
4/1/2021	BIPOC meeting in a box	
3/31/21 and 4/14/2021	Spanish language meeting in a box	
	Social media posts	
3/17/2021	Milwaukie Leadership Academy meeting in a box	
3/9/2021	City staff/residents meeting in a box	
Opened on June 25	Open House #3	https://engage.milwaukieoregon.gov/
	High level summary of proposed amendments	
	Comment box left open	
	Staff responses as needed	
	Email blasts (x2) to: all boards and committees; project email list; comprehensive plan email list; NCSD; El Puente; MHS; Rowe Middle School; Axeltree Apts; Waverley Greens; Hillside Park; Northwest Housing	
	Email to Engage Milwaukie subscription list	
	BIPOC email	
	Spanish language group email	
	City social media posts	
	Emails to NDAs	
	CPIC meetings x10	https://www.milwaukieoregon.gov/planning/comprehensive-plan-advisory-committee-cpic
	Meeting packets posted 7 days in advance	
	Notices sent to project email list	
	Meeting videos posted	

	Powerpoint presentations posted	
	Meeting notes posted	
	Breakout groups included public	
	Tree Board	https://www.milwaukieoregon.gov/bc-tb
2/4/21; 2/24/21; 3/17/21; 4/21/21; 5/12/21; 5/19/21	Meetings to discuss proposed tree code	
	35-day Notice	https://www.milwaukieoregon.gov/planning/za-2021-002
8/31/2021	Required notice sent to Metro and DLCD	
	Code and code commentary posted on city website. Email blast and Engage Milwaukie site updated with all information for October 12 public hearing	
	Postcard	
9/14/2021	Postcard in English and Spanish mailed to all residential and business addresses in the city with information on how to get information about the code amendments, the October 12 public hearing, and how to provide comments.	
	Milwaukie Rotary	
9/28/2021	Staff presentation regarding code amendments and October 12 public hearing	
	Measure 56 Notice - Tree Code	
10/6/2021	Measure 56 notice related to the proposed tree code mailed to all residential addresses 20 days prior to October 26 public hearing.	



Project Memorandum

July 29, 2021

To: Milwaukie Comprehensive Plan Implementation Project Management Team

From: Kimi Sloop, Barney & Worth, Inc.

Re: Milwaukie Comprehensive Plan Implementation Public Engagement Summary

As part of the Comprehensive Plan Implementation Project Phase 1 process, a robust public engagement process was established to include all members in the Milwaukie community in the process. The following is a summary of the project's community engagement goals and strategies implemented to address those goals.

Project Community Engagement Goals

At the beginning of the project, community engagement goals for the project were established. The goals included:

- Creating opportunities for as wide a reach of engagement as possible given the schedule and budget limitations.
- Making a concerted effort to engage historically under-represented communities. To quantify this goal, the project targeted having participation in the community surveys being approximately equivalent to the overall demographics in the city of Milwaukie.
- Focusing communications and seeking input in no-contact techniques while reaching out to multiple groups in smaller venues (via Zoom), rather than holding large city-wide open house events due to Covid.
- Communicating information in a way that people can provide meaningful input on the complex issues, such as by breaking down topics into understandable pieces and using visual images and examples to illustrate different policy concepts.
- Having a transparent and inclusive process that seeks both to educate and provide opportunities for input.
- Providing an open and welcoming process, with emphasis placed on using inclusive language in conversations, materials and plan and policy recommendations.
- Documenting public input and responding to individual comments.

Communication Activities & Tools

With the project goals in mind, various strategies were used to engage the public throughout the project, including:

- Project webpages (City of Milwaukie and Engage Milwaukie)
- Pilot newsletter articles
- Comprehensive Plan Implementation Committee (CPIC)
- Stakeholder interviews
- Virtual open houses, with accompanying community surveys
- Neighborhood District Association (NDA) presentations
- Small group discussions (in both Spanish and English)
- Planning Commission updates

Project Webpages

Information about the project was available on both the City of Milwaukie’s website and at Engage Milwaukie, the City of Milwaukie’s online engagement platform.

General project information was available on the City’s website (<https://www.milwaukieoregon.gov/planning/comprehensive-plan-implementation>), including project background, CPIC meeting information, summaries of the open houses, and contact information.

Engage Milwaukie (<https://engage.milwaukieoregon.gov/comprehensive-plan-implementation>) was utilized for the virtual open houses, community surveys, and to provide a forum for ongoing feedback. When the community surveys were closed, Engage Milwaukie also maintained the information from the open houses to be accessed by the public as desired. After registering, the public could comment on the project at any time during the process. Comments provided on Engage Milwaukie were included in the open house and community survey summaries.

Pilot Newsletter

Articles about the project were included monthly in the Pilot Newsletter, distributed to all residents within the City of Milwaukie. Articles provided background information about the project, informed people of upcoming opportunities for public input and provided updates of key project milestones.

Comprehensive Plan Implementation Committee (CPIC)

The city appointed a Comprehensive Plan Implementation Committee (CPIC) in the spring of 2020 to provide feedback on the zoning code and map amendments. The 18-member committee (13 community members and five planning commissioners/City Councilors) offered feedback on code concepts, and ensured that the diverse interests of the Milwaukie community were reflected in the code and map amendments, while also adhering to the state’s requirements. The

CPIC met 10 times from June 2020 through July 2021. Their input was incorporated into the draft code amendments that were brought before the Planning Commission for review.

CPIC members included:

- Joel Bergman
- Matthew Bibeau
- Jennifer Dillan
- Celestina DiMauro
- Daniel Eisenbeis
- Ada Gonzalez
- Sharon Johnson
- Stephan Lashbrook
- Micah Meskel
- Renee Moog
- Dominique Rossi
- Eugene Zaharie
- Nicole Zdeb
- Joseph Edge, Planning Commissioner
- Lauren Loosveldt, Planning Commissioner - Alternate
- Lisa Batey, City Councilor
- Mark Gamba, City Mayor - Alternate
- Angel Falconer, City Councilor – Alternate

Stakeholder Interviews

In October 2020, project team members conducted interviews with 32 Milwaukie stakeholders. The purpose of the interviews was to seek input on key livability issues and perspectives on housing, parking and tree preservation. The stakeholders included Milwaukie residents, housing advocates, housing developers, NDA chairs, City Councilors, and members of the Milwaukie community with ties to those who are historically under-represented in public processes. A summary of the stakeholder interviews is provided in Appendix A.

Virtual Open Houses, with Accompanying Community Surveys

Due to COVID restrictions, no in-person outreach events occurred. Engage Milwaukie, the digital community engagement platform used by the City of Milwaukie, was used to provide

three opportunities for the public to engage with the process virtually. Information provided at the open houses were translated into Spanish and paper copies of materials were available upon request.

The public was notified of the open house events via social media, project email list, bookmarks at Ledding Library, direct emails to city committee members, and Pilot newsletter.

Open house #1: Fall 2020

The first virtual open house and community survey was available from November 12 through November 29, 2020. The purpose of the first open house was to educate the public about the project, including the policy mandates guiding the project, and to seek input on the community's preferences. As part of the open house, participants could provide open-ended comments on each topic and/or could participate in the community survey. The survey sought input on the priorities of the Milwaukie community related to housing, trees and parking.

Ninety-three people provided feedback through the community survey. Approximately one-third of the responses came from people living in the Ardenwald-Johnson Creek neighborhood. Approximately 89% of the respondents self-identified as Caucasian, 5% as people of color and 9% as other.

Feedback from the first open house, in conjunction with CPIC input, was used to develop project values and identify priorities and preferences for the code concepts regarding housing, parking and tree preservation.

A summary of the community survey results is provided in Appendix B.

Open house #2: Spring 2021

The virtual open house was available from March 22 through April 15, 2021. The second open house provided code concepts for public review and comment. Concepts explored included parking locations, tree requirements and priorities related to the design of middle housing. A community survey asked for feedback on specific scenarios for parking location and the number of parking spaces, and building form. Questions also sought to gain insight on preferences for site design and code flexibility.

There were 121 completed surveys and 149 people either provided comments and/or completed the survey. The neighborhoods best represented by the survey responses included Ardenwald-Johnson Creek, and Lake Road. Approximately 84% of the respondents self-identified as Caucasian, 12% as people of color and 3% as other.

Feedback from the second open house, in conjunction with CPIC input, was used to refine the code concepts and create draft code amendments.

A summary of the community survey results is provided in Appendix C.

Open house #3: Spring 2021

A third open house, available starting June 25, 2021 and staying open throughout the adoption process, presented the draft code amendments for public review and comment. Open house participants could either provide feedback through comments on Engage Milwaukie or by emailing the City's project manager. The open house also laid out the code amendment adoption process and identified how the public can provide public testimony during the process.

Neighborhood District Association (NDA) Presentations

Throughout the process, City planning staff provided project updates at Neighborhood District Association (NDA) meetings. In an effort to encourage as many people as possible to participate in the second open house and take the survey, city staff facilitated virtual discussions with each NDA at their regular monthly meetings in March and April, 2021.

Small Group Discussions

In an effort to increase participation from a diverse cross-section of the Milwaukie community, City planning staff held virtual meetings advertised to target audiences.

Spanish language small group meeting

On April 14, 2021, city staff and a professional Spanish language interpreter facilitated a virtual small group discussion for people who preferred to engage in Spanish. The meeting included a PowerPoint presentation (in Spanish) that summarized the project goals and processes, and the entire discussion was held in Spanish, with city staff providing answers to questions in English, which were then translated into Spanish. Twelve people participated in the meeting, including a member of CPIC.

Black, Indigenous, people of color (BIPOC) small group meeting

On April 1, 2021 city staff, including the city's Equity Manager, facilitated a virtual small group discussion for BIPOC community members. The meeting included a PowerPoint presentation that summarized the project goals and processes as part of a larger open discussion. Three people participated in the meeting.

In addition, City planning staff facilitated an open meeting via Zoom advertised on Nextdoor and the city's Facebook and Instagram sites.

Feedback from these small group discussions were incorporated into the draft code amendments.

Planning Commission and City Council Updates

Throughout the process, City planning staff provided updates on the project, project and code concepts to the Milwaukie Planning Commission and City Council.

Milwaukie Comprehensive Plan Implementation Project Phase 1

Stakeholder Interview Summary

Introduction

In October 2020, project team members conducted interviews with 32 Milwaukie stakeholders. The purpose of the interviews was to seek input on key livability issues and perspectives on housing, parking and tree preservation. The key themes are summarized below.

Key Themes

1. People genuinely love the neighborhoods in Milwaukie. They shared more positives than negatives, and focused on the sense of community, scale and form of development and quality of life.

Positives: "quiet, friendly neighborhood" "privacy that comes with bigger lots" "peaceful, close to the school" "I know most of the neighbors" "close knit" "good access to downtown, natural areas, river" "walkable"

Negatives: "not walkable" "not a lot of diversity" "feels a bit insular" "on-street parking" "trees being cut down" "cookie-cutter housing"

2. There is a general understanding and acceptance of the benefits of integrating middle housing into Milwaukie's neighborhoods.

"increases density" "rents could be lower" "diversity of people, backgrounds and cultures" "younger generations moving in" "more inclusive" "more opportunities for folks of all ages, abilities, income, etc." "lower carbon footprint"

3. There are concerns that, when designed and built, middle housing will not achieve the desired benefits, especially affordability. Other noted concerns with middle housing were lack of parking, consistency with scale and form, quality of life for existing residents and quality of construction.

"middle housing implies mid-level worker housing, but not necessarily affordable. Middle housing does not mean middle income. It doesn't assure it is affordable" "that it doesn't actually happen – that it is still not affordable housing" "huge traffic impacts" "be aware of the neighborhood – the context of the road – more density on road with no sidewalks" "if you are taking single dwelling housing out or modifying it, you lose the sense of place. The quality of life for neighborhoods – less space, ownership/maintenance" "healthy vibrant communities are not created via duplexes"

4. Creating affordable housing so that everyone who works in Milwaukie can live in Milwaukie is an important goal. There was also acknowledgement that affordability in Milwaukie is partly tied to the regional housing market.

*“Not attainable for most people” “Housing is competitive, not affordable, hard to come by”
“people need places to live” “create more economic diversity – options for affordability” “a
better strategy may be to focus on other affordable housing strategies than middle housing”
“affordable housing so everyone has a house”*

5. Integrating middle housing into neighborhoods with the existing scale and form of neighborhoods and the existing transportation network is as an important element of how middle housing types are designed and where they are located. Reducing parking requirements was perceived as a challenge if there are not options for transit, walking, or biking.

*“focus on walkability – make it so people don’t feel like they need multiple cars” “focus on the way that design characteristics create neighborhoods that people want to walk through, live in”
“need to meet the character criteria – lawn, plants, fits into the neighborhood”*

6. The perception is that there is not a parking issue currently in Milwaukie neighborhoods. The lack of sidewalks in many neighborhoods raises concerns about increasing on-street parking. There was mixed sentiment if parking should be provided on-site or reliant on on-street parking.

“address the affordability question with parking” “parking needs to be part of the package of the housing project – built into the project – not the responsibility of neighbors” “streets without curbs, sidewalks don’t have the street pieces to help organize on-street parking” “parking is not a right, it is a privilege”

7. There is a lack of knowledge about Milwaukie’s current tree protection policies. Those who did comment perceive the tree protection requirements to be lacking. People generally thought trees should be protected and did not want to see trees removed for development, yet they understood this might conflict with the rights of private property owners.

“not familiar with what they are” “tree protections should be strengthened” “Current tree protections are cumbersome to understand and are overly generous towards builders” “private property rights and preserving trees – not sure what you can do”

8. There is a desire for the City to be bold and think about the long term with integrating middle housing, reducing parking and tree protection. Stakeholders mentioned the need to think about what the city will be like in 20 years, and not focus on the limitations of today. There will be a transition period that will be challenging for the neighborhoods.

“housing for the future has to address the economic reality of the new generation that are not the same economics of boomers who occupied the suburbs” “on the road we are going, we can’t get there on the road that brought us here – we need to think differently” “make it good!” “be bold!”

Single Most Important Piece of Advice

Participants were asked to provide their “single most important piece of advice for the City as they develop new code language related to middle housing in residential neighborhoods.” All participant responses are presented verbatim below, organized into broad categories.

Equity in decision-making/providing opportunities to be heard

- *Make sure that you are including voice – real equity is including voice. Do an ample effort to include people.*
- *Have a real dialogue. Make sure to get the voices of those who will be one that will be those who are the audience for middle housing. Not just single-family residents. The people who will live in middle housing.*
- *Transparency and getting the word out there*
- *Remember that the loudest voice is not necessarily the most important voice.*

Communicate and educate

- *Find as many ways and get as much information out as possible to try and control fears before people get bad information.*
- *Education is really important. Dispel the myths – use facts. People need common understanding and framework.*
- *There is some fear out there, and the “what-ifs”. Once we have code and we have a potential project, get buy-in from the neighbors. Present design proposals in a way that somehow includes them in the process.*
- *Communicate & Educate! Find success stories and share the heck out of them!*
- *Frame middle housing as an enhancement rather than as change.*
- *Be sure affected neighborhoods are informed of the process. Use all communication sources including U.S. mail.*

Learn from others

- *It seems like there might be lessons learned from other cities? Milwaukie has a strong City Council who are willing to support innovative and creative approaches—finding a balance across housing, natural resources and other city needs may require new, fresh thinking and approaches.*
- *Infill design toolkit for medium density development from Portland – great framework. Why reinvent the wheel?*
- *Shine a light on what currently exists. What number of units exists in each category now? Where are they? What do they look like? Show through example. Have someone with a ADU share their experience.*
- *Don't need to reinvent the wheel from scratch! There is information out there. Alternative building practices, tree protections, it's out there, we just need to read the book. Same with parking, other communities have faced these problems and solved them in creative ways.*

Balancing housing, parking and the environment

- *Take into consideration parking. Make sure there is enough parking.*
- *Balance trees, parking and housing. Keep in mind nature.*
- *Make sure it's not just about the people. Also the environment, wildlife and quality of life.*
- *Parking will always be a challenge, and there will never be enough in a thriving neighborhood - and that's okay! I say that as someone who lives here.*

- *Think about “externalizing internalities” - think of the full cost of your decisions before you make them. Equity cost, environmental cost, aesthetic cost, make sure you know the real cost*
- *Integrate, not segregate. Value all of the elements together.*
- *Prioritize the environment and making housing affordable for all.*

Design of housing/design standards

- *Be flexible. Don’t be too stringent on development rules.*
- *Have a discretionary component for the planners in the code to determine if the type of housing fits within the neighborhood or street condition.*
- *Balance development with culture change for typical suburban single-family culture.*
- *Critical in general. Get the combination of density, tree protection and parking just right. Be seen as accepted long term as policy, need to hit the balance. Look at it through the lens of those who will build the housing. See the economics of middle housing. Better housing by design. Crunched proformas. Need to be a lot of work to get it right.*
- *Be careful what you wish for – there are lots of unknowns. Tree removal; horrible parking; social issues. You end up encouraging developers to build stuff without any concern for the future of the city. You can’t safeguard your community – need to build trust.*
- *Please focus on quality, not quantity of housing. (Trees add to the quality).*
- *Don’t shove it down people’s throat. Think about what you want to accomplish and where is the best place to do that? Is it the best to build middle housing away from services? NO! If we need to increase the density of the City, focus it in downtown near the major transportation and shopping areas. Don’t blanket R5 and R7 – need system to support it too.*

Housing

- *Don’t waste time and money to create something that won’t solve the problem you are trying to solve. Don’t think it is going to solve affordability unless it really will solve the problem. Do the bare minimum and approach it differently.*
- *Everybody needs somewhere warm and safe to sleep at night.*

Be bold

- *Make it good!*
- *What is Milwaukee proud to show off? Would you want to live in it, or your parent or your child?*
- *Be the experts. At the end of the day the NIMBYS will be combatted by the experts that lead this conversation. Use fact and figures. Know exactly what you are saying and be brave!*
- *The status quo is not working.*
- *Be bold! We have lots of opportunity. Take advantage of it.*
- *Stay true to the vision. Be sustainable. Be equitable.*
- *Don’t be afraid to break from tradition, things can be done differently!*

Stakeholders Interviewed

- Rebecca Alves, Tree Board
- Harry Apelbaum, Rowe Middle School
- David Aschenbrenner, Neighborhood Associations
- Lisa Batey, City Council
- Hamid Shibata Bennett, Milwaukie Resident
- Kathleen Brennan-Hunter, Tree Board
- Jon Brown, Tree Board
- Charley Clark, Development community
- Elvis Clark, Milwaukie Resident
- Ronelle Coburn, Milwaukie Resident
- Gina Dake, Tree Board
- Pam Denham, Neighborhood Associations
- Maitri Dirmeyer, Milwaukie Resident
- Douglas Edwards, Milwaukie Resident
- Nate Ember, Development community
- Angel Falconer, Council President
- Alma Flores, Reach CDC
- Mark Gamba, Mayor
- Ley Garnett, Tree Board
- Carmen Gelman, Milwaukie High School
- Lisa Gunion-Rinker, Neighborhood Associations
- Christina Harris, Tree Board
- Kathy Hyzy, City Council
- Ted Labbe, Urban Greenspaces Institute
- Robert Massey, Planning Commission Chair
- Stephen McMurtrey, Housing Authority of Clackamas County
- Carmen and Brian Mojica, Local Business Owner/Resident
- Ann Ober, City Manager
- Wilda Parks, City Council
- Liz Start, recommended by Ann
- Kim Travis, Milwaukie Resident
- Madison Tucker, Tree Board
- Ruth Tucker, El Puente Elementary



Project Memorandum

December 3, 2020

To: Milwaukie Comprehensive Plan Implementation Project Management Team
From: Kimi Sloop, Barney & Worth, Inc.
Re: Community Survey #1 Results Summary

The first virtual open house and community survey for the Milwaukie Comprehensive Plan Implementation Project, phase 1, was available from November 12 through November 29, 2020. There were over 450 visits to the open house site, and 93 people provided feedback through the community survey. The following summary provides the key takeaways from the feedback, the actual responses to the questions, and an analysis of lessons learned for future outreach efforts.

Key Takeaways

- **Priorities that benefit the entire Milwaukie community are the most important to survey respondents.** They identified "providing greater equity throughout Milwaukie by increasing housing options, protecting/increasing the tree canopy and reducing parking requirements" as the most important priority, followed by the need to "balance the community needs of providing more housing, protecting the environment, and reducing the focus on the car."
- **Consistency of the middle housing design with the scale and form of the existing neighborhoods was ranked the least important priority** in relation to providing greater equity, balancing community need, and building housing that is affordable. However, it was identified as a **concern to almost half of the respondents.**
- **Respondents felt more positively than negatively about middle housing.** Most people listed three different benefits compared to one perception (concern) of middle housing. The benefits identified most frequently include increasing the supply of housing, housing choice, and housing diversity.
- **Almost all (90%) of the respondents believe that tree protections will provide shading/cooling and environmental benefits.** On average, people noted three benefits compared to one negative impact of tree preservation.
- **Reducing parking requirements appeared to be of the greatest concern to the survey respondents.** People identified more negative impacts than benefits and were particularly concerned about the availability of parking and the lack of existing multi-modal networks in neighborhoods.

- For all three topics (providing middle housing, tree preservation, and reducing parking), respondents were concerned that the desired goals may not be achieved with implementation. For example, the housing may not be affordable, it will be too easy for developers to get exceptions to tree preservation regulations, and reducing parking requirements will not make neighborhoods more accessible or affordable.

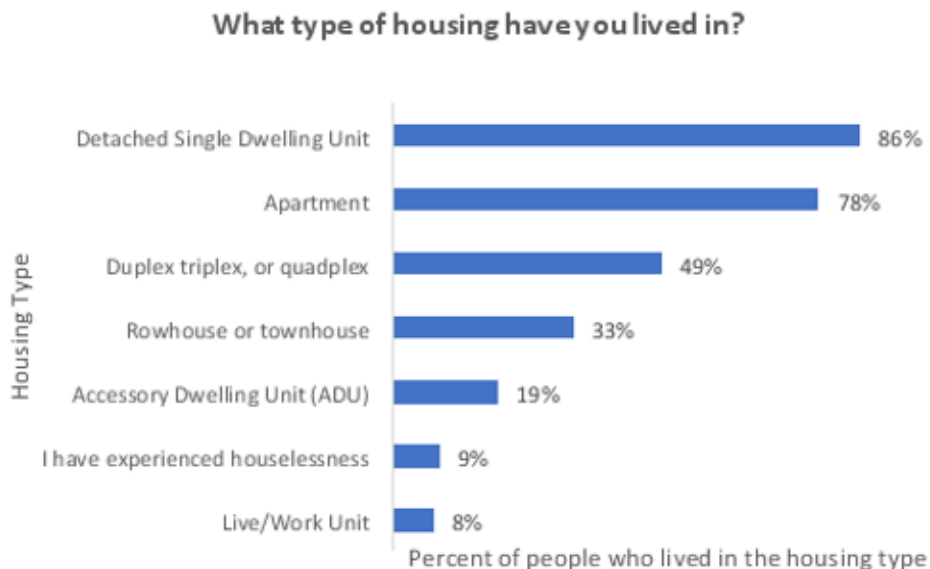
Survey Demographics

- There were over 450 visits to the open house site. Over 200 people looked through multiple stations, with the earlier stations (background, housing, trees) being more popular and stations later in the sequence (parking, next steps, provide input) receiving fewer visits. It also appears that many people may have gone straight to the survey without clicking through the open house stations.
- Ninety-three people completed the survey. All surveys were completed in English. Approximately one-third of the responses came from people living in the Ardenwald-Johnson Creek neighborhood.
- On average, respondents have lived in three different types of housing, with apartments and single dwelling units being the most popular housing types. Currently, 80% of the respondents own their own home.
- Approximately 89% of the respondents self-identified as Caucasian, 5% as people of color and 9% as other.

Survey Responses

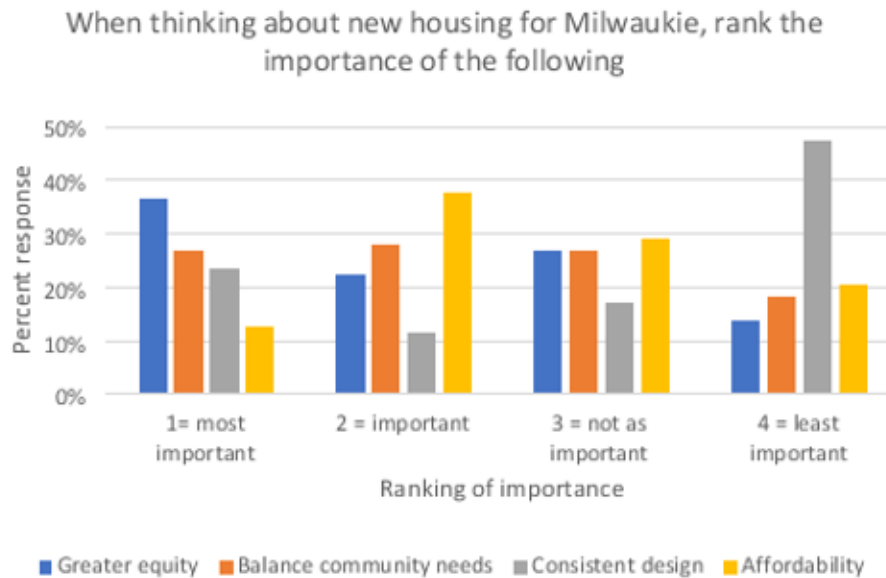
Types of Housing

On average, people responded that they had lived in three types of housing, with detached single dwelling units being the most popular (86%) followed by apartments (78%).



Priorities for New Housing

- "Providing greater equity throughout Milwaukie by increasing housing options, protecting/increasing the tree canopy and reducing parking requirements in all residential neighborhoods in Milwaukie" was identified as the most important priority (37% ranked it as 1 being important).
- "Designing new housing consistent with the scale and form of the surrounding neighborhood" was identified as the least important priority (47% ranked it as 4 being less important).
- For those that identified equity as the most important priority, over half identified "building housing that is affordable as rentals and creates more opportunities for home ownership" as the second most important priority.



Greater equity = Providing greater equity throughout Milwaukie by increasing housing options, protecting/increasing the tree canopy and reducing parking requirements in all residential neighborhoods in Milwaukie.

Balancing community needs = Balancing the community needs of more housing, protecting the environment and reducing the focus on the car.

Consistent design = Designing new housing consistent with the scale and form of the surrounding neighborhood.

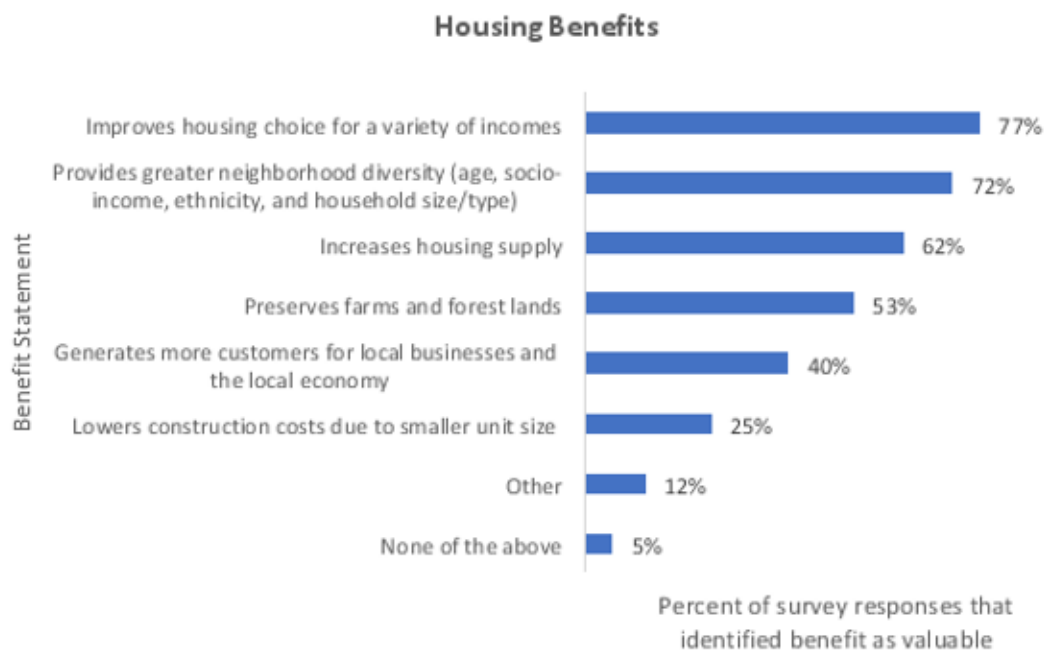
Affordability = Building housing that is affordable as rentals and creates more opportunities for home ownership.

- When grouping the statements ranked one and two as being most important, the priority is as follows:

	Important (ranked one or two)	Not as important (ranked three or four)
Providing greater equity throughout Milwaukie by increasing housing options, protecting/increasing the tree canopy and reducing parking requirements in all residential neighborhoods in Milwaukie.	59%	41%
Balancing the community needs of more housing, protecting the environment and reducing the focus on the car.	55%	45%
Designing new housing consistent with the scale and form of the surrounding neighborhood.	35%	65%
Building housing that is affordable as rentals and creates more opportunities for home ownership.	51%	49%

Benefits of middle housing

People were asked to identify the benefits of middle housing (duplex, triplex, quad, townhouse and cottage cluster) they find to be the most valuable. On average, people identified between three and four benefits. Housing choice and neighborhood diversity were mentioned the most.

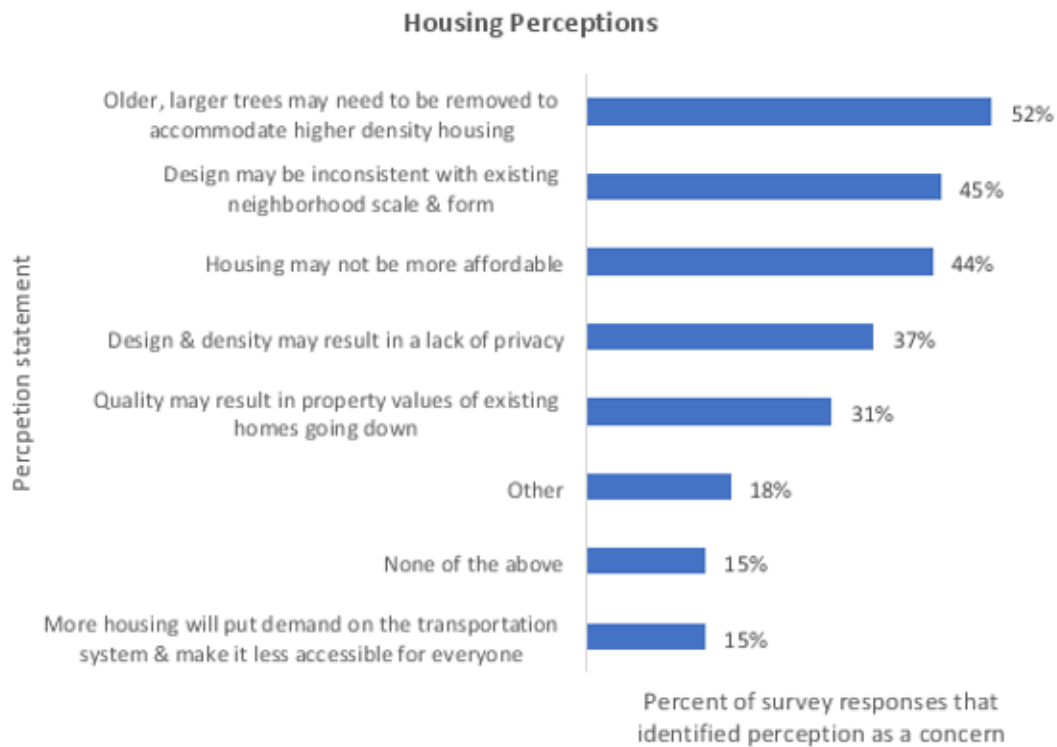


Other benefits identified included:

- Environmental benefits - opportunities for zero carbon transportation options, microgrids, water/wastewater systems, environmentally conscious infrastructure, and energy efficiency
- Increase city tax base
- Sense of community
- Preserve natural habitat areas
- Age in place
- Lower energy/maintenance costs

Perceptions of middle housing

People were asked to identify perceptions about middle housing they might have. On average, people identified between two and three perceptions. The need to remove larger trees, the design being inconsistent with the existing neighborhood scale and form, and the possibility that the housing may not be more affordable were identified the most.

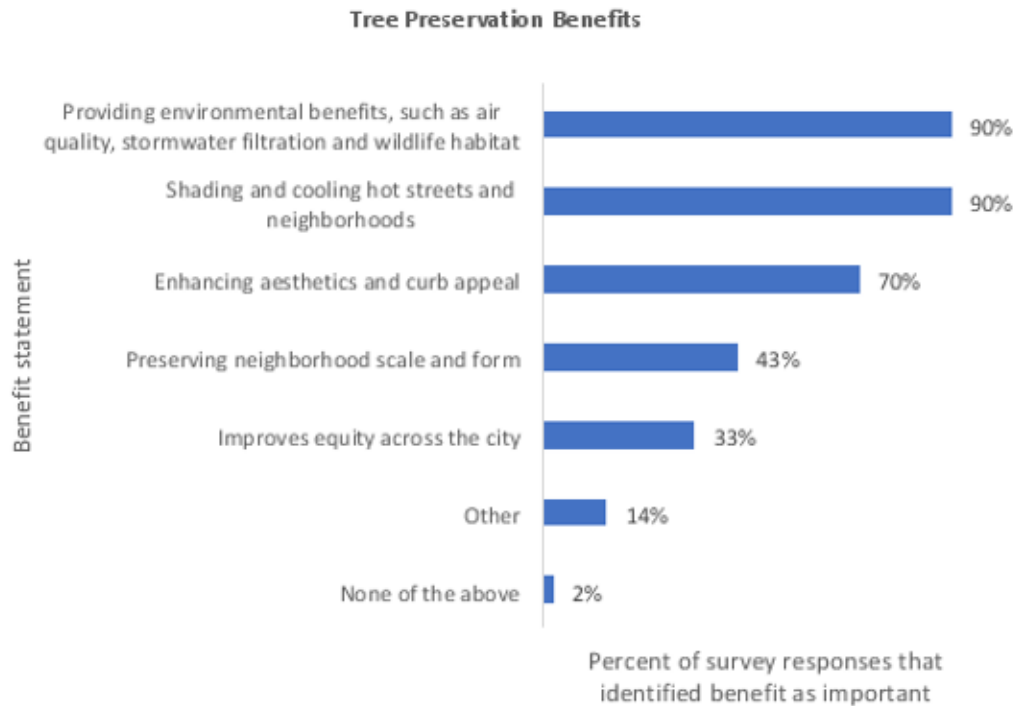


Other housing perceptions identified include:

- May not provide increased ownership opportunities
- Negative impacts to climate and watershed goals and natural ecosystems
- Lack of quality construction and design
- Parking and traffic problems, and need for increased street maintenance
- Potential to reduce access to green open space

Benefits of tree preservation

People were asked to identify the benefits of tree preservation they find to be the most important. On average, people identified between three and four benefits. Shading/cooling and other environment benefits (air quality, stormwater filtration and wildlife habitat) were mentioned the most.

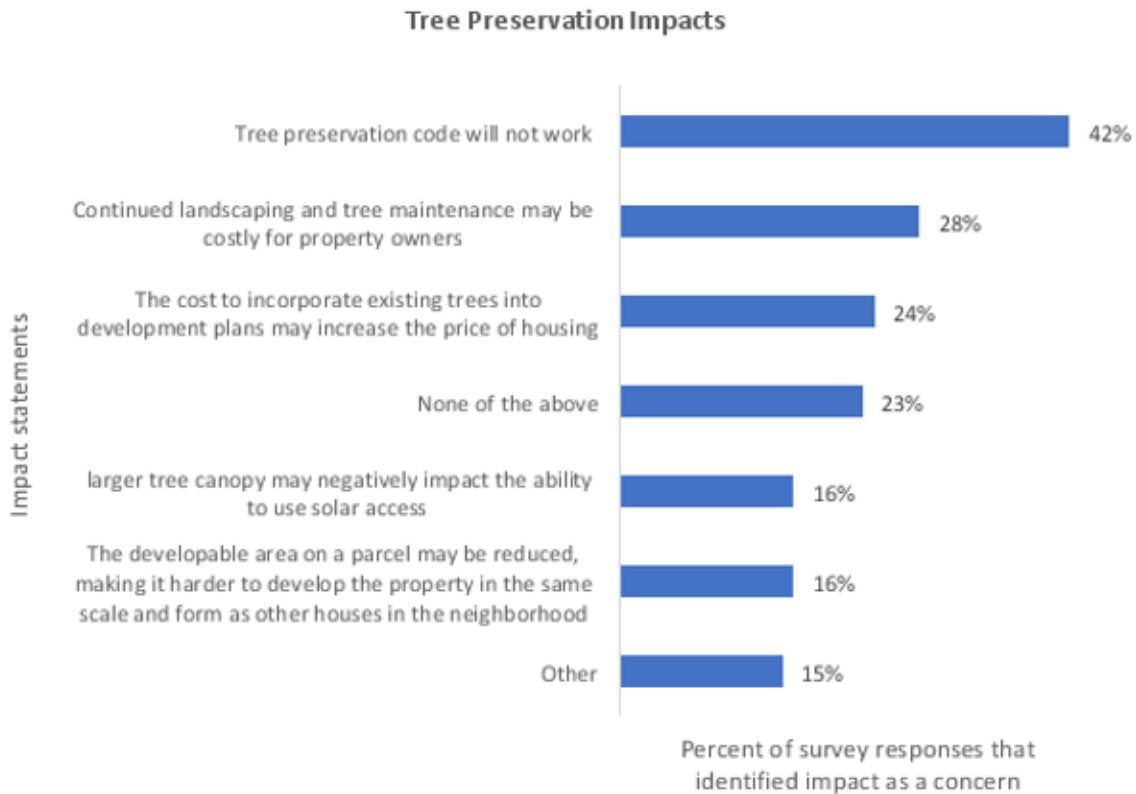


Other tree preservation benefits identified included:

- Food production potential
- Impacts on human health, physical and mental wellness
- Wildlife habitat
- Preserve urban foraging
- Provides an environment that encourages walking and biking
- Carbon capture
- Landscape that reflects the "wildness" of the river

Impacts of tree preservation

People were asked to identify the impacts of tree preservation they find to be of most concern. On average, people identified one or two impacts they are concerned about, with the potential of it being too easy for developers to get an exception to the tree preservation regulations being the top concern.

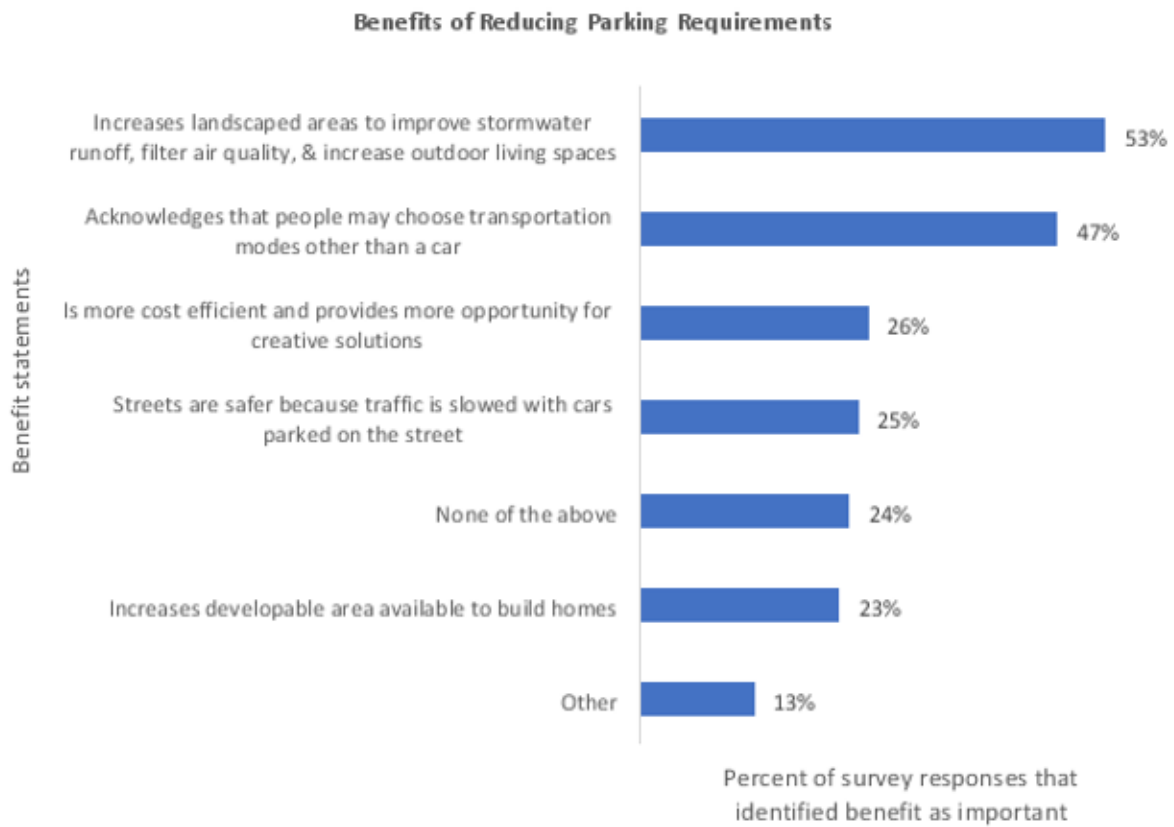


Other tree preservation impacts identified included:

- Limitations on the bigger environmental benefit of higher density living (zero carbon transportation, solar energy)
- Less light for gardening/creating independent food sources
- Damage caused by large tree limbs falling during windstorms
- Possible reductions in buildable area of a property
- Tree root damage to home foundation and streets
- Requiring sidewalks may result in removing trees

Benefits of reducing parking requirements

People were asked to identify the benefits of reducing parking requirements they find to be the most important. On average, people identified two benefits. The benefits of "increasing the landscaped areas to improve stormwater runoff, filter air quality and increase outdoor living space," and "acknowledging other transportation modes beside the car" were mentioned the most.

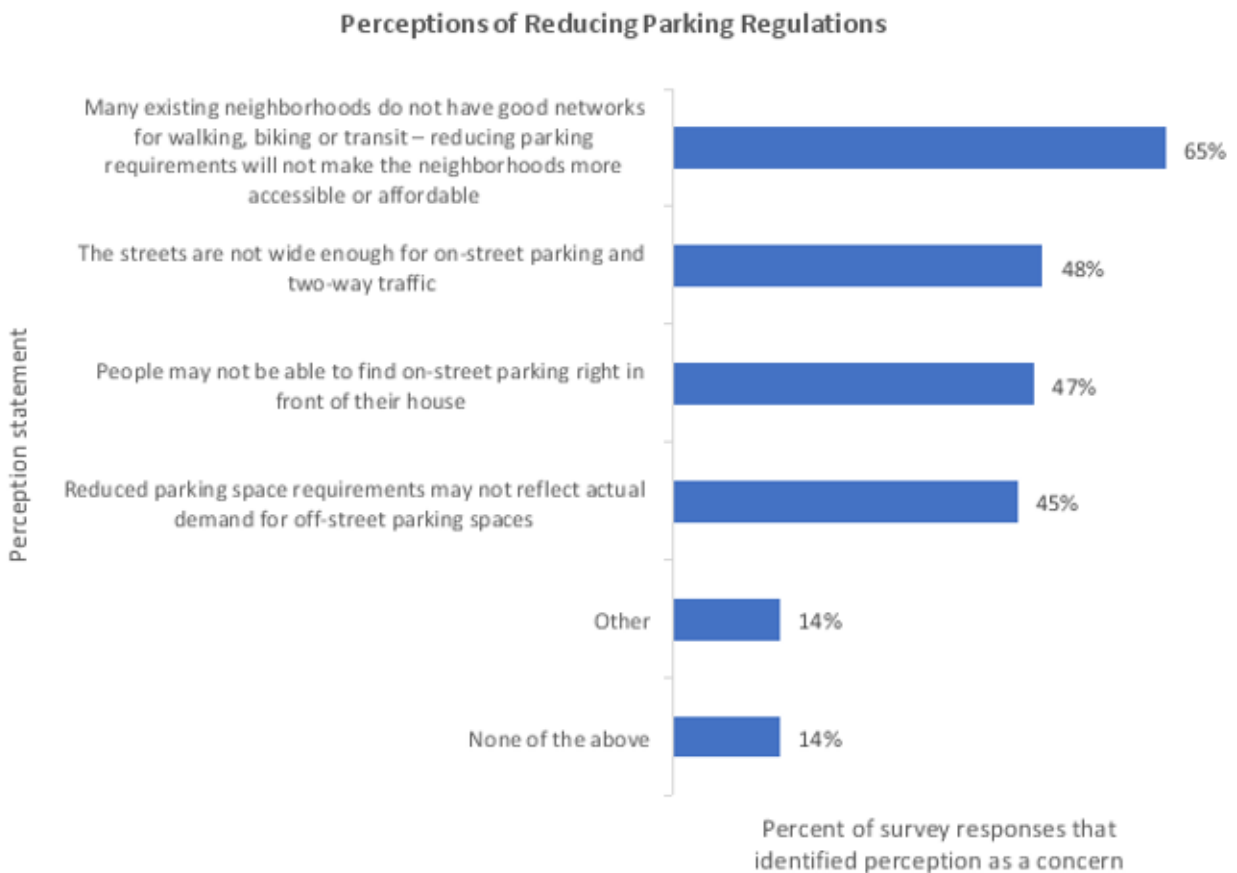


Other benefits of reducing parking requirements included:

- Encouraging community discussions on reducing dependency on the car
- Potential to open up more space for green infrastructure
- Ability for trees to absorb water
- Acknowledges reduction of car ownership
- Potential for more attractive, nature filled areas in front of homes and porches closer to the street
- Increases housing supply

Perceptions of reducing parking requirements

People were asked to identify perceptions about reducing parking requirements they might have. On average, people identified between two to three perceptions. The lack of good networks for walking or biking and availability of transit in existing neighborhoods was mentioned the most, followed by streets not being able to accommodate on-street parking, a concern that the reduced parking requirements will not reflect actual demand, and a lack of on-street parking close to people's destinations.



Other perceptions related to reducing parking requirements included:

- Resistance to bike parking requirements
- Immediate neighbors might be impacted by reduced parking requirement for multi-unit complexes
- Streets would not safe or friendly for pedestrians and cyclists – poor lines of sight and lack of sidewalks make it dangerous
- Negative impacts on lower economic groups because they rely on their car for work
- Concerns about electrical vehicles charging stations

Outreach Lessons Learned

There were over 450 visits to the open house main page, including 42 who visited the open house's Spanish language version, although only 93 completed the survey. We will continue to analyze the data to determine how to improve the conversion rate of those who visit the site to those who provide input. The open house site will remain active, and we will provide "discussion boards" and comment forms for people to continue to provide input.

Some of the lessons learned from this round of outreach include:

- **People did not register on Bang the Table, and therefore could not provide feedback.** Less than half the people who visited the open house registered with Bang the Table. The project team will work with the City's communications team to better explain to the public the purpose of registering in hopes to reduce concerns about how the demographic information is being used.
- **The response rate from the BIPOC community in particular was low.** The most recent City demographic data (2016) identified 89% of Milwaukie residents as white and 11% as people of color. Our survey response rate was 5% for people of color. Although we did do directed outreach to people of color, we know more specific outreach is needed. For the next round of community input, we will work with the City's new Equity Program Manager to enhance our outreach efforts.
- **The people who did respond to the survey did so as a result of a personal "ask."** Over 75% of the people heard about the open house from their neighborhood association, a personal invitation from a friend, or a direct email from the City. We will continue to focus our outreach efforts using more personal approaches. Ideas under consideration for the next round of outreach include a meeting in a box and focus groups.
- **No paper survey responses were received, nor were any surveys completed in Spanish.** Although these efforts did not yield public input, we believe that the City needs to continue to provide these opportunities. More advertising and more one-on-one invitations can help to raise awareness and encourage feedback.
- **Current events out of our control may have reduced participation.** Although we did take the November election into consideration when the scheduled the outreach, we did not anticipate a state-wide COVID "freeze" which resulted in not being able to implement all the outreach strategies as planned. Based on general sentiment, it also appears that there is a desire to un-plug from the computer whenever possible.



Project Memorandum

May 11, 2021

To: Milwaukie Comprehensive Plan Implementation Project Management Team

From: Kimi Sloop, Barney & Worth, Inc.

Re: Community Engagement Spring 2021 Survey Summary

In March and April, community outreach was conducted for the Milwaukie Comprehensive Plan Implementation Project. This outreach included a series of meetings in a box and a virtual open house on the Engage Milwaukie site. The virtual open house was available from March 22 through April 15, 2021. In total, we received 121 completed surveys and 149 people either providing comments and/or completing the survey.

In an effort to encourage as many people as possible to take the survey, city staff facilitated ten virtual discussions about the project and the open house with each NDA at their regular monthly meetings as well as an open meeting via Zoom that was advertised on Nextdoor and the city's Facebook and Instagram sites. Additionally, staff facilitated two virtual small group discussions: one entirely in Spanish, and one with BIPOC community members. Also included in this effort were: bookmarks at the Ledding Library, articles in the Pilot, email blasts, and numerous posts on city social media outlets.

Spanish language small group meeting

On April 14, city staff and a professional Spanish language interpreter, facilitated a virtual small group discussion for people who preferred to engage in Spanish. The meeting included a PowerPoint presentation (in Spanish) that summarized the project goals and process and the entire discussion was held in Spanish with city staff providing answers to questions in English, which were then translated into Spanish. Twelve people participated in the meeting, including a member of CPIC. The participants asked a lot of questions and shared many thoughts about housing in Milwaukie, and housing in general:

- Support for ADUs and multiple ADUs on properties for multigenerational or larger families
- Support for allowing a cottage cluster on the same property as a single-family home
- Duplexes and triplexes are very important for larger families
- Participants preferred to not have a parking maximum, as larger families may have multiple vehicles
- Access to trees and parks in all neighborhoods is very important
- The American Dream is to be a homeowner, and participants really want the opportunity to be able to how their own home. Affordability is a key concern because housing is so expensive in the Portland region.
 - Several comments included the lack of resources for first time Latinx homebuyers and those without documentation, such as credit or a social security number

- The participants greatly appreciated the opportunity to hear about the project, to share their thoughts, and that they could do so in Spanish

BIPOC small group meeting

On April 1, city staff, including the city’s Equity Manager, facilitated a virtual small group discussion for BIPOC community members. The meeting included a PowerPoint presentation that summarized the project goals and process as part of a larger open discussion. Three people participated in the meeting. The participants asked many questions and shared many thoughts about housing in Milwaukie, and housing in general:

- Encouraged the city to provide an arborist assistance program for residents to help take care of the trees on their property.
 - Offering help will encourage people to preserve their trees.
 - Provide incentives to help plant more trees and help maintain the trees.
- Affordability is very important to the BIPOC community.
- The group encouraged the city to look at successful examples of where these kinds of codes have worked.
- The group encouraged the city to include deconstruction requirements like the city of Portland does.

The following summary provides the key takeaways from the community survey, demographics of survey respondents, and a summary of the input received.

Key Takeaways

- When considering the trade-offs between housing, trees and parking, people appeared to prioritize trees and housing over on-site parking. People did not question the concept that trade-offs are required.

“I strongly support allowing on-street parking to count towards parking requirements. Preserving lot area for trees and homes is a much more important use of space.”

“It seems a good compromise for human & tree living space”

“Maintaining trees, reducing concrete (high embodied carbon) and use of valuable site area with parking should be the top priorities.”

- **Preserving trees, open space and yards is a benefit that resonates with people.** In the written open-ended comments, over 435 responses included the term “trees” or “open space.”

“Trees are necessary infrastructure for communities and their preservation should be prioritized over aesthetic or convenience “

“Please save our trees”

“Trees provide more public benefit than cars and pavement for parking”

- **Flexibility is important to encourage middle housing.** In the comments provided, many people mentioned that how development fits in to the existing neighborhood is important and that the application of the code should be flexible to encourage the right type of development in each neighborhood.

"We need more flexibility to accommodate new housing options"

"I think its most important to make parking, height and yards sizes requirements as flexible as possible to maximize tree protections."

"Let's allow more flexibility for individual applicants that are trying to help the City meet its middle housing goals on a micro level, rather than heavily favoring developers on a macro level."

"Flexibility is key to successful growth. Allowing for taller buildings and a variety of styles that can consume up to 35-75% of a lot and be able to provide affordable housing."

- People generally support a change in the existing parking location requirements, but not necessarily a significant change in the number of parking spaces required. There are concerns that the existing car ownership trends and available transit do not support a reduction in parking spaces required.

"Most Milwaukians have to drive for work, shopping, family activities. Most families have 2 or more cars"

"People need their own space for their cars, and is best if it is on their own property (rented or owned) so that there is no competition for public parking space"

"I don't believe that Milwaukie currently has the public transportation infrastructure to support less than one parking space per dwelling unit"

"I am in support of a future with less cars and more human-propelled transportation, but we are not there yet."

- **Counting on-street parking as part of the required parking has mixed reviews.** Some people are in support of counting the on-street parking if it means that the site can be developed with more efficiently. Many have concerns about neighborhood aesthetics and pedestrian and bicycle safety with on-street parking, in addition to the logistics of on-street parking for residents and visitors.

"Too crowded, not safe for pedestrians, bicyclists, children."

"I don't want to live in a neighborhood where everyone parks on the street"

"As a previous renter (and female), that can create a potentially dangerous situation with street parking"

- People seemed to prefer the opportunity for creative design with multiple buildings on a site for multi-plex middle housing rather than having one long and skinny structure. Key benefits cited include privacy and autonomy for residents as well as neighbors, preservation of trees and the ability for buildings to blend into the neighborhoods more seamlessly.

"The ability for multiple stories and multiple buildings per lot allows for greater variation in design. It also allows for more space for gardens, green space, trees, etc."

"I really think smaller detached homes is the way of the future. It provides more feelings of autonomy for those who live in them. Aesthetically the preservation of trees makes a neighborhood feel more protected."

"Multiple buildings and more trees is nicer for the trees and those living in those homes – more privacy, more trees, more interesting shape."

Survey Demographics

- There were 121 completed surveys, including one Spanish survey and one paper copy.
- Of the responses, 81 people stated that they live in Milwaukie, 79 people stated they own a home in Milwaukie while 9 people stated they rent a home in Milwaukie. Note that people could select more than one response or could choose to select just one response.
- The neighborhoods with the most responses included Ardenwald-Johnson Creek, Lake Road and people who live outside Milwaukie (Oak Grove, unincorporated Clackamas County and Portland). Eighteen percent of the respondents did not specify the neighborhood they live in.
- The age of the participants was well spread out: 11% under the age of 34; 26% between the ages of 35 and 44; 17% between the ages of 45 and 54; 13% between the ages of 55 and 64; and 26% over the age of 65.
- Approximately 84% of the respondents self-identified as Caucasian, 12% as people of color and 3% as other.

Survey Responses

Parking Questions

Survey responses and comments related to parking indicated a clear preference for modifying the current parking requirements. There was not clear direction on whether fewer parking spaces should be required.

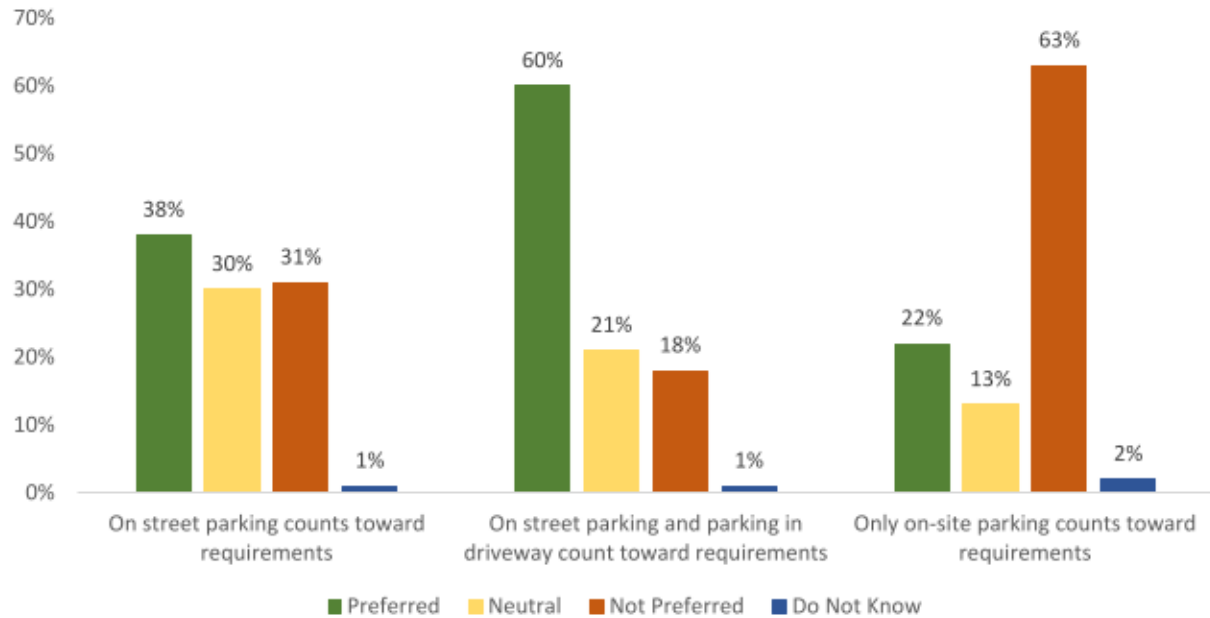
Location of Parking

When asked about preferences for parking, three options were given:

1. On-street parking counts toward requirements
2. On-street parking and parking in the driveway count toward requirements
3. Only on-site parking counts toward requirements

Most respondents preferred being able to include on-street parking and/or driveways as part of the parking requirements. The current code requirement of only counting on-site parking was significantly the least preferred.

Preferences for Parking Location Requirements



Respondents mentioned the following reasons why either on-street parking and/or parking in driveway should count toward the parking requirements:

- protect greenspace and saving trees
- create more livable spaces on the lots, increase the efficiency of space
- increase the flexibility for developers and site development (assuming that developers are not prohibited from building more parking spaces on site if they want)
- provide options for people who do not drive

Concerns about on-street parking and parking in the driveway followed several themes:

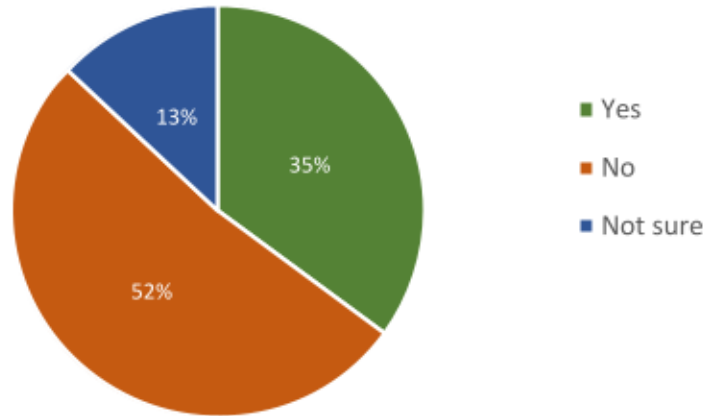
- access to properties – cars on the street blocking driveways
- pedestrian and bicycle safety – cars blocking sidewalks, unsafe walking environment next to street edge, reduced visibility for both drivers and pedestrians
- aesthetics – streets being lined with cars
- daily logistics of parking – distance of the on-street parking space to the home, challenge of parking in a different on-street location each day, electric vehicle plug-ins, safety of walking from parking to homes, visitor/guest parking

The flexibility to provide different parking standards in different locations was also mentioned in the comments. For example, allowing on-street parking to count toward parking requirements in areas near transit, or requiring off street parking where sidewalks do not exist.

Number of Parking Spaces

When asked whether they support less than one parking space per dwelling unit, 52% said that they would *not* support less than one parking space per dwelling unit. Thirty-five percent said they would support less than one parking space per dwelling unit.

Do you support allowing less than one parking space per dwelling unit?



Reasons cited for not supporting fewer than one parking space per dwelling unit included:

- lack of available transit throughout Milwaukie
- perceived current car ownership trends of people owning more than one car per dwelling unit – cars would have to park on the street
- perceived street conditions, aesthetics and safety of cars being parked on the streets
- perceived lack of available parking for visitors, care providers, etc.

Building Form

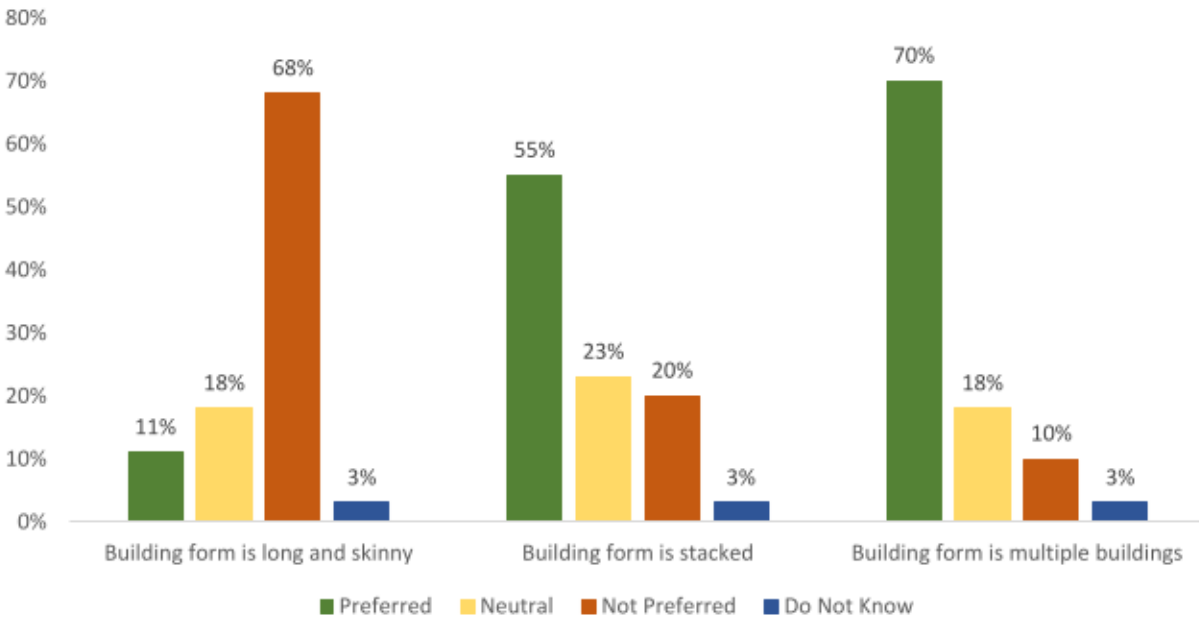
Survey responses and comments related to building form indicated a clear preference for stacked or multiple buildings on a lot. They are not supportive of long skinny buildings.

Building Form on Sites

When asked about preferences for building form, three options were given:

1. Building form is long and skinny
2. Building form is stacked
3. Building form is multiple buildings

Preferences for Building Form

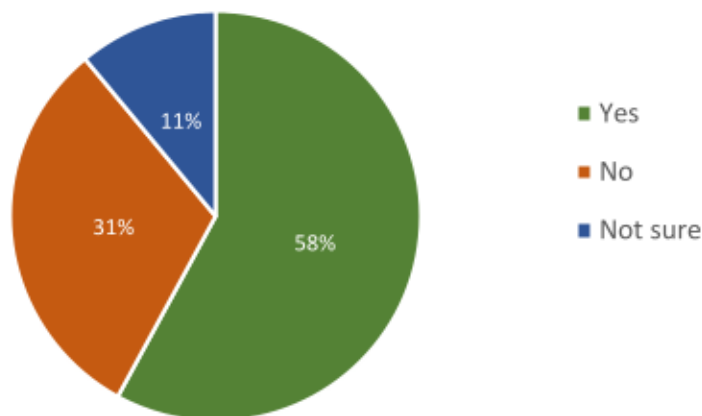


The primary reason that people preferred stacked buildings is the ability to preserve and maintain landscaping, green space, and trees. People preferred multiple smaller buildings because it provides privacy and autonomy for residents, better quality of life with not having another dwelling above or below your unit, creative use of space and design, preserving trees and green space, and blending in better with the neighborhood.

Building Height

When asked if they would support the building height going up to three stories if it meant a tree on the site could be preserved, 58% said that they would.

Do you support allowing a three story building to preserve a mature tree?



People are generally supportive of taller buildings to preserve mature trees, with many comments related to the importance of preserving trees. Concerns about the building height noted were:

- impacts to view corridors and sight lines
- privacy of adjacent neighbors
- solar access on adjoining lots
- consistency with neighborhood style and feel

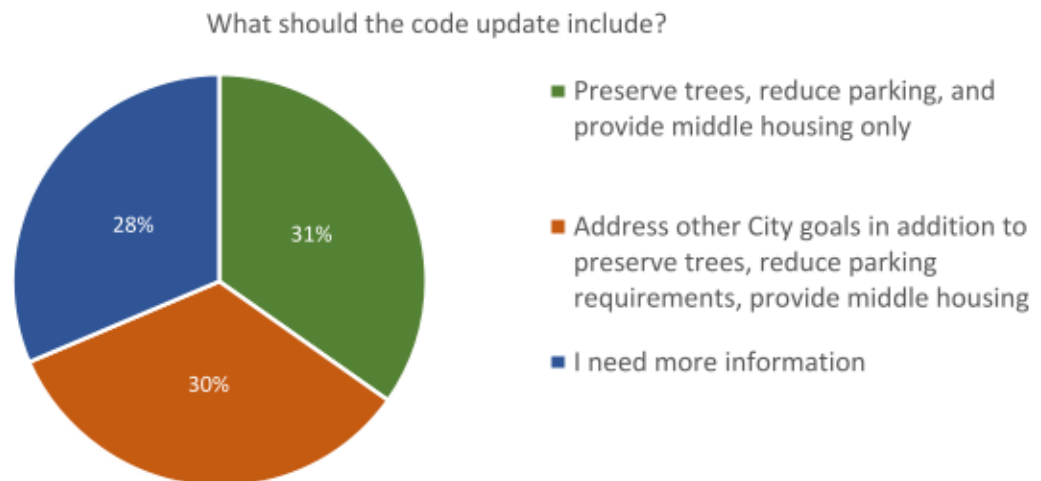
Comments were also made regarding the ability to count the basement as a third story and allowing three stories based on specific location and consistency with the existing neighborhood feel.

Code Flexibility

Survey participants were asked to weigh in on what the code update should include:

- Option 1: Flexibility to preserve trees on site and reduce parking requirements in addition to the state mandated middle housing requirements, only when certain conditions are met.
- Option 2: Flexibility to address other City goals, in addition to providing middle housing, preserving trees, and reducing parking requirements, only when certain conditions are met.

Responses were split evenly between the two options and needing more information to give an opinion.



When asked what conditions needed to be met, many of the responses related to conditions to allow for parking reductions. People suggested that parking reductions could be granted if the following conditions were met:

- increase in outdoor space
- cohousing situation with access to car sharing
- near transit, specifically high frequency transit
- near neighborhood greenways, bikeable/walkable area
- provision for bike parking/facilities
- parking study that adequate street parking is available
- preservation of trees

- addition to the social/ecological well-being of the community (i.e., bioswale, community garden)
- specialized housing for those who may not drive

Respondents identified the following topics as other City goals that could met by the code update related to middle housing, parking, and trees:

- green building practices (i.e., solar panels, stormwater treatment)
- affordable housing
- walkability
- passive house design
- sidewalk and street frontage improvements

Envisioning Your Neighborhood

To get a better understanding of the elements that are important to define the look and feel of neighborhoods, the public’s input on the importance of certain site design features was sought. The following includes the percentage of respondents who noted each photo as being important for their household.

Size/width of yard (front, back, side setbacks)



37%
Small yard



79%
In between small and large



19%
Large yard

Location of parking



42%
In the front of the house



53%
In the front of house & on-street



64%
In an alley or behind the house

The amount/ size the building takes up on a lot (lot coverage)



24%
Building covers over 50% of lot



72%
Building covers 35% - 50% of lot



43%
Building covers 35% of lot

Height of building(s)

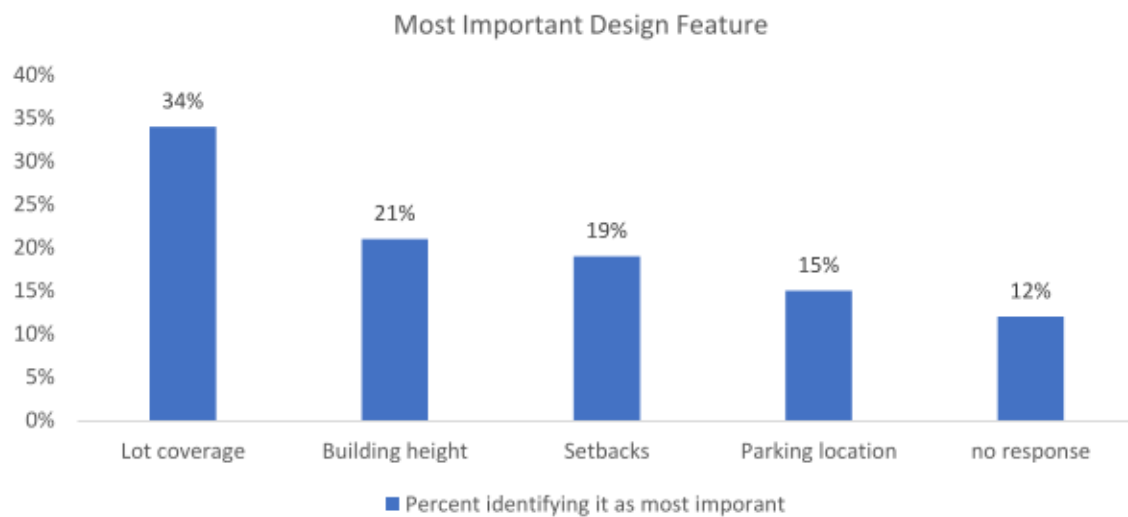


50%
Maximum two and one-half stories (current code)



57%
Maximum three stories

Participants were asked to identify their most important design feature. Overall, lot coverage was the most important design feature to people. Many people also noted that, regardless of the design standards, it is the quality of design and the ability for the building to fit into the aesthetics of the neighborhood that is most important element.



Individual comments

People who viewed the virtual open house had the opportunity to provide comments through the community survey or within each station of the open house. In addition to the over 450 open ended survey responses received, there were over 130 station comments. The themes of the comments included:

- Clarification of the middle housing requirements in Oregon HB 2001
- Role of the City regarding tree regulation on private property, including replacement and maintenance
- Areas within Milwaukie for future development
- Development review process, including the difficulty of developing middle housing currently and public review of plans
- Loss of green space around the city due to development and need for more green space
- Housing needs and types of housing in Milwaukie, including affordable housing and home ownership
- Examples/discussion of housing developments that people like or do not like
- Concerns about higher density housing, Airbnb use, etc.
- Importance of the Vision and Comprehensive Plan and relationship to other City goals
- Importance of linking the transportation infrastructure (transit, biking, and walking) to housing
- On-street parking, existing street improvements and parking requirements
- Design features of middle housing
- Neighborhood livability
- Green buildings
- Need for regulation and flexibility (both in support and opposition)
- Appreciation for communication, open house materials and survey
- Technical difficulty related to the survey and open house (note: staff responded and fixed the issues immediately)

Next Steps

The information from the community survey has been reviewed and discussed by the Project Team. The feedback, along with the CPIC direction and city priorities, will be reflected in the recommendations presented to the CPIC for the code update.

Before the code amendments are presented to the Planning Commission in July, the public will be given an opportunity to review the draft amendments. The public will have an opportunity to comment through the code adoption process.

ATTACHMENT 4

Comments received on posted code amendments - as of September 28, 2021				
Commenter	Date Received	Municipal Code Section	Comment	City Staff Response/Recommendation
Zoning Map				
Bradley Bondy	7/26/2021	Zoning Map	<i>Rezone properties in close proximity to downtown or frequent service bus lines to the new R-1 zone, and those within 10 minute walk to downtown or MAX to the new R-1-b.</i>	Staff will be working on the high density zones in the next phase of code amendments and comprehensive plan implementation.
12106SE (Engage Milwaukie)	9/15/2021	Zoning Map	<i>It is difficult to tell on the zoning map if the Clackamas Community College Campus is included in the Comp. Plan. It appears that it is not.</i>	The college campus property is zoned Limited Commercial, not residential, so the proposed code amendments will not directly affect this property.
Title 19 Zoning				
Bradley Bondy	8/24/2021	19.301 and 19.302	<i>The proposed minimum lot size requirements for different forms of middle housing should not be included as is in the final code. I ask that the Planning Commission reduce minimum lot sizes for 3-plexes and 4-plexes to something that doesn't strongly discourage their construction.</i>	The minimum lot sizes proposed for triplexes and quadplexes reflect the requirements of HB2001.
Bradley Bondy	8/24/2021	19.301.5.B.3	<i>In 19.301.5.B.3, middle housing is provided a 10% lot coverage bonus, however it's written such that only the first floor can be built within that bonus, second floors are restricted to the same area as a single detached dwelling. This reduces the possible square footage of middle housing, thus reducing their viability. This greater restriction is not present in the R-1 and R-1b zones, and it should be not included in the R-2 zone. SUGGESTED EDITS: "Increased Lot Coverage for Duplexes- Middle Housing. The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 20-10 percentage points for a duplex- middle housing, provided that the portions of the structures(s) that are in excess of 20 ft high, or in excess of one story, are limited to the lot coverage standard listed in Subsection 19.301.4.B.4.</i>	
Bradley Bondy	8/24/2021	19.301.5.B.3	<i>The draft code proposes a reduction to the lot coverage bonus for middle housing from 20%, down to 10%. This change should be dropped. It's both fine and good to allow buildings in which 2-4 families live to be a fair bit larger than a single detached home where only 1 family lives. Keeping this reduction in the final code would discourage the building of the middle housing that the adopted comp plan makes clear is a high priority for the city.</i>	
Bradley Bondy	7/26/2021	19.605	<i>Eliminate parking minimum in the R-1-b zone. This zone exists exclusively within a short walk to downtown, the MAX, and the transit center where 8 bus lines all converge. It's also a neighborhood where a significant number of folks already don't own cars.</i>	By-right reductions to required off-street parking include credits for proximity to transit.
Bradley Bondy	7/26/2021	19.302	<i>Modify the R-1-b zone to allow 4-plexes on 5,000 sq ft lots. No adjustments to setback or lot coverage standards needed.</i>	The minimum lot sizes proposed for triplexes and quadplexes reflect the requirements of HB2001.
Bradley Bondy	7/26/2021	19.302	<i>Allow Single Room Occupancies (SROs) within the R-1-b zone.</i>	SROs and other similar types of housing will be addressed in a future phase of code amendments.
Wibke and Mark Fretz	9/25/2021	19.505.1	<i>While we understand that the intent of the Detailed Design standards is to have housing that is appropriate for the neighborhood, we would note that the 15 listed features do not constitute a known style and adhering to them would not necessarily produce esthetic housing or housing compatible with the neighborhood. We support the inclusion of porches and several other non-stylistic features, but, for example, bay windows, changes in roof height and other façade offsets add construction costs to units that are meant to be affordable and decrease energy performance (impacting climate and operational affordability). Additionally, the choice of wood shingles for roofs or walls is problematic, as these are a fire hazard. More consideration could be given for alternative materials. We realize that applicants may go through a Type II variance application to avoid compliance with 5 out of the 15 features, but an alternative would be to reconsider the list of required features so that more developments could forgo the variance application, which increases development timelines, housing cost and inhibits design innovation.</i>	Determining a new list of design details was beyond the scope of this project. As proposed, the existing list of design details for single detached dwellings would apply to middle housing as well to be consistent. This list was put together in a public process in 2012.
Wibke and Mark Fretz	9/25/2021	19.505.4	<i>We understand that the definition of a cottage is one home/house. However, if a duplex cottage (two units) can meet the maximum footprint of 900 sq. ft. and the massing (height, roof slope, etc.) requirements for a single cottage, we would advocate for the code to allow for that type of cottage within a cottage cluster.</i>	As proposed, duplex cottages are permitted in the High Density zones, but not in the R-MD zone.

Bradley Bondy	7/26/2021	19.607	<i>Allow on-street parking spaces directly in front of a property to count towards the minimum. Car parking takes up a ton of space and can greatly reduce the amount of living space that is possible to build, and it eats into yard space, likely reducing the number of trees on a property. The city's on-street parking capacity is greatly underutilized. Limited on-street parking is not an issue.</i>	In order to account for each property's specific on-street parking availability, the code provides for a Type II parking modification process to allow for this type of flexibility on a case by case basis.
Rob Reynolds	9/1/2021	19.600	<i>Why does the city want more street parking?</i>	The proposed code requirements for on-street parking are in line with the requirements of HB 2001, but, more importantly, we recognize that building off-street parking increases the cost of development and one of the goals of the comprehensive plan is to find ways to reduce the cost of housing. As part of this code project, we had a Residential Parking Occupancy Study done to help ground-truth how the amendments might affect on-street parking. We posted this document on the Engage Milwaukie site. It is available here: https://www.milwaukieoregon.gov/sites/default/files/fileattachments/planning/page/117711/residential_occupancy_parking_study_-milwaukie.pdf .
Rob Reynolds			<i>Thanks for your response, but you still did not answer my questions. Why is the city pushing their political view for my property and future property owners? What is the number of people that you are referring to? We do not have a large involvement of all the residents in Milwaukie. I would like to see that change. But with that said I am not sure what standing you are using when you say that this is what the people in Milwaukie want. If these were safety issues that a contractor was causing I could see the code changes. But all I see is a political view being forced on the people milwaukie.</i>	The proposed code amendments reflect the multi-year comprehensive plan process that involved hundreds of Milwaukie residents, the nearly 16-month process of the current implementation process that also involved hundreds of Milwaukie residents, and the required compliance with Oregon House Bill 2001. Staff has worked diligently to ensure that the proposed amendments reflect the expressed goals and policies in the adopted comprehensive plan as well as compliance with state law.
Donald Courson	9/6/2021	19.605.3	<i>Key amendment item states "Include a by-right reduction in minimum off-street parking for middle housing located near transit." A clear definition of "transit" is not referenced, and a quantitative definition of "near transit" is not included. Given Trimet's current level of coverage, this would allow for any housing to be deemed "near transit" and eliminate the requirement for off-street parking in all cases. My position is that the city needs to revise to include both a clear definition of "transit" and quantified definition of "near".</i>	Proximity to transit is already a reduction in the existing code – we are adding middle housing to the types of development that can get this reduction:
			<i>Key amendment item states: "include a by-right reduction in minimum off-street parking for income restricted (affordable) housing." The terms "income restricted (affordable) housing" are a broad term, subject to interpretation resulting complexity to enforce. Recommend that the city revises to provide a clearly enforceable definition of "income restricted (affordable) housing" in a manner such as "income restricted (affordable) housing as defined by XX", or even stating a definition in detail. Otherwise, potential developers may be concerned with whether their build plans would meet the city's regulations, and the city may have limitations in situations where they disagree that a developer's plans are in the best interest of the city and affected neighborhood.</i>	Income-restricted housing code language has been included in the proposed amendments.
Brad Thompson	9/9/2021	19.605	<i>I would preferably like to see only onsite parking with no street parking as this could cause pedestrian traffic accidents.</i>	
Charles ISN (Engage Milwaukie)	9/20/2021	19.605	<i>The amendment does not address the need for more parking per unit. With a couple each with a car plus a teenager and a boat more off street parking would be critical. Please adjust the amendment to include more off street parking.</i>	Oregon House Bill 2001 does not allow us to require more than 1 off-street parking space per dwelling unit. This is the requirement for single detached homes as well, so the proposed code is applying the same requirements to single detached homes and middle housing.
Wibke and Mark Fretz	9/25/2021	19.600	<i>We strongly support the proposal to reduce required parking numbers through several methods, including tree preservation, via a Type II parking modification. The summary of "key amendments," however, suggests a more flexible arrangement of parking for middle and cottage cluster developments than is specified in the code language and we would support the more flexible language in the summary, including allowing parking in some of the required setbacks. We also want to advocate for a more flexible approach to parking in general. For example, requiring parking for cottage cluster developments to be in a common area would create a large, paved surface vs. having parking spaces placed individually, some even associated closely with individual units, which seems more in keeping with the character of surrounding neighborhoods. These additional requirements for parking, including placement, limits the number of housing units on a lot, which restricts affordability.</i>	The proposed code amendments do provide for an allowance for parking within the required setbacks. The cottage cluster code amendments reflect HB2001 and the model code to ensure compliance with these requirements. The parking modification process is available to provide flexibility as needed on a case by case basis.

Rice99_97068 (Engage Milwaukie)	9/24/2021	19.600	<i>As far as the residential parking in yards and side areas i think its a great idea. Milwaukie is a city of families and families like to do stuff the may enjoy camping a have travel trailers or classic cars the family's enjoy of like water sports so have jet skis or boats, and some of the houses were not build with enough driveway space to park more then a car or 2 but there is plenty of other areas on the property that would be great to park</i>	
Jay Panagos (Engage Milwaukie)	9/1/2021		<i>Are "Tiny Houses" included in Cottage Cluster Development?</i>	Thank you for your question. If by "tiny homes" you mean very small homes on a wheeled chassis, then no, they are not permitted as dwellings because they are considered vehicles. Current code does not permit people to live in vehicles. Cottages in a cottage cluster development must meet certain minimum design and development standards – you can review them in code sections 19.505.1 and 19.505.4.
Erik (Engage Milwaukie)	9/21/2021		<i>I have serious reservations with the idea of combining housing type zones (essentially rezoning) for the quiet neighborhoods like many around Milwaukie. The way I read this, it would presumably allow a developer to build a high-density condo-like complex right along side single family homes. In my Hector Campbell neighborhood, we already have monstrous, brand new houses being built that tower high above all our little single-story ranch-style homes that have been here for decades, which appear intrusive. These ridiculously large houses are out of place enough already, I can't even imagine a 4+ story, 30-dwelling condo complex building on the corner of my block, casting its shadow on my already sun-starved garden (tree requirements), filled with people staring down into my windows and overseeing my activities in my yard from above. Sure, this is an extreme example, but this plan would allow for it.</i>	The proposed code amendments apply to middle housing and not to large multiunit developments. The proposed design and development standards include maximum building height for middle housing that is the same as for single detached units, so a 4+ story building would not be permitted in the medium density zones. The Engineering and Public Works Departments are part of the project team for these proposed amendments as well.
			<i>I would also like to echo the previous commenter's concerns regarding additional traffic on our streets, which mine hasn't been paved since its first (only) layer of asphalt was laid down in 1946, and is now so broken and cratered it's worse than driving on the surface of the Moon. Another major concern I have is the current capacity of our existing utilities - water, gas, electrical, storm/sewer, broadband internet, phone/cell, etc... Some parts of Milwaukie are already at (or above) the limits for many of these services. We have areas in older neighborhoods with chronic sewage issues and/or low water pressure. Most of our upper-North Milwaukie neighborhoods have overhead electrical lines running old, thin copper conductors that are not tree-rated, and which already max out their current rating during the coldest weather of each Winter.</i>	
			<i>If you're just going to railroad these changes through anyway (Re: TriMet MAX) then at least prepare the area for potential impacts, and upgrade roads and work with utility providers toward expansion ahead of construction, instead of playing catch-up after the fact or just flat-out ignoring and denying these problems and the needs of Milwaukie's residents altogether.</i>	
Dawntim17 (Engage Milwaukie)	9/17/2021		<i>Not all zones being changed to allow higher density housing have a street infrastructure to support the additional traffic. Before higher density housing is permitted, there needs to be street infrastructure improvement to support it, lest Milwaukie become the next Sellwood.</i>	
12106SE (Engage Milwaukie)	9/15/2021		<i>So the new code would require subdividing the lot for cottage cluster or could they be owned as tenants in common?</i>	A cottage cluster can be owned in common.
12106SE (Engage Milwaukie)	9/15/2021		<i>I understand the need for more middle housing. I am ok with adding duplexes and triplexes ONLY if we have stricter zoning as to what is acceptable. I don't want to live next door to a 'skinny house' that has a door and single garage facing the street. They need to fit the character of the neighborhood and that is something, I believe, that the City would need to put into the code. Also, while adding more residents to Milwaukie, what is the plan to keep up the infrastructure of the City - roads, sewer, etc? That is something we really need to have plans for.</i>	All new middle housing development would need to comply with minimum design standards (just like single family homes do). The Public Works and Engineering Departments are involved in this project as it relates to infrastructure needs.
Milwaukieres (Engage Milwaukie)	9/27/2021		<i>We are aware and understanding of the housing crisis. However, we feel that tiny home/cottage clusters and other multiple unit dwellings will ruin the charm and draw to Milwaukie and neighborhood property values will decline. It would directly affect the livability for my family. It's one thing to have neighbors next door, but it's another when there's multiple sets of neighbors next door. We live on a well traveled street and already experience many issues with traffic on a daily basis as is, so adding more people in our neighborhood would only contribute to the issue. More people=more cars=more congestion=Unhappy, established longtime homeowners. We don't want to live next door to or down the street from any more duplexes or tiny home clusters.</i>	Tiny homes (small homes on wheeled chassis) are not part of the proposed code amendments. The proposed code amendments reflect the multi-year comprehensive plan process that involved hundreds of Milwaukie residents, the nearly 16-month process of the current implementation process that also involved hundreds of Milwaukie residents, and the required compliance with Oregon House Bill 2001. Staff has worked diligently to ensure that the proposed amendments reflect the expressed goals and policies in the adopted comprehensive plan as well as compliance with state law. The proposed amendments also include design and development standards so that new housing will compliment existing neighborhoods.
Title 16.32 Tree Code				

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	"Crown" is defined, but there is no definition for "mature tree crown." How will this be determined?	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	"Right-of-way" is defined but "abutting right-of-way" is not. This should be defined.	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	Definitions	"Street tree" is defined as a tree, shrub, or other woody vegetation on land within the right-of-way. The "other woody vegetation" language may be broad, and complicate things for the City if it is required to regulate the clearing of woody vegetation. To simplify this and reduce complaints, the City might consider a "height threshold when fully grown" for the purpose of regulating their removal/pruning, and remove mention of anything smaller in stature.	
Elvis Clark	7/11/2021	16.32.023	Objection to proposed language on interference with city: This language taken at just its word would seem to give the Urban Forester the ability to just enter one's private property without getting permission from the property owner or through proper judicial process to override the proeprty owner's resistance.	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.040	16.32.040 Penalty: The current language suggests that penalties only apply to a person who removes a street tree or a public tree without first obtaining a permit, or for a person who removes a tree in violation of an approved permit. However, no penalty is mentioned in the event that someone removes a private residential yard tree in a non-development situation without a permit. This language should be clarified to include removal of a tree on private property without permit in situations that require a permit under Section I.1.	
Elvis Clark	7/11/2021	16.32.042	Objection to proposed language including exception on residential building heights: I prefer no such exception for developers to use to build houses higher than the current 2 and half story height limit contained in the proposed Comprehensive Plan Implementation	
Elvis Clark	7/11/2021	16.32.042	Ojection to 6-inch DBH standard in non-development tree permit requirements: This is too narrow a diameter for private property, non-developmental tree regulation. The City of Portland uses 12 inches DBH for residential tree removal requirments. Seems unrealistic as enforcement is very unlikely to be able to enforce consistently and fairly over private property.	
Elvis Clark	9/22/2021	16.32.402	I believe 8 inch Diameter is too low a diameter to be practical in enforcing code. I think the focus by the City should be on regulating private property/non-development trees with diameters of at least 20 inches and greater (DBH) I think the public consternation of tree falling on private property surrounds more the mature and tall firs, oaks, elms, etc. typcially these being well over 20 inches DBH. I can't imagine the City wanting to so micro manage even small trees down to 8 inch DBH. These small trees should maybe be the subject of informational encouragement rather than enforcement. 8 inch will also cause too much friction between neighbors, as the only way it gets consistently enforced is if neighbors are "ratting on one another." Arborists and tree cutters are no longer so cheap, too; and so many folks do there own managing of trees; and so here again, there should be more balance between imposing costs beyond the 20 DBH and greater on Milwaukie property owners. I make this plea again against a draconian launch into private property tree codes, down to the 8 inch diameter range at (DBH).	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	Support for 6-inch DBH: We strongly support the inclusion of trees above 6" DBH in Tree Inventory Requirements (H.1) and in Non-Development Tree Permit Requirements (I.1.a) This stringency is critical to protecting the urban forest and giving small trees a chance to contribute to a multi-age sustainable canopy as the urban forest ages.	

Elvis Clark	7/11/2021	16.32.042	<i>Objection to on going maintenance language: This is both too intrusive over non-development, private property owners, and unrealistic per code enforcement. It seems way overboard for government to oversee such matters, and, costly if the property owner must hire an arborist to "properly prune."</i>	
Elvis Clark	7/11/2021	16.32.042	<i>Objection to illegal tree removal language: The City should stick to a fixed Master Fee Schedule for all illegal tree removal. Appraised Value opens a can of worms as for instance guessing what a tree's assessed value is in the aftermath of its falling and even possible removal.</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Integration of strategies to achieve 40% tree cover and equity considerations into regulatory mechanisms: There is no clear articulation of how the City plans to achieve a 40% tree cover from the 26% cover noted in the 2019 Urban Forest Management Plan. The Plan describes the need to "analyze the potential of a tree planting program to increase canopy coverage to 40% by 2040, prioritizing lower income neighborhoods that do not have adequate canopy coverage." This is an admirable goal we strongly support. A planting program obviously would require staffing and funding, in addition to partnerships. The timeline for this to be determined is unclear. However, we also believe the code framework can be an effective tool to pursue both tree coverage and equity geographically. Geospatial tools offer a decision tool for ensuring equity as trees are planted. This information is now available on Branch Out Milwaukie at the census tract level. An approach such as this provides a methodology for ensuring equity. No census tract in Milwaukie has a canopy cover greater than 35% based on current data. The aforementioned future tree planting program could help create equitable outcomes.</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Tree preservation and planting in residential zones: Section B. Tree Preservation Standards, establishes a base requirement that one third of the existing priority tree canopy be preserved. Given the goal of 40% canopy and an existing coverage of 26%, we again feel that we cannot judge the adequacy of this 33% standard in meeting this 40% goal. How was it arrived at?</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Adequacy of tree fund payment schedule: We do not believe that the Tree Fund Payment schedule is adequate enough to incentivize developers and landowners to preserve existing trees. Conversations with city staff indicated that they predicted that most developers would simply consider these fees part of the cost of doing business, remove many large trees, and pass the cost to homebuyers. It is absolutely critical that if the city offer a payment instead of preservation option that the cost be high enough that serves to protect large old trees and is only used as a last resort.</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Role of Urban Forester: The Urban Forester is obviously a position that will hold extensive expertise in urban tree management, this latitude places a lot of power to grant exceptions to this individual with the faith that they will be forward-looking and seeking to maximize urban forest versus providing streamlined process for development. Given that positions inevitably transition, the city should 1) specify how adequate oversight of these discretionary processes will occur, and by whom, and 2) create a process by which Urban Forester exemptions and determinations can be appealed to the Tree Board before any trees are felled.</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Clearer standards, criteria, and determining parties: Section D, Mitigation Standards, does not specify who determines whether or not "tree preservation and/or tree canopy standards are practicable to meet", what criteria will be used in this determination, and what routes of appeal of this decision are available to applicants, impacted parties, and/or other stakeholders. One method to clarify this could be the Urban Forester advising the lead development permit planner to approve/deny the option to remove and mitigate trees at a development site (this would parallel the process under E. Discretionary Review Alternative - where the Tree Board provides a recommendation to the Planning Commission). One can predict that arborists and consultants, operating on behalf of their clients, will often be able to justify the removal of trees, or why preservation and/or replanting are not feasible. A clear method should be established for when the Urban Forester and the applicant's arborist disagree, and that is transparent, equitable, and serves the urban forest and the public interest.</i>	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Submittal, Tree Preservation Plan, and Tree Canopy Plan Requirements for Development Tree Permits: The burden of proof and a rigorous standard should be clearly placed on the applicant to demonstrate that first, protection of existing trees is not possible, including changing the footprint of proposed buildings, parking, etc. We do not believe that this code articulates this burden or standard sufficiently. One strategy to improve this dynamic is for the city to require predevelopment site visits in which the Urban Forester verify inventories of existing tree canopy and help developers craft a site plan that accomplishes multiple goals, including retaining existing trees. The submittal, tree preservation, and canopy plans should assess the site within its human and ecological context, including: amount of tree canopy, percentage of impervious surface, and urban heat island effect in that census tract; impact of any loss of trees, on wildlife habitat connectivity; impact of any loss trees, on riparian shade; impact of any loss of trees on stormwater and flood attenuation.</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Discretionary Review Alternative (E 1a-ad): We are very concerned that the net benefit/loss of these techniques to the environment and the community will be lower and/or difficult to assess. The Discretionary Review Alternative distracts the City from the primary goal with teh most collateral benefits: expanding Milwaukie's urban forest. Typically, assessing the value of these discretionary alternative techniques requires expertise of a type beyond that of an arborist or the Tree Board (expertise in stormwater design, carbon sequestration, etc.) Many constructed stormwater facilites such as cartridge systems or detention vaults provide benefit in one sphere only (stormwater) but none of the collateral benefits that trees to (urban heat island effect reduction, shade, increase to nearby property values, wildlife habitat, carbon sequestration, etc.) This strategy should therefore be removed.</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Non-Development tree permit requirements: We strongly support the language that replacement trees "must sustantively replace the function and values of the tree that was removed wherever practicable."</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Non-Development tree permit requirements: We recommend further strengthening this requiement to state that the replacement tree be as lare as maturity as the site can reasonably accommodate.</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Non-Development tree permit requirements: We strongly support explicit language that "maintenance or the replacement of pavement, removal of tree litter, or other minor inconveniences do not constitute extraordinary circumstances."</i>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<i>Non-Development tree permit requirements: We recommend that additional language be added to the review criteria for section 2.a to include: whether the tree provides significant wildlife and/or fish habitat; whether the tree is providing shade and/or erosion control to a stream, wetland, or other waterway.</i>	

Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<p><i>Funding the Tree Fund with Payments of Preservation: We presume that it is the City's intent that future planting efforts be funded by the Tree Fund, generated via mitigation fees (D. 1-2). This creates a potential dynamic in which funds for planting are reliant on Tree Preservation and Canopy Standards are not being met. If trees are not preserved, there will be funds for planting but the City will lose a lot of its existing tree cover including old trees. This funding mechanism will make it very difficult to achieve the 40% canopy standard and equity goals because there will be either insufficient funds for significant planting, or because too many trees will be removed. This funding structure also creates a potential incentive to provide exceptions to the preservation goal, which goes against the intent of these policies. We are happy to work with the city to help identify and advocate for such funding streams.</i></p>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<p>Commercial and Industrial zones: This plan applies to residential zones in the City of Milwaukie. Significant land, and significant urban heat island effect, is generated by commercial/industrial land as well. We believe that addresses the urban forest on these lands is essential and look forward to it being generated.</p>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<p><i>Performance bonds for tree maintenance by HOAs: We recommend the City consider Performance Bonds for trees planted as mitigation as a way to ensure that either these trees survive to maturity and that if they do not the City has resources to maintain/replace them. Many mitigation plantings in general do not survive. Performance Bonds would likely be managed by HOAs after construction. Given the experiences of neighboring jurisdictions (Clackamas Water Environment Services and Oak Lodge Water Services) with HOAs managing and maintaining stormwater facilities given the rapid turnover of HOA boards, these agencies have and/or are considering charging HOAs fees to manage these facilities themselves rather than see these facilities cease to function. Planning for tree maintenance should take these experiences into account to ensure tree survival and growth.</i></p>	
Ted Labbe, Urban Greenspaces Institute; Micah Meskel, Portland Audubon; Neil Schulman, North Clackamas Watersheds Council	8/5/2021	16.32.042	<p><i>Permit and Fee Exemptions on Land Owned or Maintained by the City and Within the Public Right of Way: B Maintenance code states that no permit is required for regular maintenance or minor tree pruning for trees on public properties and rights-of-way. This seems to apply implies that a permit may be required for minor tree pruning in other situations. Based on our reading of this outright exemption, anyone (adjacent landowner or private citizen) can prune trees in street right-of-ways or on public lands. We assume that the city does not intend to authorize anyone to do minor tree pruning for all trees on public land. This should be clarified. Perhaps in lieu of a permit for minor tree pruning, the City could require notification to the Urban Forester for any party wishing to undertake tree pruning in these settings (but not for private yard trees.)</i></p>	
Rob Reynolds	9/1/2021	16.32.042	<p><i>How do you cover 40% of your lot with tree canopy? It seems that the City is setting unrealistic expectations for our property and for our city property. What does a 40% canopy achieve? Why does the city want to set up another charge, why do they think we have more money to spend on programs that not everyone agrees with?</i></p>	<p>The origination of the tree canopy goal for Milwaukie started with the community visioning process. Through an award-winning engagement effort, the Milwaukie Community Vision was created which states that by 2040, "Milwaukie nurtures a verdant canopy of beneficial trees, promotes sustainable development, and is a net-zero energy city". From this direction, the city created the Climate Action Plan which established the 40% canopy goal. This 40% value was created as an aspirational target, using guidance at the time from the American Forests Institute (who now recommends a 40-60% canopy cover in forested states such as Oregon) but also community feedback and opinion. The Urban Forest Management plan, adopted in 2019, developed recommendations to achieve that goal, and the Comprehensive Plan (adopted in 2020) baked that goal into policy, also with robust community engagement. According to the most recent community survey, 78% of community respondents felt like Milwaukie's urban forest was an important city investment.</p>
				<p>While 40% is a target value that the city has created, it's really just a number to represent the canopy needed to fully maximize the community benefits of trees. Our urban forest shades hot streets and sidewalks (reducing urban heat island effect), improves air quality, provides habitat, raises property values, decreases stormwater runoff and treatment costs, improves community health, and more. Especially after our record summer heat, these benefits are more important than ever! Many cities, neighborhoods, and lots in the Portland Metro region are at or above 40% cover already. You can check out some of this data here.</p>

				In the proposed code, only newly developed properties and sites going through a development review process are required to meet the 40% canopy goal with new plantings and existing trees. Canopy cover of new plantings are based on their canopy at maturity, not on their current, young smaller canopy. There is nothing in the code that requires existing homes to plant up to 40%, though the tree fund may help with education, outreach and assistance to help homeowners who want to plant more trees on their property.
Teresa Bresaw	9/21/2021	16.32.042	<i>The city of Milwaukie should be putting their efforts in educating and encouraging citizens to plant the "right" tree, maintain, and protect trees on private property. The 40% lot coverage goal can't reasonably be done on the average sized lot. Trees should not be planted close to houses for fire prevention, ice and wind storms, damage to roofs and gutters. Trees are normally not recommended to be planted where there are utility easements. Large roots can cause damage to water lines, driveways and sidewalks. New construction with 3 car garages and the residential density that is encouraged again makes it difficult to get this 40% tree coverage. You would have better results concentrating on parks, green spaces (including wetlands that may be privately owned), public right of ways and city owned properties. If you want to compare the city of Durham to Milwaukie, in regards to the goal of 40% tree canopy, then you need to ask how many acres of parks and green spaces do they both have and the percentage? Also what percentage of land is residential and industrial in each? Durham is 262 acres with 50 acres in parks and green spaces. Milwaukie is 3200 acres and I suspect Milwaukie is way below average for parks. I personally love trees and recognize the importance of them. They are a huge expense, commitment, and lots of work! At least 7 neighbors have told me that they do not support mandating on their private property. I hope Milwaukie doesn't copy the city of Portland. I did review West Linns tree ordinance and agreed with many of their ideas. All 3 cities are completely different. We can increase tree canopy but mandating it on private property is not the way. Removal of nuisance trees should be decided by the property owner not the city that has zero responsibility. Having a city arborist on staff or on contract would be a benefit to all. Possibly neighborhood grant money could help fund this. Large undeveloped lots likely have development standards relating to trees. There are many other ways to increase the tree canopy. Let's find places to actually plant these needed trees (with irrigation). Writing up more regulations is not the best way to do this. Furthermore tax dollars need to be efficiently used to increase</i>	
			<i>this tree canopy which would create goodwill (not anger at government control, even though we need a certain amount). Milwaukie would be better served in helping residents plant the "right" tree in the "right" space with education on pruning, irrigation and preserving existing trees AND eradicating weeds like ivy!</i>	
eschutz (Engage Milwaukie)	9/12/2021	16.32.042	<i>In going through the documents I have seen incentives for utilizing native species mentioned and alternative plan options, such as solar. What I don't see is a penalty or strong incentive to remove plants such as ivy. Does our comprehensive plan already have staff and a budget to facilitate removing all the non-native pest plants to increase the native animal habitats?</i>	Thanks for participating in the conversation! The city does have code which prevents invasive species (species listed on the Oregon Noxious Weed List) on public property and in the right-of-way. Milwaukie has a small but mighty natural resources crew who goes around the city removing invasive species in public spaces and water quality facilities. Milwaukie also partners with organizations and non-profits like the North Clackamas Watersheds Council, Johnson Creek Watershed Council, Backyard Habitat Program and Friends of Trees to perform and promote habitat restoration on public and private property.
				The comprehensive plan calls for an analysis of the city's habitat connectivity (the connection of greenspaces across the city) and includes more robust natural resources policies. In later phases of the comprehensive plan implementation, when we look at natural resources code in more depth, the city can explore how to best incentivize or regulate invasive species. Thank you for the suggestion!
Emylou (Engage Milwaukie)	9/27/2021	16.32.42	<i>I think it might be useful to clarify "hazardous tree." For example, if a tree, limb, or any part of a tree already fell (due to storms, winds, non-human interaction), it would be good to clarify whether that would be considered a hazardous tree subject to removal permits or if it would be considered yard debris and no longer subject to removal permits.</i>	

Dear Milwaukie Planning Commission:

As a teacher in Milwaukie and property owner, we strongly support the changes in the code to allow middle and cottage cluster housing in the new R-MD zone. We believe this will strengthen the ability of housing developers to meet the need for missing middle housing in Milwaukie and produce walkable, bikeable, desirable neighborhoods, which foster community connections.

We do have some comments on the proposed codes that we think would help achieve the goal of providing additional missing middle housing in Milwaukie.

1. Parking

We strongly support the proposal to reduce required parking numbers through several methods, including tree preservation, via a Type II parking modification. The summary of “key amendments,” however, suggests a more flexible arrangement of parking for middle and cottage cluster developments than is specified in the code language and we would support the more flexible language in the summary, including allowing parking in some of the required setbacks. We also want to advocate for a more flexible approach to parking in general. For example, requiring parking for cottage cluster developments to be in a common area would create a large, paved surface vs. having parking spaces placed individually, some even associated closely with individual units, which seems more in keeping with the character of surrounding neighborhoods. These additional requirements for parking, including placement, limits the number of housing units on a lot, which restricts affordability.

2. Detailed Design

While we understand that the intent of the Detailed Design standards is to have housing that is appropriate for the neighborhood, we would note that the 15 listed features do not constitute a known style and adhering to them would not necessarily produce esthetic housing or housing compatible with the neighborhood. We support the inclusion of porches and several other non-stylistic features, but, for example, bay windows, changes in roof height and other façade offsets add construction costs to units that are meant to be affordable and decrease energy performance (impacting climate and operational affordability). Additionally, the choice of wood shingles for roofs or walls is problematic, as these are a fire hazard. More consideration could be given for alternative materials. We realize that applicants may go through a Type II variance application to avoid compliance with 5 out of the 15 features, but an alternative would be to reconsider the list of required features so that more developments could forgo the variance application, which increases development timelines, housing cost and inhibits design innovation.

3. Cottage Clusters

We understand that the definition of a cottage is one home/house. However, if a duplex cottage (two units) can meet the maximum footprint of 900 sq. ft. and the massing (height, roof slope, etc.) requirements for a single cottage, we would advocate for the code to allow for that type of cottage within a cottage cluster.

We appreciate the consideration of these comments for inclusion in the proposed code updates.

Sincerely,

Wibke and Mark Fretz

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation – Code Audit Report

To: City of Milwaukie Project Management Team

From: Marcy McInnelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

CODE AUDIT SUMMARY REPORT

Introduction

Implementing the Comprehensive Plan

In 2015, as part of its project Milwaukie All Aboard, the city initiated a dialogue with the community to update its 20-year old vision statement and identify an Action Plan. Building on its visioning process, the city then spent two years working hand in hand with the community to update its Comprehensive Plan. Updating the Comprehensive Plan is a major undertaking that Oregon requires cities to complete on a periodic basis. An update can be conducted as a check-the-boxes exercise, or it can be used to bring a community together, to foster important conversation about the future, and to memorialize a compelling vision. The Milwaukie Comprehensive Plan adopted in August of 2020 is an example of the latter. Now that it is adopted, the Plan will guide decisions that shape Milwaukie for the next ten to twenty years.

The adoption of the Comprehensive Plan establishes a mandate for Milwaukie to update any lagging land use policies and practices that may be holding the city back from realizing its vision. One major area where current policies and practices need to be updated is the zoning code. The city made it an early priority to update the zoning code in single dwelling residential areas. These areas of the zoning code will need to be amended in order to achieve a number of Comprehensive Plan goals related to increasing community diversity, preparing for population growth, protecting natural resources, and improving climate resiliency.

The effect of these zoning changes will be both very large and very slow. Very large in that the Milwaukie areas affected equal over 70% of the land within the City; very slow in that these changes will occur somewhat randomly, lot by lot, and gradually over a long period of time. While the changes are very important, they will not happen overnight. Making the changes does create a framework for addressing historic patterns of inequity.

Exclusion and lack of affordability

Changes to Milwaukie's zoning are focused on a singular aspect of American cities from a certain era: single family zoning. Most western US cities and suburban areas developed after regulations were adopted in the mid-19th century that dictated the size of residential lots; the form and shape of dwellings; the types and numbers of households that could live in them; and requirements for providing parking on-site. In effect, single family zoning created large areas with only one kind of housing, which many Americans could not afford. These neighborhoods became monocultures of housing, and by extension, monocultures of people, segregated by age, race, income, and household type.

The Comprehensive Plan touches on how Oregon, as a state, and areas in Milwaukie enacted "Exclusion Laws." These laws banned slavery but also prohibited Black people from settling or remaining in the territory, and later from owning property or entering into contracts. Exclusion was further enacted through specific discriminatory laws and housing practices, such as racist deed restrictions (only banned in 1948). More subtle forms of exclusion continued, largely through the mapping and designation of single family zoning over wide expanses of America cities, including Milwaukie. By the time of the 1968 passage of federal Fair Housing Laws, racial exclusion practices continued "de facto," through zoning.

Richard Rothstein, in "The Color of Law," details how even after all of the achievements of the civil rights movement—the desegregation of schools, swimming pools, water fountains, employment, and transportation—one remaining

form of segregation in neighborhoods remained: segregated zoning. Single family zoning enacts systemic exclusion that still exists today. By end of 1960s, the civil rights movement had persuaded much of the country that racial segregation was wrong, and harmful, to both Blacks and whites, and “incompatible with our self-conception as a constitutional democracy”—but zoning in cities was largely left untouched.

After decades of exclusion ranging from being denied home loans, having neighborhoods in which they lived “redlined” (when federal certifiers designated neighborhoods ineligible for loans), facing discrimination in employment, and receiving less pay, Black people were denied the opportunity to own a home. Unable to join the middle class and build generational wealth through homeownership, they were essentially excluded from the American dream which White people had access to for decades. Generations of denial have compounded to make it harder for Black people to buy single family homes today. Exclusion and segregation persists between Black and White people in neighborhoods zoned exclusively for single family homes.

Milwaukie’s history in this regard is not unique; every metropolitan city in America had similar laws and practices in place. Milwaukie is unique, however, in setting a vision for a more diverse community and articulating policies to accomplish this vision in its Comprehensive Plan.

Addressing a housing crisis, needs, and goals

Major generational and demographic shifts that affect housing supply and demand are taking place in Oregon and the country. Some of these affect the entire country and state—such as the recent Great Recession, new households forming, young people growing up, older people downsizing. Some of these affect Milwaukie in particular, such as the development of the MAX Orange Line light rail and increasing population. These national and local trends have combined to create a housing crisis; the supply of housing is not keeping up with the demand, and the need for affordable housing has reached a state of emergency.

The Oregon legislature recently passed House Bill 2001 (HB 2001) intended to address this crisis. Milwaukie, having declared a state of housing emergency since 2015, is ahead of other cities in Oregon. Using its vision and adopted Comprehensive Plan, Milwaukie is well prepared to address housing needs. The City has already made numerous incremental amendments that partially address the issues of housing choice and affordability and bring the zoning code closer in alignment with city goals. The purpose of this project is to think bigger and be bolder—to rethink the single-family neighborhood, and in the process, rethink the role of parking and how to codify the contribution of trees.

A policy mandate and how the current zoning code falls short

The purpose of this document is to explain which zoning provisions and procedures fall short of or prevent the city from meeting its Comprehensive Plan goals. A code audit is one of the first steps. In Milwaukie, the code audit is primarily targeting the zoning code, but there are many related documents that will need to be amended—either as a part of this project or future efforts.

A policy mandate

Adopted policy documents establish a clear policy mandate for this project, which can be summarized in three main themes: housing, tree canopy, and parking.

1. Increase the supply of middle or attainable housing and provide equitable access and housing choice for all
2. Increase the tree canopy and preserve existing trees
3. Manage parking to enable middle housing and protect trees

The code audit

In September the consultant team initiated the Milwaukie Comprehensive Plan Implementation Code Audit. The team audited existing policies and regulations to identify barriers preventing the city from achieving the goals of the Comprehensive Plan. Specifically, the team identified existing policies in the Comprehensive Plan and other policy documents that support the city’s goals and vision and reviewed regulations, including policy documents related to urban forestry, affordable housing, and House Bill 2001. The team then reviewed regulations including the zoning code, public works standards, and draft tree code to pinpoint requirements in conflict with identified policies that need to be changed. This memo summarizes key findings and recommendations to address identified obstacles.

FINDINGS AND ISSUES

Following is a summary by the three primary themes of the major findings of code regulations that fail to meet the project objectives identified through the code audit.

Policy Mandate 1: Increase the supply of middle and attainable housing and provide equitable access and housing choice for all

Goal 7 of the Comprehensive Plan recognizes that the shift to permit more forms of housing will require zoning and code changes in order to remove barriers. Additional housing types will need to be allowed in low and medium density zones. The scale and location of this new housing should be consistent with city goals of tree protection and complement the public realm. Further support for the development of denser forms of housing is found in the recent Housing Needs Analysis (HNA). The HNA notes a projected need for 1,150 additional new housing units by 2036, with 54% of these new units anticipated to be some form of attached housing. Both the Comprehensive Plan and Milwaukie Housing Affordability Strategy cite the need to enable equitable housing options that meet the needs of all residents, including in low and medium density zones.

Milwaukie’s Comprehensive Plan goals are aligned with the intent of Oregon’s Housing Choices Bill (HB 2001) to increase the amounts and types of housing available across Oregon. This will require establishing development standards that regulate size, shape, and form rather than focusing exclusively on density. Additional regulatory and maps changes will be needed in order for the City of Milwaukie to be compliant with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46, known as OAR 660-046.

Code amendments that will support this policy mandate are found in the following sections:

- Title 17 - Land Division – Sections regarding Application Procedure and Approval Criteria, Flag Lot Design and Development Standards
- Title 19 – Zoning (all sections)

Removing barriers to middle housing

Many sections of the land division and zoning code place requirements on developments with multiple units or multiple lots that single detached dwellings are not also required to meet. These types of requirements negatively affect the cost and feasibility of middle housing and are not required of detached single dwelling development. For example, land use review is required for Accessory Dwelling Units (ADUs) and duplexes, but not for single dwellings.

HB 2001 generally prohibits additional requirements for middle housing that are more restrictive or create a greater burden than are faced by single detached dwellings in the same zone. For example, the maximum height of a middle

housing-type dwelling cannot be lower than the maximum height allowed for single detached dwellings in the same zone, and setbacks cannot be greater.

Similarly, Title 17 land division requirements, particularly those in 17.12.020 - Application Procedure and Approval Criteria, create a greater burden on development with four or more lots by requiring a Type III review, which is a more difficult review procedure. This will negatively affect cottage cluster or townhouse developments.

Key Issues

- **Large number of undifferentiated residential zones that do not permit middle housing equitably**

While eight residential zones exist in Milwaukie, several of them are minimally used and are almost identical to other zones in terms of development standards and permitted uses. This creates a lack of clarity about the intent of each residential zone and how it meets stated Comprehensive Plan Goals. Also of note is that the large majority of residentially zoned lands are mapped in the R-10 and R-7 zones. These low-density zones only allow duplexes and ADUs through land use review, including a discretionary Type II review using subjective approval criteria; as a result the vast majority of the city does not meet the policy goal to provide opportunities for a wide range of rental and ownership housing choices and to remove barriers to development of these middle housing types. While the code does permit some middle housing types (duplexes, rowhouses, cottage clusters and ADUs) in some zones, not all types are defined and permitted as required by HB 2001. All middle housing types will need to be allowed in zones that permit single detached dwellings, with duplexes permitted on all lots and other middle housing types permitted in areas defined through this code update and engagement process.

- **Housing types are regulated using permitted land use table**

Currently each housing type is treated as a separate permitted use regulated in the permitted use tables and defined across base zones (Tables 19.301.2 and 19.302.2). This approach confuses housing types with the broader residential land use category. It would be more consistent with the Milwaukie vision to separate housing types from land uses so that the “uses allowed” table for residential zones only lists land uses (e.g., commercial). The categories of residential land uses should be limited (e.g. group living or household living). A separate housing types table would specify which housing types are permitted in which zones and how (e.g. permitted, not permitted, conditional).

- **Housing types confused with household types**

The zoning code uses terms for housing types that are in conflict with goals for equity, affordability, and also conflict with HB 2001 requirements. Definitions for housing types should be based on the building form and lot type rather than who lives in it; for example “single detached dwelling” refers to one house not attached to any other houses located on its own fee-simple lot whereas “single-family detached home” refers to both the building form and lot type but also who lives in the home. Who lives in a home is irrelevant. Definitions should be clearly defined to be consistent with the Milwaukie vision and implementation goals in order to truly promote a wide range of housing types for all types of households living in the city. Terms should be updated and used consistently in all applicable sections of the code (e.g. parking provisions, land use table, etc.).

- **Restrictive standards limit the development of certain housing types**

The middle housing types that are currently allowed are subject to further restrictive and subjective development standards (including in Section 19.500 Supplementary Development Regulations) that discourage their development. For example, cottage cluster housing is subject to standards for size, height, orientation, and required yards in addition to prescriptive design standards addressing individual units and the site. Another example is if a duplex is not allowed outright in a zone, it is required to be located so as “not to have substantial impact on the existing pattern of single-family detached dwellings within the general vicinity,” and its design must be “generally

consistent with surrounding development.” Similar restrictive development and design standards impact the potential development of ADUs, rowhouses, and flag lots.

- **Lack of equitable review processes for housing types**

Different housing types are subject to different review processes in the Milwaukie code. The current regulations need to be carefully evaluated to reduce or eliminate any procedural discrimination for certain housing types. For example, duplexes are currently subject to Type II review in the R-10 and R-7 zones when single dwelling detached homes are not subject to any land use review (Table 19.301.2). This difference in review creates a barrier to achieving the city’s goal of permitting the development of middle housing through new construction and conversions and promoting housing choice for all by creating a more difficult process for certain housing types and in certain zones.

- **Expensive street and frontage improvements**

Public facility improvements (including street, sidewalk, and planter strips) are required for an additional unit as well as an addition greater than 1,500 square feet to an existing home. This includes the development of ADUs and conversions of single units into duplexes. These improvements present barriers to development of these housing types by adding cost. In addition, a traditional curbed street improvement creates a potential conflict with existing established trees that may be in the right-of-way; the required width for new planter strip widths may not be generous enough to accommodate larger trees. More flexible options that allow for rural-character street design would reduce the burden of cost on new and converted middle housing units while maintaining an essential element of Milwaukie’s character. For example, the Island Station Neighborhood Greenway has street types with gravel shoulders and no planter strips. This could be a good model for certain contexts.

Recommendations

- Allow duplexes across all residential zones
- Amend permitted residential types to include triplexes, quadplexes, and townhouses (currently referred to as rowhouses)
- Review low density and moderate density zones to identify areas where triplexes, quadplexes, townhouses, and cottage clusters are a permitted use
- Consolidate residential zones and revise zoning map to expand the area in which middle housing types are permitted equitably across the entire city
- Decouple housing types from uses table and clean up definitions to remove confusions with household types
- Simplify and reduce the amount of design standards applicable to middle housing types and make them clear and objective so that all housing types, whether detached single units or larger number of attached units, are subject to the same standards
- Permit all middle housing types to be permitted using the same approval type as single family dwellings are subject to today
- Increase flexibility for street and frontage improvements and permit creative street designs to reduce the burden of cost on middle housing development

Policy Mandate 2: Increase the Tree Canopy and Preserve Existing Trees

Trees are key to Milwaukie’s quality of life. It is clear that trees are very important to Milwaukians and are a major contributor to the quality of life in Milwaukie, and, could be considered a signature feature of the city to be nurtured and protected. They contribute to property value and are also important to reducing stormwater runoff, improving residents’ health outcomes, helping the city meet its climate change goals and reducing heat island effect.

Because many of the most magnificent trees that contribute to Milwaukie are on private property, it is appropriate that there be greater protection of those trees in order to achieve the community's goals. This means trees on private property will be regulated differently than they have been in the past in order to preserve the existing and contribute to the future canopy of the city.

Changing the code to preserve trees on private property will have implications for city staff; there will be more applications to manage and a greater load on review boards. A culture shift may be required on the part of citizens, the development community, and city staff; one that promotes a collaborative approach to tree preservation and planting. The city established a Tree Board recently and the committed Public Works department views trees as another form of citywide infrastructure. If site and tree specific conversations occur early in the application process, there will be a much better understanding of goals and priorities by all parties.

Both broad and detailed support for preserving and increasing the tree canopy throughout Milwaukie is found in the Comprehensive Plan, Climate Action Plan, and Urban Forestry Management Plan. In Goal 3 of the Comprehensive Plan a target is established for a 40% tree canopy using a combination of development code and other strategies. Goals recognize that flexibility is needed in the siting and design of buildings and design standards in order to preserve existing large and old-growth trees while also increasing the tree canopy in areas that are currently deficient. The Urban Forestry Management Plan and Climate Action Plan bolster these objectives with possible implementation actions, but do not indicate which regulatory changes might contribute the most to achieving canopy goals. The Urban Forestry Management Plan further notes that the tree canopy is not equitable across the city and supports implementation actions that, while reducing barriers to affordable housing, also increase equitable access to trees and their benefits.

Code amendments that support this policy mandate are found in the following sections:

- Title 16 – Environment, 16.32 – Tree – Code (and related code section, Public Works Standards, 5.0030)
- 19.200 Definitions, Tree-related definitions
- 19.402 Natural Resource Overlay Zone
- 19.1200 Solar Access Protection
- Draft Tree Preservation Amendments

Other sections that were reviewed and for which amendments are recommended that are not part of this project:

- 19.401 Willamette Greenway Overlay Zone

Key Issues

- **Solar access requirements are potentially in conflict with tree canopy goals**
Understanding how solar access provisions are enforced over time, especially regarding tree planting, growth and future shading, will be important. The approved tree list should be updated to clarify which trees are preferred, noting which do not interfere with solar collection. A list of solar-friendly trees should also be listed on the city website.
- **Additional consideration should be given to native trees and other climate change suited species**
This should also include measures to ensure species, size, and structural diversity as recommended in the Comprehensive Plan and Urban Forest Management Plan policies to encourage the propagation of a diversity of species that increase forest resiliency.
- **Flexible standards for tree preservation, especially as it relates to middle housing development, should be further explored**
Standards for tree preservation and planting should consider site and neighborhood characteristics to ensure it blends into larger patterns of the area. Included in this analysis should be consideration given to areas identified as

deficient in tree canopy in an effort to make tree plantings more equitable across the city. These standards should include protection measures during construction.

- **Consider enforcement of tree planting and preservation after development is completed**

Continued funding and staffing resources are needed for successful enforcement.

Recommendations

- Create more distinct code sections in Section 16.32-Tree Code for development and non-development related code criteria, and create standards for the preservation and planting of priority street tree species with development
- Reference desired tree species and conditions in updated public works standards and revised code for private residential property; ensure they include native trees , other climate change suited species and support canopy goals
- Ensure newly planted trees have access to adequate soil volumes that support their long term growth to maturity
- Create enforcement mechanisms to ensure newly planted trees become established and are properly managed for the long term as condition of permit approval
- For projects in which tree preservation on site is not feasible, explore fee-in-lieu programs, i.e., the property owner or developer pays into a fund

Policy Mandate 3: Manage parking to enable middle housing and protect trees

Goals 6 and 8 of the Comprehensive Plan, along with strategies identified in the Climate Action Plan and Milwaukie Housing Affordability Strategy, offer strong support for minimizing parking in new developments in order to reduce vehicle emissions and encourage the use of alternate transportation. There is a desire to create a more energy efficient land use pattern in Milwaukie. This includes infill development and neighborhood hubs that includes mixed-use development while providing a wider range of rental and ownership choices.

There is also a strong desire to create more housing opportunities for all income levels throughout Milwaukie, not just in areas where multi dwelling units are allowed. The Milwaukie Housing Affordability Strategy identifies right sizing parking requirements to user patterns as critical to achieving this. Right sizing parking can help provide flexibility and both reduce the cost of housing production and increase viability for a range of unit types. Appropriate management may also be necessary. Reducing the amount of parking provided will also preserve more trees.

Code amendments that support this policy mandate are found in the following sections:

- 19.200 Definitions, Parking-related definitions
- 19.505.4 Parking Spaces Location
- 19.600 Off-Street Parking and Loading

Other sections that were reviewed regarding to this policy mandate, and for which amendments are recommended but are not part of this project:

- Public works standards – 5.0110 Private Streets/Alleys

Key Issues

- **Ensure adequate parking**

While many Milwaukians still drive and own cars, the community has expressed a clear desire to increase its share of people who don't own cars, who own fewer cars, and who bike or walk for many of their needs. It will continue to be

important consider parking that allows people to store their cars at or near their homes for the foreseeable future. However, there are a number of strategies that can be put into place that can help the city achieve multiple objectives while still providing enough parking to meet most people’s needs. It does signal a major change in that parking will become the commodity it is and will no longer be as free or abundant. This change will happen over time, and hopefully in concert with other investments in transportation that provides people with more options to not drive.

- **Managing parking in residential zones (off-street)**

Parking requirements are another area where the current zoning code (Section 19.600 Off-Street Parking and Loading) places additional burdens on middle housing. Parking requirement can impact the affordability of housing in a number of ways. Currently the requirement for a minimum of one space per dwelling unit and 1.25 spaces for housing that includes 3 or more dwelling units that are over 800 square feet makes many forms of middle housing infeasible, financially and physically. In order to comply with HB 2001, only one parking space may be required for middle housing, and on-street parking may be allowed to count toward the requirement.

- **Managing parking in residential zones (on-street)**

Section 19.600 includes a purpose statement that generally supports many aspects of the policy mandate, such as “provide adequate, but not excessive, space for off-street parking. However, “avoid parking-related congestion on the streets,” may be problematic. It assumes that on-street parking causes congestion, and also assumes auto congestion is an issue. On local streets in particular, on-street parking can reduce auto speeds (congestion) and make streets safer. This language may preclude ideas about reprioritizing and rethinking local streets that have been brought up by the community. Likewise managing parking is an important way for the city to achieve housing affordability and tree canopy goals. There are opportunities throughout Milwaukie to use the on-street parking system to help offset onsite parking demand. This approach may require some form of residential parking management at some point in the future. In addition to addressing off-street parking requirement in the zoning code, public works standards for streets and implications for on-street parking, will also need to be addressed. Historically, most cities have not managed on street parking in residential zones, however new approaches to parking will be needed to balance housing and transportation needs.

- **Achieving greater flexibility for parking**

Currently Section 19.600 does not permit on-street parking to count toward meeting parking requirements for new development. This section also precludes unbundling of onsite parking from housing, and may prohibit parking spaces from being rented or sold separately from the dwelling unit. In future Milwaukie neighborhoods where managing parking and middle housing options are more prevalent, permitting the “unbundling” of parking from dwelling units can make middle housing more economically feasible and affordable. Additional design standards in Section 19.607 further regulate the location and design of parking and have an impact on the feasibility and cost of developing middle housing. For example, off-street parking is not permitted within the required front or side yard or within 15 feet of the front lot line. This requirement essentially requires two parking spaces for each unit as the parking cannot be provided in the first 15 feet of the driveway approach. This standard has been a barrier to the conversion of garages as ADUs and reduces the potential developable area for middle housing types.

- **Importance of on-street parking**

Permitting parking on the street to count against parking requirements can make a lot of sense if the goal is to reduce the cost of housing, since even a surface parking space adds cost to housing. And if the street is already paved (or planned to be paved or widened), it makes sense to use already-paved space for parking instead of adding additional paved area on private property. Any strategy to reduce overall paved area in the city will benefit natural resource protections and trees, and reduce stormwater runoff.

Recommendations

- Explore the feasibility of reducing parking minimums in light of use of on-street space and on-site design
- Tailor reduction of parking minimums in tandem with use of on-street space, and on-site design to neighborhood supply and demand
- Ensure parking minimums comply with HB 2001
- Consider the usefulness of technology (e.g., car stackers), and if appropriate ensure the code does not preclude their use
- Consider defining active transportation and how it can be required in a residential development to address goals for better connectivity, transit, etc. in the Plan
- Clarify those active transportation measures which can be addressed by development, as opposed to ones which require infrastructure investments commonly made by the public sector
- Employ data to quantify underused on-street space in affected neighborhoods and “calibrate” to real impacts of new development on existing supply
- Adjust code requirements to reflect true capacity
- A request for “reducing” a minimum standard (using the on-street, for instance) will have an impact on on-street parking, which is currently not allowed. Amend approval criteria to permit lowering the minimum requirement or locating parking off-site
- Eliminating current exemptions/reductions process and use requirements of the Transportation Demand Management (TDM) in 19.605.3 Exemptions and By-Right Reductions to Quantity Requirements
- Consider building TDM measures in as options for developers along with lower parking minimums
- When considering stacker technology for parking solutions (see above), review height maximum of 8 feet for cottage cluster garages

APPENDICES

Attachment A: Code Audit

The Code Audit Summary (Attachment A) provides an in-depth review of relevant policies as well as relevant regulations. It is a spreadsheet with the following sheets:

1. Policy Review

- Lists relevant goals and policies from the Comprehensive Plan
- References related code sections
- Identifies any issues or areas for discussion

2. Code Audit (regulatory review)

- Lists relevant sections of the code that might be in conflict with identified goals and policies
- Provides issues for discussion and recommended fixes to existing regulations

3. Public Works Audit

- Lists relevant sections of the standards that might be in conflict with identified goals and policies
- Provides issues for discussion and recommended fixes to existing regulations

Attachment B: Milwaukie Residential Zones – Summary Tables

Attachment B summarizes, in a series of tables, relevant regulations from the Milwaukie Municipal Code. Summary tables include the following:

Title 17– Land Division

- Boundary Change Actions Table

Title 19 – Zoning

- Use Comparison Summary Table
- Development Standards Comparison Summary Table
- Other Applicable Development Standards Table
 - Accessory Structures Standards Table
 - Site Design Standards Table
 - Cottage Cluster Housing Development and Design Standards
 - Rowhouse Design Standards
 - Off-Street Parking Standards / Additional Design Standards
 - Public Facility Improvements
 - ADU design and development standards and review requirements
 - Duplex development standards and review requirements
- Approval Types Summary Table / By Residential Zone

Attachment C: Summary of HB 2001 Compliance Paths

Attachment C summarizes the different ways a city may comply with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46.

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
Comprehensive Plan					
3 - Natural Resources and Environmental Quality					
				Most of the policies in this section appear to be addressed in the relevant development code, at least as it relates to trees and vegetation.	None
				Cities often divide tree regulations into development and non-development code standards. In reviewing the Milwaukie code as it relates to development, trees are regulated on public lands and rights-of-way (Chapter 16.32), in the Willamette Greenway and Natural Resources Overlay Zones (Chapters 19.401 and 19.402), and through solar access requirements (Chapter 19.1200). Public Works street design standards (Section 5.0030) and associated landscape standards influence planting and preservation options for street trees with public improvements. The Tree Board has also drafted potential development and non-development code amendments for street trees, public trees, and private trees. These standards should be further reviewed, amended, and reorganized as needed to ensure consistency with these Comprehensive Plan policies and with each other.	
	3.3.5	Require mitigation that restores ecological functions and addresses impacts to habitat connectivity as part of the development review process.		Requires mitigation that restores ecological functions and processes to address impacts to habitat connectivity. However, the revised draft tree code and other development code sections do not yet have the accounting methods for this process spelled out	Implement an accounting method to address function and processes. Potentially integrate functions and values of trees and replacement trees into development code by addressing tree size, canopy size, fruiting or flowering, use by cavity nesters, etc.
3.4	3.4.2	Pursue the City's goal of creating a 40% tree canopy through a combination of development code and other strategies that lead to preservation of existing trees and planting of new trees and prioritize native and climate-adapted species, while also considering future solar access.	16.32 Tree Code, 19.1203 Solar Access for New Development, Title 19 Zoning, Chapter 15 Building Code, Chapter 18.04 Flood Hazard Areas, Title 17 Land Division (H) Title 2	(A.) Lack of inclusion of non-city owned land, management within engineering (not arborist/PW) (B) Need to modify 19.1203.4C to better protect tree health and for monitoring requirements (C.) Title 19 Zoning reduces zoning protections to primarily riparian and wetland areas, potential value for upland habitat assessment and inclusion, zoning density could be in conflict w/ tree canopy expansion if not managed carefully (D) Building code w/o tree preservation code does not align w/ canopy goals (E) Fireworks in greenspaces increase vegetation damage and impact local wildlife (F.) Out of date floodplain maps could minimize protections for otherwise conserved riparian areas that would not be in conflict w/ new development (G) Land division code that supports smaller plots can likeliness of tree removal in division process for development (H) Title 2 Tree Board?	
	3.4.3	Provide flexibility in the division of land, the siting and design of buildings, and design standards in an effort to preserve the ecological function of designated natural resources and environmentally sensitive areas and retain native vegetation and trees.	19.402.13	Desire for flexibility to preserve natural resources (including trees on private property) will need to be balanced with defining clear and objective standards	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	3.4.5	Through the development code, protect existing native-species and climate-adapted trees and create incentives for the retention of large and old-growth trees that contribute to a diverse and multi-aged tree canopy.	Policy # 3.4.2	See 3.4.2; Ensure PW standards and Yard tree lists promote species diversity for planting to increase resiliency and growth rate	
		Policy 3.4.5 discusses creation of incentive for retention of large and old-growth trees. The development code provides for protection of native species, but does not appear to create an incentive to retain large trees.			Add incentives for large tree retention, such as stormwater discounts.

4 - Willamette Greenway

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
5 - Natural Hazards					
5.1	5.1.3	Encourage and prioritize development in areas with low risk of natural hazards and restrict development in areas with high risk that cannot be adequately mitigated.	Potentially a new section in 19.400 to create an overlay identifying these areas with mapping and regulations similar to 19.402.	No code language currently exists identifying these areas. Restricting development, or creating discretionary language related to housing development, in these areas will need to be carefully written.	
	5.4.6	Create designated emergency routes and provide an array of disaster recovery facilities, with emergency supplies, that can withstand major natural hazard events, and keep the public informed of them through a variety of different outreach methods.		Policy 5.4.6 regarding designated emergency routes. Would street trees become a hindrance to emergency response if they fall into the street? Could that become an issue during windstorms, ice storms, or earthquake response?	Identify emergency routes and plant trees with deep root systems and canopy types that are not as prone to wind, ice, and liquefaction effects.
6 - Climate Change and Energy					
6.1	6.1.1/6.1.4	Encourage the use of innovative design and building materials that increase energy efficiency and natural resource conservation, and minimize negative environmental impacts of building development and operation.		Tree-related policies call for resource conservation and standards and guidelines to contribute to a 40% citywide tree canopy	
		Develop standards and guidelines that contribute to a 40% citywide tree canopy.	Goal 6.2.3 mentions establishing desired mode splits for transportation	Clear relationships between Goals 6.1.1 - 6.1.4 and efforts to minimize parking in new developments. This includes innovative design (6.1.1), flexible standards (6.1.2), and reducing emissions (6.1.3). Without these goals, there can be conflicts with achieving 40% tree canopy (6.1.4).	Reduced parking minimums, use of on-street space, on-site design, even technology (e.g., car stackers) will need to be explored and tailored. Minimum parking requirements could be calibrated to drive alone mode split targets. This is also consistent with 6.2.6.
	6.1.5/6.1.6	Create a more energy efficient land use pattern that includes but is not limited to infill and cluster development, neighborhood hubs and increased density. / Encourage the creation of compact, walkable neighborhoods and neighborhood hubs throughout the city that provide a mix of uses and help reduce transportation emissions and energy usage.	19.504.8, 19.505.4	Housing-related policies call for more energy efficient land use pattern of walkable neighborhoods including infill and cluster development, neighborhood hubs and increased density	Revise zoning code to allow middle housing types in low-density zones. Rewrite supplementary design standards to reduce barriers/encourage development. Consider changes to flag lot development standards to permit more infill housing throughout city to allow properties to take advantage of large/deep lots.
	6.1.9	Streamline review for solar projects on rooftops, parking lots, and other areas with significant solar capacity.		Solar projects are also encouraged	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7 - Housing					
7.1	7.1.1	Provide the opportunity for a wider range of rental and ownership housing choices in Milwaukee, including additional middle housing types in low and medium density zones.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes (only allow detached single family residences or duplexes on larger lot sizes: 10K in R-5, 14K in R-7 and R-10; cottage cluster not permitted in low-density zones; MFR only with a CU in R-3 and R-2.5; confusing minimum lot size calculations in 19.302.5.F; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); 19.505.4 - cottage cluster design code very prescriptive; 19.505.5: minimum lot size and rowhouse design standards restrict development. HB 2001 requires all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.1.2	Establish development standards that regulate size, shape, and form and are not exclusively focused on regulating density.	19.301, 19.302, 19.505.5, 19.910.3	Need option for form-based code that focus on clear and objective standards rather than discretionary standards that are disincentive to middle housing types	
	7.1.3	Promote zoning and code requirements that remove or prevent potential barriers to home ownership and rental opportunities for people of all ages and abilities, including historically marginalized or vulnerable populations such as people of color, aging populations, and people with low incomes.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes; cottage cluster not permitted in low-density zones; MFR as a CU in R-3 and R-2.5; confusing minimum lot size calculations; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); very prescriptive and limiting design requirements for cottage cluster; minimum lot size and rowhouse design standards restrict development. HB 2001 requires all lots that allow a detached SFR also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.1.5	Will require all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.		ADA modifications, such as ramps, are not included as exceptions to minimum setbacks, resulting in variance requirements if permanent (temp use permit if temporary).	
	7.1.6	Consider cultural preferences and values as well as diversity, equity and inclusion when adopting development and design standards, including but not limited to the need to accommodate extended family members and provide opportunities for multi-generational housing.	19.301, 19.302, 19.505.4, 19.505.5, 19.910.3	Restriction on housing types in low density zones; large minimum lot sizes; cottage cluster not permitted in low-density zones; MFR as a CU in R-3 and R-2.5; confusing minimum lot size calculations; restriction on number of ADUs permitted per lot or dwelling unit (only SFR); very prescriptive and limiting design requirements for cottage cluster; minimum lot size and rowhouse design standards restrict development.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7.2	7.2.2	Allow and encourage the development of housing types that are affordable to low or moderate-income households, including middle housing types in low and medium density zones as well as larger apartment and condominium developments in high-density and mixed-use zones.	19.301, 19.302, 19.505.5	Low density zones in 19.301 only allow detached single family residences or duplexes on larger lot sizes (10K in R-5, 14K in R-7 and R-10). Medium density zones in 19.302 (R-3 and R-2.5) allow for rowhouses and cottage clusters but not triplexes or quadplexes. 19.505.5 only allows a maximum of 4 attached rowhouses. There are currently no density or other incentives to encourage regulated affordable housing. HB 2001 requires all lots that allow a detached SFR to also allow a duplex (subject to locational and design criteria), and require other middle housing types (triplex, quadplex, cottage cluster, rowhouses) be allowed somewhere in all zones that allow a detached SFR.	
	7.2.3	Consider programs and incentives that reduce the impacts that development/design standards and fees have on housing affordability, including modifications to parking requirements, system development charges, and frontage improvements.	19.605, 19.702	Potentially add regulated affordable housing to list of exemptions for frontage improvements in 19.702.4 (maybe subject to adequate backfill from city funds), or add a tiered level of applicability (similar to 19.702.2 for SFR).	
	7.2.4	Provide a simplified permitting process for the development of accessory dwelling units (ADUs) or conversion of single-family homes into duplexes or other middle housing types.	19.910.1 (ADUs), 19.301.2	19.301.2 permits duplexes in R-7 and R-10 zones but only through Type II process, so conversions are not a streamlined process. ADUs over 600 sf in footprint or over 15 feet in height require a Type II process as well, although they do allow smaller setbacks than the Type I process. HB 2001 requires duplexes to be permitted on any lot that allows a detached SFR, so city will likely see some conversions and should make the process easier to encourage middle housing options	
	7.2.6	Support the continued use and preservation of manufactured homes, both on individual lots and within manufactured home parks as an affordable housing type.	19.301, 19.302, 19.910.3, 19.505.1	Manufactured dwelling parks are only allowed through a Type III process in R-3, R-5 and R-7 zones. Manufactured homes are allowed on any lot that allows a detached SFR, but are subject to SF design standards in 19.505.1, which can be hard to meet sometimes for prefab buildings.	
	7.2.7	Support the use of tiny homes as an affordable housing type, while addressing adequate maintenance of these and other housing types through the City's code enforcement program.		Tiny homes are not specifically addressed in zoning code. Tiny home on wheels are treated as vehicles, and can't be occupied in residential zones. Tiny homes on foundations are essentially treated as the main SFR or and ADU (if there is already a primary residence).	
	7.2.8	Implement development code provisions to permit shelters and transitional housing for people without housing.	19.904	Homeless shelters are defined as temporary or transitional facilities, which are permitted through the city's Community Service Use (CSU) process. New CSUs are a Type III land use application and require a PC public hearing. City needs to decide if they want a more clear and objective process for shelters.	
	7.2.9	Monitor and regulate vacation rentals to reduce their impact on availability and long-term affordability of housing.	19.301.2, 19.302.2, 19.905.9	Vacation rentals require a CU in all residential zones. Short term rentals are less commercial in nature and are a permitted use in all residential zones, subject to city standards/process.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
7.3	7.3.1	Ensure that the scale and location of new housing is consistent with city goals to preserve open spaces, achieve a 40% citywide tree canopy, and protect wetland, floodplains, and other natural resource or hazard areas.	19.301.4, 19.302.4, 19.303.4, 19.304.4.B.8, 19.304.5.H, 19.401, 19.402, 19.505.3.D	The city does not currently have a tree protection ordinance for private property, except for natural resource and WG areas. There is a lot coverage and minimum vegetation standards in SF zones, but not an open space standard. Private and public open space for MFR development is regulated by 19.505.3.D. The city has extensive regulations for areas within Willamette Greenway (19.401) and Natural Resource (19.402) overlay zones*. Natural hazard areas are generally covered in Title 16 and 18 (flood prevention). *NR zones are narrow (100ft) and do not promote sufficient buffer for wildlife/habitat connectivity. NR zones also prioritize riparian/wetland areas and typically not upland habitat w/o ESA or threatened species	
	7.3.2	Provide additional flexibility in site design and development standards in exchange for increased protection and preservation of trees and other natural resources.	19.402.14.C, 19.505.3	The NR code currently allows for residential cluster development. It only covers HCA and WQR areas, and so would not apply to projects looking to preserve trees outside of these areas. The MFR design standards call out tree preservation the sustainability section in 19.505.3.B and the table in 19.505.3.D, but other than requiring 1 tree be planted or preserved for every 2,000 sf (through the clear and objective process), don't have specific standards or incentives. There are no standards or incentives for SFR zones.	
	7.3.3	Incentivize, and where appropriate require, new housing development, redevelopment, or rehabilitation projects to include features that increase energy efficiency, improve building durability, produce or use clean energy, conserve water, use deconstructed or sustainably produced materials, manage stormwater naturally, and/or employ other environmentally sustainable practices.	19.303.4.B.3, 19.304.5.B.3, 19.508, 19.510	The city offers one additional story in the GMU and DMU zones for buildings that meet green building standards in 19.510. The City has adopted the 2016 Portland Stormwater Manual, but is considering changing to the Clackamas County WES standards. The standards generally encourage but do not require natural stormwater management. The Zoning Code does not generally require or incentivize energy conservation measures beyond what is required by the state's building and energy codes, and it is difficult to require projects to exceed the requirements of the building code, so incentives may be the best we can do.	
	7.3.5	Increase economic opportunities for locally owned and operated businesses by encouraging the development and redevelopment of more housing near transit, shopping, local businesses, parks, and schools.	19.303.4.B.3, 19.304.5.B.3, 19.605.3.B	The city offers incentives for development near transit lines and within certain commercial and mixed use zones by reducing parking requirements, as detailed in 19.605.3.B. The city has a number of mixed use zones that allow both residential development and commercial development, and offers one story of additional building height for projects with a residential component in the DMU and GMU zones.	
	7.3.8	Allow for a reduction in required off-street parking for new development within close proximity to light rail stations and frequent bus service corridors.	19.605.3.B	As noted above, the city allows parking reductions along transit lines within certain distances of transit stops. However, these reductions are somewhat limited, and lower than many other jurisdictions.	
7.4	7.4.1 - HUBS??	Implement land use and public investment decisions and standards that foster creation of denser development in centers, neighborhood hubs, and along corridors	19.302, 19.303	19.302 - Medium and High Density Residential, 19.303 - Commercial Mixed-Use Zones, Hubs code language TBD	Hubs to still be determined of exact locations and how many. Centers is defined in the Comp Plan, is it the same in land use code? Corridor streets are defined in TSP.

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	7.4.2	Require that new development improves the quality and connectivity of active transportation modes by providing infrastructure and connections that make it easier and more direct for people to walk or bike to destinations such as parks, schools, commercial services, and neighborhood gathering places.	19.700	This would be part of the possible frontage improvements section of 19.700.	May need to figure out where those connections should be, if not already in TSP
	7.4.3	Administer development code standards that require new housing to complement the public realm and provide for appropriate setback and lot coverage standards.	19.301, 19.302, 19.505.3,	Update design standards in low-density residential, medium to high-density residential, and multifamily	
	7.4.4	Require that multi-family housing units have access to an adequate amount of usable open space, either on-site or adjacent to the site.	19.505.3.D	In the objective process for multifamily design standards, projects with 20 units or less are required to provide 2 common open space features. Projects over 20 units are required to provide 4 common open space features. Examples of open space features are provided in the code. Only projects with 5 or more units are required a minimum of 10% of the gross site area, or 750 sq ft, whichever is greater, shall be designated as common open space. In the discretionary process, no required minimum of space is provided or examples of common open space features. It only states that sufficient open space be required.	
	7.4.5	Implement development and design standards to transition between lower and higher density residential development areas where the mass, size or scale of the developments differ substantially. Requirements could include massing, buffering, screening, height, or setback provisions.	19.504.6	This code section is about transition measures for commercial, mixed-use, and industrial uses that are next to lower density residential uses. There is no code language around transition measures between residential development.	
	7.4.6	Reduce development code barriers for intentional communities.	19.301, 19.302, 19.505.4	There is no code language around intentional communities. The closest is the cottage cluster code language. Language may need to exist in low-density residential and median to high-density residential.	
8 - Urban Design and Land Use					
8.2	8.2.1	Pedestrian and bicycle design policies	19.700; Title 12; Title 17?	required frontage improvements	
	8.2.2	Parking design policies	19.600	Variety of changes for commercial uses and parking, TDM, on-street parking, off-street parking, and much more.	
	8.2.3	Natural environment integration policies: require landscape plan approval as part of the development review process; use that process to ensure tree canopy and better habitat connectivity; integrate natural features into the site planning process, while also ensuring mapped natural resources are protected.	tree code; Title 17; 19.402	*Integrate with future habitat connectivity assessment/SAP to reflect transportation infrastructure barriers in devisionmaking processes?	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
	8.2.5	Community character design policies: use standards for size, bulk, and scale to encourage compatibility with surrounding uses.		form-based code option, language to be written	
8.3	8.3.1	Use a two-track development review process to ensure that new non-residential development and redevelopment projects are well designed. Provide a clear and objective set of standards as well as an optional, discretionary track that allows for greater design flexibility provided design objectives are satisfied.	19.505.7, 19.907	19.505.7 non-residential development does not have a two-track review process, 19.907 Downtown Design Review has different review processes, but not in a two-track system	
	8.3.2	Ensure that a clear and objective process is available for all housing types that meet design standards, provide adequate open space, and fit into the community, while offering an alternative discretionary path for projects that cannot meet these standards.	19.301, 19.302, 19.505.1, 19.505.3.D, 19.505.4, 19.505.5, 19.505.6	19.301 - Low Density Residential does not have a clear and objective process for middle housing types, 19.302 - Middle and High Density Residential, ensure that all housing types meet clear and objective standards	
	8.3.4	Refine development standards in order to: - Provide flexibility for commercial use of existing residential structures within Neighborhood Hubs and Neighborhood Mixed Use districts; - Provide flexibility for commercial use of existing residential structures within Neighborhood Hubs and Neighborhood Mixed Use districts; - Provide flexibility for the types of uses permitted as home occupations where it can be demonstrated that the home occupation will help meet the daily needs of residents in the surrounding neighborhood.	19.507	Neighborhood Hubs code TBD, 19.507 Home Occupations: add additional allowed uses or standards to allow flexibility, define "daily needs"	
Milwaukee HNA					
	NSFR	52% of future need			
	New attached SFR	15% of future need			
	Duplexes, triplexes, quads	7% of future need			
	MFR	23% of future need			
	Mobile homes	1% of future need			
		Limited land with increasing need, 1,150 projected new units needed by 2036		Supports Comprehensive Plan policies requiring housing in low and medium density zones.	

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
		Strong current need for more affordable housing		Shortage of units for lowest pricing level, particularly rental units. In order for all households current and new, to pay less than 30% of their income toward housing, a total of 1,189 rental units affordable at \$900 or less would be required in 2036. Also some renters/owners have ability to pay for higher price units, relieving some of the pressure on existing units in lower price range	
				Interesting number that 12,390 jobs in Milwaukee and only 678 (5.5%) are residents. In other words, 94.5% of employee commute trips (11,700) come from outside Milwaukee (page 10). Conversely, 9,086 employed Milwaukee residents, 93% of them commute elsewhere to employment (page 10).	
				93% of Milwaukee households own at least one car (page 17). This can have definite impact on trying to justify a lower minimum requirement. Supports need to be creative in allowing use of public right of way.	
				Figure 3.4 (page 23) shows combined surplus of housing per future demand, but significant unmet "need" in lower income categories. What is the total "unmet" need? Can new units meeting this unmet category come with lower parking requirements?	
				The model projects growth in the number of non-group households over 20 years of roughly 1,070 households, with accompanying population growth of 2,150 new residents (page 32). In order for all households, current and new to pay 30% or less of their income towards housing in 2036, a total of 1,189 rental units affordable at \$900 or less would be required. This indicates that some of the current supply, while it shows up as existing available housing, would need to become less expensive to meet the needs of current households (page 36).	With LRT, close in neighborhoods can support lower and more flexible minimum requirements. Still a concern related to outer neighborhoods and previously referenced car ownership numbers. 1,070 units over 20 years is 54 units a year spread over neighborhoods. Not much impact on parking overall if demand is met for lower income groups. 1,189 = 59 units per year
Milwaukee Housing Affordability Strategy					
Action 1.4		Create an internal culture that is friendly to developers by exploring ways to streamline permitting and planning		Remove barriers such as parking requirements to reduce cost of development and reducing partial street improvement requirements. Be aware of additional cost of tree preservation.	
Action 1.8		Explore rightsizing parking requirements for ADUs, cottage clusters, tiny homes, etc.	19.605.1 - ADUs - completed; 19.505.4 g. - cottage cluster	removed off-street parking requirement for ADUs, cottage cluster requirement is currently 1 space per dwelling unit but located within common area for other cottage parking	
Action 1.9		Explore incentivizing/encouraging ADU and cottage cluster development.		Provide community-approved template plans; waive SDC fees; revise the zoning code and other development standards to facilitate creation of ADUs	
Action 1.14		Seek to adopt or modify existing land use policies to meet developer and community needs		Be prepared to move forward with code/zoning changes that the housing element of the comp plan recommends.	
Climate Action Plan					

Goal	Policy #	Policy	Related Code	Issues/Discussion	Recommendation
Land Use/ Transportation		Promote "neighborhood hubs" through Comprehensive Plan policies		Housing-related strategies call for "neighborhood hubs" to encourage walking/bicycling	
Vehicles and Fuels				Parking-related strategies call for reduction of vehicle emissions with EVs (pp. 36-37), parking pricing in downtown (p. 46), and lower parking ratios near high capacity transit (p. 46).	
Natural Resources		Increase tree canopy to 40%		Tree-related strategies call for developing a tree planting program for low income neighborhoods (p. 61) and planting trees (pp. 63-64). Community solar projects are encouraged (p. 30).	Determine how the tree planting/preservation strategy to increase the tree canopy will need to be balanced with the desire for more solar applications.
Urban Forestry Management Plan					
Forest Health		Consider updating tree protection measures for development		The recommendations in the Urban Forestry Management Plan are generally consistent with and supportive of Comprehensive Plan policies for trees. They add an additional level of specificity that should be used when reviewing and revising development related code standards for public lands and rights-of-way (Chapter 16.32), the Willamette Greenway and Natural Resources Overlay Zones (Chapters 19.401 and 19.402), solar access requirements (Chapter 19.1200), and Public Works design standards (Section 5.0030) and associated landscape standards. The draft Tree Board development and non-development code amendments for street trees, public trees, and private trees should also be evaluated for consistency with the Urban Forest Management Plan recommendations.	
Age/Species Diversity		Evaluate priority tree species and create stricter diameter thresholds for removal, Update street tree planting list, Include climate adapted species, Consider developing standards for mature tree preservation and planting for public infrastructure improvements			
Education/ Outreach		Engage with developers to showcase sustainable design			

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Title 16 - Environment				
16.32 Tree Code	Public Works (5.0030)		<p>This code section is generally geared toward non-development tree issues as it relates to Tree Board responsibilities, and the preservation and planting of trees on public lands and rights-of-way. However, this code section does address permitting for the planting, pruning, and removal of trees for right of way improvements. This has major implications for development projects that are required to plant, preserve, and/or remove trees with right of way and/or site improvements. In many cases, due to the density of site development, the public right-of-way presents the best opportunity for the preservation and planting of tree canopy in support of the City's goals.</p>	<p>This code section mixes both development and non-development standards for trees on public lands and in City rights-of-way. Considerations for implementing tree related policies of the Comprehensive Plan and Urban Forest Management Plan for development include: -Creating more distinct code sections for development and non-development related code criteria; Creating standards for the preservation and planting of priority street tree species with development; Ensuring flexible standards for right-of-way improvements that are context sensitive and allow for the preservation and planting of priority street tree species consistent with neighborhood character and/or vision; Reviewing and amending the City's Street Tree List and planting standards as needed to ensure they include priority species and support canopy goals; Amending Public Works design standards (Section 5.0030) and</p>
			<p>The existing Chapter 16.32 section has several inconsistencies within it and with other sections (notably Chapter 19.400). The revised adopted Chapter 16.32 (Nov. 2020) addresses some of the inconsistencies. The revised Chapter includes a reference to the Council of Tree and Landscape Appraisers. It is not referenced again in this chapter, and can be removed from the definitions. The revised Chapter 16.32 better incorporates the intent of the Urban Forestry Management Plan and Comprehensive Plan. However, it removes the differentiation of small, medium, and large trees. To meet policy goals of replacing ecological functions and creating a multi-level, uneven-aged canopy, review the possibility to include greater differentiation of tree types to include conifers, wide-canopy broadleaf, and narrow-canopy broadleaf.</p>	<p>Replace existing Chapter 16.32 with revised language. Remove CTLA (Council of Tree and Landscape Appraisers) reference. Revise chapter to integrate desired tree species and conditions.</p>

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Title 17 - Land Division				
17.12	17.12.020	Application Procedure / Approval Criteria	Requires any subdivision affecting 4 or more lots to follow Type III review, which would affect Cottage Cluster and Townhouse projects on fee-simple lots. May be changed to Type II Review if consistent with applicable standards and criteria, consistent with basis of findings of original approval, and does not increase number of lots.	
	17.12.030, 17.20.010, 17.24.050	Approval Criteria	Approval criteria include that boundary changes shall not reduce residential density below minimum density requirements of the zoning district in which property is located.	
17.16	17.16.080		Requires preliminary plats for cottage clusters to demonstrate compliance with 19.505.4. Cottage Cluster Housing, which contains the requirements for a cottage cluster subdivision	
17.28	17.28.050	Flag Lot Design and Development Standards	Flag lots are permitted as interim measure where there is potential for future development on adjacent lots with new roadway development. However, Planning Commission review is required and flag lots must be designed to allow for future street development. This is problematic for long skinny lots found throughout city.	
Title 19 - Zoning				
19.100 Introductory Provisions				
		Zoning Map	There's an apparent inconsistency between the Comprehensive Plan's policy support in Section 7 for "middle housing" but then having the vast majority of the residential areas on the plan zoned for low density (R-10, R-7 and R-5).	Determine what zoning map changes may be necessary at the conclusion of this project. Decide which housing types/density levels are appropriate in which neighborhoods/zones.
		R-2 (Comp Plan High Density) - East of downtown	Comp Plan text says R-2 is MedD	Option 1 - Change the plan text to make R-2 an HD zone; Option 2 - Rezone all planned HD to areas to R-1. Note: Look to see if there are R-2/MedD locations
		R-7 (Comp Plan High Density) - East of Safeway	Built-out single detached lots zoned for apartments	Option 1 - redesignate as LD or MD; Option 2 - resone Rezone as R-2; Eliminate R-2.5 zone; Revise R-2 language to capture R-2.5 requirements
		R-2.5 (Comp Plan High Density) - East of Safeway	Only location in town	Eliminate Moderate Density - either combine with Reduce planned density to keep some lower density SF-type zoning near the downtown
		R-5 (Comp Plan Moderate Density/C) - North of Pond	One zone for one plan designation	Combine MD and MedD
		R-5 (Comp Plan High Density/C) - North of Pond	Density conflict	Rename the zone and plan designation as Mixed Use Residential or Mixed Use Office; or OMU Office Mixed
		R-3 (Comp Plan Medium Density/C) - East of	Names are not descriptive	Change plan designation to correspond to R-3 -- MD or
		R-1-B (Comp Plan High Density/C) - East of	Names are not descriptive	
		R-3 (Comp Plan High Density/C) - East of	Not a good office site - plans approved for apts	
19.200 Definitions				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
		Definitions of housing types	Uses terms for housing types that are in conflict with goals for equity, affordability and also conflict with HB 2001 requirements	Clearly define housing types in definitions that are consistent with Milwaukie Vision and implementation goals and consistent with HB 2001 definitions. Avoid confusing housing types or building types with household category or land use. Use consistent terms
		Middle housing definitions	Some definitions outlined in the model code are not currently included in the Milwaukie code (building footprint, common courtyard, townhouse etc.) while others are but are not included in definitions but in body of code (door area, window area)	Update definitions with additional terms identified
		Tree-related definitions		Check native vegetation definition for consistency with other amendments related to this project
		Parking-related definitions	Parking-related issue is that off-street parking doesn't specifically include garage spaces (but perhaps is interpreted to include).	Confirm that off-street parking is interpreted to include garage space.
19.202.4			Minimum density deducts floodways (a relatively small area), while maximum density deducts the 100 year floodplain (a much larger area). So, minimum density in areas along rivers/creeks are always larger than maximum density, requiring the provision that when minimum density is larger than maximum density, then minimum density is also maximum density.	Either swap them (deduct floodways from maximum density and floodplains from minimum density) or come up with a different formula. Look at Metro's BLI formula for calculating capacity in Title 3/13 lands.
19.300 Base Zones				
19.301 Low Density Residential Zones		Table 19.301.2 - Residential Uses Allowed	Does not include middle housing types required by HB 2001 (R-10, R-7, R-5). Density standards for low density zones may be contrary to HB 2001 because tri/quadplex development could exceed maximum density. Cottage cluster development not permitted in low-density zones.	Include tri/quadplex buildings and cottage cluster housing in low-density zones. Test density standards against what could actually be built and adjust them as necessary to be consistent with city housing policy and HB 2001. Evaluate dimensional standards to
			Table lists out specific housing types	Separate housing types from land uses so that "uses allowed" table for residential zones only lists land uses (e.g. commercial). In the "uses allowed" table, limit the land uses that are listed to residential categories (e.g. group living or household living). Include a separate housing types table that specifies the housing types which are allowed where (in which
		Table 19.301.4 / Table 19.302.4 - Development Standards	Density standards (11.6/ac except to R-1) for medium density zones and ability to accommodate missing middle housing types	Remove density standard requirements for middle housing types to be in compliance with HB 2001

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.302. Medium and High Density Residential Zones		Table 19.302.2 - Residential Uses Allowed	Number of moderate to medium density residential zones (R-5, R-3, R-2.5, R-2) show minimal differences. Minimal differences in development standards between R-3, R-2.5, R-2, R-1, and R1.5. Few lots/total numbr of acres within several of these zones per GIS analysis.	Can be reduced to fewer zones and re-mapped. Zone purpose needs to be re-written to be in compliance with HB 2001 - not just single-detached dwellings. Additional changes to use table based on recommendations for Table 19.301.2 above.
		Table 19.302.4 - Development Standards	Duplexes require a minimum lot size of 6,000 sf in the R-3 zone, 5,000 sf in the R-2.5 zone, but 7,000 sf in the R-2 zone. This could be a deliberate attempt to discourage duplex development in a zone (R-2) that allows multi-family development, but a 4,000 sf R-2 lot essentially doesn't allow any type of development.	This is somewhat of a moot point, as under HB 2001 city will be required to allow duplexes on a 5,000 sf lot in the R-2, R-2.5 and R-3 zones if the minimum lot size for detached SFR's in these zones remains at 5,000 sf. However, it may be good to allow a duplex on a 4,000 sf lot as well, in case there are undersized
			Density requirements (min and max) discourage types of middle housing	Remove density standard requirements for middle housing types to be in compliance with HB 2001
			Maximum lot coverage allows for modifications - increased lot coverage for duplexes and row/houses	Need to extend increased coverage option for other HB housing types.
			One primary building for dwelling purposes permitted per lot in low-density residential zones	Will need to be adjusted to include permission of duplexes.
	19.302.5.F.2		Requiring a minimum lot size of 5,000 sf for the first unit of a MFR development in the R-1 and R-2 zone effectively reduces the maximum density of a development and makes it hard to meet the minimum density for a triplex, which is considered MFR.	Get rid of Table 19.302.5.F.2. Setbacks and other development standards will influence how large the lot needs to be to feasibly accomodate a MFR development.
19.311 Planned Development Zone			PD functions as an overlay zone that allows greater design and density flexibility. A PD requires City Council approval of a final development plan. Approval standards are more subjective than the base zones and the process appears to be somewhat cumbersome.	Evaluate a potential modified PD zone as a way to enable middle housing. To the extent possible, the process would need to be more "user friendly" with more objective approval criteria.
19.400 Overlay Zones and Special Areas				
19.401 Willamette Greenway Overlay Zone	19.402		The Willamette Greenway code requires the preservation of native and large trees within 25 feet of the river but allows removal of dead, dying, and hazardous trees. It also allows tree removal for limited views. Pruning of vegetation is allowed. Tree protection standards for development is not specified. These code standards are generally supportive of the tree related policies of the Comprehensive Plan and Urban Forest Management Plan. It will be important to work with City staff, residents, and the development community to identify potential issues with the existing code. There may be potential administration challenges	Upland tree groves should be identified and protected through the Goal 5 process and included in the natural resource protection program. This will support habitat connectivity work recommend in Comprehensive Plan. Discuss if large and other priority trees species are adequately defined and give them higher level protection from development. Define tree protection standards and draft code to implement them including mitigation standards, to the extent that new plantings become established. Discuss administrative challenges to mixing development and non-development tree removal replacement standards and

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			<p>Willamette Greenway Zone provides definitions regarding vegetation that is not the same as in the existing Chapter 16. In particular, there are conflicting definitions regarding “large trees” and how to identify “native vegetation” when compared to the existing Chapter 16. Several of these inconsistencies might be addresses in the draft Chapter 16 from July 2020.</p> <p>The Chapter 19, 400 code has not been updated recently, as is still refers to the Division of State Lands. The designation was changed to the Department of State Lands almost 20 years ago.</p>	<p>Conform Chapter 16.32 and 19.400 with regard to vegetation.</p>
			<p>In 19.401.8.B.3 Vegetation Buffer Requirements – Retain Existing Native Vegetation and Large Trees, the code could be revised to better conform with updated tree code. The definition of small trees should be added. Integration tree and vegetation removal, as well as inclusion of an</p>	<p>Update Chapter 19.400 to integrate new terminology and revised 16.32 language. Revise Chapter 19.401.</p>
<p>19.402 Natural Resource Overlay Zone</p>	<p>19.401</p>	<p>The Natural Resources code applies within 100 feet of a WQR (water quality resource) and/or HCA (habitat conservation area). Limited tree removals and pruning is exempt for nuisance trees (less than 3), emergencies, and clearance from structures. Limited tree removal in non-development situations may be permitted for dead, dying, diseased, and hazardous trees, more than 3 nuisance trees, up to 3 non-native/non- nuisance trees, and tree removal that requires more than 150 square feet of ground disturbance. Replacement of removed trees is required when possible. Additional tree removal is permitted with approved development through a clear and objective track or a discretionary track. Discretionary development standards require the strategies to maintain existing and plant future tree canopy, and to maintain contiguous vegetated corridors. Approved development is required to protect trees through a construction management plan. Mitigation is required for tree removal through either a clear and objective formula or through a discretionary proposal. The main issue is the City’s need to improve comfort/defensibility of balance between nondiscretionary and discretionary accounting/method/criteria/process so that acceptable levels of ecologic metrics and function are fostered and the staff feels comfortable managing submission/review process. Goal 5 requires clear and objective standards for regulations related to conflicting uses of a site/resource (OAR660-023-0050(2)). However, OAR 660-023-0050(3) provides for an alternative approval process that are not clear and objective (i.e., discretionary), as long as the level of protection meets or exceeds the clear and objective standards. The City’s Title 19.402.1.C.2 provides a list of ecological functions and values to be assessed, but it does not include clear direction on the exact methods for assessment. This subtitle is referenced in 19.402.12.A.1 as part of the discretionary review process. While Title 19.402.11.A-C provide for clear and objective standard, Title 19.402.11.D discusses the nondiscretionary standards, which appears to be in accordance with OAR 660-023-0050(3). Overall, the majority of current standards under 19.402 appears to meet the requirements of OAR 660-023, but land use attorneys could always argue otherwise, and have been successful in requiring updates to the code of other area jurisdictions. Other than a more robust implementation of an accounting method to address function and processes, the remaining nondiscretionary standards appear to provide clear and objective criteria. If an applicant cannot meet those standards, a discretionary process appears to be in place. However, devising a robust method for assessing functions and processes is a lot easier said than done, as many different jurisdictions have tried and there is no accepted standard yet for the region</p>	<p>Investigate a more robust implementation of an accounting method to address function and processes. Potentially revise the code to remove the assessment of functions and processes in favor of other metrics (e.g., tree canopy, vegetation cover extent, soil permeability, etc.) that are more quantitative and can be assessed by the general public.</p>	
			<p>In 19.402.2.G, there is a reference to the Milwaukie Native Plant List. There is a native tree list, but it could be updated to included other vegetation types (shrubs, forbs, etc) and nuisance/prohibited plants. This same list should be identified in Chapter 16.</p>	<p>Revise Chapter 19.402 and update City native plant list. Revise Chapter 19.402 to include arborist certification and for trees to be on the native plant list. Update City native plant list to include native, non-native, and nuisance plants.</p>

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			19.402.6 Activities Requiring Type I Review discusses limited tree removal or major pruning in WQRs or HCAs. An arborist is required to certify if major pruning is required, but not for removal. In 19.402.6.3.d, replacement trees do not have to be native but can't be a nuisance tree as defined in the native tree list. This native tree list does not appear to have nuisance trees identified.	
19.403 Historic Preservation Overlay			I assume the city complied with the latest FEMA-required amendments in 2018, and they are not eligible for amendment. Otherwise, nothing more to add to Todd's analysis.	Should evaluate if the HP requirements have a meaningful impact on the middle housing discussion.
19.500 Supplementary Development Regulations				
19.501.1			Requires a minimum 3,000 sf for a detached single family home. The general exceptions note that a legal lot of record must be a minimum of 3,000 sf for a detached SFR. HB 2001 requires that a duplex be permitted on any lot that allows a detached SFR.	Consider including duplexes under the provisions of 19.501.1.B.
19.501.4			Density Exceptions allows for increased density in exchange to dedicating parkland.	additional actions could be made eligible for density increases, including preserving trees on-site
19.502.2			Specific Provisions for Accessory Structures appears not to apply to ADUs.	Confirm that 19.502.2 doesn't apply to ADUs
19.504.4				
19.504.8		Flag Lot Design and Development Standards	25' wide pole required, 30 foot front and rear setbacks required.	Evaluate 19.504.8 to ensure that infill development isn't unnecessarily impeded by the standards. According to staff's presentation at CPIC meeting they do preclude flag lot development.
19.505		Building Design Standards	Cottage cluster maximum floor are of 1,000 feet is too prescriptive.	Evaluate 19.505 for potential amendments to support this project, such as additional standards for 3&4-unit residential units. Cottage cluster standards should be re-evaluated for consistency with HB 2001 (19.505.4).
		19.505.4 Parking Spaces Location	4 parking spaces may be located within a garage. Garages in a cottage cluster therefore may not contain more than 4 parking spaces, must be at least 10 feet from any cottage dwelling, and must match materials, trim, and roof pitch of cottages. The interior height of a garage shall not exceed 8 feet high.	What if stalls were provided in a garage with stacker technology? Height of 8 feet might not allow.
19.506.4			A minimum structure size for manufactured homes of 1,000 square feet that doesn't apply to traditional detached houses.	Evaluate the provisions in 19.506.4.A for equity as noted in the staff audit. Not sure if this is a building code or manufactured home code issue but manufactured homes should be treated the same as other SFR's.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.600 Off-Street Parking and Loading				
		Purpose	The purpose of Chapter 19.600 is to: provide adequate, but not excessive, space for off-street parking; avoid parking-related congestion on the streets; avoid unnecessary conflicts between vehicles, bicycles, and pedestrians; encourage bicycling, transit, and carpooling; minimize parking impacts to adjacent properties; improve the appearance of parking areas; and minimize environmental impacts of parking areas (page 1 of 26).	Looks like a typical statement of purpose. Any need to add language related to trees? The sentence "Avoid parking-related congestion on the streets" may need discussion, since it assumes that on-street parking causes congestion, and also assumes auto congestion is the issue. Is auto congestion on low-speed local streets a concern? On-street parking can reduce auto speeds and make streets safer. Also, this language may preclude some of the non-car-centric ideas about reprioritizing and rethinking local streets that have been brought up by the community.
19.602	19.602.3	Applicability for Development and Change in Use Activity	Vacant sites required to comply with Chapter 19.600 but so are sites developed with an increase of 100% or more of existing floor area and/or structure footprint on a site. Any existing off-street parking areas required to be brought closer into conformance with development in an increase of less than 100% of existing floor area and/or structure footprint and/or change in use. Required to submit parking plan. Disincentive to conversions and development of smaller projects.	
19.604.2	19.607	Parking Area Location	Does not permit on-street parking to count toward meeting requirement.	These sections will have to be changed if on-street parking can be used to meet "accessory" parking requirements.
19.604.3		Use of Parking Area	Precludes unbundling parking from housing - can't be rented or sold.	
19.605		Table 19.605.1 Residential Units -Single Family Dwelling		Lower minimums to be in compliance with HB 2001. Rework table to include middle housing types.
		Table 19.605.1 Residential Unit - Multi-Family Dwelling	1.25 space minimum for multi-family units over 800 sf while single family units have a minimum of 1 space.	Lower minimums to be in compliance with HB 2001 (1/unit). Lower the maximum. Evaluate the rationale for a higher minimum for multi-family and potentially reduce to be the same as other residential units.
		19.605.C (2) Approval Criteria	A request for "reducing" a minimum standard (using the on-street, for instance) will have an impact on on-street parking, which is currently not allowed.	The approval criteria for either lowering a minimum requirement or locating parking off-site will likely need a lot more thought and a possible re-write.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
		19.605.3 Exemptions and By-Right Reductions to Quantity Rqmts	Let's talk more about how this section fits into the desire for more flexibility in reducing minimum requirements. How can some of these exemptions be built into existing neighborhoods and made requirements rather than exemptions. For instance, which neighborhoods by right are already 500ft from a transit stop (automatic 20% reduction).	The code already allows a reduction of 1 vehicle parking space for every 6 additional bicycle parking spaces installed (see 19.605.3 B 5) up to 10% reduction. Make this a requirement and adjust the current minimum down from there (page 10 of 26). Changes here would also affect 19.609.2 (page 24 of 26). Basically, suggesting we eliminate process and use requirements of the TDM side to lower minimums. If the code already makes provisions for these as an option for developers, why not just build them in and lower the minimums. Should create less public push back as, technically, we are not changing anything in the code that is not already allowed.
		19.605.3.B.5	Allows up to a 10% reduction in vehicle parking in exchange for "covered and secured bicycle parking in addition to what is required."	Evaluate the potential for allowing a larger bike parking credit in areas that are proximate to transit (Subsection B.2.). This perhaps could apply in conjunction categories in this section.
		19.605.4 Shared Parking	Is this where on-street use might go?	
19.606		19.606.2	Landscaping provides the requirements for parking lot landscaping	Tree Board consider potential amendments to the landscaping standards for opportunities to require more trees or tree species that would provide greater canopy cover at maturity. For landscaping also consider how to maintain trees in retail parking lots. Businesses often see trees as a hindrance to their visibility and bottom line. Identify and codify ways trees can be planted to improve chances for long term survival including appropriate soil volume and adequate buffer.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.607		19.607.1.B.	Requires that off-street spaces are located outside of the front setback. Do we want to continue to require that off-street parking spaces be located entirely outside of the front yard setback? Or just make sure there is a 18' x 9' driveway or other parking area on private property, since people use their driveways anyways? Reduces area on lot for middle housing types. Does not apply to cottage cluster housing type.	Consider more flexible on-site parking requirements. Allow parking areas within setback as long as they don't extend into ROW.
19.611		Parking Structures	Need more understanding of underground parking for row houses and/or multi-family dwellings. Not sure how this section applies to our goal of maximizing site area.	
19.700 Public Facility Improvements				
19.702			Title 700 is triggered by the development of a new dwelling unit - increases the cost of development	Requires frontage improvements for ADUs and conversions of SFR into duplex. Consider exempting conversions and ADUS?
			Raises a housing-related issue related to frontage improvements for ADUs and single family conversions to a duplex.	Consider more flexible options including more rural-character street designs, like in Island Station Consider exempting ADUs and conversions from frontage improvement requirements. Perhaps needed right-of-way could be required, but not improvement.
19.800 Non-Conforming Uses and Development				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.900 Land Use Applications				
19.906		Development Review	The city uses a common Type I through V review system. Type I is administrative and Type II is a Planning Director decision with notice.	The project should re-evaluate the review process required for different types of residential units in the residential zones (especially 19.301 and 19.302) to reduce or eliminate any procedural “discrimination” for certain housing types. For example, should duplexes and ADUs be subject to Type II review in the R-10 and R-7 zones when single family detached homes are a Type I review (Table 19.301.2)?
19.910		Residential Dwellings Review and Approval	19.910.1 ADU approval standards in Subsection E.b. may be more subjective than state requirements will allow.	Review 19.910.1 E for consistency with state ADU rules.
			19.910.2 Duplex review process and approval criteria (Subsections C and D). Tri and quadplexes are not included	Review 19.910.2 for compliance with HB 2001, including subjective criteria for duplexes in zones that permit single detached dwellings. Consider adding procedural and approval provisions for 3&4-unit residences to comply with HB 2001. All new housing types added only subject to clear and objective standards, conditions, and procedures.
			Code uses structure footprint to establish review type, both for new construction and for conversion of an existing structure (even if only part of the existing structure will be used for the living space). This has resulted in Type III variances because of the size of an existing accessory structure.	Acknowledge the size of an existing structure – still limit ADU SQ if needed, and include standards for how the extra space needs to be separated from the living space. It's more efficient to convert a building than build a new one.
			Take another look at the review type, especially for conversion of existing structures. 640 sq ft existing structure = Type II review?	There is a difference between new construction and conversion of an existing structure. Type I review for conversion of an existing structure? We should encourage conversions over new construction. The impact of the structure is not new.

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			States that yurts may be used as an ADU, but a yurt will not meet building code.	Consider removing yurts from the code given the conflict with building code.
			19.910.4 which uses structure footprint to determine review type.	Evaluate ways to assign review process so as to not penalize provision of new or converted housing as noted in the staff audit.
19.1000 Review Procedures				
19.1002		Pre-Application Conference		Review the need for preapplication conferences for housing along with the recommendation for 19.906 above.
19.1003		Application Submittal Requirements		Review the submittal requirements in 19.1003 against what's normally required for other construction allowed outright (e.g., single family detached home) to ensure equal accommodation
19.1100 Annexations and Boundary Changes				

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
19.1200	Solar Access Protection			
			<p>The solar access provisions apply to land divisions in single dwelling residential zones so that structures can be oriented to maximize solar access and to minimize shade on adjoining properties from structures and "non-exempt" trees. "Exempt trees" are "solar-friendly" trees identified as part of a plat or solar access permit as exempt. "Solar-friendly trees" are defined by the City as trees that do not cause significant winter shade due to foliar period and branch structure. A "solar access permit" is a document issued by the City that describes the maximum height that nonexempt vegetation is allowed to grow. Adjustments and exemptions from solar access standards are permitted if there is shade from offsite trees or if there is shade from a high percentage of onsite trees and at least half of the trees that cause the shade will be retained.</p>	<p>A policy discussion is recommended on this items with City staff, residents, and the development community to identify potential conflicts with the tree related policies of the Comprehensive Plan and Urban Forest Management Plan. Native tree species are generally prioritized in these policies, yet several would not likely be considered solar friendly trees. Also, it will be important to better understand how solar access provisions are enforced over time, especially regarding tree planting, growth, and future shading.</p>
			<p>Trees and other vegetation might hamper solar electricity generation.</p>	<p>Provide/publish solar-friendly trees on City website. Lake Oswego's list appears to be rather old (ca. 1987). It contains numerous native trees that are on the City native tree list. Compare trees on both lists to update for preferred vegetation and solar generation.</p>
				<p>it may be beneficial to evaluate how effective the solar access regulations are in actually creating more solar-efficient homes. The regulations are based upon model solar access regulations created in the late 1980s when subdivisions generally consisted of 5,000+ sf lots. Today, lot sizes are considerably smaller and developments are more compact, which often makes the current solar access requirements unworkable. Staff should be asked about the ratio between solar implementation and granted exemptions.</p>

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
Draft Tree Amendments				
			<p>There are two sets of draft Tree Board amendments. The first is for street/City trees and private trees in non-development situations. The second is an outline for trees in development situations.</p>	<p>These draft amendments generally appear consistent with and supportive of the policies of the Comprehensive Plan and Urban Forest Management Plan. Additional consideration should be given to native trees and other priority species, as well as measures to ensure species, size, and structural diversity as recommended in the Comprehensive Plan and Urban Forest Management Plan policies. Also, flexible standards for preservation, especially as it relates to middle housing development, should be further explored.</p>
			<p>The non-development regulations create permit requirements for tree pruning and removals for street/City trees and private trees. Criteria for removals are based on tree size, species, condition, risk, location, number of trees, Heritage tree status, percentage of root or crown pruning, replacement of removed trees, and payment of tree removal fees into the tree fund. Trees that are part of a development project are exempt.</p>	<p>In addition, the interplay between non-development and development regulations should be carefully considered including:</p>
			<p>Can non-development tree removal be used to avoid development tree regulations?</p>	
			<p>The outline of development regulations applies to land divisions and development on lots of records and right of way improvements. The regulations appear to be based on City of Portland code requirements.</p>	<p>Define "development" clearly so something like a small addition be used to clear two-thirds of the trees on a site</p>
			<p>Do non-development mitigation fees burden property owners that meet tree removal criteria?</p>	
			<p>For land divisions, there are minimum percent preservation standards for individual trees (smaller sites) or tree canopy (larger sites). There are additional standards for percent preservation of larger trees such as those over 20-inch DBH. Approval criteria for preservation factor in the health, suitability for preservation, balance of preservation and intensity of development, and proposed mitigation when percent preservation standards are not met. Flexible standards to increase tree preservation include allowing cottage development and reduction in minimum density.</p>	<p>Gear mitigation fees more towards development projects</p>
			<p>What is the policy basis or rationale for creating separate preservation standards for land divisions versus development on lots of record?</p>	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			<p>For other development on lots of record and in the right of way, the proposed preservation requirement is 33 percent of trees over 12-inch DBH. Native species over 6-inch DBH may be used to satisfy preservation requirements. Mitigation fees would be required if percent preservation requirements could not be met. Mitigation fees would also be required for the removal of trees over 30-inch DBH regardless of whether minimum percent preservation requirements are met. Lots less than 5000 square feet, dead, dying, diseased, and invasive trees, and affordable housing projects may be exempt from preservation and/or mitigation fees. In addition, tree density requirements for new development and higher value exterior remodels are required to achieve a certain level of tree canopy after development based on zoning. Lower density zoning would require more tree canopy. Exemptions would apply to land uses such as agricultural, and certain projects such as septic and plumbing would be exempt. How will enforcement of tree planting and preservation requirements occur after development is completed? Will there be special protections for trees that were required with development to ensure they become established and are not removed by new owners?</p>	
			<p>How will tree regulations apply within Willamette River Greenway and Natural Resources overlay zones?</p>	
			<p>Street tree planting would be required for all new development based on linear feet of public right of way and spacing requirements of trees. Existing street trees can be used to meet street tree requirements. Street tree planting would be exempt for development projects that are below a certain cost threshold, demolitions, and situations where there are utility conflicts.</p>	
			<p>Submittal requirements would include a site plan showing existing trees and proposed impacts, tree protection measures, tree health assessments from a certified arborist, and proposed tree planting.</p>	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
			-Should there be a discretionary track for tree preservation if meeting the clear and objective standards are not practicable?	
			-Larger trees are typically less tolerant of construction impacts and need more space for preservation. This should be carefully considered in concert with the intensity of permitted development.	
			-Tree species, including native species, vary on construction tolerance. This should also be factored into standards and incentives for tree preservation.	
			-Should there be certain exemptions for mitigation fees for large tree removal? Examples could include: 1) lower value or shorter lived species such as red alder or black cottonwood, 2) trees where preservation alternatives were considered and there is no practicable alternative to preservation, and 3) discretionary mitigation is proposed that is beyond the minimum requirements such as habitat enhancement, creation of conservation easements, increased tree preservation, trail connections, green streets, green roofs, and other stormwater enhancements, etc.	
			-Consider how City staff and applicants can take a collaborative approach to tree preservation with development. Are there staff resources that would allow for the City arborist to meet with the applicant or applicant's arborist to identify high priority trees that may be reasonably incorporated into the development?	
			-Consider the context of the proposed development such predominant right of way character and improvements, existing tree cover and species mix, and neighborhood vision for the future. Tree preservation and planting should consider site and neighborhood characteristics to ensure it blends into the larger patterns of the area.	
			-When planting new site and street trees, it will be critical to ensure there are adequate soil volumes and space above ground for trunks, branches, and crown growth. Well placed trees with adequate growing space will be more likely to be preserved and become amenities over the long term.	
			-Will arborists be required to create tree assessments and develop preservation and planting plans? The code outline specifies arborist for tree health exemption assessments only.	
			-What are funding and staffing resources required for enforcement of regulations?	

Code Section	Related Code Section(s)	Existing Regulation	Issues/Discussion	Recommendation
5.0030 Street Design Standards				
			The standards provided on 5.0030 (page 90 of 168) seem fine. My curiosity is how the new tree ordinance will be applied to new developments in existing rights-of-way where parking is in place, creating a conflict between wanting trees and a possible approach that would allow street parking to be used against a minimum parking requirement.	The City will need to clarify its intent, as it could affect how strategies are used to minimize the impact of parking on-site in developments and accommodating middle housing goals.
5.0070 Bikeways				
			Same concern as above, lacking a priority for use of the right of way, particularly in existing rights of way, how do elements like parking, bikeways, etc., match up to tree goal.	The City will need to clarify its intent, as it could affect how strategies are used to minimize the impact of parking on-site in developments and accommodating middle housing goals.
5.0080 Accessways				
			Approach that allows on-street for meeting minimum requirements will support minimizing accessways in new development.	
5.0093 Street Planting				
			These standards establish the authority of Public Works to regulate tree removal, replacement, and planting in the public right-of-way. It establishes street tree size, species, placement, and spacing standards.	These standards should be reviewed and updated as needed to ensure they support the policies of the Comprehensive Plan and Urban Forest Management Plan. Specific items for consideration include: -Do street tree species support the priority species identified in policy documents? -Do spacing standards support the long term growth of priority species? -Are placement and setback standards appropriate and how do they impact planting opportunities? -Are the standards consistent with Public Works standards found within the Municipal Code? -Are soil volume needs for trees accounted for in the standards? -How do street design standards (Section 5.0030), including but not limited to planter strip width, influence street tree planting and preservation options?
5.0100 Dead-end Streets and Cul-de-sacs				
5.0110 Private Streets/Alleys				
			Where alleys are in place, they can be beneficial.	

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation

To: City of Milwaukie Project Management Team

From: Marcy McInelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

ATTACHMENT B: MILWAUKIE RESIDENTIAL ZONES – SUMMARY TABLES

Title 17 – Land Division

Boundary Change Actions (Table 17.12.020)

Boundary Change Action	Type I	Type II	Type III
1. Lot Consolidation Other Than Replat			
Legal lots created by deed	X		
2. Property Line Adjustment			
a. Any adjustment that is consistent with ORS and this title	X		
b. Any adjustment that modifies a plat restriction		X	
3. Partition Replat			
a. Any modification to a plat that was decided by Planning Commission			X
b. Parcel consolidation	X		
c. Actions not described in 3 (a) or (b)		X	
4. Subdivision Replat			
a. Any modification to a plat affecting 4 or more lots ¹			X

¹ An increase in the number of lots within the original boundaries of a partition plat shall be reviewed as a subdivision when the number of existing lots that are to be modified combined with the number of proposed new lots exceeds three.

Title 19 - Zoning

Use Comparison Summary Table (19.301.2 / 19.302.2)

permitted (P) | Not permitted (N) | conditional (C) | permitted with Community Service Use approval (CSU) | II (Type II review) | III (Type III review)

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Residential Uses								
Single Detached Dwelling	P	P	P	P	P	P	P	P
Duplex	P/II	P/II	P	P	P	P	P	P
Residential Home	P	P	P	P	P	P	P	P
ADU	P/II	P/II	P/II	P/II	P/II	P/II	P/II	P/II
Manufactured Dwelling Park	N	III	III	III	N	N	N	N
Rowhouse	N	N	N	P	P	P	P	P
Cottage Cluster Housing	N	N	N	P	P	P	P	P
Multi-Unit	N	N	N	C	C	P	P	P
Congregate Housing Facility	N	N	N	C	C	P	P	P
Senior and Retirement Housing	C	C	C	C	C	C	P	P
Boarding House	N	N	N	C	C	C	C	C
Commercial Uses								

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Office ²	N	N	N	C	C	C	C	P
Drinking Establishment	N	N	N	N	N	N	N	N
Eating Establishments	N	N	N	N	N	N	N	N
Indoor Recreation	N	N	N	N	N	N	N	N
Retail Oriented Sales	N	N	N	N	N	N	N	N
Marijuana Retail	N	N	N	N	N	N	N	N
Vehicle Sales and Rentals	N	N	N	N	N	N	N	N
Personal/Business Services	N	N	N	N	N	N	N	N
Repair Oriented	N	N	N	N	N	N	N	N
Day Care	N	N	N	N	N	N	N	N
Hotel or Motel	N	N	N	N	N	N	N	C
BnB/Vacation Rental	C	C	C	C	C	C	C	C
Parking Facility	N	N	N	N	N	N	N	N
Manufacturing and Production								
Manufacturing and Production	N	N	N	N	N	N	N	N
Institutional								

² Office uses permitted in medium- and high-density zones include offices, studios, clinics, and other similar professional offices.

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Community Service Use	CSU	CSU	CSU	CSU	CSU	CSU	CSU	CSU
Accessory and Other Uses								
Accessory Use	P	P	P	P	P	P	P	P
Agricultural or Horticultural Use ³	P	P	P	P	P	P	P	P
Home Occupation	P	P	P	P	P	P	P	P
Short- Term Rental	P	P	P	P	P	P	P	P

³ Additional use limitations on agricultural and horticultural uses including on retail and wholesale sales, livestock.

Development Standards Summary Table (19.301.4 / 19.302.4)

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
A. Lot Standards								
1. Minimum lot size (sq ft)								
a. Single-family detached	10,000	7,000	5,000					
b. Duplex	14,000	14,000	10,000	6,000	5,000	7,000		6,400
c. Rowhouse				3,000	2,500	2,500		1,400
d. All other lots				5,000	5,000	5,000		5,000
2. Minimum lot width (ft)								
a. Rowhouse				30		25		20
b. All other lots	70	60	50	50		50		50
3. Minimum lot depth (ft)								
a. Rowhouse				80	75	80		70
b. All other lots	100		80	80	75	80		80
4. Minimum street frontage requirements (ft)								
a. Standard lot		35		35		35		35
b. Flag lot		25		25		25		25
c. Double flag lot		35		35		35		35
d. Rowhouse				30		25		20

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
B. Development Standards								
1. Minimum yard requirements for primary structures (ft)								
a. Front yard	20	20	20	15				
b. Side yard	10	5/10 ⁴	5	See Subsection 19.302.5.A				
c. Street side yard	20	20	15	15				
d. Rear yard	20	20	20	15				
2. Maximum building height for primary structures	2.5 stories or 35 feet, whichever is less			2.5 stories or 35 feet, whichever is less		3 stories or 45 feet, whichever is less		
3. Side yard height plane limit								
a. Height above ground at min. required side yard depth (ft)	20			20 ⁵		25 ⁵		
b. Slope of plane (degrees)	45			45		45		
4. Maximum lot coverage (% of total lot area) ⁶	30%		35%	40%		45%		50%

⁴ In R-7, one side yard shall be at least 5 feet and one side yard shall be at least 10 feet, except on a corner lot the street side yard shall be 20 feet.

⁵ One additional story may be permitted in excess of required maximum standard. For each additional story, an additional 10% of site area beyond the minimum is required to retain vegetation.

⁶ Lot coverage standards are modified for specific uses and lot sizes. 1. Decreased lot coverage for large lots – reduced by 10 percentage points for a single-family detached dwelling, duplex or residential home on a lot that is more than 2.5 times larger than minimum lot size; 2. Increase lot coverage for single-family detached dwellings – increased by 10 percentage points for development of a single-family detached dwelling or addition to existing single-family detached dwelling, provided that portions of structure are in excess of 20 feet high, in excess or one story, or are limited to lot coverage standard; 3. Increased lot coverage for duplexes – by 20 percentage points; 4. Increased lot coverage for detached accessory dwelling units – increased by 5 percentage points for development of new detached accessory dwelling unit (applies only to detached accessory structure). 5. Increased lot coverage for duplexes and rowhouses – in medium and high density zones increased by 20 percentage points.

Comprehensive Plan Existing Land Use Designations	Low Density		Moderate Density	Medium Density			High Density	
	Low Density Zones			Medium and High Density Zones				
Standard	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
5. Minimum vegetation (% of total lot area) ⁷	35%	30%	25%	35%			15%	
C. Other Standards								
1. Density Requirements (dwelling units/acre) ⁸								
a. Minimum	3.5	5.0	7.0	11.6	11.6		25.0	
b. Maximum	4.4	6.2	8.7	14.5	17.4		32.0	
Residential Densities (square feet per unit)								
a. First dwelling unit						5,000	5,000	
b. Additional dwelling units						2,500	1,400	
Building Limitations								
Buildings on the Same Lot ⁹	1	1	1	1 ¹⁰	Multi-family buildings shall not an overall horizontal distance exceeding 150 linear feet as measured from end wall to end wall			

⁷ At least 40% of front yard shall be vegetated, counts toward minimum required vegetation for the lot. Property may provide less than 40% of front yard vegetation requirement if necessary, to provide turnaround area so vehicles can enter collector or arterial street in forward motion. In medium and high-density zones at least half of the minimum vegetation area must be suitable for outdoor recreation by residents, and not have extreme topography or dense vegetation that precludes access.

⁸ Minimum and maximum densities applicable for land divisions and replats that change number of lots. If a proposal is not able to meet minimum density requirement – due to dimensional requirements for lot width, lot depth, or lot frontage – the minimum density requirement shall instead be equal to the minimum number of lots that can be obtained from site given its dimensional constraints.

⁹ In low-density residential zones, one primary building design for dwelling purposes shall be permitted per lot, a detached accessory dwelling unit may be permitted.

¹⁰ Multi-family housing with multiple structures designed for dwelling purposes may be permitted as a conditional use.

Other Applicable Development Standards

19.502 Accessory Structure Standards			
	Type A	Type B	Type C
Maximum Building Height (feet)	10	15	Lesser of 25 OR not taller than highest point of primary structure ¹¹
Maximum Building Footprint (square feet)	200	600	Less of 75% of primary structure OR 1,500 ¹² On lots < 1 acre, max. 800 if any portion of structure is in front yard
Required Rear Yard (feet)	3	5	Base zone required
Required Side Yard (feet)	3	5	Base zone required
Required Front Yard (feet)	Not allowed in front yard unless structure is at least 40 from front lot line		
Other Development Standards			
	Maximum accessory structure footprint subject to lot coverage and minimum vegetation standards of base zone. Minimum of 5 feet required between exterior wall of accessory structure and exterior wall of any other structure on site, excluding fence		
	Exceptions for lots larger than 1 acre to height limitation and footprint size. Allowed base zone height limit or 25 feet (whichever is greater). Allowed maximum footprint of 1,500 square feet.		

19.504 Site Design Standards	
Clear Vision Areas	A clear vision area shall be maintained on the corners of all property at the intersection of 2 streets or a street and railroad according to provisions of Section 12.24.
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
Dual Use of Required Open Space	No lot area, yard, or other open space or off-street parking or loading area which is required 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 for by shared parking.
Distance from the 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.

¹¹ Allowed at least 15 feet height regardless of primary structure height.

¹² Allowed at least 850 square feet if lot area is > 10,000 square feet

19.505.4 Cottage Cluster Housing Development and Design Standards¹³	
a. Size (square feet)	The total footprint of a cottage unit shall not exceed 700 The total floor area of each cottage unit shall not exceed 1,000
b. Max. Height (feet)	For all structures – 18 ¹⁴
c. Orientation	(1) The front of a cottage is the façade with the main entry door and front porch, shall be oriented toward either a common open space or public street. If not contiguous to either of these, shall be oriented toward internal pedestrian circulation path. (2) At least ½ of cottages in cluster shall be oriented toward a common open space
d. Required Yards	
1) Yard Depth (feet) ¹⁵	At least 10.5, front porch may encroach into yard
2) Rear Yard Depth (feet)	At least 7.5
3) All Other Yards Depth (feet)	5
4) Min. Spacing Between Cottages (ft)	10 ¹⁶
5) Perimeter Setbacks	All structures in cottage cluster required to comply with perimeter setback areas in Subsection 19.505.4.D.2.f ¹⁷
e. Design Standards	
1) Cottages fronting a street shall avoid blank walls, include at least one of the following:	a) changes in exterior siding materials b) bay windows with min. depth of 2 feet, min. width of 5 feet c) wall offsets of at least 1 feet deep
2) Trim dimensions (windows/doors)	Min. 3 inches wide, 5/8 inches deep
3) Minimum roof pitch	4/12
4) Transparency of façade	Windows and doors account for at least 15% of façade area ¹⁸
5) Horizontal siding material	At least 60% on each wall shall be either horizontal lap siding (between 3-7 inches wide) or shake siding
f. Front Porches¹⁹	
1) Min. porch depth (feet)	6.5
2) Width of porch	At least 60% of width of overall length of front façade
3) Front door	Must open onto the porch
4) Weather protection	Entire area of front porch must be covered
5) Height from ground (inches)	Surface may not exceed 24 above grade, as measured from average ground level at front of porch
Site Design Standards	
a. No. of Cottages	Not to exceed dwelling unit max. of base zone, min. of 4, max. of 12
b. Common Open Space (square feet)	1) At least 100 of area for each cottage in development 2) Min. dimension is 20 on one side
c. Private Open Space (square feet)	Each cottage shall have on same lot as cottage, at least 100 with no dimension less than 10 feet on one side

¹³ These standards apply to cottage cluster wherever allowed by base zones. They apply to both new development and modifications to existing cottage clusters. The base zone development standards for height, yards, lot coverage, and minimum vegetation and design standards in 19.505.1 are not applicable. Cottage cluster development in R-2, R-1, or R-1-B zones also subject to the site size standards in 19.302.5.

¹⁴ Cottages or amenity buildings having pitched roofs with a min. slope of 6/12 may extend up to 25 feet at the ridge of the roof.

¹⁵ Between cottage dwelling structure and either public street, common open space, or internal pedestrian circulation path.

¹⁶ Architectural features/minor building projections (eaves, overhangs, or chimneys) may project into required separation by 18 ins.

¹⁷ This requirement may increase the required yard depths listed.

¹⁸ Applies to facades oriented toward a public street or common open space.

¹⁹ Each cottage shall have a porch on the front, intended to function as an outdoor room that extends living space of cottage into semipublic area between cottage and open space.

d. Max. Lot Coverage / Impervious Area	Total footprint of all structures not to exceed 40% of site area. Impervious surfaces (including all structures), not to exceed 60% of site area
e. Internal Pedestrian Circulation (feet)	Include pedestrian paths on-site, min. width 6 ²⁰
f. Perimeter Setback Areas (feet)	All structures located at least 15 front rear lot lines, at least 5 from side lot lines
g. Off-Street Parking	
1) Min.	1/dwelling unit ²¹
2) Setback from street (feet)	If axis of longest dimension of parking area has angle of 45 degrees or more to lot line, narrowest dimension may be within 5 of street. If angle is less than 45 degrees, parking area may be at least 20 from street.
3) No. of parking areas	If there are more than 8 units in a cluster, there shall be at least 2 separate parking areas with a min. of 4 spaces in each area. ²²
4) Garages	Spaces may be located within garage, may not contain more than 4 spaces, at least 10 feet from any cottage dwelling, and match materials, trim, and roof pitch of cottages. Interior height max. 8 feet.
5) Screening	Parking spaces not in garage shall be screened from common open space, public streets, and adjacent residential uses by landscaping and/or screen such as fence
h. Fences (feet)	Max. height 3, 6 along perimeter

²⁰ Paths must provide continuous connection between front porch of each cottage, common open space, adjoining rights-of-way, parking areas, and any other areas of common use within development.

²¹ Shall be located together with parking spaces for other cottage in common area and not on same lot as individual cottage unit.

²² A drive aisle is permitted connecting the 2 areas if a separate driveway access for each area is not permitted by 12.16 Access Management.

19.505.5 Rowhouse Design Standards	
B. Applicability	Apply to single-detached dwellings on their own lot where dwelling shares common wall across side lot line with > 1 other dwelling. ²³
C. Design Standards ²⁴	
2) Transition Area (feet)	<p>Shall include area of transition between public realm of right-of-way and entry to private dwelling. May be either horizontal or vertical.</p> <p>a) Vertical transition: uncovered flight of stairs, must rise at least 3, not more than 8 from grade²⁵</p> <p>b) Horizontal transition: covered porch with depth of at least 6²⁶</p>
D. Number Allowed	<p>No more than 4 consecutive rowhouses that share a common wall.</p> <p>A set of 4 rowhouses with common walls is allowed to be adjacent to a separate set of 4 rowhouses with common walls.</p>
E. Rowhouse Lot Standards	
1) Max. lot width (feet)	Rowhouse development not allowed on lots > 35
2) Lot number/standards	Allowed only where there are at least 2 abutting lots on the same street frontage whose street frontage, lot width, lot depth, and lot area meet or exceed the base zone requirements listed in Table 19.302.2.
3) Min. lot size (a)	Rowhouses in R-3 and R-2.5 Zones must meet min. lot size standards in Subsection 19.302.4.A.1.
4) Min. lot size (b)	Rowhouses in R-2, R-1 and R-1-B Zones must meet min. lot size standards in Subsection 19.302.4.A.1. Must also meet requirements of Table 19.505.5.E.4 ²⁷
F. Driveway Access and Parking	
1) Garages, off-street parking in front yard, and driveway accesses standards	<p>Prohibited unless the following standards are met:</p> <p>a) Each rowhouse has at least 30 feet of frontage on a neighborhood route or local street</p> <p>b) 2 or 3 rowhouses have at least one shared access between lots; 4 rowhouses have 2 shared accesses</p> <p>c) Parking and maneuvering areas do not exceed 10 feet wide</p> <p>d) Garage width does not exceed 10 feet</p>
2) Alternative standards	<p>The following rules apply to driveways and parking areas when developments do not meet all the standards listed above:</p> <p>a) Off-street parking shall be accessed on the back façade or located in rear yard</p> <p>b) Corner lots shall take access from single driveway on side of corner lot</p> <p>c) When not corner lot, access shall be consolidated for all lots into single driveway, not permitted between front façade and front lot line</p> <p>d) Consolidated access/shared driveways shall grant appropriate access easements to allow normal vehicular access and emergency access</p>
G. Accessory Structure Setbacks (feet)	On rowhouse lots with a lot width of 25 ft or <, there is no required side yard between an accessory structure and side lot line abutting a rowhouse lot. All other accessory structure regulations in Subsection 19.502.2.A apply.

²³ Lots must meet the standards for rowhouse lot in both Section 19.302 and 19.505.5.E. May take place on existing lots that meet the lot standards for rowhouse lots on land that has been divided to create new rowhouse lots. Dwelling units that share common side wall and are not on separate lots, subject to standards for duplexes or multi-unit housing.

²⁴ Subject to design standards for single-family housing 19.505.1 - 2.

²⁵ Flight of stairs must lead to front door or front porch, may encroach into required front yard, bottom step must be at least 5 feet from front lot line.

²⁶ Front porch may encroach into required front yard but shall be at least 7 feet from the front lot line.

²⁷ 2 rowhouses: R2 = 7,500 sf, R-1 and R-1-B=6,400 sf; 3 rowhouses: R2 = 10,000 sf, R-1 and R-1-B=7,800 sf; 4 rowhouses: R2 = 12,500 sf, R-1 and R-1-B=9,200 sf.

19.600 Off-Street Parking Standards		
Residential Use ²⁸	Minimum	Maximum
Single Family Dwellings (including rowhouses and manufactured homes)	1/primary dwelling unit	-
Multifamily Dwellings ²⁹		
a. Units < 800 SF located in Downtown Mixed Use zone (DMU)	1/unit	2/unit
b. Units > 800 SF	1.25/unit	2/unit
Residential homes and similar facilities allowed outright in residential zones	1/unit + 1/employee on largest shift	Min. + 1 space/bedroom
ADUs	None, unless vacation rental 1/unit	-
19.607 Additional Design Standards		
Minimum Dimensions of Off-Street Space (feet)	9 wide x 18 deep	
Location	1. Off-street vehicle parking shall be located on the same lot as the associated dwelling, unless shared parking is approved 2. No portion of the required parking space is allowed within the following areas. ³⁰ <ol style="list-style-type: none"> a. Within the required front yard or within 15 ft of the front lot line, whichever is greater. b. Within a required street side yard. 	
Parking Surface Material	1. Required parking spaces, vehicle parking spaces and maneuvering areas located with required front or side yard required to have durable and dust-free hard surface. 2. Maneuvering areas and unrequired parking areas outside of a required front or side yard allowed to have gravel surface.	

²⁸ Development of a vacant site or that results in an increase of 100% or more of existing floor area and/or structure footprint on a site must conform to parking standards of 19.600. When development results in an increase of less than 100% of existing floor area and/or structure footprint or represents a change of use, existing off-street parking and loading areas shall be brought closer into conformance with standards of 19.600. There are limitations to improvements not to exceed 10% of development permit value and/or tenant improvements associated with change in use. Required to submit parking plan to Planning Director who evaluates with prioritized list.

²⁹ Dwellings containing 3 or more dwelling units (includes senior and retirement housing)

³⁰ These standards do not apply to off-street parking for cottage clusters, which are subject to the standards in Subsection 19.505.4.

19.700 Public Facility Improvements			
Single Family Residential Expansion	Applies	Does not apply	
A. Expansions/conversions that increase combined gross floor area of all structures by 1,500 SF or more ³²	X		Must demonstrate compliance with: <ul style="list-style-type: none"> A. Procedures, requirements, and standards of Public Works Standards B. Provide transportation improvements and mitigation in rough proportion to potential impacts of developments per 19.705 C. Demonstrate adequate street drainage, safe access and clear vision at intersections, access onto public street with min. paved widths, adequate frontage improvements, and compliance with LOS D for all intersections impacted by development.³¹
B. Expansions/conversions that increase combined gross floor area of all structures between 200 SF – 1,499 SF Error! Bookmark not defined.	X Only ROW dedication		
C. Expansions/conversions that increase combined gross floor area < 200 SF Error! Bookmark not defined.		X	
D. Single-family residential expansions shall provide adequate public utilities		X	
E. Construction/expansion of garage/carport ³³		X	

³¹ For local streets a minimum paved width of 16 feet along the site’s frontage. For nonlocal streets, a minimum paved width of 20 feet along the site’s frontage. For all streets, a minimum horizontal ROW clearance of 20 feet along the site’s frontage.

³² Calculations exclude noninhabitable accessory structures and garages.

³³ Must comply with Chapter 12.16 Access Management and existing nonconforming accesses may not go further out of conformance and shall be brought closer into conformance to the greatest extent possible.

19.910.1 Accessory Dwelling Units Approval Standards and Criteria	
B. Applicability	Apply to establishment of any ADU
C. Procedures	Application subject to Type I review, properties adjoining received mailed notice, including site plan, building elevations
D. Approval Standards and Criteria	
1) ADU Type I review subject to following standards	<ul style="list-style-type: none"> a) Is an allowed use in base zone, overlay zones, or special areas b) Primary use of property is single-family detached dwelling c) One ADU per single family home or lot allowed d) Development standards of 19.9810.1 E met e) Proposal complies with all other applicable standards of this title
2) ADU Type II subject to following review criteria	<ul style="list-style-type: none"> a) Standards above in Section 1 are met b) ADU not incompatible with existing development on the site, and on adjacent lot (architectural style, materials, colors) c) Massing of ADU and its placement on site maximizes privacy for, and minimizes impacts to, adjacent properties d) Appropriate level of screening for nearby yards and dwellings provided by design of ADU and existing/proposed vegetation and other screening
E. Standards	
1) Creation	ADU may be created by conversion of existing structure, addition to existing structure, or new construction, or both addition/conversion
2) Coordination of Standards	More restrictive provisions applicable in event of conflict between standards in this section and other portions of this title
3) Attached ADU Development and Design Standards ³⁴	<ul style="list-style-type: none"> a) Max. floor area limited to 800 square feet or 75% of floor area of primary structure, whichever is less b) Design Standards: <ul style="list-style-type: none"> (1) Façade of structure that faces front lot line shall have only one entrance, secondary entrance for ADU allowed on any other façade. (2) Stairs, decks, landings, or other unenclosed portions of structure leading to entrance of ADU not allowed on façade that faces front lot line (3) Proposals for ADUs that would increase floor area through new construction subject to additional design standards³⁵
4) Detached ADU Development and Design Standards	<ul style="list-style-type: none"> a) Max. floor area limited to 800 square feet or 75% of floor area of primary structure, whichever is less b) Max. structure footprint, height, and yard regulations listed in Table 19.910.1.E.b.³⁶ Structures that exceed any of maximums associated with Type I review require Type II review. Structures not allowed to exceed any of maximums associated with Type II review without variance. c) Design Standards: <ul style="list-style-type: none"> (1) Shall include at least 2 of design details listed. An architectural feature may be used to comply with more than one standard. <ul style="list-style-type: none"> · Covered porch at least 5 feet deep and 5 feet wide · Recessed entry area at least 2 feet deep and 5 feet wide · Roof eaves with min. project of 12 inches from intersection of roof and exterior walls · Horizontal lap siding between 3 – 7 inches wide

³⁴ Reviewed through Type I review.

³⁵ Exterior finish on addition shall match exterior finish material of primary dwelling unit in type, size and placement. Trim must be same in type, size, and location as trim used on primary dwelling unit. Windows on street facing facades must match those in primary dwelling unit in proportion (relationship of width to height) and orientation (horizontal or vertical). Eaves must project from building walls at same proportion as eaves on primary dwelling unit.

³⁶ Type I review – Max. footprint 600 square feet; Max. height 15' limited to 1 story; base zone requirements for side, rear, and street side yard; 10 feet behind front yard unless located at least 40 feet from front lot line. Type II review – Max. footprint 800 square feet; Max. height 25 feet limited to 2 stories; Required 5 foot side and rear yard; Base zone requirements for street side yard; 10 feet behind front yard unless located at least 40 feet from front lot line.

	<ul style="list-style-type: none"> · Window trim around all windows at least 3" wide, 5/8" deep (2) May request a variance to design standards through Type II review (3) ADU with floor-to-ceiling height of 9 feet or >, required to have roof pitch of at least 4/12 (4) Yurt may be used as detached ADU and is exempt from design standards
	<p>d) Privacy Standards³⁷</p> <p>(1) Required on or along wall(s) of detached ADU, or portions thereof, that meet following criteria:</p> <ul style="list-style-type: none"> (a) Wall is within 20 feet of side or rear lot line (b) Wall is at an angle of 45 degree or less to lot line (c) The wall faces an adjacent residential property <p>(2) Meets privacy standards if either of following standards met:</p> <ul style="list-style-type: none"> (a) Wall windows on a wall shall be placed in upper third of distance between floor and ceiling (b) Visual screening is in place along portion of property line next to wall of ADU, plus an additional 10 lineal feet beyond corner of wall. Screening shall be opaque, at least 6 feet high; may consist of fence, wall, or evergreen shrub.³⁸
	<p>e) Conversion of Existing Structures</p> <p>Creation of detached ADU through conversion of accessory structure established on or after Dec. 1, 2012 is required to meet all applicable standards for new detached ADU.</p> <p>Creation of detached ADU through conversion of an existing accessory structure that was legally established prior to Dec. 1, 2012 is allowed. Conversion must meet all standards that apply to creation of new detached ADU, except for design standards in 19.910.1.E.4.c.</p>
	<p>f) Additional Provisions</p> <ul style="list-style-type: none"> (1) ADUs not counted in calculation of min. or max. density requirements (2) Additional home occupations allowed for property with ADU.

³⁷ Privacy standards required for detached accessory dwelling units processed through Type I review. Detached ADUs permitted through Type II review may be required to include privacy elements to meet approval criteria.

³⁸ Newly planted shrubs shall be no less than 5 feet above grade at time of planting. They shall reach 6 feet high within one year. Existing features on site can be used to comply with this standard.

19.910.2 Duplex Approval Standards and Criteria	
B. Applicability	Regulations apply to new construction, conversion/add on to existing structure to create duplex, also apply to additions and modifications to existing duplexes
C. Review Process The following review process required for duplexes (either through new structure or conversion/addition to existing structure)	<p>a) In R-5, R-3, R-2, R-1, R-1-B, R-O-C zones, duplex allowed outright, subject to lot size requirements for base zone, review of applicable development and design standards occurs during review of development permit</p> <p>b) In R-10 and R-7 duplex allowed outright³⁹, subject to lot size requirements for zone, , review of applicable development and design standards occurs during review of development permit</p> <p>c) In R-10 or R-7 zone, if not eligible outright, allowed through Type II review.</p>
D. Approval Criteria	<p>If duplex is not an outright allowed use, must meet following criteria:</p> <p>a) The location of duplex at proposed site will not have substantial impact on existing pattern of single-family detached dwellings within the general vicinity of the site.</p> <p>b) Design of proposed duplex is generally consistent with surrounding development</p> <p>c) Proposed duplex is designed as reasonably as possible to appear like a single-family detached dwelling</p>

³⁹ Property must have frontage on collector or arterial street (as identified in TSP) or be on a corner lot.

Approval Types

Review Type	Review Authority	Appeal Authority	Public Hearing	Notes
19.1000 Review Types/Procedures				
Type I	Planning Director	Planning Commission		Applies to permitted uses or development governed by clear and objective approval criteria and/or development standards that may require the exercise of professional judgement about technical issues
Type II	Planning Director	Planning Commission		Applies to uses or development governed by subjective approval criteria and/or development standards that require the exercise of limited discretion.
Type III	Planning Commission	City Council	X	Quasi-judicial and subject to approval criteria that require exercise of discretion and judgment and about which there may be broad public interest. Impacts may be significant and development issues complex. Conditions of approval may be extensive.
Type IV	City Council, initial hearing/recommendation from Planning Commission	None	X	Involve amendments to zoning or land use maps. Require great deal of professional analysis, reviewed against subjective approval criteria.
Type V	City Council, initial hearing/recommendation from Planning Commission	None	X	Legislative in nature, involve creation, revision, or large-scale implementation of public policy. Requires broad public notification/hearings.

permitted out right – Type I procedure (P) | permitted out right, require Type II procedure (II) | conditional (C) | Type III review (III)

	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Residential Uses								
Single Detached Dwelling	P	P	P	P	P	P	P	P
Duplex	II	II	P	P	P	P	P	P

	Low Density Zones			Medium and High Density Zones				
Zone	R-10	R-7	R-5	R-3	R-2.5	R-2	R-1	R-1-B
Residential Home	P	P	P	P	P	P	P	P
ADU	I/II	I/II	I/II	I/II	I/II	I/II	I/II	I/II
Manufactured Dwelling Park	N	III	III	III	N	N	N	N
Rowhouse				P	P	P	P	P
Cottage Cluster Housing				P	P	P	P	P
Multi-Unit				C	C	P	P	P
Congregate Housing Facility				C	C	P	P	P
Senior and Retirement Housing	C	C	C	C	C	C	P	P
Boarding House				C	C	C	C	C

Date: 03 December 2020

Subject: Milwaukie Comprehensive Plan Implementation

To: City of Milwaukie Project Management Team

From: Marcy McInnelly AIA, Pauline Ruegg, Erika Warhus, Urbsworks, Inc.

ATTACHMENT C: SUMMARY OF HB 2001 COMPLIANCE PATHS

This memo summarizes the different ways a city may comply with House Bill 2001 and the accompanying proposed Oregon Administrative Rule (OAR) Division 46. The OAR provides the regulations that enact the mandate of House Bill 2001. The proposed rules can be found at this link:

<http://records.sos.state.or.us/ORSOSWebDrawer/Recordpdf/7606963>

House Bill 2001 overview

The intent of HB 2001 is to increase the amount and types of housing available statewide to alleviate housing shortages and provide more choice. Recognizing the different scale of cities in Oregon, the legislation defines two types of cities (medium and large). Large cities have until June 30, 2022 to comply. For large cities, like Milwaukie:

- Duplexes must be allowed on all lots or parcels that allow single detached dwellings
- Middle Housing (Triplexes, Quadplexes, Townhouses, and Cottage Clusters) must be allowed in areas that permit single detached dwellings

Cities may regulate or limit areas where Middle Housing is permitted to comply with statewide planning goals such as:

- Goal-protected lands (Goals 5, 6, 7, and 9)
- Infrastructure constrained lands
- Master planned communities

Different pathways to compliance

There are four different ways to comply with HB2001. Draft rules detailing how to comply are under consideration by DLCDC and expected to be adopted by December 2020. Any revisions are expected to be minor and not change the pathways to compliance. The four pathways include:

1. Meet the **minimum compliance standards** per the proposed Oregon Administrative Rule (OAR) 660-046
2. Adopt the **model code**
3. Adopt standards (about lot size and density) that meet specific **performance metric standards**
4. Adopt **alternative standards** (about siting and design) and demonstrate more housing is created using production standards

A city can use multiple pathways to compliance for different housing types, per the proposed rules. For example:

- "[A] sample city could choose to regulate the minimum lot size of cottage clusters in conjunction with the allowable minimum compliance standards but could choose to regulate the minimum lot size for quadplexes differently subject to the Performance Metric Approach. In this case, the sample city would be choosing to utilize the Performance Metric Approach only for quadplexes and not for cottage clusters."

Below is a summary of the minimum compliance, performance metric, and production standards pathways to compliance.

Overview of Minimum Compliance Approach

The minimum compliance rules outline reasonable siting and design standards and important process and enforcement rules that ensure Large Cities do not cause “unreasonable cost or delay” to the development of middle housing. Siting standards relate to the position, bulk, scale or form of a structure, e.g. “where is it on the land.” Design standards relate to the arrangement, orientation, appearance, or articulation of features. Following is a more detailed overview of this pathway.

Siting Standards

The draft rules set separate siting standards for each housing type. Siting standards include minimum lot size, density, setbacks, height, parking, and lot coverage.

- Minimum lot sizes by housing type:
 - Triplex: 5,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
 - Quadplex: 7,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
 - Townhouse: Average may not be greater than 1,500 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
 - Cottage Cluster: 7,000 square feet; OR not greater than the minimum lot size of single dwelling in underlying zone
- Setbacks: Generally, can't be greater than for single detached dwellings in the same zone
- Maximum height: Generally, can't be lower than the maximum height allowed for single detached dwellings in the same zone
- Parking (off street minimum required):
 - Duplexes: Not more than 2 off-street spaces, may allow on-street parking to meet requirements
 - Triplexes: 1-3 spaces depending on lot size
 - Quadplexes: 1-4 spaces depending on lot size
 - Townhouses: 1 space per Townhouse, may allow on-street parking to meet requirements
 - Cottage Cluster: 1 space per unit, may allow on-street parking to meet requirements
- Density: Density maximums may not be applied to Duplexes, Triplexes, Quadplexes, and Cottage Clusters. Townhouses may be permitted 4x the maximum density of single dwellings in the same zone or 25 dwelling units per acre, whichever is less.

Design Standards

Design standards are not required. If, however, design standards are applied, only the following may be used:

- Design standards defined in the Model Code
- Design standards that are less restrictive than those defined in the Model Code
- Same design standards as applied to single dwellings

No design standards may be required for middle housing created through conversion of an existing building.

Overview of Performance Metric Approach

If cities want the flexibility to determine where Middle Housing will go and chose to adopt standards for minimum lot size or maximum density, they will be required to conduct a performance analysis. This analysis must demonstrate there is an equitable distribution of Middle Housing on lots throughout the city.

At a minimum, a local government must allow Middle Housing types other than duplexes on the following proportion of lots or parcels:

- Triplexes must be allowed on 80% of lots or parcels in a Large City
- Quadplexes must be allowed on 70% of lots or parcels in a Large City
- Townhouses must be allowed on 60% of lots or parcels in a Large City
- Cottage Cluster must be allowed on 70% (TBD) of lots or parcels in a Large City

Overview of Alternative Design Standards Approach

In recognition that some cities have already been actively encouraging the development of Middle Housing, this pathway seeks to allow cities to continue to use existing development standards as long as they can prove they are producing a substantial amount of Middle Housing. They may not apply these standards citywide but only in areas where they previously existed; new areas must meet the minimum compliance.

Cities seeking to use alternative design standards for siting and design must demonstrate:

- They do not cause unreasonable cost or delay
- Alternative standards will produce *more* Middle Housing (must demonstrate an annualized fraction of 3% production of Middle Housing based on the length of time the particular standard has been effective)
- Routinely check-in to make sure substantial production is being met (through Housing Needs Assessment update process)

Proposed Revisions to posted code amendments
(see highlighted text)

1. Revise Table 19.301.4 with a new footnote and amended density for townhouses – per HB 2001

Table 19.301.4					
Moderate Density Residential Development Standards					
<u>Standard</u>	<u>R-MD</u>				<u>Standards/ Additional Provisions</u>
	<u>Lot size (square feet)</u>				
	<u>1,500 – 2,999</u>	<u>3,000–4,999</u>	<u>5,000-6,999</u>	<u>7,000 and up</u>	
A. Permitted Dwelling Type					
	<u>Townhouse, Cottage¹</u>	<u>Single Detached Dwelling.</u> <u>Single Detached Dwelling. with ADU.</u> <u>Duplex</u>	<u>Single Detached Dwelling.</u> <u>Single Detached Dwelling. with ADU.</u> <u>Duplex, Triplex</u>	<u>Single Detached Dwelling.</u> <u>Single Detached Dwelling. with ADU.</u> <u>Duplex, Triplex, Quadplex, Cottage Cluster.</u>	Subsection 19.501.1 Lot Size Exceptions
C. Development Standards					
1. Minimum yard requirements for primary structures (ft)²					

¹ For a Cottage within a Cottage Cluster only

² Cottage Cluster developments are subject to the standards in Section 19.505.4

Table 19.301.4

Moderate Density Residential Development Standards

Standard	R-MD				Standards/ Additional Provisions
	Lot size (square feet)				
	1,500 – 2,999	3,000–4,999	5,000-6,999	7,000 and up	
a. Front yard	<u>20</u> ³	<u>20</u>	<u>20</u>	<u>20</u>	
b. Side yard	<u>5</u> ³	<u>5</u>	<u>5</u>	<u>5/10</u>	
c. Street side yard	<u>15</u> ³	<u>15</u>	<u>15</u>	<u>20</u>	
d. Rear yard	<u>15</u> ³	<u>20</u>	<u>20</u>	<u>20</u>	
C. Other Standards					
1. Density requirements(dwelling units per acre)					Subsection 19.301.5.D Residential Densities
a. Minimum	<u>25</u>	<u>7.0</u>	<u>7.0</u>	<u>5.0</u>	Subsection 19.501.4 Density Exceptions
b. Maximum	<u>34.8</u> <u>25</u> ⁶	<u>8.7</u> ⁴	<u>8.7</u> ⁵	<u>6.2</u> ⁵	For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4

³ For lots 3,000 sq ft and smaller: Where a newly created small lot abuts a larger or pre-existing lot, when abutting a 5,000-sq-ft lot, rear and side yard setback standards for 5,000-sq-ft lots apply; when abutting a 7,000-sq-ft lot, rear and side yard setback standards for 7,000-sq-ft lots apply, and when abutting a 10,000-sq-ft lot, rear and side yard setback standards for 10,000-sq-ft lots apply.

⁴ Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

2. Revise 19.301.5.D as follows:

D. Residential Densities

The minimum ~~and maximum~~ development densities in Subsection 19.301.4.C.1 are applicable for land divisions and replats that change the number of lots. Maximum densities apply to single detached dwellings; middle housing is exempt from maximum density, except for townhouses.

3. Revise 19.501.2 as follows:

19.501.2 Yard Exceptions

C. A covered porch on a single-family ~~unit~~ detached dwelling, or middle housing unit, may extend 6 ft into a required front yard if the following standards are met.

1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable sunshades, screens, or netting.
2. The surface of the porch does not exceed 18 in high above the average grade.
3. The porch is at least 5 ft from the front lot line.

4. Revise 19.505.1 as follows:

19.505.1 Single-Family Dwellings and Duplexes Single Detached and Middle Housing Residential Development

A. Purpose

The design standards for ~~single-family dwellings and duplexes~~ one to four (1 - 4) unit dwellings (including single detached dwellings, duplexes, triplexes, and quadplexes), cottage clusters, and townhouses require a minimum level of design on every dwelling. These standards are intended to promote attention to detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles.

Site design is intended to must meet the following objectives:

1. Livability –Development should contribute to a livable neighborhood by incorporating visually pleasing design, minimizing the impact of vehicles, emphasizing pedestrian and bicycle connections, and providing public and private open spaces for outdoor use.
2. Compatibility –Development should have a scale that is appropriate for the surrounding neighborhood and maintains the overall residential character of Milwaukie.

3. Safety and Functionality –Development should be safe and functional, by providing visibility into and within a residential development and by creating a circulation system that prioritizes bicycle and pedestrian safety.
4. Sustainability –Development should incorporate sustainable design and building practices, such as energy conservation, preservation of trees and open space, quality building materials, and alternative transportation modes.

5. Revise 19.505.5.D to comply with HB 2001 as follows:

D. Number of Townhouses ~~Rowhouses~~ Allowed

In the High Density Zones , no more than 4 consecutive townhouses ~~rowhouses~~ that share a common wall(s) are allowed. A set of 4 townhouses ~~rowhouses~~ with common walls is allowed to be adjacent to a separate set of 4 townhouses ~~rowhouses~~ with common walls.

~~In the R-MD zone, the maximum width of attached townhouse frontage may not exceed 40 feet~~ the maximum number of consecutive attached townhouses is 4 2.

6. Revise 19.702 to include duplexes to comply with HB 2001 as follows:

19.702.2 ~~Single-Family Detached~~ and duplex Residential Expansions

Chapter 19.700 applies to single-family ~~detached~~ and duplex residential expansions as described below. The City has determined that the following requirements are roughly proportional to the impacts resulting from single-family ~~detached~~ and duplex residential expansions.

- A. For expansions or conversions that increase the combined gross floor area of all structures (excluding nonhabitable accessory structures and garages) by 1,500 sq ft or more, all of Chapter 19.700 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~~ 800 sq ft, but not more than 1,499 sq ft, right-of-way dedication may be required pursuant to the street design standards and guidelines contained in Subsection 19.708.2.
- 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~~ 800 sq ft, none of Chapter 19.700 applies.
- D. single-family ~~detached~~ and duplex residential expansions shall provide adequate public utilities as determined by the ~~Engineering Director~~ City Engineer pursuant to Section 19.709.
- 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.

19.702.4 Exemptions

Chapter 19.700 does not apply to the following types of development in all zones:

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