



Special Session **SPS**

Milwaukie City Council

COUNCIL SPECIAL SESSION

City Hall Council Chambers, 10722 SE Main Street
& Zoom Video Conference (www.milwaukieoregon.gov)

AGENDA

MARCH 29, 2022

Council will hold this meeting in-person and through video conference. The public may attend the meeting at City Hall or join the Zoom webinar, or watch live on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom webinar login information** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-special-session-30>.

To participate in this meeting by phone dial 1-253-215-8782 and enter Webinar ID 862 6208 1394 and Passcode: 373156. **Written comments** may be submitted by email to ocr@milwaukieoregon.gov. Council will take limited verbal comments.

Note: agenda item times are estimates and are subject to change.

Page #

1. CALL TO ORDER (5:00 p.m.)

2. PUBLIC HEARINGS

A. Comprehensive Plan Implementation, Housing and Parking Code Amendments (continued) – Ordinance (5:00 p.m.) **2**

Staff: Vera Kolias, Senior Planner

B. Comprehensive Plan Implementation, Tree Code Amendments 231 (continued) – Ordinance (7:00 p.m.) **231**

Staff: Natalie Rogers, Climate & Natural Resources Manager

3. ADJOURN (9:00 p.m.)

Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at ocr@milwaukieoregon.gov or phone at 503-786-7502. To request Spanish language translation services email espanol@milwaukieoregon.gov at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the [city's YouTube channel](#) and Comcast Channel 30 in city limits.

Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a ocr@milwaukieoregon.gov o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a espanol@milwaukieoregon.gov al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el [canal de YouTube de la ciudad](#) y el Canal 30 de Comcast dentro de los límites de la ciudad.

Executive Sessions

The City Council may meet in executive session pursuant to Oregon Revised Statute (ORS) 192.660(2); all discussions are confidential; news media representatives may attend but may not disclose any information discussed. Final decisions and actions may not be taken in executive sessions.



SPS Agenda Item

2

Public Hearings



COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Mar. 17, 2022

Reviewed: Laura Weigel, Planning Manager, and
Joseph Briglio, Community Development Director

From: Vera Kalias, Senior Planner

Subject: Comprehensive Plan Implementation: Code Amendments – Housing & Parking

ACTION REQUESTED

Council is asked to re-open the public hearing for land use file #ZA-2021-002 and discuss the proposed amendments to Milwaukie Municipal Code (MMC) Title 19 (Zoning), Title 17 (Land Division), Title 12 (Streets, Sidewalks, and Public Places (Title 13 Public Services)), Zoning map, Comprehensive Plan, and Comprehensive Plan Land Use map related to middle housing and parking and the tree code.

Public hearing #5, held on [March 15](#), focused on the proposed housing and parking code amendments. Council took public testimony, asked clarifying questions, closed the hearing for public comment, began deliberations, and continued the hearing to March 29. For a history of prior actions and discussions, project background, and detailed analysis of the proposed code amendments (including recommendations from Planning Commission and prior discussion items from Council), and a comprehensive package of attachments, please refer to the full staff report posted for the [February 15](#) public hearing.

The requested action on March 29 is to continue deliberations, provide recommendations to staff on code revisions, and continue the hearing to April 5, with a final adoption hearing to be held on April 19.

ANALYSIS

At the March 15 public hearing, Council provided recommendations for code revisions. Please refer to Attachment 1 for proposed revised code language as of March 15. Changes made since the January 10 version of the code have been **highlighted**.

NEXT STEPS

- o Council public hearing #6: April 5, 2022 – Finalize revisions in anticipation of adoption on April 19, 2022.

BUDGET IMPACT

None.

WORKLOAD IMPACT

Some additional permits will likely be submitted when the new code is adopted, but this additional activity will be absorbed by staff.

CLIMATE IMPACT

The objective of the implementation project is code amendments that will support a variety of housing opportunities throughout the city, including middle housing, and an updated tree code that will help the city achieve its stated goal of a 40% tree canopy.

COORDINATION, CONCURRENCE, OR DISSENT

Community development, planning, engineering, city manager's office, and public works staff worked on this project.

ATTACHMENTS

1. Ordinance
 - a. Recommended Findings in Support of Approval (including Metro and State Findings)
 - b. Draft code amendment language (underline/strikeout)
 - c. Draft code amendment language (clean)

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 12 STREETS, SIDEWALKS, AND PUBLIC PLACES, TITLE 13 PUBLIC SERVICES, AND AMENDING THE ZONING MAP FOR THE PURPOSE OF ADDRESSING MIDDLE HOUSING 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 18 months; and

WHEREAS, on October 12, October 26, and November 9, 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

Exhibit A.

Recommended Findings in Support of Approval File #ZA-2021-002; CPA-2021-001; ZC-2021-002 Middle Housing 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
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, January 18, 2022, February 1, 2022, February 15, 2022, March 1, 2022, March 15, 2022, and March 29, 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 February 15, 2022, hearing was posted as required on January 13, 2022.

- (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, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on January 18, 2022, February 1, 2022, February 15, 2022, March 1, 2022, March 15, 2022, and March 29, 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, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on January 18, 2022, February 1, 2022, February 15, 2022, March 1, 2022, March 15, 2022, and March 29, 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, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public

hearings on January 18, 2022, February 1, 2022, February 15, 2022, March 1, 2022, March 15, 2022, and March 29, 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, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on January 18, 2022, February 1, 2022, February 15, 2022, March 1, 2022, March 15, 2022, and March 29, 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, October 26, and November 9, 2021 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on January 18, 2022, February 1, 2022, February 15, 2022, March 1, 2022, March 15, 2022, and March 29, 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. When any portion of the trunk of a tree crosses a public right-of-way line at ground level, it is considered a street tree.

“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 **and allow** 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	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Duplex	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Triplex	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Quadplex	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Townhouse	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.5 Standards for Townhouses
Cottage Cluster	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development Subsection 19.505.4 Cottage Cluster Housing
Residential home	<u>P</u>	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Accessory dwelling unit	<u>P</u>	Subsection 19.910.1 Accessory Dwelling Units
Manufactured dwelling park	III	Subsection 19.910.3 Manufactured Dwelling Parks.
Senior and retirement housing	<u>CU</u>	Subsection 19.905.9.G Senior and Retirement Housing
Commercial Uses		
Bed and breakfast or Vacation rental	<u>CU</u>	Section 19.905 Conditional Uses
Accessory and Other Uses		
Accessory use	<u>P</u>	Section 19.503 Accessory Uses
Agricultural or horticultural use	<u>P</u>	Subsection 19.301.3 Use Limitations and Restrictions
Community service use	<u>CSU</u>	Section 19.904 Community Service Uses
Home occupation	<u>P</u>	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 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	GSU	GSU	GSU	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.

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

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					
<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, Single Detached Dwelling, with up to 2 ADUs, Duplex, Triplex, Quadplex</u>	<u>Single Detached Dwelling, Single Detached Dwelling, with up to 2 ADUs, Duplex, Triplex, Quadplex</u>	<u>Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster,</u>	Subsection 19.501.1 Lot Size Exceptions
B. Lot Standards					
<u>1. Minimum lot width (ft)</u>	<u>20</u>	<u>30</u>	<u>50</u>	<u>60</u>	
<u>2. Minimum lot depth (ft)</u>	<u>70</u>	<u>80</u>	<u>80</u>	<u>80</u>	
<u>3. Minimum street frontage requirements (ft)</u>					
<u>a. Townhouse</u>	<u>20</u>				
<u>b. Standard lot</u>	<u>35</u>	<u>30</u>	<u>35</u>	<u>35</u>	
<u>c. Flag lot</u>	<u>NA²</u>	<u>25</u>	<u>25</u>	<u>25</u>	Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
<u>d. Double flag lot</u>	<u>NA²</u>	<u>25</u>	<u>25</u>	<u>25</u>	
C. Development Standards					
<u>1. Minimum yard requirements for</u>					Subsection 19.301.5.A 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	
<u>primary structures (ft)³</u>					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
a. <u>Front yard</u>	<u>20</u>	<u>20</u>	<u>20</u>	<u>20</u>	
b. <u>Side yard</u>	5 Error! Bookmark not defined.	<u>5</u>	<u>5</u>	<u>5/10</u>	
c. <u>Street side yard</u>	15 Error! Bookmark not defined.	<u>15</u>	<u>15</u>	<u>20</u>	
d. <u>Rear yard</u>	15 Error! Bookmark not defined.	<u>20</u>	<u>20</u>	<u>20</u>	
2. Maximum building height for primary structures	35 ft				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. <u>Height above ground at minimum required side yard depth (ft)</u>	<u>20</u>				
b. <u>Slope of plane (degrees)</u>	<u>45</u>				
4. Maximum lot coverage(percent of total lot area)	<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
5. Minimum vegetation(percent of total lot area)	<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					

³ 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	
1. Density requirements(dwelling units per acre)					Subsection 19.301.5.D Residential Densities Subsection 19.501.4 Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4
a. Minimum	25	7.0	7.0	5.0	
b. Maximum	25 ⁴	8.7 ⁴	8.7 ⁴	6.2 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 **and Middle Housing** Dwellings

a. 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

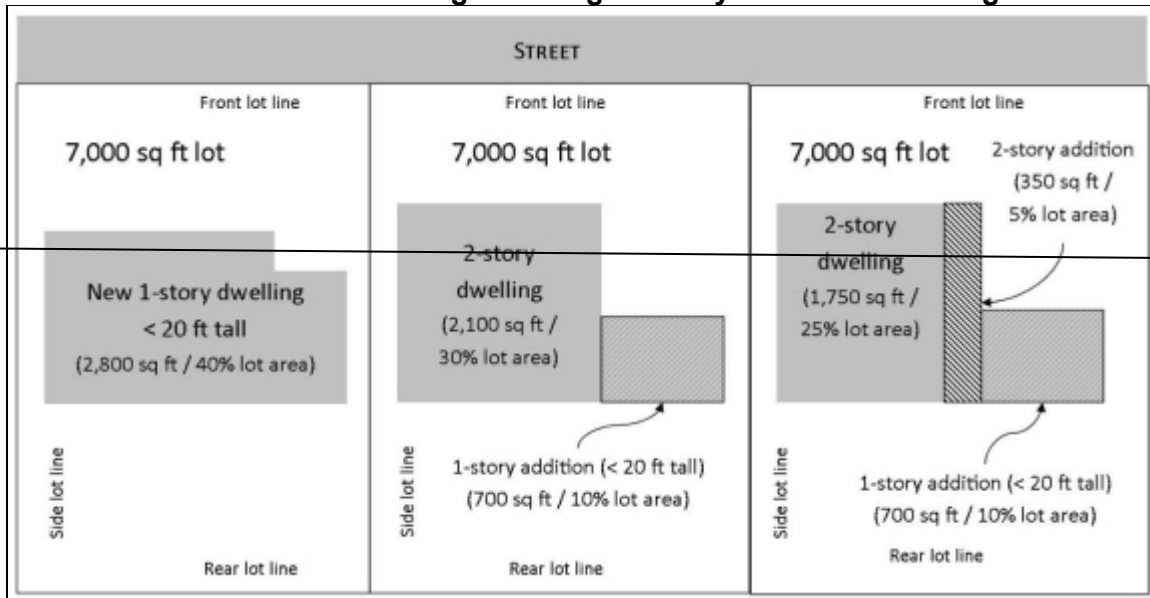
⁴ Townhouses are allowed at four times the maximum density allowed for single detached dwellings in the same zone or 25 dwelling units per acre, whichever is less. Duplexes, Triplexes, Quadplexes, and Cottage clusters are exempt from density maximums.

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.

b. The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a middle housing dwelling (except for townhouses and cottage clusters), or an addition to an existing middle housing dwelling (except for townhouses and cottage clusters), provided that the portions of the structure that are in excess of 20 ft high 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 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-Family Detached Dwellings**



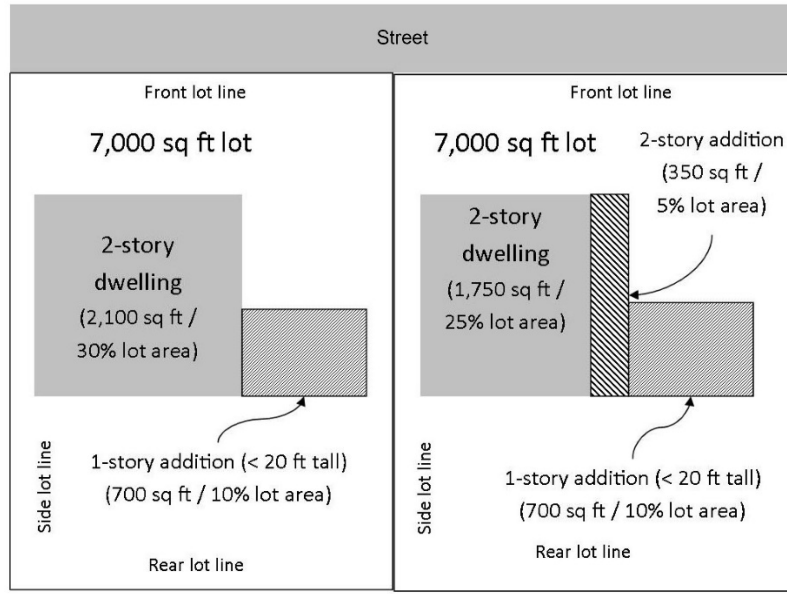


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone ~~R-MD~~. ~~R-7~~ based on 7,000 sq ft lot area.

3. Increased Lot Coverage for ~~Duplexes~~ Middle Housing

The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by ~~20~~ 10 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.

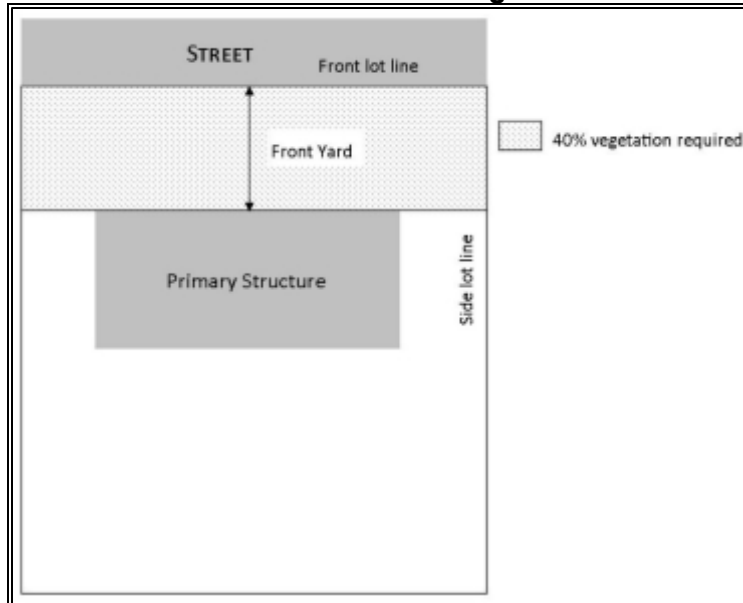
4. Increased Lot Coverage for Detached Accessory Dwelling Units

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, except for townhouses.

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 (Ex. 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
a. Front yard	20	20	20	Subsection 19.501.2 Yard Exceptions
b. Side yard	10	5/10	5	Subsection 19.504.8 Flag Lot Design and Development Standards
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
Triplex	<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
Quadplex	<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	P#	P#	P#	P#	P#	Subsection 19.910.1

Proposed Code Amendments

unit						Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	Subsection 19.910.3 Manufactured Dwelling Parks
Rowhouse <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 <u>Townhouses</u>
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 <u>Multi Unit Housing</u> 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 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with ADU, Duplex, Triplex, and Quadplex.

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 Subsection 19.505.4 Cottage Cluster Housing Subsection 19.505.5 Rowhouses
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			25			

B. Development Standards				
1. <u>Minimum yard requirements for primary structures (ft)</u> a. <u>Front yard</u> b. <u>Side yard</u> c. <u>Street side yard</u> d. <u>Rear yard</u>	- 20 See Subsection 19.302.5.A 15 15	-	<p>Subsection <u>19.302.5.A</u> Side Yards</p> <p>Subsection <u>19.501.2</u> Yard Exceptions</p> <p>Subsection <u>19.504.8</u> Flag Lot and Back Lot Design and Development Standards</p>	
2. <u>Maximum building height for primary structures</u>	35 ft.	45 ft.	<p>Subsection <u>19.302.5.E</u> Height Exceptions</p> <p>Subsection <u>19.501.3</u> Building Height and Side Yard Height Plane Exceptions</p> <p>Subsection <u>19.302.5.I</u> Transition Measures</p>	
3. <u>Side yard height plane limit</u> a. <u>Height above ground at minimum required side yard depth (ft)</u> b. <u>Slope of plane (degrees)</u>	- 20 45	- 25 45	<p>Subsection <u>19.501.3</u> Building Height and Side Yard Height Plane Exceptions</p>	
4. <u>Maximum lot coverage (percent of total lot area)</u>	40%	45%	50%	Section 19.201 “ <u>Lot coverage</u> ” definition
5. <u>Minimum vegetation (percent of total lot area)</u>	35%	15%	<p>Subsection <u>19.504.7</u> Minimum Vegetation</p> <p>Subsection <u>19.302.5.D</u> Front Yard Minimum Vegetation</p> <p>Subsection <u>19.302.5.C</u> Minimum</p>	

				Vegetation
C. Other Standards				
1. Density requirements (dwelling units per acre)	-	-	-	Subsection 19.202.4 Density Calculations
a. Minimum	<u>11.6</u>	<u>11.6</u>	<u>25.0</u>	Subsection 19.302.5.F Residential Densities
b. Maximum ⁵	<u>14.5</u>	<u>17.4</u>	<u>32.0</u>	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. Minimum lot size (sq ft)	-	-	-	-	-	Subsection 19.501.1 Lot Size Exceptions
a. Rowhouse	3,000	2,500	2,500	4,400	6,400	Subsection 19.505.4 Cottage Cluster Housing
b. Duplex	6,000	5,000	7,000	6,400	5,000	Subsection 19.505.5 Rowhouses
c. All other lots	5,000	5,000	5,000	5,000	5,000	
2. Minimum lot width (ft)	-	-	-	-	-	-
a. Rowhouse	30		25		20	
b. All other lots	50		50		50	
3. Minimum lot depth (ft)	-	-	-	-	-	-
a. Rowhouse	80	75	80		70	
b. All other lots	80	75	80		80	
4. Minimum street frontage	-	-	-	-	-	-

Proposed Code Amendments

requirements (ft)	30	25	20	
a. Rowhouse	35	35	35	
b. Standard lot	25	25	25	
c. Flag lot	35	35	35	
d. Double flag lot				
B. Development Standards				
1. Minimum yard requirements for primary structures (ft)	-	-	-	Subsection 19.302.5.A Side Yards
a. Front yard		See Subsection 19.302.5.A	15	Subsection 19.501.2 Yard Exceptions
b. Side yard			15	Subsection 19.504.8 Flag Lot Design and Development Standards
c. Street side yard			15	
d. Rear yard				
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 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		25	
b. Slope of plane (degrees)	45		45	
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

				<p>Subsection 19.302.5.D Front Yard Minimum Vegetation</p> <p>Subsection 19.302.5.C Minimum Vegetation</p>
C. Other Standards				
1. Density requirements (dwelling units per acre)	-	-	-	Subsection 19.202.4 Density Calculations
a. Minimum	44.6	41.6	25.0	Subsection 19.302.5.F Residential Densities
b. Maximum	44.5	47.4	32.0	Subsection 19.501.4 Density Exceptions

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~~ townhouses 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**

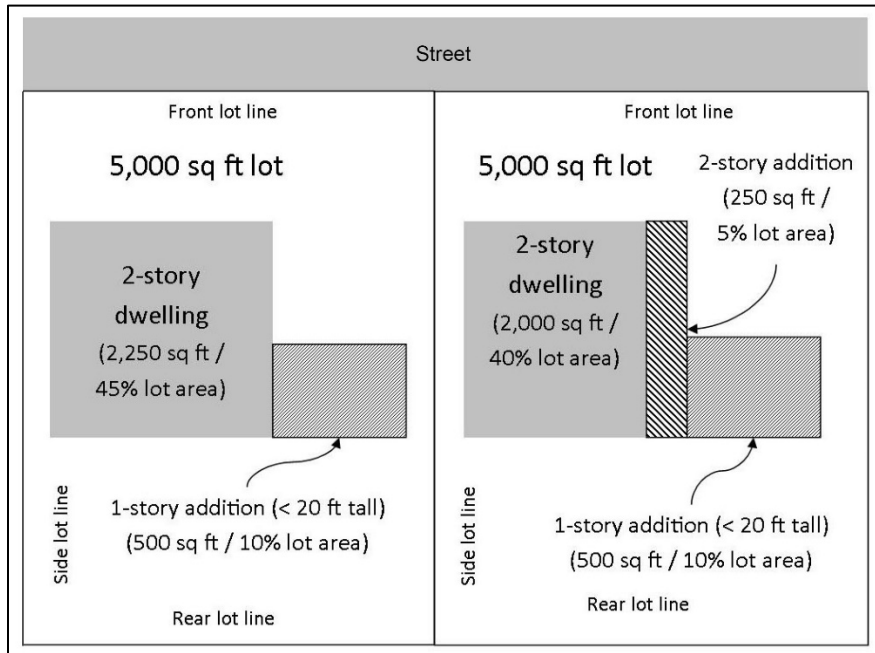
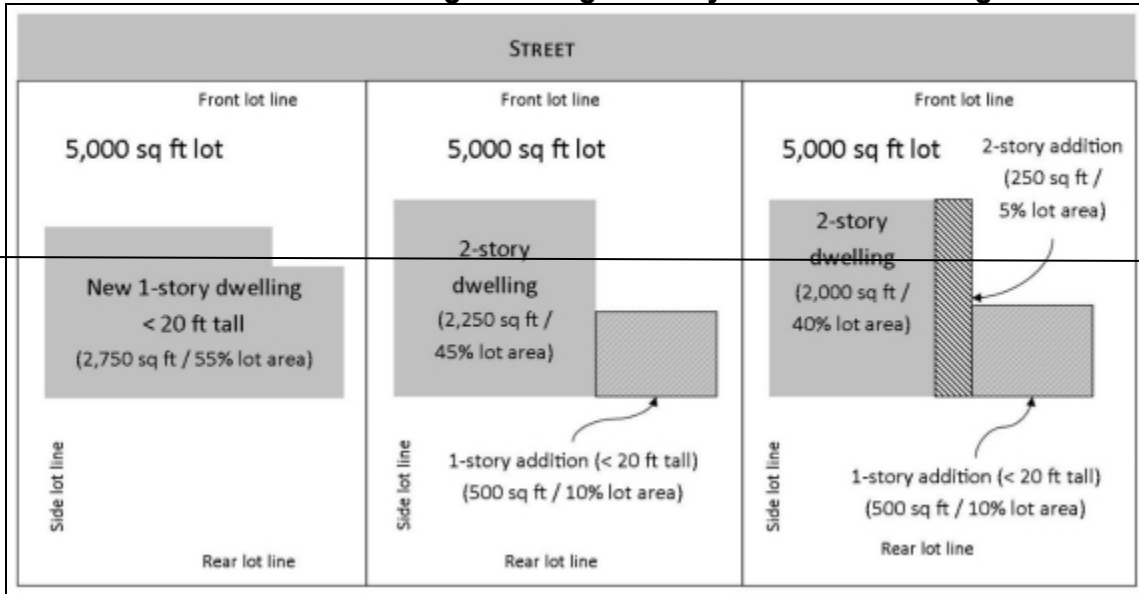


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

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.

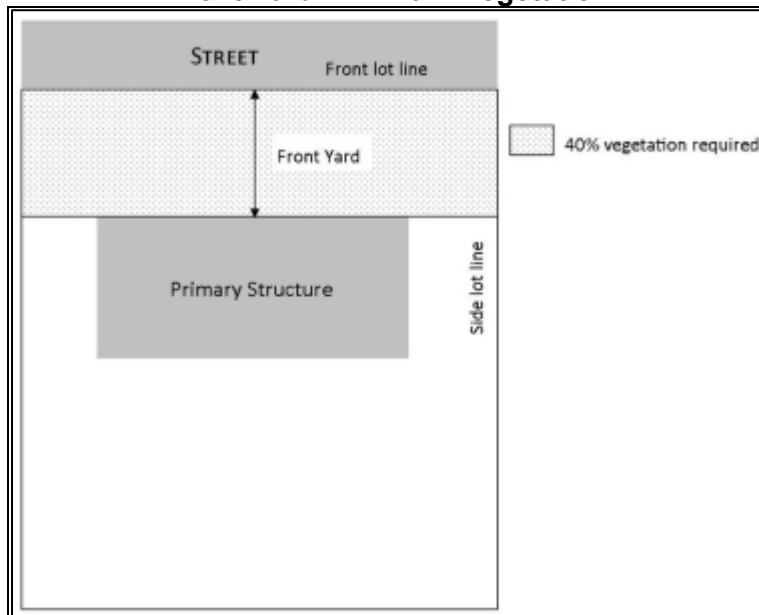
C. Minimum Vegetation

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.

LK. 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 Milwaukie 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

Proposed Code Amendments

						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	CU	CU	CU	CU	CU	Section 19.905 Conditional

vacation rental						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.

III = Type III 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 at the **lowest point of ground at the base 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.

19.401.5

- B. Willamette Greenway review is not required for any of the activities listed below:
1. Changes to the interior of a building or alterations of buildings or accessory structures that do not increase the size or alter the configuration of the building or accessory structure footprint;
 2. Normal maintenance and repair as necessary for an existing development;
 3. Removal of plants listed as nuisance species on the **Oregon Noxious Weed List or Milwaukie Invasive Tree List Milwaukie Native Plant List**;

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

19.402.1 Intent

E. It is not the intent of Section 19.402 to:

1. Impose any obligation on property owners to restore existing developed sites to predevelopment or natural conditions when no new activity is proposed.
2. Impose any unreasonable hardship against the continued maintenance of existing legal site conditions.
3. Apply to activities that do not affect WQRs or HCAs.
4. Prohibit normal lawn and yard landscape planting and maintenance that does not involve removal and replacement of existing native vegetation. Normal lawn and yard planting and maintenance does not include the planting of invasive nonnative or noxious vegetation, including, but not limited to, plants listed as nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List ~~Milwaukie Native Plant List~~ established in Subsection 19.402.2.G.

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.

G. A document or other list used to identify native, nuisance, and prohibited plants shall be maintained by the Planning ~~Director~~ Manager and shall be referred to as the Oregon Noxious Weed List or Milwaukie Invasive Tree List Milwaukie Native Plant List.

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 Oregon Noxious Weed List or Milwaukie Invasive Tree List, ~~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.

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.

7. 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 Oregon Noxious Weed List or Milwaukie Invasive Tree List, ~~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.

B. Limited Exemptions Within HCAs

The following activities within HCAs are exempt from the provisions of Section 19.402, except that a construction management plan is required, according to the provisions of Subsection 19.402.9, where the activity disturbs a total of more than 150 sq ft:

5. Facilities that infiltrate stormwater on the site, including the associated piping, so long as the forest canopy and the areas within the driplines of the trees are not disturbed. Such facilities may include, but are not limited to, vegetated swales, rain gardens, vegetated filter strips, and vegetated infiltration basins. Native or nonnative vegetation may be planted in these facilities, provided that none of the plantings are identified as a nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List ~~Milwaukie Native Plant List~~.

19.402.5 Prohibited Activities

Title 19 Zoning is comprised of regulations that deal with the use of land; it does not extend into the broader realm of laws that regulate personal activities unrelated to land use and development. Given such limitations, the following activities are prohibited within WQRs and HCAs:

- A. New structures, development, or landscaping activity other than those allowed by Section 19.402.
- B. Uncontained areas of hazardous materials, as defined by DEQ.
- C. Planting any vegetation listed as a nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List ~~Milwaukie Native Plant List~~.

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.

c. The proposal would remove more than 3 trees during any 12-month period that are categorized as nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List. ~~Milwaukie Native Plant List.~~

d. The tree is a downed tree, but more than 150 sq ft of earth disturbance is necessary to remove it.

e. The tree is a nuisance species, but more than 150 sq ft of earth disturbance is necessary to remove it.

f. The tree is not categorized as either a nuisance or native species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List ~~on the Milwaukie Native Plant List~~ and is not located in a WQR categorized as Class A (“Good”), according to Table 19.402.11.C, provided that no more than 3 such trees will be removed during any 12-month period, and complies with the applicable requirements in Chapter 16.32.

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.

d. The replacement tree(s) shall be located in the general vicinity of the removed tree(s), somewhere within the designated natural resource (WQR or HCA). The replacement tree(s) does not have to be a native species; but, in accordance with Subsection 19.402.5.C, the replacement tree(s) shall not be categorized as a nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List. ~~Milwaukie Native Plant List.~~ The property owner shall ensure that the replacement tree(s) survives at least 2 years beyond the date of its planting.

19.402.7 Activities Requiring Type II Review

Within either WQRs or HCAs, the following activities and items are subject to Type II review and approval by the Planning Director per Section 19.1005, unless they are otherwise exempt or permitted as a Type I activity.

D. Other Uses and Activities with Minimal Impacts to WQRs

The activities listed below are subject to Type II review and the general discretionary review criteria provided in Subsection 19.402.12:

4. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that increases the existing disturbance area by no more than 150 sq ft within the WQR. Activities approved under this subsection shall be subject to the following requirements:

- a. Restore the disturbed portion of the WQR.
- b. Within the disturbed portion of the WQR, remove any vegetation categorized as a nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List ~~Milwaukie Native Plant List~~ and replace it with native vegetation from the list.

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:

2. Required Plants

Unless specified elsewhere in Section 19.402, all trees, shrubs, and ground cover planted as mitigation shall be native plants, as identified on the Oregon Noxious Weed List or Milwaukie Invasive Tree List ~~Milwaukie Native Plant List~~. Applicants are encouraged to choose particular native species that are appropriately suited for the specific conditions of the planting site; e.g., shade, soil type, moisture, topography, etc.

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 Planting Standards in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the requirements in Table 16.32.042.C. 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

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.

19.402.12 General Discretionary Review

B. Approval Criteria

1. Unless specified elsewhere in Section 19.402, applications subject to the discretionary review process shall demonstrate how the proposed activity complies with the following criteria:

c. Mitigate

If the applicant demonstrates that there is no practicable alternative that will avoid disturbance of the designated natural resource, then the proposed activity shall mitigate for adverse impacts to the resource area. All proposed mitigation plans shall meet the following standards:

(3) All revegetation plantings shall use native plants listed on the Oregon Noxious Weed List or Milwaukie Invasive Tree List Milwaukie Native Plant List.

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.~~

19.501.2 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.

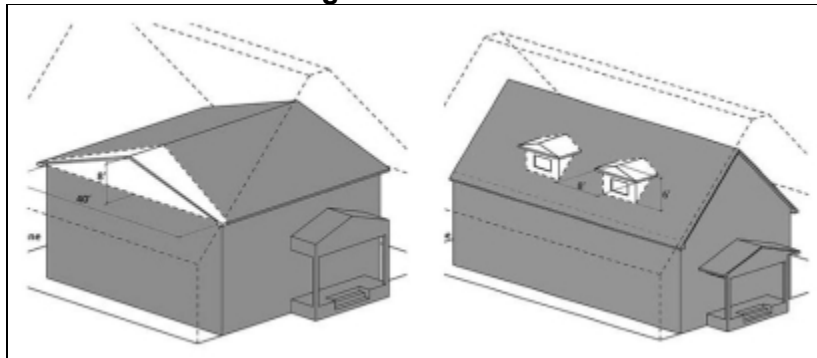
1. The porch is not enclosed on any side other than what is enclosed by the exterior walls of the dwelling. The following are not considered to be enclosures: structural supports for a covered porch, projections not extending more than 3 ft upward from the surface of the porch, railings, retractable 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.

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.

19.504.6 Transition Area Measures

Where commercial, mixed-use, or industrial development is proposed abutting or adjacent to properties zoned R-MD for lower density residential uses, the following transition measures shall be required. These additional requirements are intended to minimize impacts on lower density residential uses.

A. All yards that abut, or are adjacent across a right-of-way from the R-MD zone, a lower density zone shall be at least as wide as the required front yard width of the adjacent lower density R-MD zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU Zone. In the NMU Zone, the base zone front yard requirements supersede these requirements.

B. All yards that abut, or are adjacent across a right-of-way from the R-MD zone, a lower density zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to at least the 6-ft level to screen R-MD lower density residential uses from direct view across the open space, subject to the provisions of Subsection 19.502.2.B.

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~~

~~4. 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~~ 25 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) e. 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 serving 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.

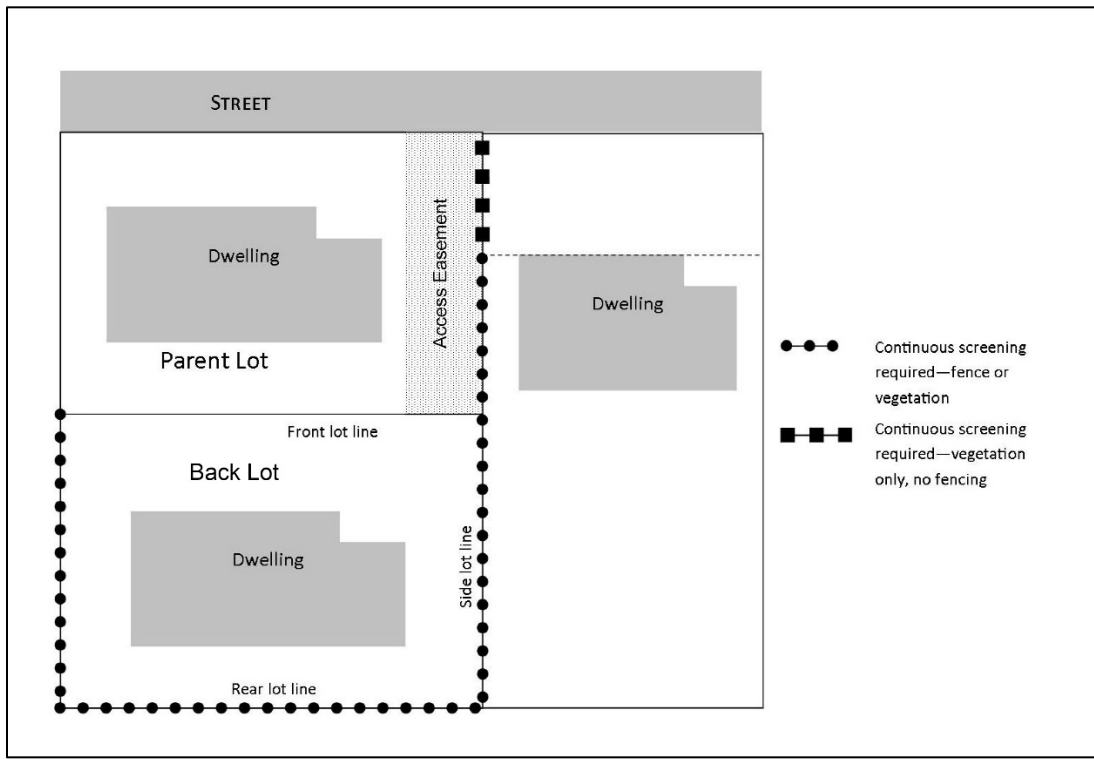
ED. ~~Protection~~ Screening of Adjoining Properties

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-unitfamily 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 is intended to 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. ~~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.

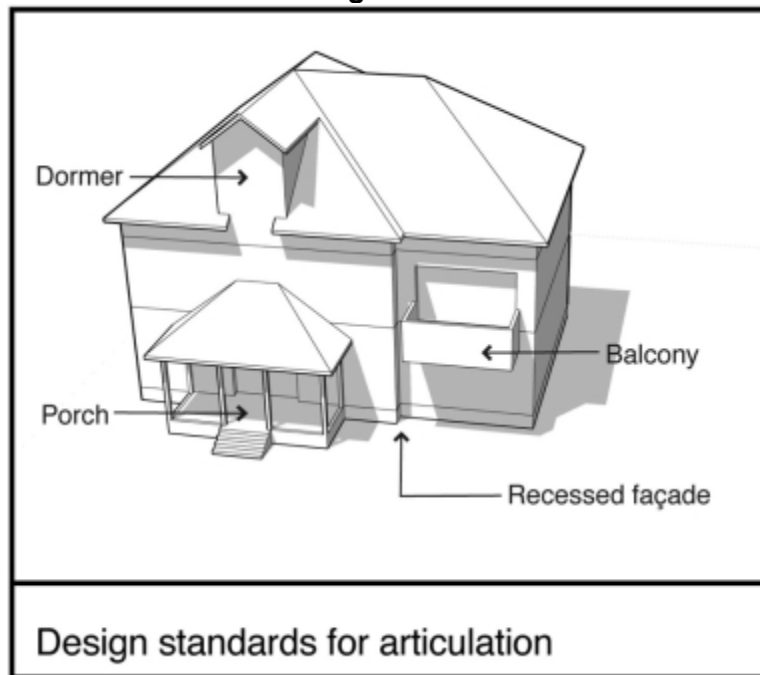
An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III review, per Subsection 19.911.3.C.

- 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**



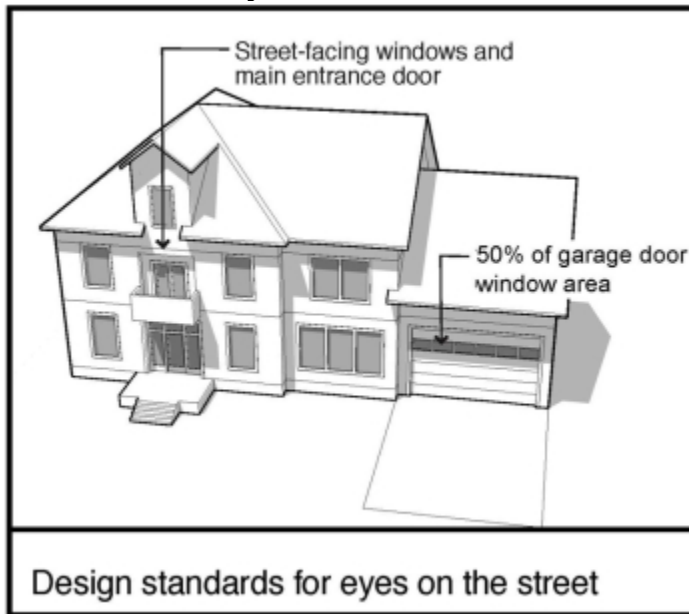
2. Eyes on the Street

At least ~~42%~~ 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**

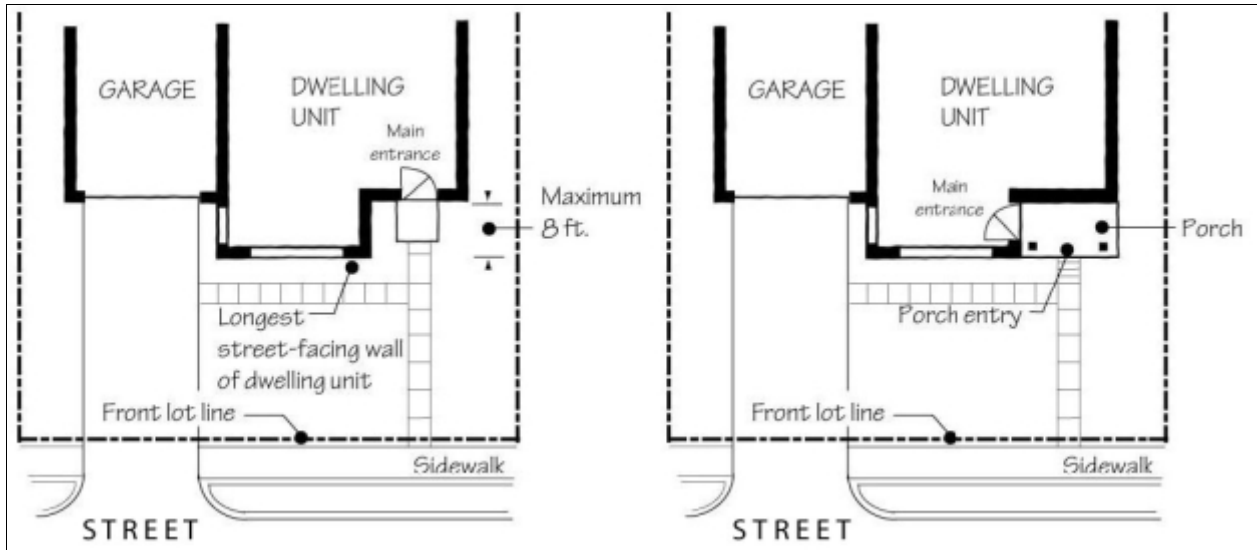


3. Main Entrance

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**



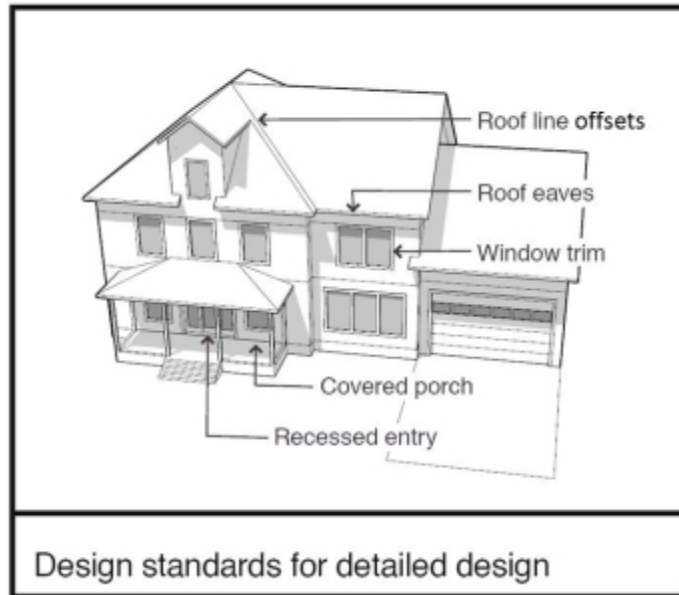
4. Detailed Design

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 **between cottages**, 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.

- 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.

~~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 Milwaukie.

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. 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

	<p>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>greater than 3/12.</p> <ul style="list-style-type: none"> (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 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>	<p>In order to protect the privacy of adjacent properties, multi-unit family developments shall incorporate the following elements:</p> <ul 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 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</p>	<p>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>	<ul style="list-style-type: none"> 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. 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. c. Uses on the site shall be illuminated as follows: <ul style="list-style-type: none"> (1) Parking and loading areas: 0.5 footcandle

	<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>
--	--	--

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 12 maximum dwelling units	<u>Detached and Attached</u> 3 minimum 12 maximum dwelling units
<u>B. Home Size</u>		
1. <u>Max building footprint per home</u>	900 sf	
b. <u>Max average floor area per dwelling unit</u>	1,400 sf	
<u>C. Height</u>		
a. <u>Max height</u>	25 feet or two (2) stories, whichever is greater	
b. <u>Max structure height between 5 & 10 ft of rear lot line</u>	15 ft	

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) ⁵	6 ft ⁶	
b. Side and rear site setbacks	5 ft ⁷	
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)	0.5	0.5
2. Dry, secure bicycle parking spaces per home	1.5	

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.
⁵ t have 10 feet side and rear setbacks.

(minimum)	
3. Guest bicycle parking spaces perhome (minimum)	0.5

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 0.5 off-street parking spaces 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 number of consecutive attached townhouses is ~~4~~ 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.

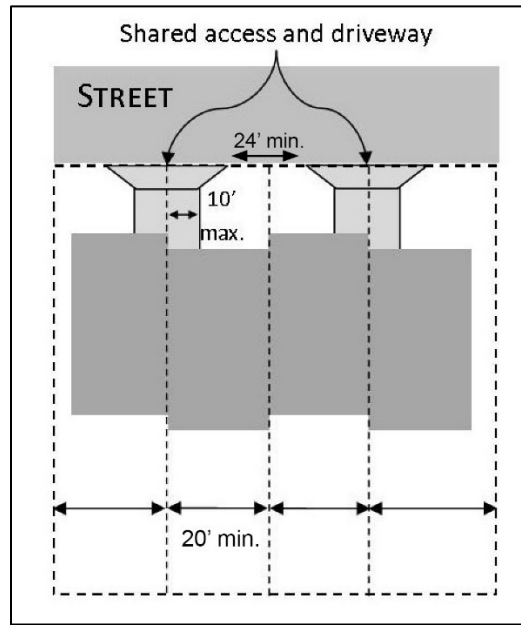
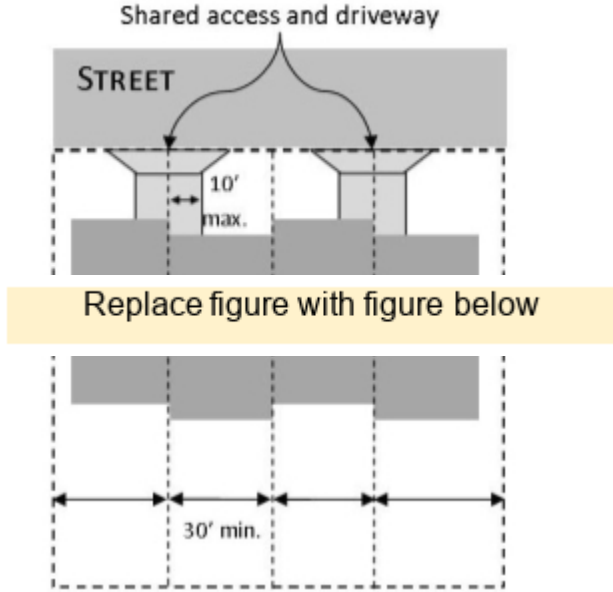
Table 19.505.5.E.4 Minimum Site Size for Rowhouse Development in the R-2, R-1, and R-1-B Zones		
Number of Rowhouses	R-2 Zone	R-1 and R-1-B Zone
2	7,500 sq ft	6,400 sq ft
3	10,000 sq ft	7,800 sq ft
4	12,500 sq ft	9,200 sq ft

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 12 ft, as measured from the inside of the garage door frame.
- e. Shared accesses are spaced a minimum of 24 feet apart.

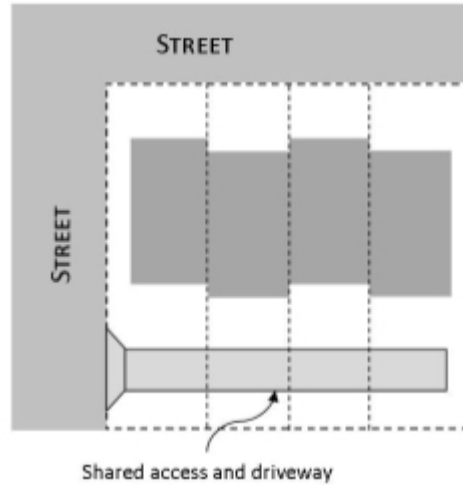
Figure 19.505.5.F.1
Townhouse Rowhouse Development with Front Yard Parking



- 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.~~

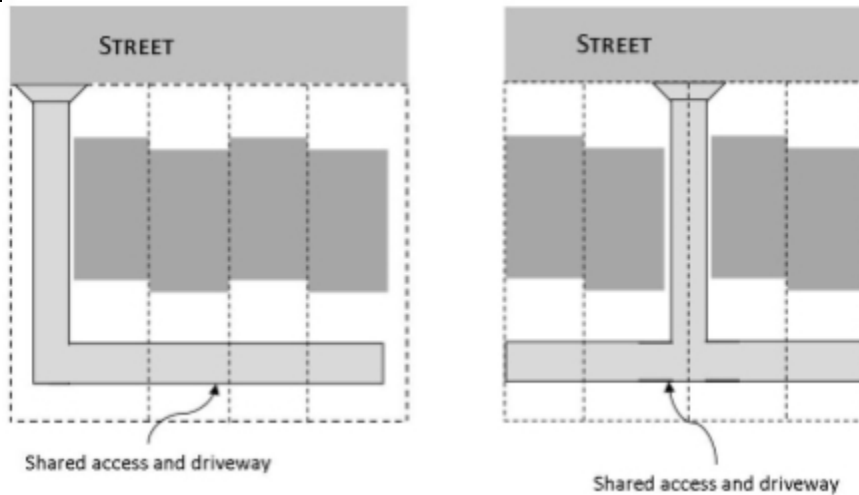
- b. Townhouse Rowhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The ~~Engineering Director~~ City Engineer may alter this requirement based on street classifications, access spacing, or other provisions of Chapter 12.16 Access Management. 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 unit 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. Single-family detached dwellings, including rowhouses and manufactured homes.	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>0</u> <u>0</u> <u>0</u> <u>0</u> <u>0.5 spaces 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>
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. <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 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 that meets the exemption standards as defined in MMC 3.60.050, 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 ~~cottage clusters, rowhouses, duplexes, middle housing, single-family detached dwellings,~~ and residential homes.

19.606.2 Landscaping

A. Purpose

The purpose of the off-street parking lot landscaping standards is to provide vertical and horizontal buffering between parking areas and adjacent properties, break up large expanses of paved area, help delineate parking spaces and drive aisles, and provide environmental benefits such as stormwater management, carbon dioxide absorption, and a reduction of the urban heat island effect.

B. General Provisions

1. Parking area landscaping shall be required for the surface parking areas of all uses, except for middle housing and single ~~cottage clusters, rowhouses, duplexes,~~ and single-family detached dwellings. Landscaping shall be based on the standards in Subsections 19.606.2.C-E.

5. Implementation of this section is in addition to, and must be coordinated with Chapter 16.32 Tree Code.

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.

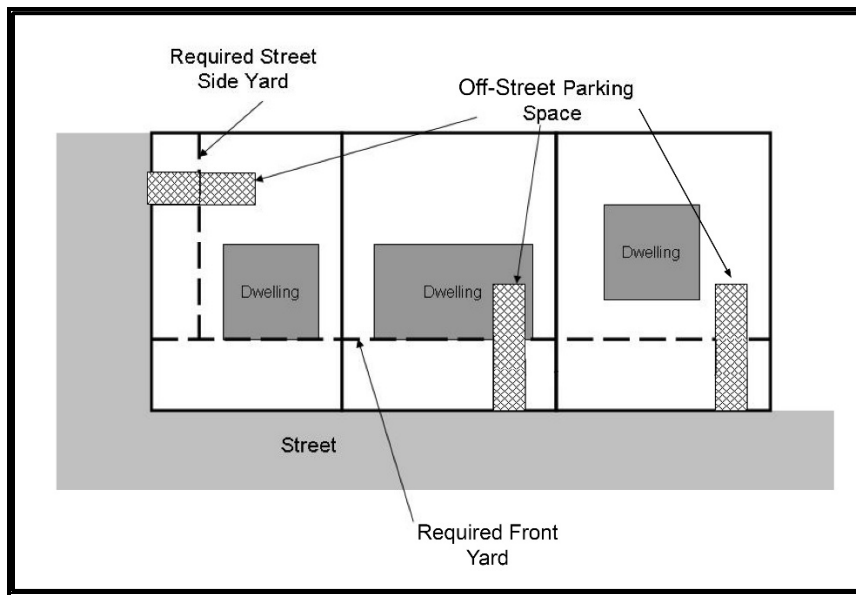
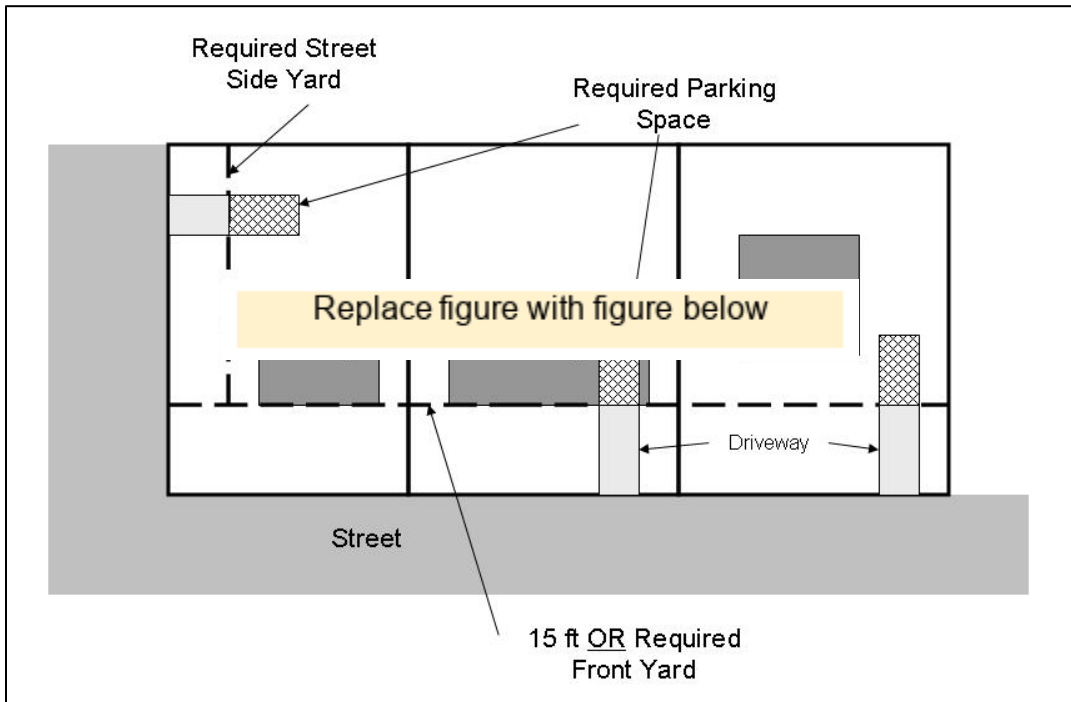
A. Dimensions

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.

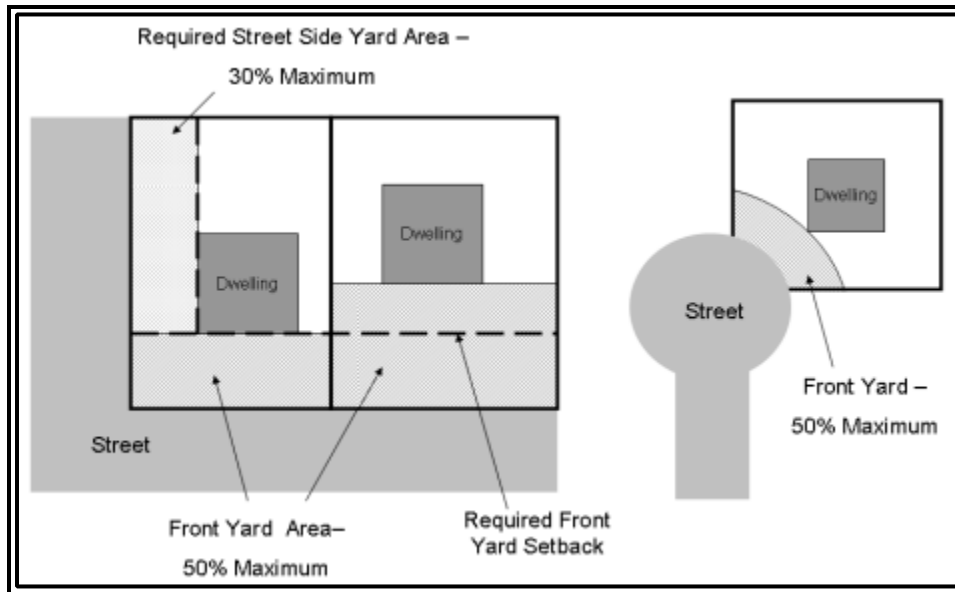
D. Parking Area Limitations

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.

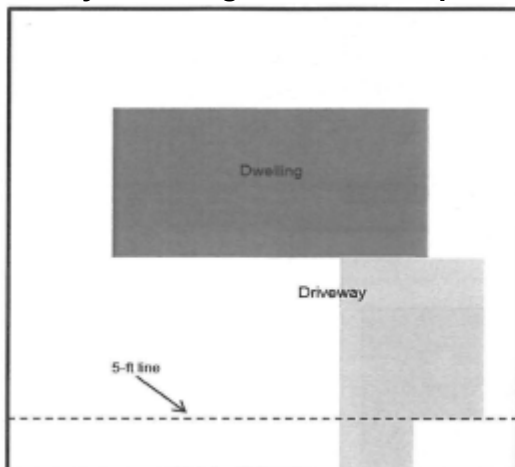
**Figure 19.607.1.D
Front and Street Side Yard Parking Area Limits**



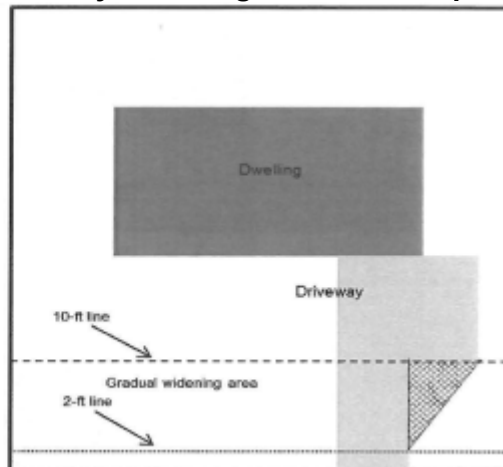
E. Additional Driveway Standards

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 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.

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

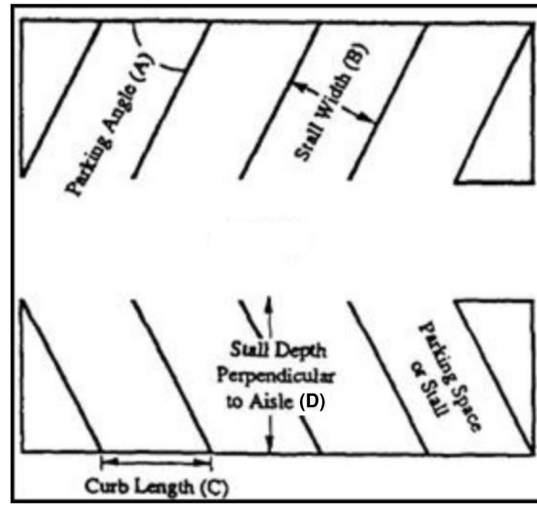
These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

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.~~

- ~~c. 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 an ~~Type I 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 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	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.

19.910.3 Manufactured Dwelling Parks

A. Purpose

This subsection is intended to complement the policies of the Comprehensive Plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing 6 to 12 dwelling units per acre.

B. Application

1. Manufactured dwelling park developments are only allowed in the R-3 and R-MD Zones, R-5, and R-7 Zones. A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this subsection.

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 an 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.
11. For any middle housing development, except townhouses and cottage clusters, that includes at least 1 dwelling unit that is affordable that meets the exemption standards as defined in MMC 3.60.050, the minimum setbacks in Table 19.301.4 may be reduced to the following:
 - a. Front yard: 10 ft
 - b. Rear yard: 10 ft
 - c. Side yard: 5 ft
 - d. Street side yard: 10 ft

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.

19.911.4 Approval Criteria

B. Type III Variances

An application for a Type III variance shall be approved when all of the criteria in either Subsection 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

1. Discretionary Relief Criteria
 - a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.
 - b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
 - (1) The proposed variance avoids or minimizes impacts to surrounding properties.
 - (2) The proposed variance has desirable public benefits.
 - (3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.

(4) 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.

- c. Impacts from the proposed variance will be mitigated to the extent practicable.

19.911.8 Tree Preservation and Tree Canopy Standards Variance

A. Intent

To provide a discretionary option for variances to the tree preservation and/or tree canopy standards in MMC 16.32.042 to reward projects that provide significant environmental benefit.

B. Applicability

The Type III tree preservation and tree canopy variance is an option for proposed developments that chooses not to, or cannot, meet the tree preservation and/or tree canopy standards specified in MMC 16.32.042.

C. Review Process

The tree preservation and tree canopy variance shall be subject to Type III review and approval by the Planning Commission, in accordance with Section 19.1006.

D. Approval Criteria

The approval authority may approve, approve with conditions, or deny the tree preservation and/or tree canopy variance based on the following approval criteria. The applicant is required to demonstrate that equivalent or greater environmental benefits are provided as preserving or planting the required tree canopy. Examples of activities that may justify a variance include but are not limited to:

1. Use of techniques that minimize hydrological impacts beyond regulatory requirements (examples include 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).
2. Use of 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).
3. Use of 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.
4. Use of 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.

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 ~~Director~~ 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 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 LOTS IN SUBDIVISIONS LIMITATIONS

Flag lots and back lots are permitted ~~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 Milwaukee 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.

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. **When any portion of the trunk of a tree crosses a public right-of-way line at ground level, it is considered a street tree.**

“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 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 **and allow** 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	III	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 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 up to 2 ADUs, Duplex, Triplex, Quadplex	Single Detached Dwelling, Single Detached Dwelling, with up to 2 ADUs, Duplex, Triplex, Quadplex	Single Detached Dwelling, Single Detached Dwelling, with 2 ADUs, 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	Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
d. Double flag lot	NA ²	25	25	25	
C. Development Standards					
1. Minimum yard requirements for					Subsection 19.301.5.A 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	
primary structures (ft) ³					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
a. Front yard	20	20	20	20	
b. Side yard	5 Error! Bookmark not defined.	5	5	5/10	
c. Street side yard	15 Error! Bookmark not defined.	15	15	20	
d. Rear yard	15 Error! Bookmark not defined.	20	20	20	
2. Maximum building height for primary structures	35 ft				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 Subsection 19.504.7 Minimum Vegetation
C. Other Standards					

³ 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	
1. Density requirements(dwelling units per acre)					Subsection 19.301.5.D Residential Densities Subsection 19.501.4 Density Exceptions For Cottage Clusters and Townhouse Density Exceptions, see 19.501.4
a. Minimum	25	7.0	7.0	5.0	
b. Maximum	25 ⁶	8.7 ⁴	8.7 ⁵	6.2 ⁵	

19.301.5 Additional Development Standards

A. 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 Detached and Middle Housing Dwellings

a. 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

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.

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.

b. The maximum lot coverage percentage in Subsection 19.301.4.B.4 is increased by 10 percentage points for development of a middle housing dwelling (except for townhouses and cottage clusters), or an addition to an existing middle housing dwelling (except for townhouses and cottage clusters), provided that the portions of the structure that are in excess of 20 ft high 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 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

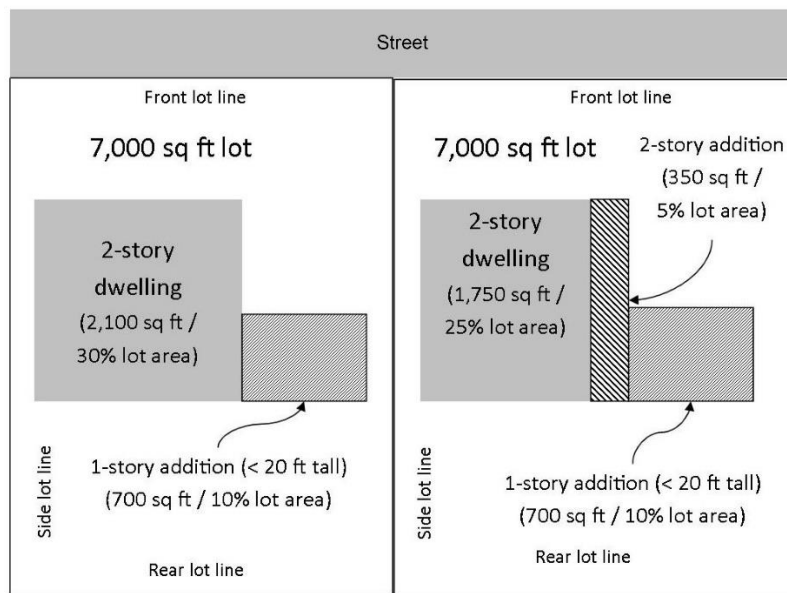


Figure 19.301.5.B.2 illustrates an example of increased lot coverage for lots in Residential Zone R-MD.

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.

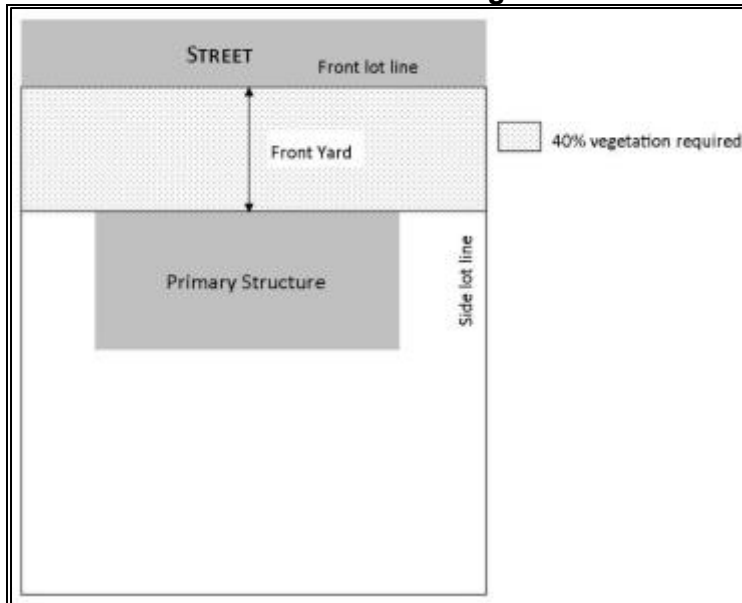
4. Increased Lot Coverage for Detached Accessory Dwelling Units

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, except for townhouses.

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 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)

19.302 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 High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ 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
Triplex	P	P	P	P	P	Subsection 19.505.1 Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	P	P	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

Proposed Code Amendments

						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	

Proposed Code Amendments

			Subsection 19.505.4 Cottage Cluster Housing Subsection 19.505.5 Rowhouses
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		25	
B. Development Standards			
1. Minimum yard requirements for primary structures (ft)		20	Subsection 19.302.5.A Side Yards
a. Front yard		See Subsection 19.302.5.A	Subsection 19.501.2 Yard Exceptions
b. Side yard		15	Subsection 19.504.8 Flag Lot and Back Lot Design and Development Standards
c. Street side yard		15	
d. Rear yard			
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

Proposed Code Amendments

3. Side yard height plane limit a. Height above ground at minimum required side yard depth (ft) b. Slope of plane (degrees)	20 45		25 45	Subsection 19.501.3 Building Height and Side Yard Height Plane Exceptions
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) a. Minimum b. Maximum ⁵	11.6 14.5	11.6 17.4	25.0 32.0	Subsection 19.202.4 Density Calculations Subsection 19.302.5.F Residential Densities 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.

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~~ townhouses 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 Detached Dwellings

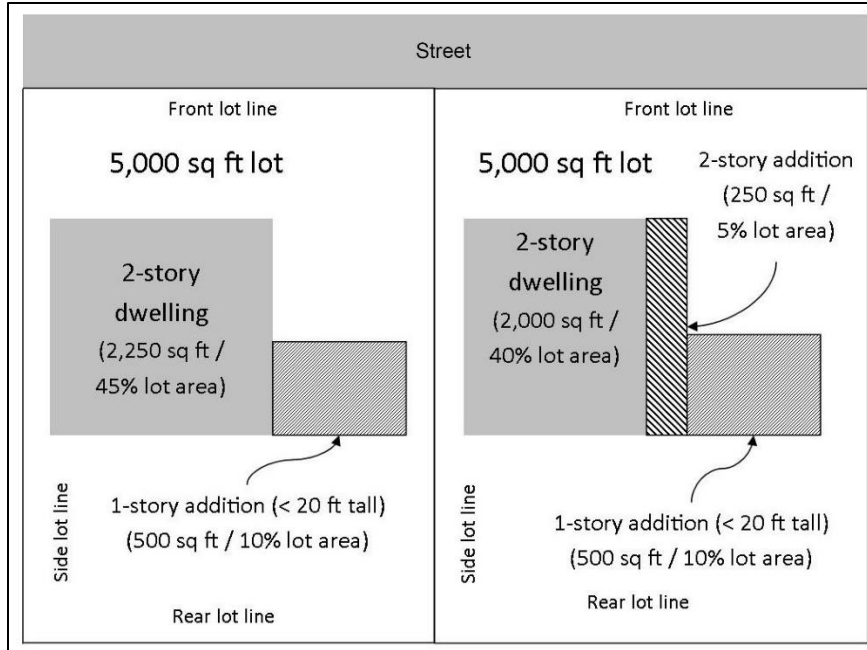


Figure 19.302.5.B.1 illustrates an example of increased lot coverage for lots in the high density zones based on 5,000-sq-ft lot area.

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.

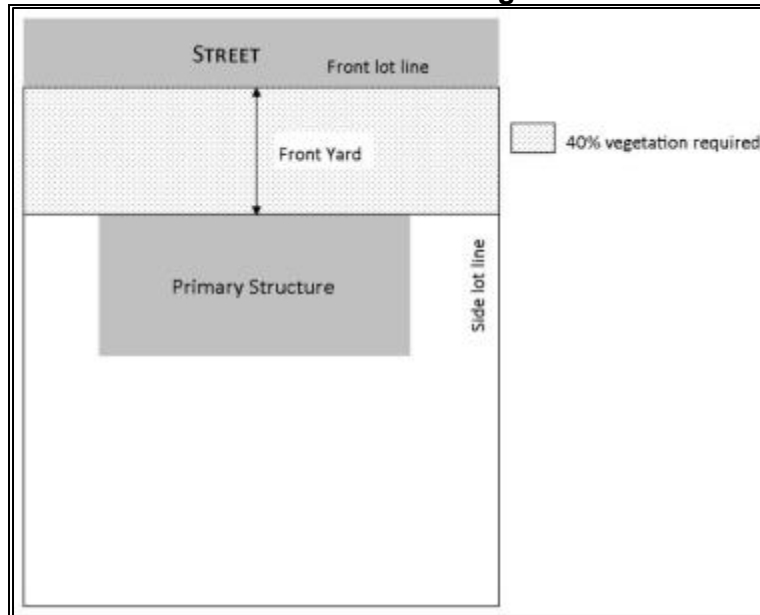
C. Minimum Vegetation

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	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

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 ~~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.
 - c. The proposal would remove more than 3 trees during any 12-month period that are categorized as nuisance species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List.
 - d. The tree is a downed tree, but more than 150 sq ft of earth disturbance is necessary to remove it.
 - e. The tree is a nuisance species, but more than 150 sq ft of earth disturbance is necessary to remove it.
 - f. The tree is not categorized as either a nuisance or native species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List and is not located in a WQR categorized as Class A ("Good"), according to Table 19.402.11.C, provided that no more than 3 such trees will be removed during any 12-month period, and complies with the applicable requirements in Chapter 16.32.

3. The Planning Manager 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 Planting Standards in subsection 16.32.042.C, the Urban Forester may only credit those trees that meet the requirements in Table 16.32.042.C. 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 ~~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 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>Example 1: 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>Example 2: 8,000-sq-ft lot with 6,000 sq ft of HCA and 2,000 sq ft outside of HCA/WQR</p> <p>X = 3,000 sq ft (50% of HCA)</p> <p>Y = 2,000 sq ft outside of HCA/WQR</p> <p>Z = 1,000 sq ft (3,000 sq ft – 2,000 sq ft)</p> <p>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.</p>

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, provided the development conforms with all other applicable standards of Title 19, unless a variance is granted per Section 19.911.

19.501.2 Yard Exceptions

C. A covered porch on a single 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.

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.

19.504.6 Transition Area Measures

Where commercial, mixed-use, or industrial development is proposed abutting or adjacent to properties zoned R-MD, the following transition measures shall be required. These additional requirements are intended to minimize impacts on residential uses.

A. All yards that abut, or are adjacent across a right-of-way from the R-MD zone shall be at least as wide as the required front yard width of the adjacent R-MD zone. This additional yard requirement shall supersede the base zone yard requirements for the development property where applicable, except in the NMU Zone. In the NMU Zone, the base zone front yard requirements supersede these requirements.

B. All yards that abut, or are adjacent across a right-of-way from the R-MD zone shall be maintained as open space. Natural vegetation, landscaping, or fencing shall be provided to at least the 6-ft level to screen R-MD residential uses from direct view across the open space, subject to the provisions of Subsection 19.502.2.B.

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 25 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

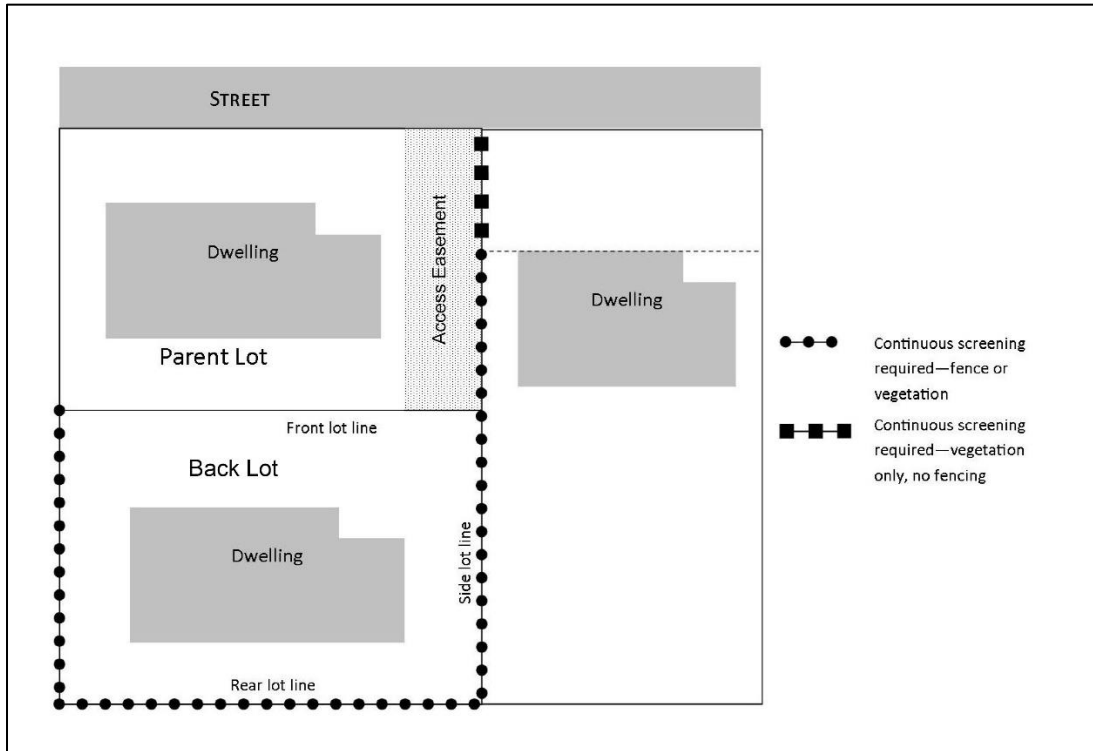
- a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.
- b. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of 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:

- 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 is intended to 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	5	5	5
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.

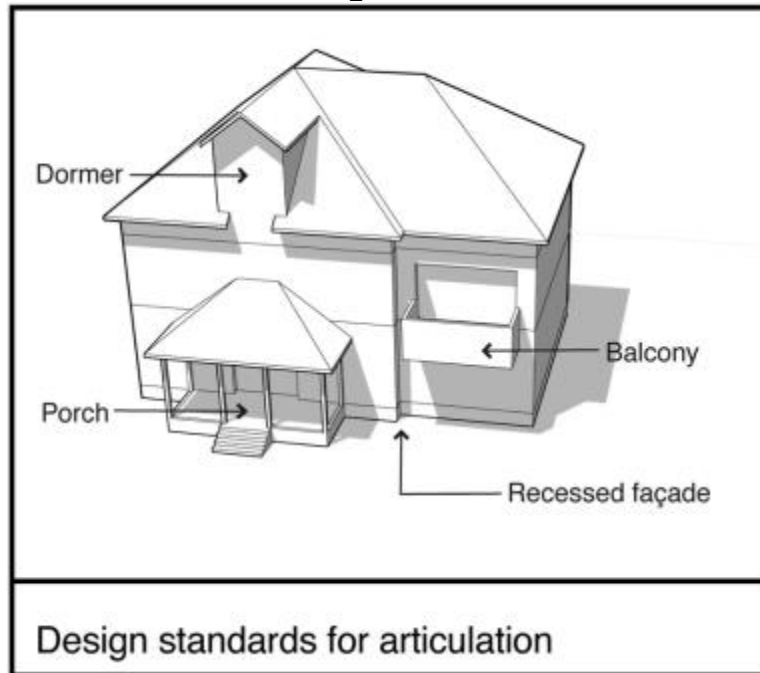
An applicant may request a variance to the Detailed Design standards in Subsection 19.505.1.C.4 through a Type II review, pursuant to Subsection 19.911.3.B. Variances to any other design standards requires a variance through a Type III review, per Subsection 19.911.3.C.

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**

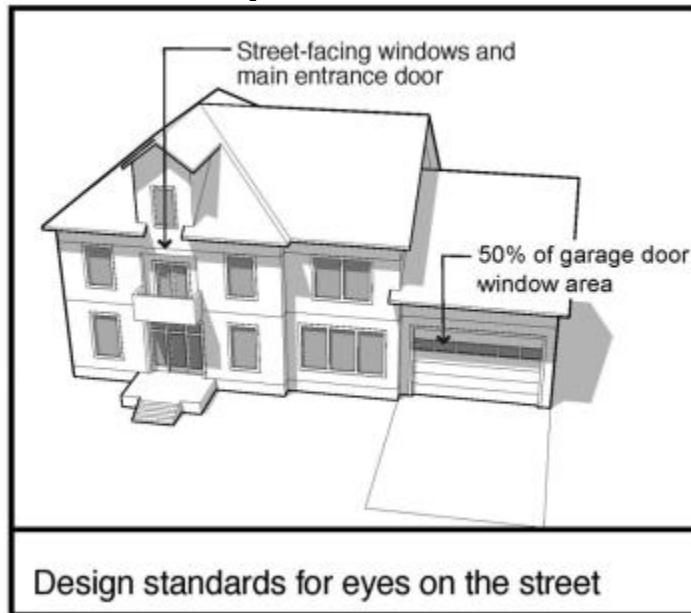


2. Eyes on the Street

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**

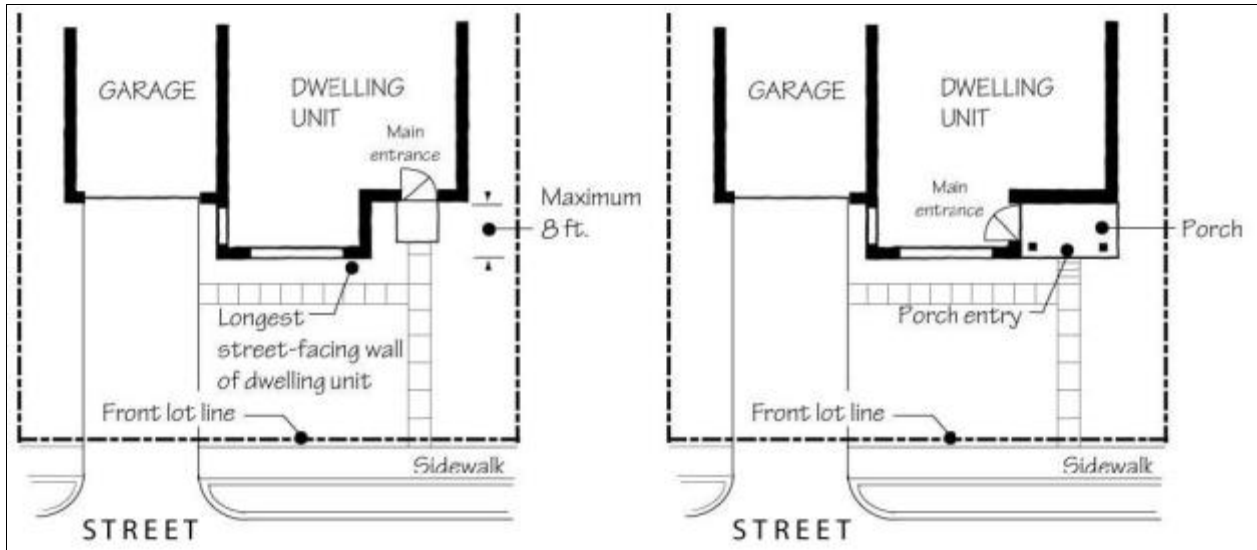


3. Main Entrance

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**



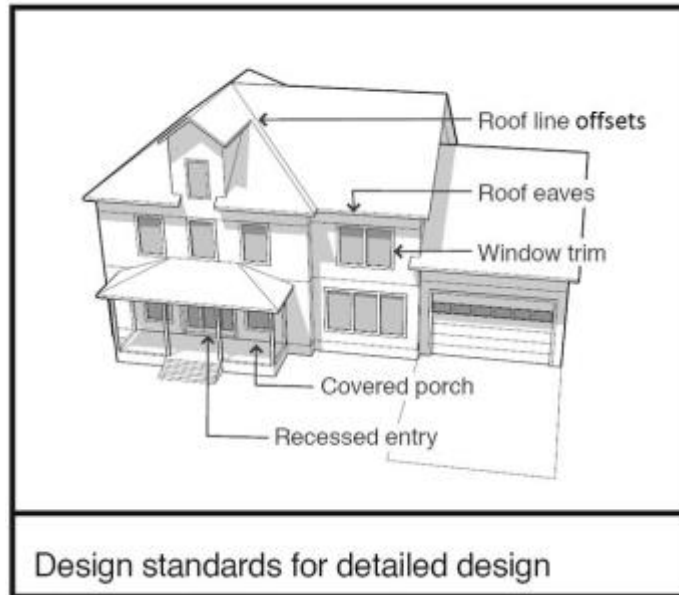
4. Detailed Design

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 **between cottages**, 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.

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 Milwaukie.

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 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 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	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

	<p>development from adjacent 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>nuisance species in the Milwaukie Native Plant List.</p> <ul style="list-style-type: none"> 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. 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. d. For projects with more than 20 units: <ul style="list-style-type: none"> (1) Any irrigation system shall minimize water use by incorporating a rain sensor, rotor irrigation heads, or a drip irrigation system. (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>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> <ul 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.
11. Sustainability	<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 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.
12. Privacy Considerations	<p>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>	<p>In order to protect the privacy of adjacent properties, multi-unit family 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 family development are within 30 ft of windows on adjacent residences,

		<p>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>
<p>13. Safety</p>	<p>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> <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 12 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	1.618 times the narrowest average width between two closest buildings	

eaves facing common green		
D. Setbacks, Separations, and Encroachments		
a. Separation between structures (minimum) ⁵		6 ft ⁶
b. Side and rear site setbacks		5 ft ⁷
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)	0.5	0.5
2. Dry, secure bicycle parking spaces per home (minimum)		1.5
3. Guest bicycle parking spaces		0.5

⁵ If the structure has eaves, the 6-foot minimum separation applies between eaves.

⁶ For lots 20,000 square feet and over, when there is more than one cottage cluster, the minimum space between clusters is 20 feet.

⁷ Lots 20,000 square feet and over must have 10 feet side and rear setbacks.

perhome (minimum)	
----------------------	--

4-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 0.5 off-street parking spaces 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-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 multiunit 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 number of consecutive attached townhouses is 4

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

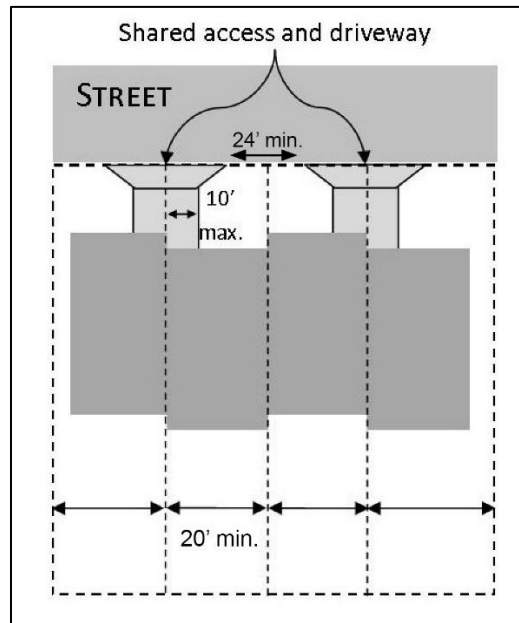
meet or exceed the base zone requirements listed in Tables 19.301.4 and 19.302.4.

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.

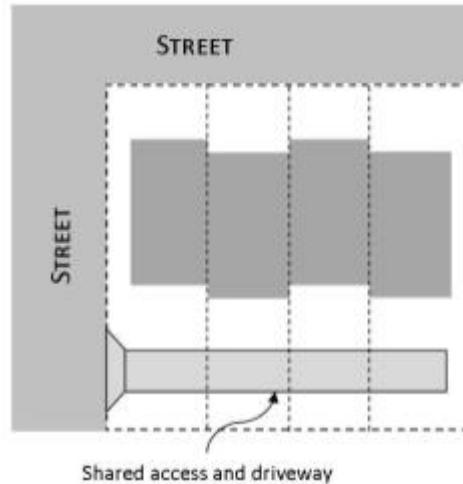
**Figure 19.505.5.F.1
Townhouse Development with Front Yard Parking**



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.

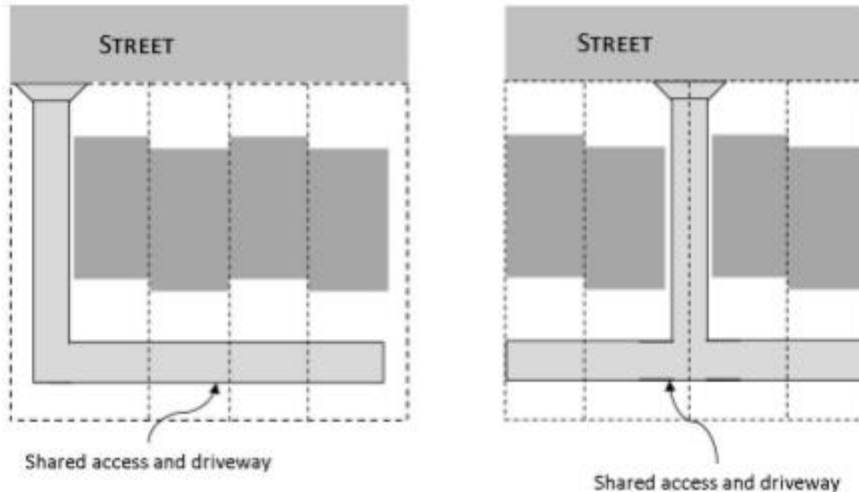
- a. Off-street parking areas must be accessed on the back façade or located in the rear yard.
- b. Townhouse development that includes a corner lot shall take access from a single driveway on the side of the corner lot. The City Engineer may alter this requirement based on street classifications, access 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	0	1 space per dwelling unit
b. Triplexes	0	1 space per dwelling unit
c. Quadplexes	0	1 space per dwelling unit
d. Town Houses	0	1 space per dwelling unit
e. Cottage Clusters	0.5 spaces per dwelling unit	1 space per dwelling unit
3 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.
4. 5. Accessory dwelling units (ADU)	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 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 detached 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 that meets the exemption standards as defined in MMC 3.60.050, 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.

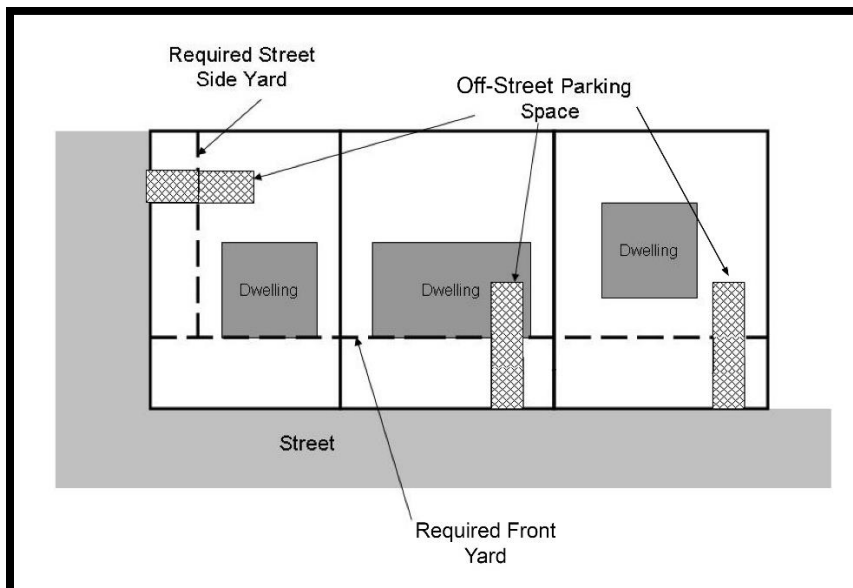
A. Dimensions

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.

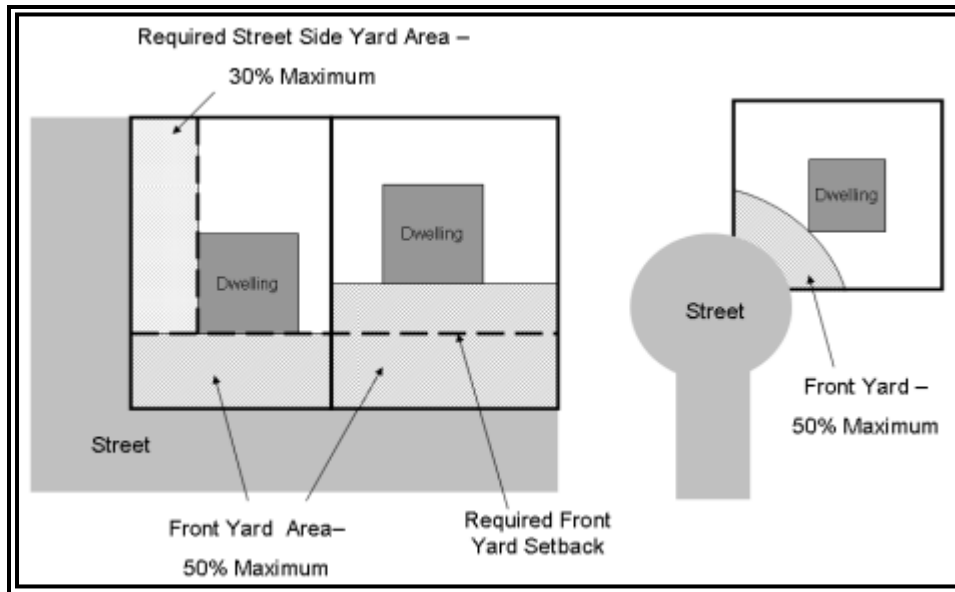
D. Parking Area Limitations

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.

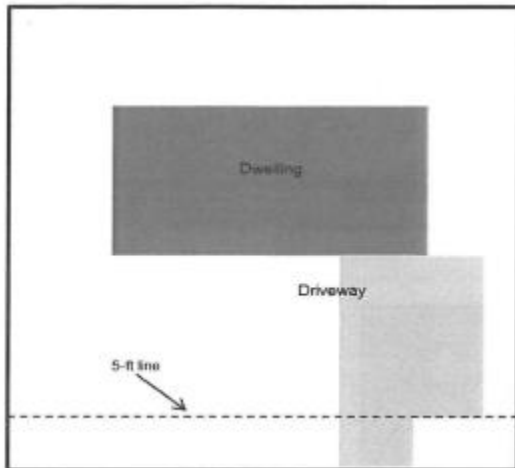
**Figure 19.607.1.D
Front and Street Side Yard Parking Area Limits**



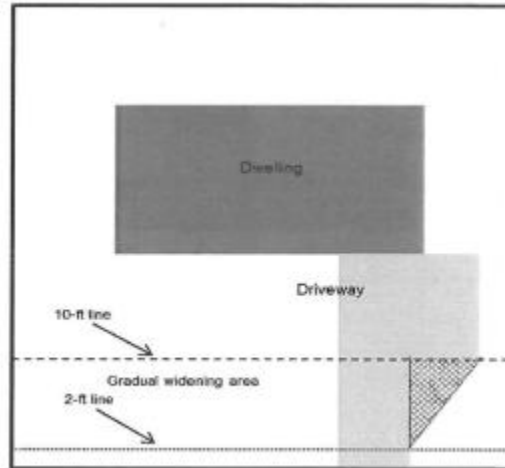
E. Additional Driveway Standards

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 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 and Duplex Residential Expansions

Chapter 19.700 applies to single 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 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 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 and duplex 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 and duplex 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

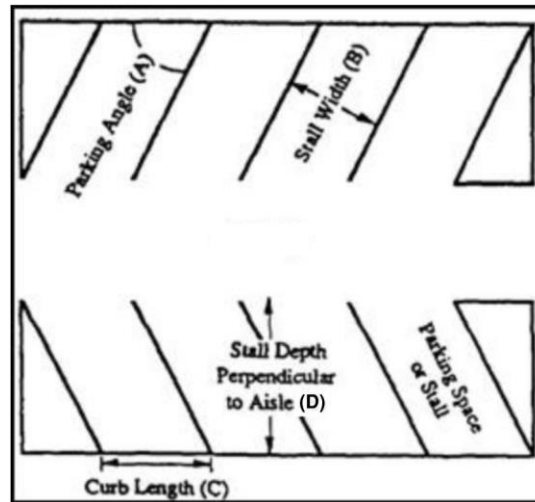
These standards augment the dimensional standards contained in Table 19.708.2 and may increase the width of an individual street element and/or the full-width right-of-way dimension.

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	Subsection 19.605.4	I
Structured Parking	Section 19.611	II, III
Planned Development	Section 19.311	IV
Residential Dwellings:	Section 19.910	
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 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. 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 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	ADU
Maximum Structure Footprint	800 sq ft
Maximum Structure Height	25', limited to 2 stories
Required 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 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.

19.910.3 Manufactured Dwelling Parks

A. Purpose

This subsection is intended to complement the policies of the Comprehensive Plan to provide for a variety of housing types including manufactured dwelling parks in areas with suitable services and facilities in zones allowing 6 to 12 dwelling units per acre.

B. Application

1. **Manufactured dwelling park developments are only allowed in the R-3 and R-MD Zones.** A site plan review is required prior to development of a manufactured dwelling park within these zones. The development must show conformance with all requirements of this subsection.

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 an 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.
11. For any middle housing development, except townhouses and cottage clusters, that includes at least 1 dwelling unit that is affordable that meets the exemption standards as defined in MMC 3.60.050, the minimum setbacks in Table 19.301.4 may be reduced to the following:
 - a. Front yard: 10 ft
 - b. Rear yard: 10 ft
 - c. Side yard: 5 ft
 - d. Street side yard: 10 ft

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.

19.911.4 Approval Criteria

B. Type III Variances

An application for a Type III variance shall be approved when all of the criteria in either Subsection 19.911.4.B.1 or 2 have been met. An applicant may choose which set of criteria to meet based upon the nature of the variance request, the nature of the development proposal, and the existing site conditions.

1. Discretionary Relief Criteria

- a. The applicant's alternatives analysis provides, at a minimum, an analysis of the impacts and benefits of the variance proposal as compared to the baseline code requirements.
- b. The proposed variance is determined by the Planning Commission to be both reasonable and appropriate, and it meets one or more of the following criteria:
 - (1) The proposed variance avoids or minimizes impacts to surrounding properties.
 - (2) The proposed variance has desirable public benefits.
 - (3) The proposed variance responds to the existing built or natural environment in a creative and sensitive manner.
 - (4) 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.
- c. Impacts from the proposed variance will be mitigated to the extent practicable.

19.911.8 Tree Preservation and Tree Canopy Standards Variance

A. Intent

To provide a discretionary option for variances to the tree preservation and/or tree canopy standards in MMC 16.32.042 to allow projects that provide significant environmental benefit.

B. Applicability

The Type III tree preservation and tree canopy variance is an option for proposed developments that chooses not to, or cannot, meet the tree preservation and/or tree canopy standards specified in MMC 16.32.042.

C. Review Process

The tree preservation and tree canopy variance shall be subject to Type III review and approval by the Planning Commission, in accordance with Section 19.1006.

D. Approval Criteria

The approval authority may approve, approve with conditions, or deny the tree preservation and/or tree canopy variance based on the approval criteria found in MMC 16.32.042.E.

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.

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

A. A petition for any type of minor boundary change may be processed through an expedited process as provided by Metro Code Chapter 3.09.

E. The City zoning and Comprehensive Plan designation for an expedited annexation request shall be automatically applied based on the existing Clackamas County zoning designation in accordance with Table 19.1104.1.E, provided below:

Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
R-20	R-MD	Moderate density residential
R-15	R-MD	Moderate density residential
R-10	R-MD	Moderate density residential
R-8.5	R-MD	Moderate density residential
R-7	R-MD	Moderate density residential
MR1	R-2	High density residential
MR2	R-2	High density residential
PMD	R-1-B	High density residential
HDR	R-1-B	High density residential
SHD	R-1	High density residential
C3	C-G	Commercial
OC	C-L	Commercial

Table 19.1104.1.E CONTINUED Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
RTL	C-L	Commercial
PC	C-CS	Commercial
LI	BI	Industrial
GI	M	Industrial
BP	BI	Industrial
OSM	R-10/CSU	Public

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 LOTS IN SUBDIVISIONS

Flag lots and back lots are permitted in new subdivisions.

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 or 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)
-

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.

SPS 2. A. 3/29/22
Presentation

COMPREHENSIVE PLAN IMPLEMENTATION PROJECT – PROPOSED CODE AMENDMENTS

City Council

March 15, 2022

Vera Kolas, Senior Planner

&

Natalie Rogers, Climate and Natural
Resources Manager



- Open Housing/Parking hearing
 - Staff report
 - Public testimony
 - Questions
 - Deliberation – including development-related tree considerations
 - Finalize recommended changes OR close hearing and open Tree hearing
- Open Tree Code/Fees hearing
 - Staff report
 - Public testimony
 - Questions
 - Deliberation
 - Finalize recommended changes



COMPREHENSIVE PLAN - POLICY MANDATES

- Increase supply of middle housing; provide housing choice
- Increase the tree canopy and preserve existing trees; support the goal of 40% tree canopy
- Manage parking to enable middle housing and protect trees



Questions from Council



AFFORDABLE HOUSING

Code incentives for income-restricted housing:

- Type II (rather than Type III)
 - Minimum setbacks for middle housing

Standard	Proposed Code	Type II Variance standard
Front yard	20 ft	10 ft (note: impacts off-street parking)
Rear yard	15/20 ft	15 ft
Side yard	5/10 ft	5 ft
Street side yard	15/20 ft	10 ft (note: impacts off-street parking)

- Parking
 - Reduction to 50% in DMU (from 30%)
 - 25% reduction for middle housing

Staff will be back with a new code section focused on income-restricted housing programs and incentives.



OREGON BUILDING CODE

	Residential Code	Commercial Code
Duplex		
<i>detached</i>	X	
<i>side by side</i>	X	
<i>stacked</i>	X	
Triplex		
<i>detached</i>	X	
<i>side by side</i>		X
<i>stacked</i>		X
Quadplex		
<i>detached</i>	X	
<i>side by side</i>		X
<i>stacked</i>		X
Townhouse	X	
Cottage in a cottage cluster each with own kitchen		
<i>detached</i>	X	
<i>attached</i>	X	
Cottage in a cottage cluster with central kitchen		
<i>detached</i>		X
<i>attached</i>		X



PARKING – HB 2001 REQUIREMENTS

Cannot require more than 1 space/middle housing dwelling unit, with exceptions.

Housing Type	Lot Size	Parking Spaces (total)
Triplex	<3,000 sq ft	1
	3,000 – 4,999 sq ft	2
	>5,000 sq ft	3
Quadplex	<3,000 sq ft	1
	3,000 – 4,999 sq ft	2
	5,000 – 6,999 sq ft	3
	>7,000 sq ft	4



PARKING – ARTERIALS AND COLLECTORS

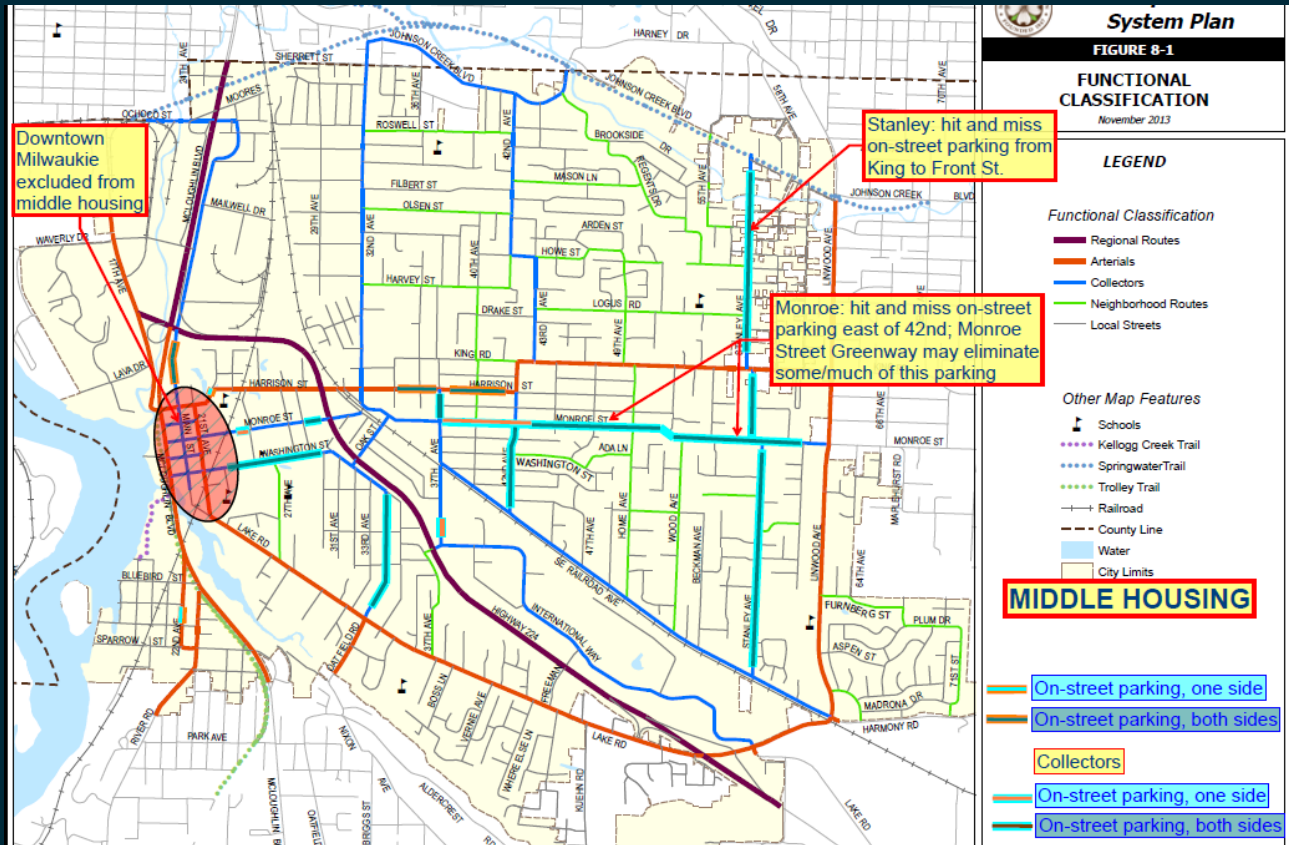
Concern about development where on-street parking is not available or permitted

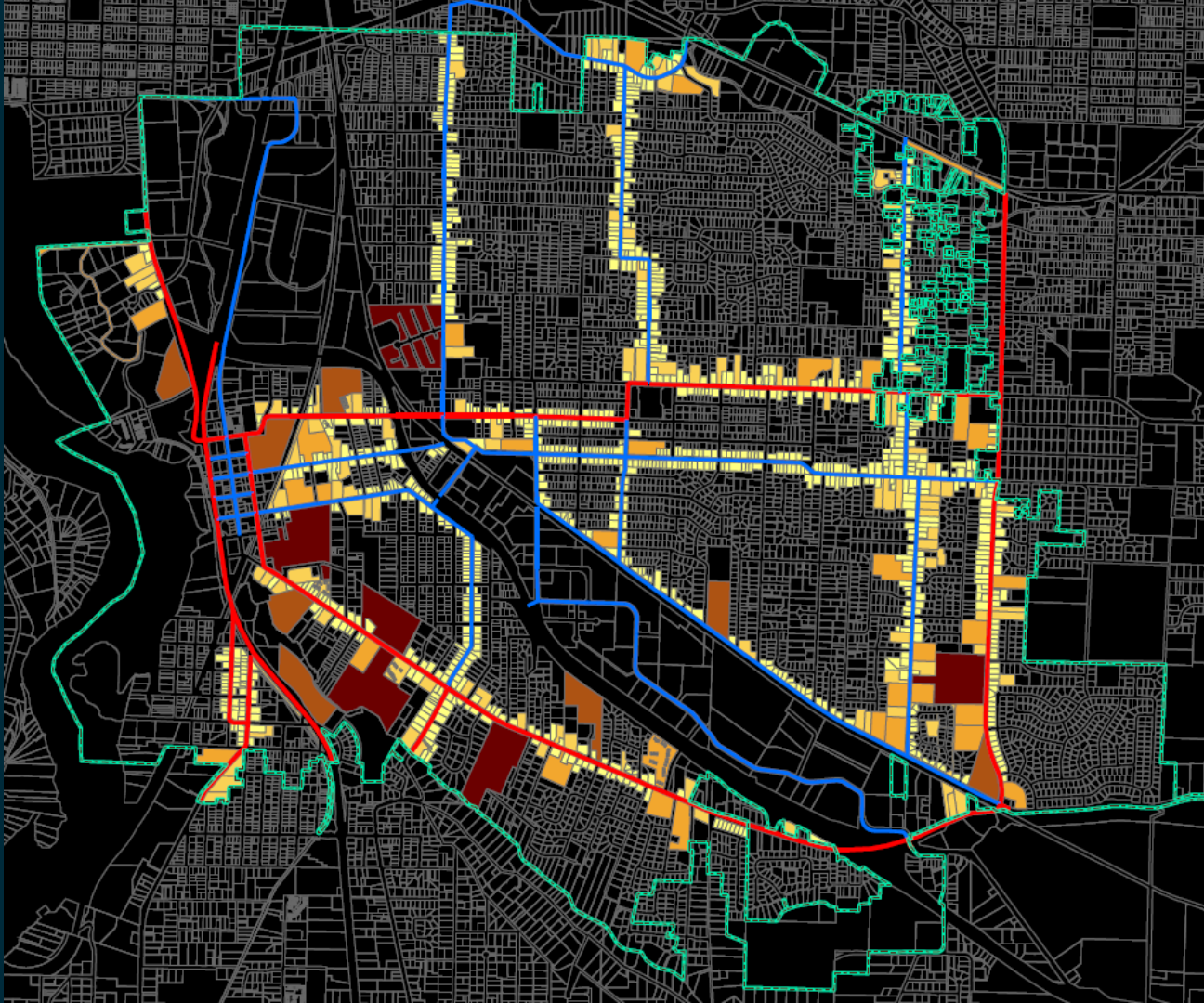
Recommended revision:

- For middle housing developments located on streets classified as Arterials or Collectors in the Transportation System Plan, off-street parking is required: 0.5 spaces/dwelling unit.



ARTERIAL AND COLLECTOR STREETS





**ARTERIAL
AND
COLLECTOR
STREETS –
RESIDENTIAL
LOTS**

Can we extrapolate the parking study findings to apply city-wide?

- Not recommended
 - Findings would be speculative and not reliable
 - Need an on the ground analysis to be accurate (not possible at this time)



ADU CONVERSIONS

Type III variance required for:

- Adding 2nd story ADU to non-conforming garage
- Converting existing non-conforming garage to ADU



Recommendation:

Allow with a Type II variance



DEVELOPMENT STANDARDS – 3,000 SQ FT LOT

Lot Size	Permitted Housing Types <u>currently</u>	Permitted Housing Types <u>proposed</u>
1,500 sq. ft.	Rowhouse (townhouse)	Townhouse
3,000 sq. ft. to 6,999 sq. ft.	Detached single dwelling if a lot of record Detached single dwelling + ADU	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex Quadplex
7,000 sq. ft. and greater	Detached single dwelling Detached single dwelling + ADU Duplex if lot is 10,000 sq ft or larger	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex Quadplex Cottage Cluster

If Council is concerned about single detached dwellings on 3,000 sq ft lots, an option would be to increase the minimum lot size for single detached dwellings to 5,000 sq ft but continue to allow middle housing on lots of 3,000 sq ft and up as currently proposed.



TYPE III VARIANCE APPROVAL CRITERIA

Issue: There may be instances where a development requires a Type III variance, such as larger setback reductions or to go below minimum density. Tree preservation should be a criterion for Type III variances.

Proposed revision:

- 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.





ADU Addition on 5000 sq ft lot

Standard	Requirements	Before ADU	After ADU
Lot Coverage	Max 45% w/ bonus	24.4%	34.4%
Min Vegetated Area	25% lot coverage	53%	41%
Planting Standard	40% site canopy coverage	0%	40% (2000 sq ft)

Species	Crown Area (sq ft)	Count	Canopy Credit Multiplier
Homestead Elm	962	1	0.75
Cork Oak	1257	1	0.75
Japanese Tree Lilac	314	2	0.75
Total:			2135.25 sq ft (43%)

Illustrative Example Only



Utilizable space under tree crowns

QUESTIONS?



NEXT STEPS

April 5: Continued public hearing - Adoption



Code updates since 02/15 hearing

- Revisions for clarity
- Rephrasing of 'canopy standard' to 'planting standard'
- Revision of Type 2 replacement requirements to # of trees instead of equivalent DBH
- Removal of penalty language in MMC 16.32.040 and MMC 16.32.042.J to allow for situational reduction of fines

Fee updates

- Revision of Type 1 tree permit application fee from \$50 to \$0
- Revision of fee-in-lieu of replanting for private non-development from \$2000 to \$675 to match public fees
- Revisions for clarity

QUESTIONS?



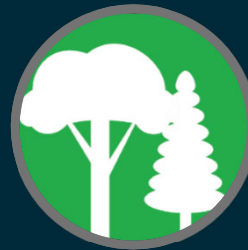


COMPREHENSIVE PLAN IMPLEMENTATION PROJECT – PROPOSED CODE AMENDMENTS HOUSING AND PARKING

City Council
March 1, 2022
Vera Koliass, Senior Planner

COMPREHENSIVE PLAN - POLICY MANDATES

- Increase supply of middle housing; provide housing choice
- Increase the tree canopy and preserve existing trees; support the goal of 40% tree canopy
- Manage parking to enable middle housing and protect trees



HOUSING – HB 2001 MANDATES

HB 2001 requires **middle housing options** be permitted in all residential areas zoned for detached single-unit dwellings.



Townhomes



Cottage
Cluster



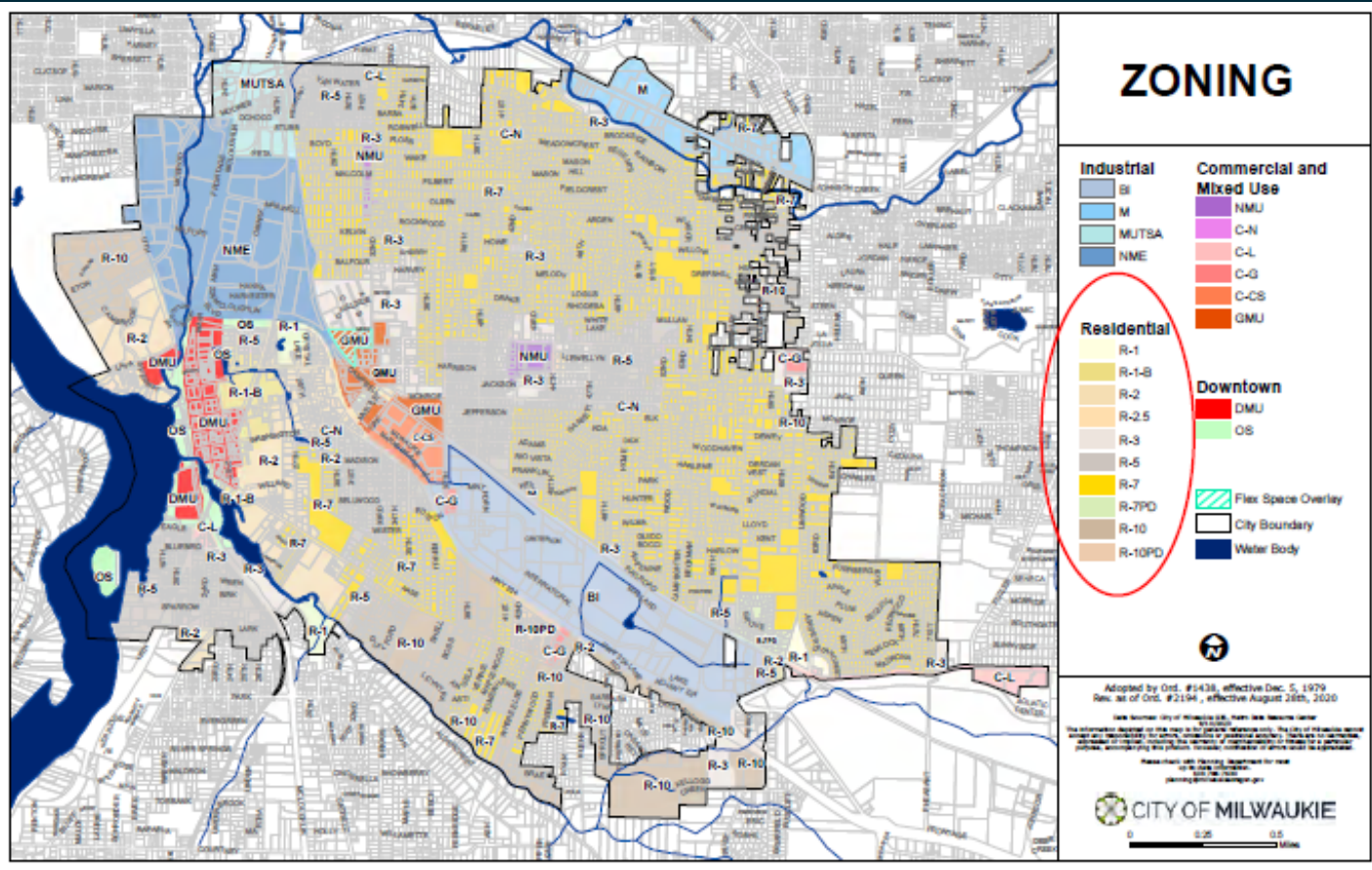
ADU



Plexes

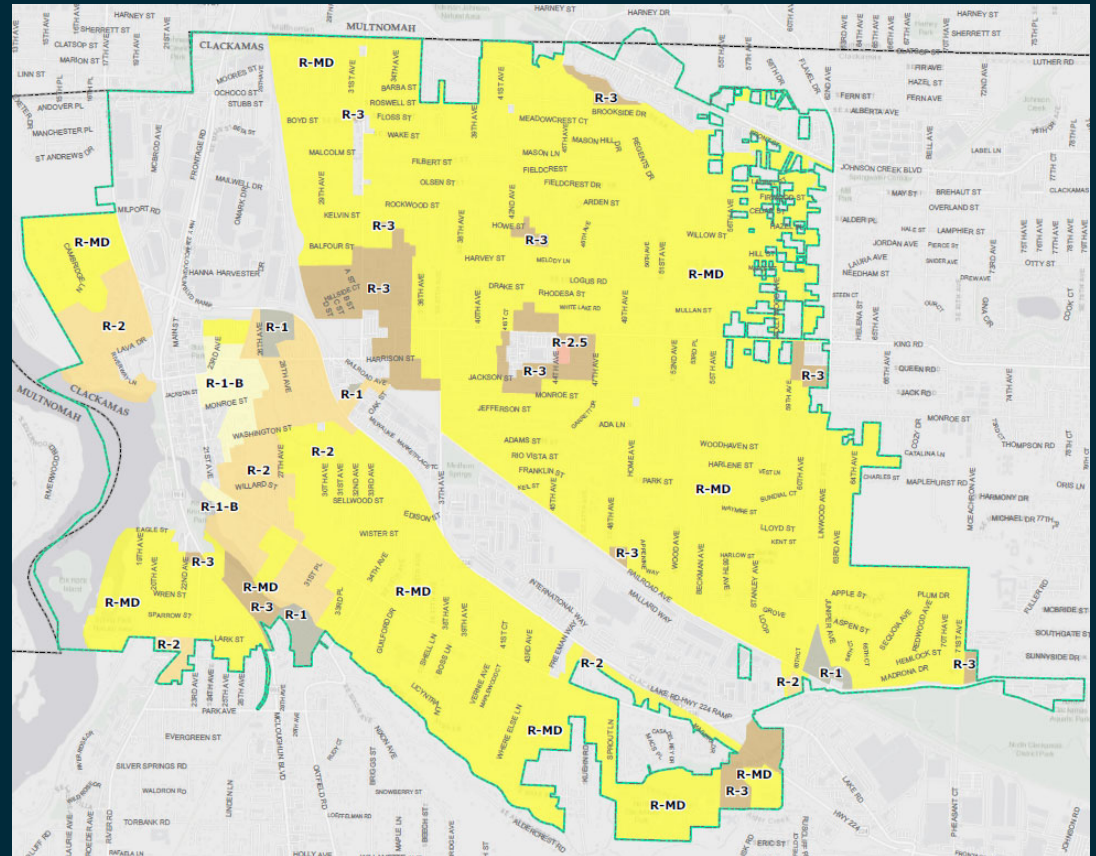


CODE AMENDMENTS – ZONING MAP







CODE AMENDMENTS – ZONING MAP

- Consolidate 8 residential zones to 6 zones:
 - R-1; R-1-B; R-2; R-2.5; R-3
 - R-MD (MD) = R-5, R-7, R-10
- Comp Plan policy: equitable distribution of housing choices







COMPREHENSIVE PLAN – MAP 8 – LAND USE

- Consolidate 4 residential land use designations to 2:
 - Low Density (LD) + Moderate Density (MD) = Moderate Density (MD)
 - Medium Density (MED. D) + High Density (HD) = High Density (HD)

	LD - Low Density
	MD - Moderate Density
	MED. D - Medium Density
	HD - High Density



	HD - High Density
	I - Industrial
	MD - Moderate Density
	



PROPOSED AMENDMENTS - DEFINITIONS

- Outright Allowed
- Owner
- Street tree
- Tree
- Density calculation
- Flag lot
- Back lot

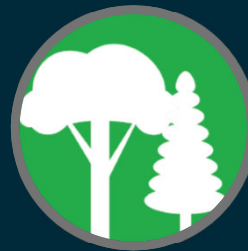
- Duplex
- Cottage Cluster
- Cottage Cluster project
- Middle Housing
- Multi-unit development
- Quadplex
- Townhouse
- Triplex
- Single detached dwelling



QUESTIONS?



HOUSING



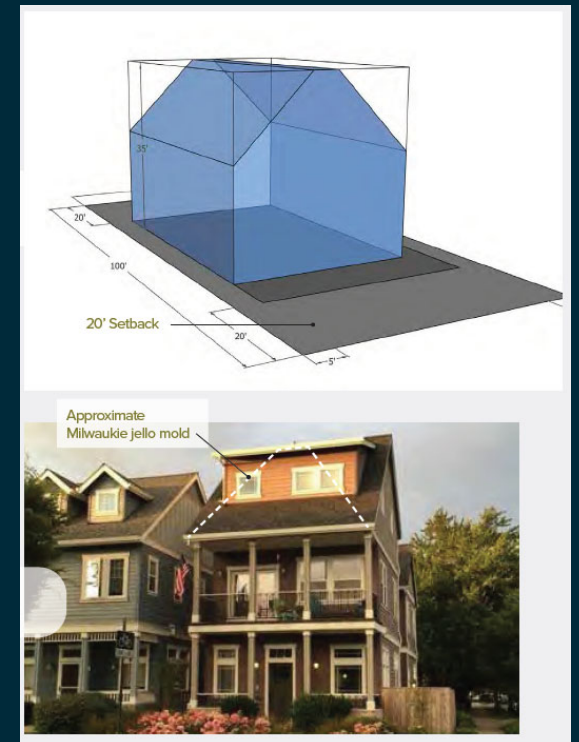
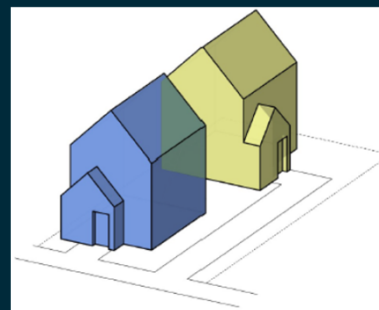
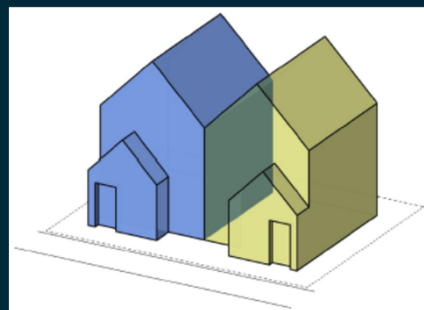
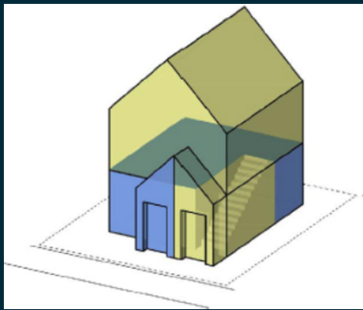
CODE AMENDMENTS – DEVELOPMENT STANDARDS

Lot Size	Permitted Housing Types <u>currently</u>	Permitted Housing Types <u>proposed</u>
1,500 sq. ft.	Rowhouse (townhouse)	Townhouse
3,000 sq. ft. to 6,999 sq. ft.	Detached single dwelling if a lot of record Detached single dwelling + ADU	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex Quadplex
7,000 sq. ft. and greater	Detached single dwelling Detached single dwelling + ADU Duplex if lot is 10,000 sq ft or larger	Detached single dwelling Detached single dwelling + 2 ADU Duplex Triplex Quadplex Cottage Cluster



CODE AMENDMENTS – DEVELOPMENT STANDARDS

- Attached and Detached units will be permitted.



- **Development standards would apply:**
 - Maximum lot coverage
 - Minimum landscaping
 - Minimum setbacks
 - Maximum building height
 - Side yard height plane



DEVELOPMENT STANDARDS – BUILDING HEIGHT

Standard (R-MD Zone)	Existing	Proposed
Max. Building Height	35 ft or 2.5 stories	35 ft

- Side yard height plane standard would still apply
- Most 2.5 story homes are close to 30 ft already



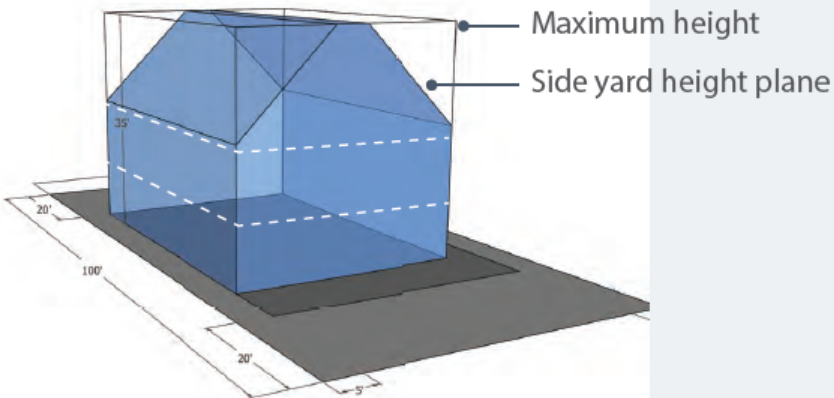
DEVELOPMENT STANDARDS – LOT COVERAGE AND VEG

Lot Size (sq ft)	Proposed Max. Lot Coverage	Amount of Building	Proposed Min. Vegetation
1,500 – 2,999	45% (10% bonus for single story or addition)		15%
3,000	35% (10% bonus for single story or addition)	= 1,050 sq ft footprint	25% = 750 sq ft
5,000	35% (10% bonus for single story or addition)	= 1,750 sq ft footprint (2-story triplex with 1,150-sq ft units.)	25% = 1,250 sq ft
7,000 and up	30% (10% bonus for single story or addition)	= 2,100 sq ft footprint	30% = 2,100 sq ft



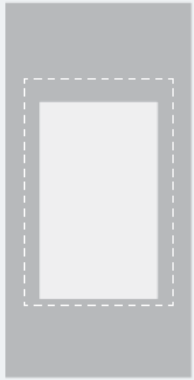
A typical 5,000 square foot lot

35% lot coverage
(1,750 sf)

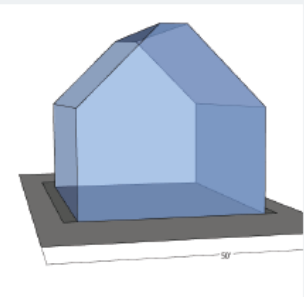
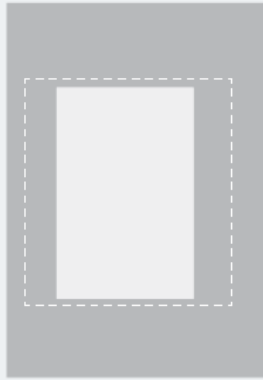


- Tools to address the shape and bulk of a house and impacts to neighbors:
 - Max. lot coverage
 - Min. vegetation
 - Min. setbacks
 - Side yard height plane
- The tools create the “jello mold”. The units must fit into that jello mold.

5,000 square foot



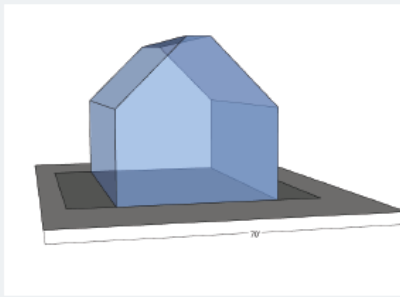
7,000 square foot



Maximum buildable area
in square feet:

4,375

*at 1,000 square feet per unit,
this volume may be able to
accommodate 4 dwellings*



Maximum buildable area
in square feet:

5,250

*at 1,000 square feet per unit,
this volume may be able to
accommodate 5 dwellings*

- **What determines how much can be built on a residential lot?**
 - Determined by calculating the floor area that can fit into the jello mold.
 - The height in residential zones is 35 feet
 - This is the maximum buildable area



Pre-War

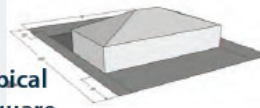


Total floor area of a typical
Milwaukie house, in square
feet

1,960



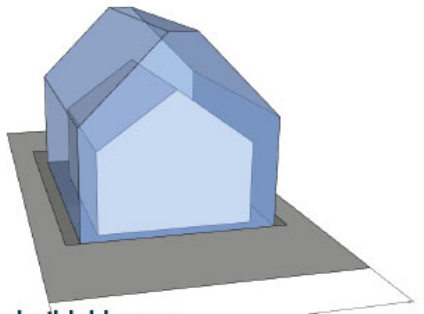
Mid-Century



Total floor area of a typical
Milwaukie house, in square
feet

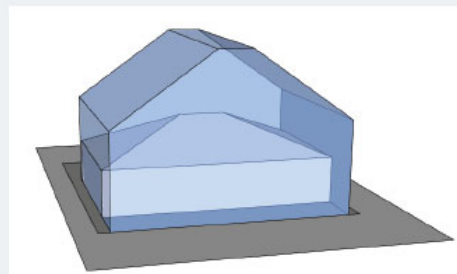
1,500

- What is the size of a pre-existing house we see in Milwaukie today?



Maximum buildable area
in square feet:

4,375



Maximum buildable area
in square feet:

5,250

PERMITTED TODAY

Permitted today

Lot size = 5,180 sq ft
House = 1,768 sq ft
Details = 3 BR; 2 BA



Lot size = 5,119 sq ft
House = 2,629 sq ft
Details = 4 BR; Den; 2.5 BA





- This is a 3,400 sq ft lot on Edison St.
- House = 2,006 sq ft
 - Rear setback = 27 ft
 - Front setback = 20 ft
 - Side setbacks = 5 ft; 5.5 ft
 - Lot coverage = 34.9%
 - Landscaping = 50.4%



CODE AMENDMENTS – DESIGN STANDARDS: 1-4 UNITS

- Current code includes design standards for:
 - Single-family dwellings and duplexes (19.505.1)
 - Garages and carports
 - Multi-unit housing (5 units and up in a single structure, not touched in this code update, does not apply)



CODE AMENDMENTS – DESIGN STANDARDS: 1-4 UNITS

- Proposed code amendments –
A universal set of design standards that applies to all middle housing
 - Apply existing standards contained in 19.505.1
 - Two new stand-alone subsections for
 - Cottage Clusters
 - Townhouses
 - Right-size and merge some multi-unit housing standards into the universal set



QUESTIONS?



CODE AMENDMENTS - ADUs

- Key amendments:
 - Permitted by right, subject to design and development standards
 - Revisions to footprint requirement for accessory structures more than 3 years old when converted to ADU
 - New Type II variance for Type B ADUs for small increases in the size (rather than Type III every time)



CODE AMENDMENTS - ADUs

Standard/Requirement	Primary Home + ADU (600 sq ft)	Primary Home + ADU (800 sq ft)	Detached Duplex
SDCs	ADU	ADU	2 x ADU
Affordable Housing CET	Exempt until 11/21/22	Exempt until 11/21/22	\$1,958
Min Parking	1 for primary home + 0 for ADU (per state law)	1 for primary home + 0 for ADU (per state law)	Max 1/du; proposed as 0
Setbacks			
	Front N/A (not allowed in front yard)	N/A (not allowed in front yard)	20 ft
	Rear 5 ft	20 ft	20 ft
	Side 5 ft	10 ft	5 ft/ 5/10
Privacy Standards	Yes	Yes	No
Limits on size	yes (not if in basement)	yes (not if in basement)	No
Conversion of existing structure	Yes	Yes	N/A
Counts toward density	No	No	Yes
Design standards	Yes (fewer)	Yes (fewer)	Yes



CODE AMENDMENTS - ADUs

- Things to keep in mind:
 - State law does not permit requiring off-street parking for ADUs
 - SB 458 does not apply to ADUs
 - Duplexes are not regulated by maximum size: no incentive to construct smaller units

Option: Keep detached ADUs but allow them all to be up to 800 sq ft and apply the 600-sq ft standards to encourage smaller dwellings.



QUESTIONS?



CODE AMENDMENTS – TOWNHOUSES

- 2012: Townhouse code adopted – none built to date
- Proposed standards are a combination of:
 - Large City Model Code
 - Design modeling and recommendations from consultant



HB 2001 requirements:

- Min lot size = 1,500 sq ft
- Min street frontage = 20 ft
- Allow 4 townhouses

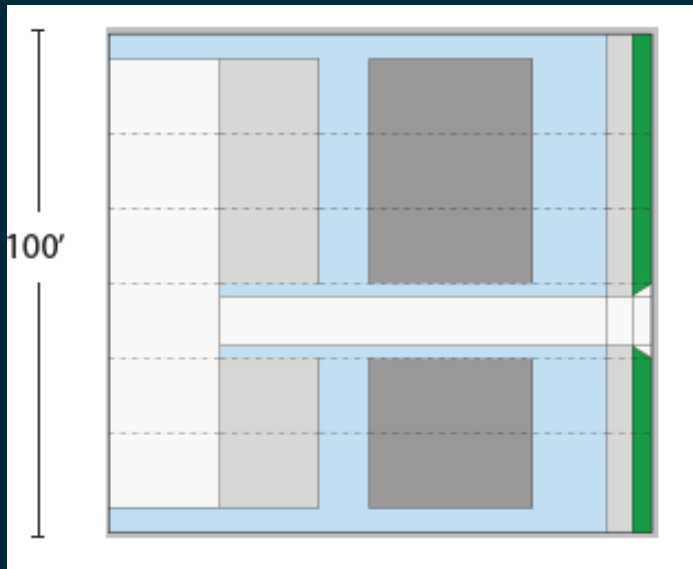


CODE AMENDMENTS – TOWNHOUSES

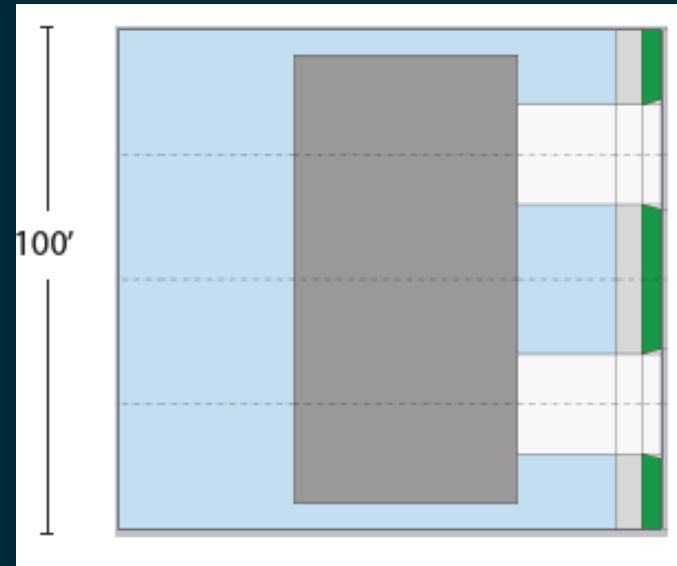
- Townhouse standards are generally the same as standards for single dwelling, or the proposed one to four units standards.
- Proposal:
 - R-MD zone: max. of 4 townhouses
 - Sufficient curb and plant strip area
 - Shared accesses spaced min. 24 ft apart



CODE AMENDMENTS – TOWNHOUSES



- Shared single drive to back parking
 - 10,000 square foot lots divided
 - Ample separation between driveways



- Attached paired front driveways
 - 2 5,000 square foot lots divided
 - Enough space between driveways



QUESTIONS?



CODE AMENDMENTS – COTTAGE CLUSTERS

- General characteristics
 - Detached and attached homes clustered around shared open space
 - Cottages are small in size and footprint
 - Shared resources/ amenities such as garden, common building, workshop, etc
 - Parking is often grouped in a shared lot
 - Units can be on their own lot or on a single lot



CODE AMENDMENTS – COTTAGE CLUSTERS

- The proposed code amendments are intended to:
 - Homes affordable to households of a variety of incomes and sizes
 - Design that balances a reduction in private outdoor space with shared outdoor common area
 - Build community within a housing cluster and surrounding neighborhood



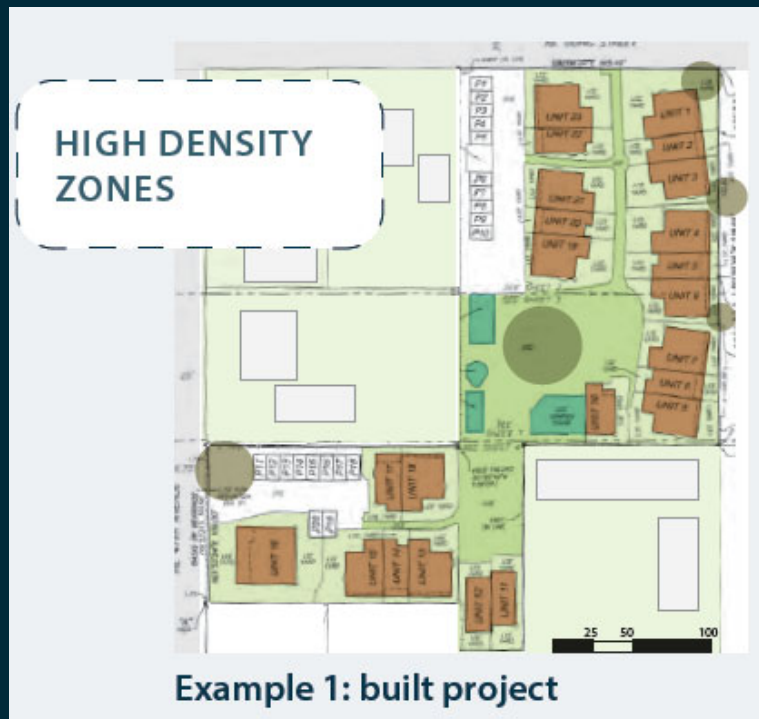
CODE AMENDMENTS – COTTAGE CLUSTERS

- HB 2001
 - Permitted on all lots over 7,000 sq ft
 - Building footprint is limited
 - Lot coverage and max. density do NOT apply
 - Design standards are addressed in the Large City Model Code
 - An important housing type, especially for addressing attainability

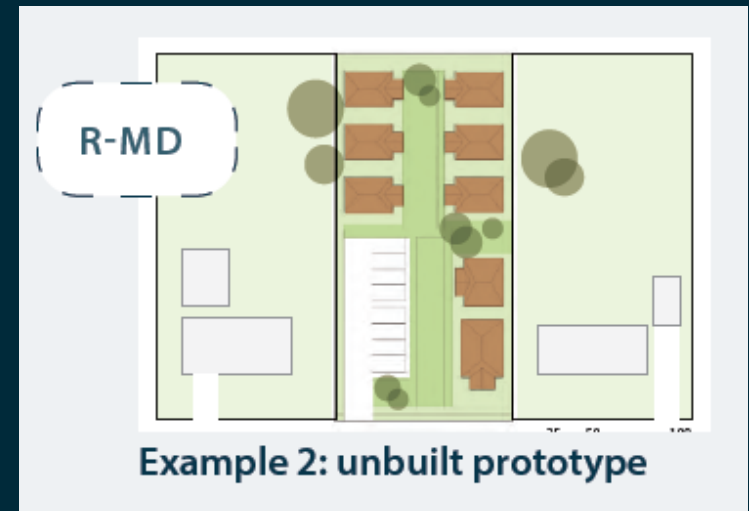


CODE AMENDMENTS – COTTAGE CLUSTERS

- **High Density zones**
 - Greater density
 - Attached units



- **Moderate Density zone**
 - Detached units only



CODE AMENDMENTS – COTTAGE CLUSTERS

Standard	R-MD zone	High Density zones
Number of cottages per cluster	Min = 3 Max = 12 Detached only	Min = 3 Max = 8 Attached permitted
Max building footprint	900 sq ft	900 sq ft
Max building height	2 stories/25 ft	2 stories/25 ft
Front/side/rear setbacks (min)	10 ft/5 ft/5 ft	10 ft/5 ft/5 ft
Min site vegetation	35%	35%
Min open space/cottage	150 sq ft	150 sq ft
Min parking space/cottage	0.5	0.5

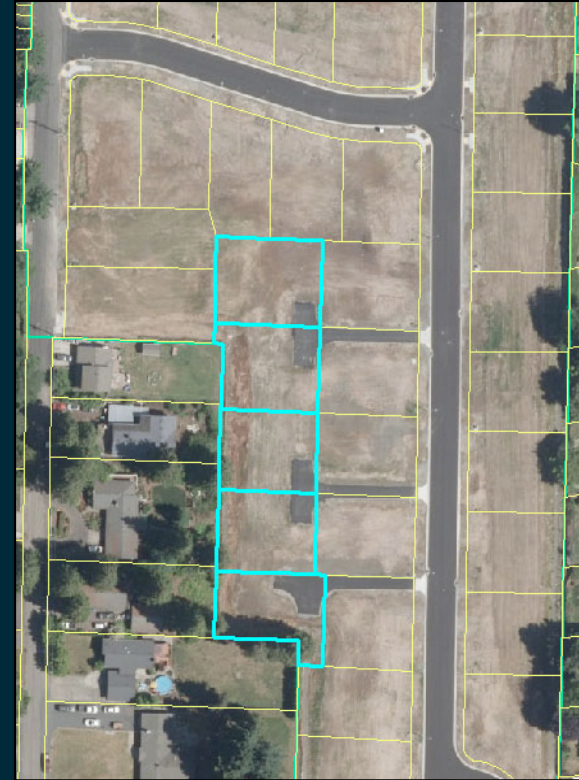
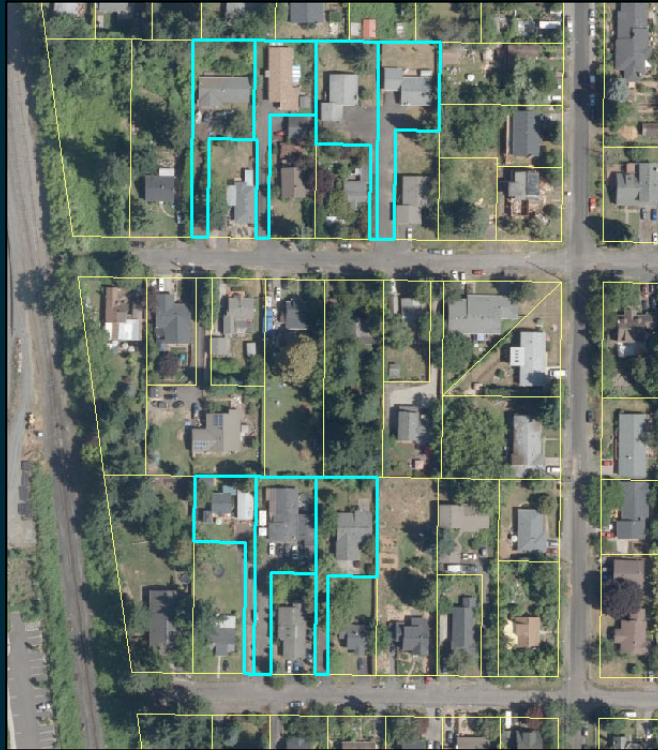


QUESTIONS?



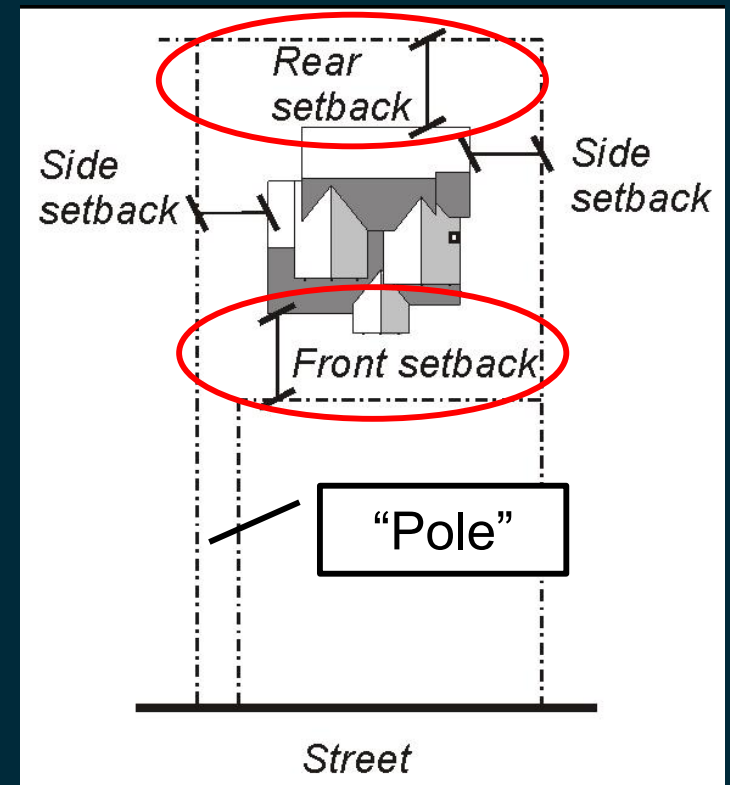
CODE AMENDMENTS – FLAG LOTS & BACK LOTS

Flag lots and back lots are an opportunity for more infill housing and “hidden density”



CODE AMENDMENTS – FLAG LOTS & BACK LOTS

- Variances permitted – Type III
- Proposed language to incentivize middle housing:
 - Reduce front and rear setbacks on flag lots for middle housing to 20 ft (not 30 ft)
 - Allow the “pole” portion to count toward min. lot size for middle housing



QUESTIONS?



SB 458 BACKGROUND

- Land Divisions for middle housing
- Follow up to House Bill 2001 (HB2001)
- Applies to middle housing land divisions permitted on or after 6/30/2022
- Allows lot divisions for middle housing, enabling units to be sold or owned individually.
 - ADUs NOT eligible for land division



SB 458 - REQUIREMENTS

- All middle housing types
- Land division must result in 1 dwelling per lot
- Separate utilities for each dwelling
- Easements
 - Ped access; common areas; driveways and parking areas; utilities
- Building code compliance
- Expedited review time frame – compressed Type II review

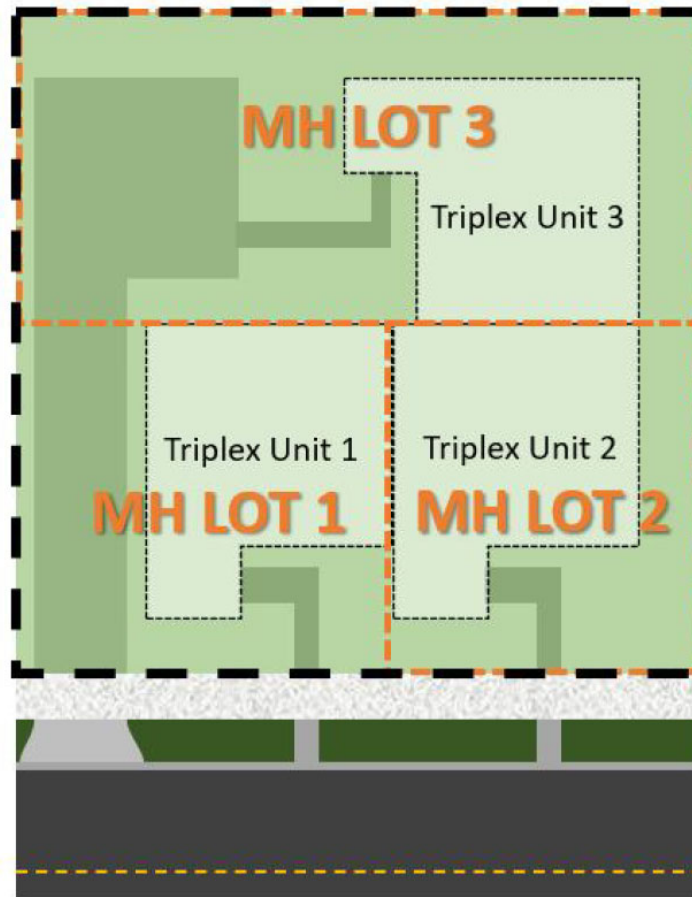


SB 458 – CANNOT REQUIRE

- Street frontage for new lots
- Parking or driveway to each lot
- Min. lot size or dimensions
- Other review criteria
 - ONLY what is in SB 458
- Conditions of approval
 - ONLY what is in SB 458



SB 458 - EXAMPLE



TRIPLEX PARENT LOT:
Three Dwellings on a Lot.
Parent lot must meet
triplex lot standards.

3 MIDDLE HOUSING LOTS:
One for each unit. Allows
division to support
ownership, does not grant
additional development
rights. Each Dwelling Unit still
considered one unit of a
triplex.



QUESTIONS?

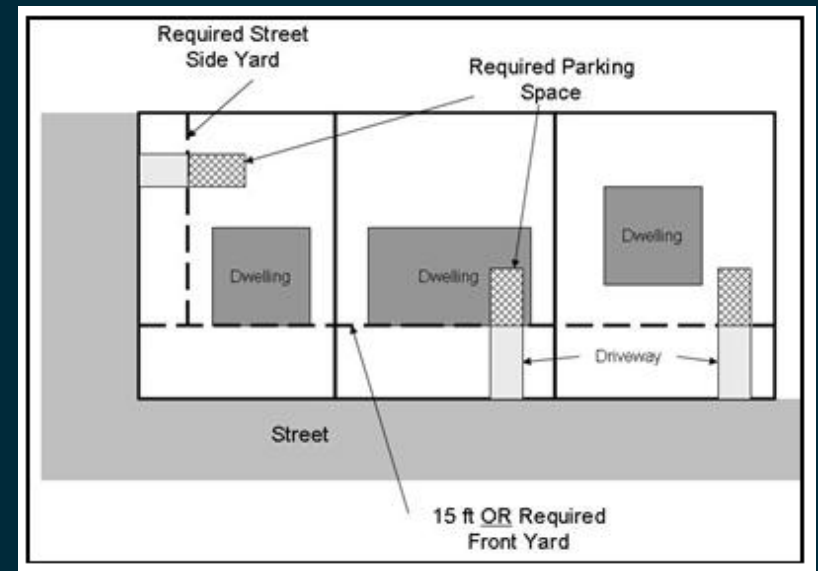


PARKING



KEY CODE AMENDMENTS - PARKING

- **0 on-site spaces per unit required – 0.5 for cottages**
 - (reductions for proximity to transit and income-restricted housing)
- Parking space can be in the **driveway or setback**
- Allow alternatives to parking location
 - Parking modification process
 - Includes tree preservation as a criterion



Existing code requirements



PARKING – PLANNING COMMISSION RECOMMENDATION

- Based on the Parking Study and 4 study areas:
 - Capacity: 1,331 on-street parking spaces
 - Average vehicles per dwelling: 1.99
 - $1,331/1.99 = 669$.
 - 669: the number of dwelling units required to take up all of the on-street parking capacity in the study areas (if 0 on-site parking is provided and each dwelling has 2 cars)
- PC recommendation reflects an assumption that this level of housing production is unlikely AND that most new development will provide parking
 - Removing requirements will not have little impact and is an incentive for middle housing



PARKING

Arterials	Collectors
Harrison St	32 nd Ave
Linwood Ave	Monroe St
Lake Rd	Washington St
Oatfield Rd	42 nd Ave
River Rd	43 rd Ave (Howe to King)
22 nd Ave	Monroe St
17 th Ave	Stanley Ave
King Rd	37 th Ave (Harrison to Railroad)
21 st Ave (Harrison to Lake)	Howe St (42 nd to 43 rd)
	JCB (40 th to Brookside)
	Railroad Ave

- Concern about development where on-street parking is not available or permitted
- Recommended revision
 - For middle housing developments located on streets classified as Arterials or Collectors in the Transportation System Plan, off-street parking is required: 0.5 spaces/dwelling unit.



QUESTIONS?



NEXT STEPS

- March 15: Continued public hearing



17:14:58 From Council Chambers to Everyone:

Please type in the chat if you would like to speak. Do not make any comments in the chat.

17:15:05 From Council Chambers to Everyone:

Garylynn we see your hand raised.

17:15:11 From Garlynn Woodsong to Hosts and panelists:

Hello, this is Garlynn Woodsong, I'm a consultant who worked on the ADU and Cottage Cluster studies. I live in Portland, OR.

17:15:26 From Council Chambers to Everyone:

Thank you Garylynn. We'll allow you to speak.

17:15:42 From Garlynn Woodsong to Hosts and panelists:

I have a short presentation, if you can turn on screen sharing?

17:29:20 From Garlynn Woodsong to Hosts and panelists:

Just wanted to clarify that the recommendation to allow carriage house ADUs is for new construction to replace the driveway, which for most homes in Milwaukie would be in front of the existing garage, allowing that space to be used for other purposes. The point would be to replace driveway with carriage house within the front setback, providing more site flexibility. I would not recommend requiring a variance / Type III review for this, that is a large barrier for ADU applicants.

17:30:01 From Council Chambers to Everyone:

Please do not comment in the chat, the chat is only for informing staff that you'd like to speak.

COUNCIL STAFF REPORT

To: Mayor and City Council
Ann Ober, City Manager

Date Written: Mar. 16, 2022

Reviewed: Peter Passarelli, Public Works Director, and
Jennifer Lee, Administrative Specialist II (as to form)

From: Natalie Rogers, Climate and Natural Resources Manager

Subject: **Comprehensive Plan Implementation: Tree Code Amendments – Hearing #6**

ACTION REQUESTED

Council is asked to reopen the public hearing for land use file #ZA-2021-002, discuss the proposed amendments to the Milwaukie Municipal Code (MMC) including Title 16 (Environment) which contains the proposed private tree code, Title 19 (Zoning), Title 17 (Land Division), Zoning map, Comprehensive Plan, and Comprehensive Plan Land Use map related to middle housing and parking and the tree code.

This staff report is focused on the proposed amendments to Title 16 (Tree Code) and the proposed associated fees to be adopted into the Master Fee Schedule via a separate resolution. Staff reports for the public hearing related to housing and parking will provide background and analysis related to those topics. Please refer to the January 18, February 1, and February 15, staff reports (linked below) for background on the overall project and overview of the proposed tree code and associated fee schedule.

The requested action on March 29 is to hear any additional information from staff, receive additional public testimony, deliberate, and continue the hearing to April 5.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

[December 1, 2020](#): Staff provided Council with a project update.

[January 19, 2021](#): Staff provided Council with a project update

[February 16](#): The Council packet included a project update.

[April 6](#): Staff provided Council with a project update.

[April 20](#): Staff led a discussion with Council about flag lots and the minimum lot size approach.

[May 11](#): Council and staff discussed Oregon House Bill (HB) 2001 and the model code, parking code recommendations, and standards in the proposed consolidated residential zones.

[June 15](#): Staff provided Council with a project update ahead of the posting of the proposed draft code for public comment over the summer.

Following three work sessions in August, the Planning Commission held three public hearings on the proposed amendments ([October 12](#), [October 26](#), and [November 9](#)) and voted 5-2 to recommend approval of the amendments with specific revisions and recommendations.

[December 21](#): Council work session. Council was presented with the proposed amendments as recommended by the Planning Commission, asked clarifying questions, and requested additional information, specifically on building height and accessory dwelling units (ADUs), and the proposed tree code.

[January 4, 2022](#): Council work session. Council was presented with the proposed code amendments as recommended by the Planning Commission, asked clarifying questions, and requested additional information specifically on parking, maximum lot coverage, and flag lots/back lots.

[January 18, 2022](#): Public hearing #1. Staff presented the project background and the proposed code amendments. Council asked clarifying questions and continued the hearing to February 1 to hear the proposed fee schedule and to take public testimony.

[February 1, 2022](#): Public hearing #2. Staff presented the fee schedule for the proposed tree code. Council asked clarifying questions and continued the hearing to February 15.

[February 15, 2022](#): Public hearing #3. Staff presented small modifications to the proposed tree code and fee schedule based on stakeholder feedback. Council asked clarifying questions, temporarily closed the public testimony, and proceeded with initial deliberations. Council moved to reopen public testimony and continue the hearing on March 15.

[March 15, 2022](#): Public hearing #5. Staff addressed council questions regarding housing, parking, and development related tree code in the context of housing code amendments. Council moved to continue the hearing at a special session on March 29.

ANALYSIS

Please refer to the [January 18](#) staff report for a detailed review of the project background and the policy mandate related to tree preservation.

Summary of Key Amendments – Tree Code

The final draft code amendments were posted on September 1, 2021, in advance of the first public hearing with the Planning Commission on October 12. Following a review by the Oregon Department of Land Conservation and Development (DLCD), and the Planning Commission hearings and additional staff review, several recommendations were made to the posted code language. The following is a discussion of the key amendments and includes the recommendations from the Planning Commission from their public hearing on [November 9](#).

Amendments Related to Trees

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 (UFMP).

The existing tree code addresses only trees in the public right-of-way or on public property, like park or street trees. To meet the city's goal of a 40% tree canopy, as identified in the Climate Action Plan (CAP), the UFMP, and the Comprehensive Plan policies, trees on private residential property must also be preserved and protected.

In this package of code amendments, the 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 development situations, and a simplified permitting process for non-development residential tree removal. 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 removals on private property, a permit will be required in addition to 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 for which mitigation is impracticable.

The proposed amendments to MMC 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 trees
 - Create a process for application and development review
 - Define rare or threatened trees
 - Establish minimum tree canopy of 40% per lot in development situations
- Amend “Vegetation Buffer Requirements” in MMC 19.401 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.

Planning Commission Recommendations from November 9 Public Hearing

The proposed code amendment package was posted on [September 1, 2021](#). Following the Planning Commission hearing process, the following key revisions to the tree code were recommended in the final vote to recommend approval of the code package:

- Revise the non-development tree code type 1 healthy tree removal approval standard to allow for one healthy tree removal under 12” diameter at breast height instead of 18” diameter at breast height.
- Add tree preservation and tree canopy standards variance language where appropriate
- Discuss bonding requirements for development related tree code with Council as allowed in draft residential tree code (MMC 16.32.J.1.c.5)

City Council Clarifying Questions from December 21 Work Session

- Council requested information on public works staff coordination with the planning department on setback variances for tree preservation.
- Council requested information on development tree code triggers. Staff introduced potential development tree code trigger mechanisms to the January 18 hearing. Alternative code language for separate standard requirements depending on building footprint are included in the attached alternative code document.
- Council and staff discussed the canopy standards, and the tree lists to be created by staff for replanting requirements.
- Council and staff discussed bonding requirements.

Code Amendments since January 18 Public Hearing

- Feedback from stakeholders showed interest in providing additional retention incentives for preservation of large trees. To address this, staff are proposing to increase the canopy credit from 100% on a graduated scale up to 150% for existing significant tree canopy for both preservation and canopy standards. A significant tree would be defined as a tree greater than or equal to 12" diameter at breast height. A credit scale would be included in the master fee schedule.
- Revisions to planting window to extend suggested planting season to April.
- Revisions to replanting requirements to clarify that replanting is not required for invasive species removals.
- Staff are proposing alternative code language for affordable housing mitigation standards based on feedback from stakeholders. Instead of reduced preservation requirements for qualified affordable housing, staff are proposing reduced mitigation fees for qualified alternative housing while keeping preservation requirements equivalent to all other housing developments.
- Clarification of non-development type 1 removal permit for healthy tree removal annual allowance.
- Revisions to planting requirements to allow for site flexibility with urban forester approval.

Code Amendments since February 1 Public Hearing

- Public testimony was given suggesting additional protections for large diameter trees. Staff have added additional tiers in the significant tree credit and mitigation fee sections of the master fee schedule.
- Clarification of the significant tree credit in the preservation and canopy standards.
- Adjustment of preservation standard code for affordable housing and reduction of mitigation fees in proposed fee schedule.
- Adjustment of inventory requirements for development to include all invasive species greater than 2" diameter at breast height.
- Revisions for clarity.

Code Amendments since February 15 Public Hearing

- Rephrasing of "canopy standard" to 'planting standard' for clarity.
- Revision of Type 2 tree removal permit replanting requirement for >18" DBH trees to a table of tree replanting requirements for all Type 2 tree removal permits.
- Addition of "Crown Area" definition with calculation example.
- Removal of "Planning Manager" and "Public Works Director" definitions and reference in the code.
- Addition of table in MMC 16.32.042.C.1 to summarize planting standard requirements.
- Removal of penalty language in MMC 16.32.040 and MMC 16.32.042.J to allow for reduction of fines.
- Revisions for clarity.

Optional code amendments for consideration based on February 15 Public Hearing Deliberations

- *Increase of planting standard canopy credit for street trees from 50% to 75% in development plans where street trees would otherwise not be required.*

Code Amendments since March 15 Public Hearing

- Revisions for clarity in MMC 16.32.042.J

Fee Structure

The code has been developed to provide a framework to help the community achieve its 40% canopy goal. Preserving healthy, functioning, non-invasive trees and existing canopy is necessary to achieving this goal. The proposed fees are intended to serve as a mechanism to support preservation efforts while still allowing for development and landscaping.

The proposed fee schedule provides financial tools to assist in achieving the 40% goal. Ideally, the fees are structured to:

- Promote existing canopy preservation and replanting of trees.
- Provide a mechanism to reduce financial impacts on eligible affordable housing developments if standards cannot be met.
- Reflect the cost to plant and establish new trees.

In cases where removals are necessary, there is a removal fee based on size of tree to be removed and a replanting requirement.

Staff recommends the following changes and additions to the current master fee schedule outlined in attachment 3. These fees are not adopted within the tree code being considered in this hearing and are proposed to be added to the city's [Master Fee Schedule via a separate resolution](#).

Fee Structure Amendments since February 15 Public Hearing

- Revision of Type 1 tree permit application fee from \$50.00 to \$0.00.
- Revision of fee-in-lieu of replanting for private non-development from \$2000.00 to \$675.00 to match public tree code.
- Revisions for clarity.

NEXT STEPS

- Council public hearing #6: April 5, 2022 – continue hearing on proposed tree code, middle housing, and parking code amendments if necessary.

BUDGET IMPACT

The proposed code language calls for the establishment of fees (permit fees, mitigation fees, bonding requirements, etc.) that would be used to fund urban forest activities in future budget years. The fees will be adopted by resolution as part of the master fee schedule. As the urban forest program grows, future revenue generated from permits and mitigation fees will generate additional dedicated revenue for urban forest programs.

WORKLOAD IMPACT

Some additional permits will likely be submitted when the new code is adopted, but this additional activity will be absorbed by staff.

CLIMATE IMPACT

The objective of the implementation project is code amendments that will support a variety of housing opportunities throughout the city, including middle housing, and an updated tree code that will help the city achieve its stated goal of a 40% tree canopy. Tree preservation and canopy expansion is critical for climate mitigation and adaptation in Milwaukie.

COORDINATION, CONCURRENCE, OR DISSENT

Community development, planning, engineering, city manager's office, code compliance, and public works staff worked on this project.

ATTACHMENTS

1. Draft Ordinance
2. Draft tree code language (proposed changes since February 15 council hearing)
3. Master fee schedule 2021-2022 – Revised
4. Tree Code Master Fee Schedule Resolution
5. Comments Received



COUNCIL ORDINANCE No.

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE (MMC) TITLE 16 ENVIRONMENT FOR THE PURPOSE OF ADDRESSING TREE PRESERVATION (FILE #ZA-2021-002).

WHEREAS it is the city’s intent to increase the Milwaukie’s tree canopy and preserve existing trees to support efforts to achieve a40% city-wide tree canopy; and

WHEREAS the proposed code amendments implement several of the goals and policies of the city’s Comprehensive Plan related to tree preservation; and

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

WHEREAS, on October 12, October 26, 2021, and November 9, 2021 the Planning Commission conducted public hearings as required by MMC 19.1008.5 and adopted a motion in support of the amendments; and

WHEREAS the 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

EXHIBIT A
Findings in Support of Approval
File #ZA-2021-002
Amendments to MMC Title 16 (Tree Code)

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 tree preservation regulations that are established in Title 16 of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2021-002.
2. The proposed amendments relate to implementation of portions of the Comprehensive Plan related to tree preservation.
3. The proposal is subject to the criteria and procedures outlined in the following sections of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Chapter 19.1008 Type V Review

The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. An initial evidentiary hearing was held by the Planning Commission on November 9, 2021. Public hearings were held by the City Council on January 18, 2022, February 1, 2022, and February 15, 2022, and March 15, 2022, as required by law.

4. MMC Section 19.902 Amendments to Maps and Ordinances

MMC 19.902 establishes the general process for amending the City's Comprehensive Plan and land use regulations within the Milwaukie Municipal Code. Specifically, MMC Subsection 19.902.5 establishes Type V review as the process for changing the text of land use regulations, with the following approval criteria:

- 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 have been coordinated with and are consistent with other provisions of the Milwaukie Municipal Code, including MMC Section 19.402 Natural Resources.

This standard is met.

- 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 the development of a new tree code:

- (a) 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) 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.

The proposed amendments implement sections of the comprehensive plan related to tree preservation.

Through these updates to the City’s municipal code, the following policy mandate is addressed:

- *Increasing the tree canopy and preserving existing trees to support the City’s goal of a 40% tree canopy*

The proposed amendments include standards and requirements related to tree preservation, tree removal, and replanting on residentially zoned private property throughout the city. As proposed, the amendments are consistent with and facilitate the actualization of several relevant goals and policies in the City’s Comprehensive Plan.

This standard is met.

- c. 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 amendments are consistent with the following applicable sections of Metro’s Urban Growth Management Functional Plan:

Title 8 – Compliance Procedures

The City's current Comprehensive Plan and land use regulations are in compliance with the Functional Plan. The proposed amendments will be deemed to comply with the Functional Plan if no appeal to the Land Use Board of Appeals is made within the 21-day period set forth in ORS 197.830(9). As required by Metro Code Section 3.07.820.A, the City has provided notice of the proposed amendments to Metro's Chief Operating Officer as much in advance of the City Council hearing on the proposed amendments as possible.

In processing the proposed amendments, the City has followed its own requirements and procedures for citizen involvement. The proposed amendments have been reviewed at a public City Council work session and made available to the City's various Neighborhood District Associations for review. The City has conducted public hearings on the proposed amendments before the Planning Commission and City Council and has published public notice prior to each hearing.

Title 13: Nature in Neighborhoods

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.

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.

This standard is met.

- d. 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.

Goal 1 – Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The City has an adopted and acknowledged amendment process and has followed that process in making these amendments. Public hearings on the proposed amendments have been held and public notice was published prior to each hearing. In addition, all owners of residential property were sent notice of the public hearings. The Planning Commission members are appointed by an elected City Council, following an open and public selection process.

Goal 2 – Land Use Planning

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 amendments will not change the City's land use planning process. The City will continue to have a comprehensive land use plan and implementing regulations that are consistent with the plan. Specifically, the proposed amendments will include standards and requirements related to tree preservation on private property. These changes strengthen the City's existing policies that implement Goal 2.

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

This standard is met.

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

Relevant federal regulations are those that address land use, the environment, or development in the context of local government planning. Typically, regulations such as those set forth under the following acts may be relevant to a local government land use process: the Americans with Disabilities Act, the Clean Air Act, the Clean Water Act, the Endangered Species Act, the Fair Housing Act, the National Environmental Policy Act, the Religious Land Use and Institutionalized Persons Act, and the Resource Conservation and Recovery Act. None of these acts include regulations that impact the subject proposal or that cannot be met through normal permitting procedures. Therefore, the proposal is found to be consistent with federal regulations that are relevant to local government planning.

This standard is met.

The City Council finds that the proposed amendments to MMC Title 16 (Tree Code) are consistent with the applicable approval criteria for zoning text amendments as established in MMC 19.902.5.B.

5. MMC Section 19.1008 Type V Review

MMC 19.1008 establishes the procedures and requirements for Type V review, which is the process for legislative actions. The City Council, Planning Commission, Planning Manager, or any individual may initiate a Type V application.

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

a. MMC Subsection 19.1008.3 establishes the public notice requirements for Type V review.

(1) MMC Subsection 19.1008.3.A General Public Notice

MMC 19.1008.3.A establishes the requirements for public notice, including a requirement to post public notice of a public hearing on a Type V application at least 30 days prior to the first evidentiary hearing. The notice must be posted on the City website and at City facilities that are open to the public.

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 January 18, 2022, hearing was posted as required on December 17, 2021.

(2) MMC Subsection 19.1008.3.B DLCD Notice

MMC 19.1008.3.B requires notice of a Type V application be sent to the Department of Land Conservation and Development (DLCD) as per the standards of MMC Subsection 19.1001.6.C.4.a, which required notice to be sent to DLCD at least 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to DLCD on August 31, 2021, in advance of the first evidentiary hearing on October 12, 2021.

(3) MMC Subsection 19.1008.3.C Metro Notice

MMC 19.1008.3.C requires notice of a Type V application be sent to Metro at least 35 days prior to the first evidentiary hearing.

Notice of the proposed amendments was sent to Metro on August 31, 2021, in advance of the first evidentiary hearing on October 12, 2021.

(4) MMC Subsection 19.1008.3.D Property Owner Notice (Measure 56)

MMC 19.1008.3.D requires notice to property owners if, in the Planning Manager's opinion, the proposed amendments would affect the permissible uses of land for those property owners.

Notice of the proposed amendments was sent to all residential properties in the city on October 20, 2021 in advance of the November 9, 2021 public hearing related to the proposed amendments to the tree code.

b. MMC Subsection 19.1008.4 Type V Decision Authority

MMC 19.1008.4 establishes that the City Council is the review authority for Type V applications and may approve, approve with conditions, amend, deny, or take no action on a Type V application after a public hearing.

The City Council held a public hearing to consider this application on January 18, 2022 and February 1, 2022, and February 15, 2022, and March 15, 2022, and approved the proposed amendments as presented.

c. MMC Subsection 19.1008.5 Type V Recommendation and Decision

MMC 19.1008.5 establishes the procedures for review and a decision on Type V applications. The process includes an initial evidentiary hearing by the Planning Commission and a recommendation to the City Council, followed by a public hearing and decision by the City Council.

The Planning Commission held an initial evidentiary hearing on the tree code on November 9, 2021, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on January 18, 2022 and February 1, 2022, and February 15, 2022, and March 15, 2022, and approved the proposed amendments as presented.

Attachment 2.B.2. - Ordinance Exhibit B
DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH
Revised 3/16/22

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 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 ~~will shall~~ apply for terminology~~7~~ 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.

“Canopy” is the layer of leaves, branches and stems of trees that cover the ground when viewed from above. Canopy cover is measured as the proportion of a fixed area of the ground covered by tree crowns.

“City” means the City of Milwaukie.

“City Engineer” means the city engineer of the City of Milwaukie or designee.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

“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 extending from the trunk and including the ~~trunk and branches~~ branches, stems, leaves, and reproductive structures.

“Crown Area” means the average area in square feet that the tree crown covers (Figure 16.32.010).

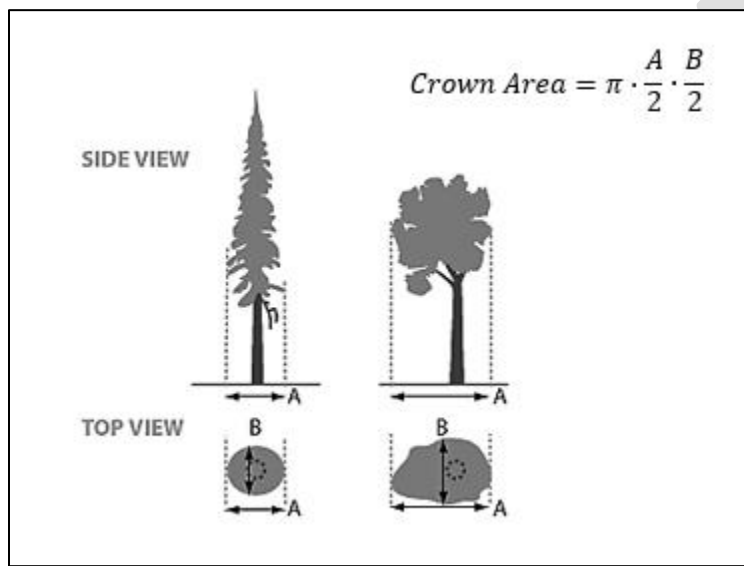


Figure 16.32.010 – Measuring crown area

“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” or “DBH” 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 at the lowest point of ground at the base of the tree. 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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

“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~~live crown, or less than ~~150%~~150% of the root ~~area~~system 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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

any other group or combination acting as a unit ~~means any individual, firm, association, corporation, agency, or organization of any kind.~~

~~“Planning Director Manager” means the planning director manager 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. When any portion of the trunk of a tree crosses a public right-of-way line at ground level, it is considered a street tree.

“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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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 Manager, 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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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 will ~~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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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~~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,

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

- 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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

(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 April. 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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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 at breast height, except as provided in this section.
- b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at breast height at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment ~~will 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 must 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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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 reductions and exemptions 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 Dwelling Unit.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

B. Clear and Objective 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 25 percent of onsite existing tree canopy may be removed below the overall 40 percent site canopy coverage standard unless mitigation is provided according to MMC 16.32.042.D. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. Public right-of-way is not considered part of the development site for the purposes of these calculations.

Trees listed on the City of Milwaukie Rare or 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.

Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing tree crown area to be factored into preservation calculations as defined in the master fee schedule.

C. Clear and Objective Tree ~~Canopy-Planting~~ Standards

40% canopy coverage is the standard site canopy coverage for residential developed lots. In addition to the preservation of onsite trees, at least 40 percent tree canopy is required for a development site from existing trees or new tree plantings unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way ~~is not considered part of the development site~~ will be considered offsite for the purpose of these planting standard calculations for the purposes of these calculations. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

Table 16.32.042.C.1

<u>Tree Location</u>	<u>Existing Trees</u>	<u>Newly Planted Trees</u>
<u>Onsite Trees</u> <u>(Trees located within the tax lot)</u>	<u>100% of the existing or future mature crown area, whichever is greater</u> <u>*Significant tree credit for large DBH trees – see master fee schedule*</u>	<u>75% of the future mature crown area</u>

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

<u>Offsite Trees</u> <u>(Street trees within the adjacent ROW)</u>	<u>50% of the existing or future mature crown area, whichever is greater</u>	<u>50% of the future mature crown area</u>
---	--	--

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. One hundred percent (100%) of the existing ~~canopy crown area~~ or mature crown area of onsite trees ~~with 6" to less than 12" DBH~~ 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. Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing or future mature crown area to be factored into preservation calculations as defined in the master fee schedule.
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 planting~~ standards.

D. Mitigation Standards

If the ~~t~~Tree ~~p~~Preservation and/or ~~t~~Tree ~~C~~anopy ~~p~~lanting ~~s~~Standards ~~-~~are not met, mitigation fees must be provided to the Tree Fund as follows:

1. The ~~fee in lieu of preservation standard~~ in the Master Fee Schedule based on the percentage of removed canopy ~~coverage~~ below the minimum tree canopy preservation standard as defined in MMC 16.32.042 ~~-B~~.
2. The fee in lieu of planting standard in the Master Fee Schedule based on the square footage of tree ~~canopy crown area~~ that would be required to meet the 40 percent tree ~~canopy planting~~ standard.

E. Variance Procedure.

1. An applicant may apply for a variance to the tree preservation and/or tree ~~canopy planting~~ standards. An application for a variance will be heard and

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

decided by the Planning Commission in accordance with the provisions of MMC 19.1006 (Type III review) according to MMC 19.911. The applicant is required to demonstrate that equivalent or greater environmental benefits are provided as preserving or planting the required tree ~~canopy~~ crown area. Examples of activities that may justify a variance include but are not limited to:

- a. Use of techniques that minimize hydrological impacts beyond regulatory requirements (examples include 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. Use of 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. Use of 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. Use of 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 prepared by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as approved by the Urban Forester 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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

(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 (25%) 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 **from the trunk** (see Figure 16.32.042.F)

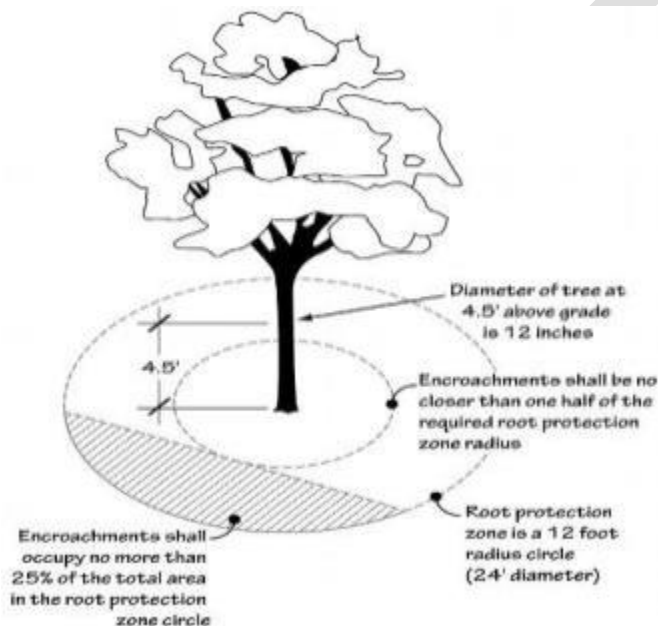


Figure 16.32.042.F – Example of Permissible RPZ Encroachments

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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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 or construction begins, including clearing and grading, and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path cannot be met for onsite trees 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 plan 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 impacts 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.

e. Variances for the Tree Protection standard for offsite trees are prohibited.

G. Soil Volume Standards

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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 with the Urban Forester in writing that the soil volume plan has been 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 3 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 3 feet.

d. The soil volume areas must be continuous and within a 50-foot radius of the tree to be planted. Continuous soil volumes must be at least 3 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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

(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 by the Urban Forester to be inadequate to support healthy tree growth to maturity based on factors such as compaction levels, drainage, fertility, pH, and potential contamination 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 continuous and within a 50-foot radius of the tree to be planted. Continuous soil volumes must be at least 3 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 submitted by the applicant 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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

- (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 G. 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, all trees at least 2-inch DBH that are listed on the Oregon Noxious Weed List or Milwaukie Invasive Tree List, 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:

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

- (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 on the Milwaukie Rare or Threatened Tree List.

i. Identify whether the tree is proposed for removal or retained.

j. Organize the tree inventory information in a table or other format approved in writing by the Urban Forester.

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 rare or threatened trees as described in the City of Milwaukie rare or threatened 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 and description 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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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~~ Planting 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 diagram depicting the tree planting 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 species selection and spacing of trees to be planted must be such that it provides for the eventual mature size of the trees. Soil type, soil conditions and other site constraints shall be considered when selecting species for planting. Final site plans must be approved by the Urban Forester.

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 that, at full maturity, will not require pruning to avoid interference with the lines.

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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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 tree preservation standards in MMC 16.32.042.B have been met.
- c. Provide findings and calculations that demonstrate whether the tree ~~canopy planting~~ standards in MMC 16.32.042.C have been met.
- d. If the tree preservation and/or tree ~~canopy planting~~ standards have not been met, provide calculations for the applicable tree mitigation fees as required by MMC 16.32.042.D.
- e. If the applicant is seeking a variance to the tree preservation and/or tree ~~canopy planting~~ standards in place of providing mitigation fees, provide findings that demonstrate the 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 rare or 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 approval standards will be applied to type 1 tree removal permits by the Urban Forester:

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

a. 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 or the Milwaukie Invasive Tree 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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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.

(k) Healthy trees. One (1) healthy tree may be removed per ~~site-tax lot~~ per 12-month period if the tree meets the following:

i. The tree is less than 12 inches in diameter ~~at breast height~~;

ii. None of the trees are required to be preserved by a condition of a land use review, a provision of this chapter or Title 19, or as part of a required stormwater facility;

(3) Unless removed for thinning purposes (MMC 16.32.042.1.2.a.j) or invasive species status (MMC 16.32.042.1.2.a.e) 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

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

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 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 for approving, approving with conditions, or denying a tree removal permit application.

a. Review criteria: The City encourages retention of healthy private trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. The City will not issue a type 2 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 significantly affect public safety or neighborhood character based on the following:

(a) The age, size, form, **species**, general condition, pruning history and any unique qualities or attributes of the trees;

(b) The cumulative impacts of current and prior tree removals in the area; and

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

(c) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

b. Approval Standards: The Urban Forester will at a minimum condition the removal of tree based on MMC 16.32.042 I.2.a.(3) and the Urban Forester will condition the removal of each tree upon the planting of additional replacement tree(s) as outlined in Table 16.32.042.I.3.b:

Table 16.32.042.I.3.b: Type 2 Permit Replacement Tree Requirements

<u>Diameter at Breast Height of Tree Removed</u>	<u>Number of Additional Replacement Trees Required:</u>	<u>Total Replacement Trees Required for Type 2 Permit</u>
<u>6" DBH to <12" DBH</u>	<u>--</u>	<u>1 tree</u>
<u>12" DBH to <24" DBH</u>	<u>1 tree</u>	<u>2 trees</u>
<u>24" DBH to <36" DBH</u>	<u>2 trees</u>	<u>3 trees</u>
<u>36" DBH or greater</u>	<u>3 trees</u>	<u>4 trees</u>

4. Applications: An application for a tree removal permit must be made upon forms prescribed by the City and contain the following:

- a. Photograph(s) that clearly identify the tree(s) proposed for removal.
- b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.
- c. Information as to whether the tree is within a Habitat Conservation Area overlay district or is part of an approved landscape or mitigation plan.
- d. Any additional information required by the City.
- e. An application for a tree cutting permit must be accompanied by the correct fee as established in the Master Fee Schedule.

5. Application Procedures Type 1 Tree Removal Permit: Type 1 permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Type 1 permits are reviewed administratively by the Urban Forester without public notice, and the decision may be appealed to the City Manager by the applicant.

- a. Application Procedures Type 1 Tree Removal Permit.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

(1) Applications for a Type 1 Tree Removal Permit must meet the requirements of Section MMC 16.32.042. 1.4.

(2) Additional information required.

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision will be based on an evaluation of the facts and applicable standards and review criteria in MMC 16.32.042 1.2.a.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review criteria and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5) If no appeal is filed as specified in subsection 7, the decision of the Urban Forester is final.

6. Application Procedures Type 2 Tree Removal Permit: Type 2 Tree Removal permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety and to ensure that the impacts of tree removal are mitigated and may require public notice as set forth below. Type 2 permits are reviewed administratively by the Urban Forester, and the decision may be appealed to the City Manager by the applicant.

a. Application.

(1) Generally. Applications for a Type 2 Tree Removal Permit must meet the requirements of Section 16,32.042. 1.4.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

(2) Additional information required:

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

(d) Public notice is required if the tree is healthy and larger than 12 inches in diameter **at breast height**.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision must be based on an evaluation of the facts and applicable standards and review factors in MMC 16.32.042 I.3.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5) If no appeal is filed as specified in subsection 7. below, the decision of the Urban Forester is final.

c. Appeal. The applicant may appeal the Urban Forester's decision. Appeals must be:

(1) Filed with the Urban Forester on forms prescribed by the City;

(2) Filed within 14 days from the date of the Urban Forester's decision; and

(3) Specifically identify how the Urban Forester erred in applying the standards or review criteria.

(4) Appeals are heard by the City Manager.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

(5) The City Manager will consider the application against the applicable standards or review criteria, taking into consideration information provided by the applicant and City staff.

(5) The City Manager may affirm or reverse the Urban Forester's decision or remand the decision to the Urban Forester to determine appropriate mitigation.

(6) The appeal decision of the City Manager is final and may not be appealed to another review body within the City.

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) City of Milwaukee 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 MMC 16.32.042:

a. A person who removes a tree regulated by MMC 16.32.042 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.

DRAFT MILWAUKIE RESIDENTIAL TREE CODE – UNDERLINE/STRIKETHROUGH

Revised 3/16/22

b. Topping, pruning, or otherwise inflicting 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.

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.

d. Evidence of Violation.

(1) If a tree is removed without a type 1 or 2 tree removal permit, a violation will be determined by measuring the stump. A stump that is eight (8) caliper inches or more in diameter will be considered prima facie evidence of a violation of this chapter.

(2) Removal of the stump of a tree removed without a tree removal permit is a violation of this chapter.

(3) Proof of violation of this chapter will be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed.

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 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 will 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.

“Canopy” is the layer of leaves, branches and stems of trees that cover the ground when viewed from above. Canopy cover is measured as the proportion of a fixed area of the ground covered by tree crowns.

“City” means the City of Milwaukee.

“City Engineer” means the city engineer of the City of Milwaukee 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 extending from the trunk and including the branches, stems, leaves, and reproductive structures.

“Crown Area” means the average area in square feet that the tree crown covers (Figure 16.32.010).

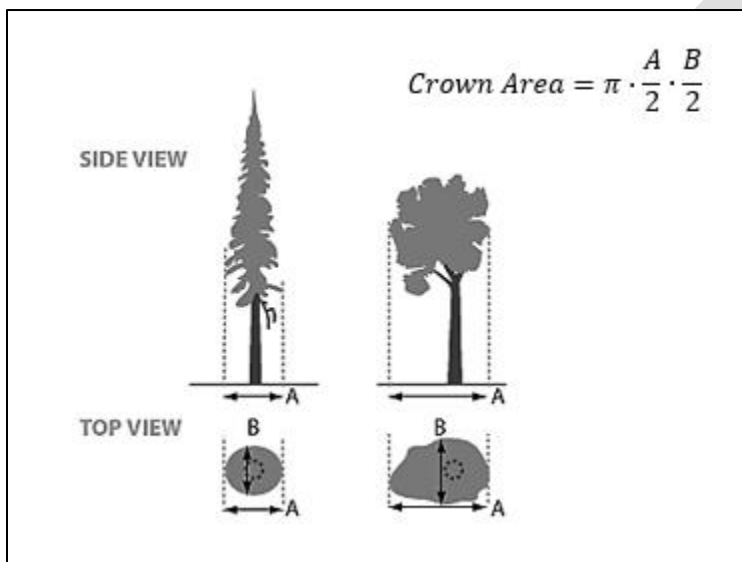


Figure 16.32.010 – Measuring crown area

“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” or “DBH” 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 at the lowest point of ground at the base 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 live crown, or less than 15% of the root system 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.

"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.

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

"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. When any portion of the trunk of a tree crosses a public right-of-way line at ground level, it is considered a street tree.

"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 a 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 ~~will~~ 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 April. 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 at breast height, except as provided in this section.
 - b. If an applicant requests removal of a healthy tree 6 or more inches in diameter at breast height at time of application or during the period in which the programmatic permit is in effect, an opportunity for public comment will 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 must 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 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 reductions and exemptions 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.

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 Dwelling Unit.

B. Clear and Objective 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 25 percent of onsite existing tree canopy may be removed below the overall 40 percent site canopy coverage standard unless mitigation is provided according to MMC 16.32.042.D. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. Public right-of-way is not considered part of the development site for the purposes of these calculations.

Trees listed on the City of Milwaukie Rare or 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.

Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing tree crown area to be factored into preservation calculations as defined in the master fee schedule.

C. Clear and Objective Tree Planting Standards

40% canopy coverage is the standard site canopy coverage for residential developed lots. In addition to the preservation of onsite trees, at least 40 percent tree canopy is required for a development site from existing trees or new tree plantings unless mitigation is provided according to MMC 16.32.042.D. Public right-of-way will be considered offsite for the purpose of these planting standard calculations. Tree species on the Oregon Noxious Weed List or Milwaukie Invasive Tree List are not to be included in the total canopy coverage calculations. The following is eligible for credit towards tree canopy requirements when planted or preserved in accordance with City of Milwaukie standards:

Table 16.32.042.C.1

Tree Location	Existing Trees	Newly Planted Trees
Onsite Trees (Trees located within the tax lot)	100% of the existing or future mature crown area, whichever is greater *Significant tree credit for large DBH trees – see master fee schedule*	75% of the future mature crown area
Offsite Trees (Street trees within the adjacent ROW)	50% of the existing or future mature crown area, whichever is greater	50% of the future mature crown area

1. Seventy-five percent (75%) of the mature crown area of planted onsite trees.
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. One hundred percent (100%) of the existing crown area or mature crown area of onsite 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. Healthy trees with DBH of 12" or greater may receive additional canopy credits for existing or future mature crown area to be factored into preservation calculations as defined in the master fee schedule.
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 planting standards.

D. Mitigation Standards

If the tree preservation and/or tree planting standards are not met, mitigation fees must be provided to the Tree Fund as follows:

1. The fee in lieu of preservation standard in the Master Fee Schedule based on the percentage of removed canopy coverage below the minimum tree canopy preservation standard as defined in MMC 16.32.042.B.
2. The fee in lieu of planting standard in the Master Fee Schedule based on the square footage of tree crown area that would be required to meet the 40 percent tree planting standard.

E. Variance Procedure.

1. An applicant may apply for a variance to the tree preservation and/or tree planting standards. An application for a variance will be heard and decided by the Planning Commission in accordance with the provisions of MMC 19.1006 (Type III review) according to MMC 19.911. The applicant is required to demonstrate that equivalent or greater environmental benefits are provided as preserving or planting the required tree crown area. Examples of activities that may justify a variance include but are not limited to:

- a. Use of techniques that minimize hydrological impacts beyond regulatory requirements (examples include 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. Use of 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. Use of 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. Use of 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 prepared by an ISA certified arborist that demonstrates adequate protection of the trees to be preserved as approved by the Urban Forester 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 (25%) 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 from the trunk (see Figure 16.32.042.F)

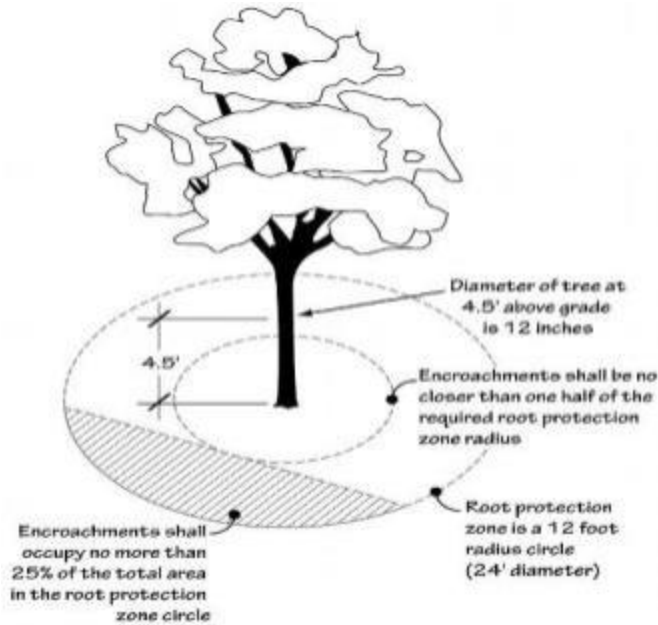


Figure 16.32.042.F – Example of Permissible RPZ Encroachments

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 or construction begins, including clearing and grading, and will remain in place until final inspection.

2. Performance Path for Tree Protection.

When the prescriptive path cannot be met for onsite trees 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 plan 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 impacts 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.
- e. Variances for the Tree Protection standard for offsite trees are prohibited.

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 with the Urban Forester in writing that the soil volume plan has been 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 3 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 3 feet.
- d. The soil volume areas must be continuous and within a 50-foot radius of the tree to be planted. Continuous soil volumes must be at least 3 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 by the Urban Forester to be inadequate to support healthy tree growth to

maturity based on factors such as compaction levels, drainage, fertility, pH, and potential contamination 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 continuous and within a 50-foot radius of the tree to be planted. Continuous soil volumes must be at least 3 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 submitted by the applicant 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) filling
- (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 G.

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, all trees at least 2-inch DBH that are listed on the Oregon Noxious Weed List or Milwaukie Invasive Tree List, 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 on the Milwaukie Rare or Threatened Tree List.
- i. Identify whether the tree is proposed for removal or retained.
- j. Organize the tree inventory information in a table or other format approved in writing by the Urban Forester.

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 rare or threatened trees as described in the City of Milwaukee rare or threatened 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 and description 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 Planting 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 Milwaukee 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 diagram depicting the tree planting 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 species selection and spacing of trees to be planted must be such that it provides for the eventual mature size of the trees. Soil type, soil conditions and other site constraints shall be considered when selecting species for planting. Final site plans must be approved by the Urban Forester.
- 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 that, at full maturity, will not require pruning to avoid interference with the lines.
- 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 tree preservation standards in MMC 16.32.042.B have been met.
- c. Provide findings and calculations that demonstrate whether the tree planting standards in MMC 16.32.042.C have been met.
- d. If the tree preservation and/or tree planting standards have not been met, provide calculations for the applicable tree mitigation fees as required by MMC 16.32.042.D.
- e. If the applicant is seeking a variance to the tree preservation and/or tree planting standards in place of providing mitigation fees, provide findings that demonstrate the 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 rare or 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 approval standards will be applied to type 1 tree removal permits by the Urban Forester:

a. **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 or the Milwaukie Invasive Tree 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.

(k) Healthy trees. One (1) healthy tree may be removed per tax lot per 12-month period if the tree meets the following:

i. The tree is less than 12 inches in diameter at breast height;

ii. None of the trees are required to be preserved by a condition of a land use review, a provision of this chapter or Title 19, or as part of a required stormwater facility;

(3) Unless removed for thinning purposes (MMC 16.32.042.1.2.a.j) or invasive species status (MMC 16.32.042.1.2.a.e) 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 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 for approving, approving with conditions, or denying a tree removal permit application.

a. Review criteria: The City encourages retention of healthy private trees where practical alternatives to removal exist, and where those alternatives meet the owner's objectives for reasonable use and enjoyment of the property. Factors are considered to ensure that significant adverse impacts are avoided or mitigated, weighing the broader economic, ecological, and community concerns. These decisions are fact-specific and are made on a case-by-case basis. The City will not issue a type 2 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 significantly affect public safety or neighborhood character based on the following:
 - (a) The age, size, form, species, general condition, pruning history and any unique qualities or attributes of the trees;
 - (b) The cumulative impacts of current and prior tree removals in the area; and
 - (c) When the tree is associated with a grove, whether removal of the tree will have a significant adverse impact on the viability of other trees or make other trees considerably more vulnerable to windthrow.

b. Approval Standards: The Urban Forester will at a minimum condition the removal of tree based on MMC 16.32.042 I.2.a.(3) and the Urban Forester will condition the removal of each tree upon the planting of additional replacement tree(s) as outlined in Table 16.32.042.I.3.b:

Table 16.32.042.I.3.b: Type 2 Permit Replacement Tree Requirements

Diameter at Breast Height of Tree Removed	Number of Additional Replacement Trees Required:	Total Replacement Trees Required for Type 2 Permit
6" DBH to <12" DBH	--	1 tree
12" DBH to <24" DBH	1 tree	2 trees
24" DBH to <36" DBH	2 trees	3 trees
36" DBH or greater	3 trees	4 trees

4. Applications: An application for a tree removal permit must be made upon forms prescribed by the City and contain the following:
 - a. Photograph(s) that clearly identify the tree(s) proposed for removal.
 - b. The number, DBH, species, and location of the trees proposed to be cut on a site plan of the property drawn to scale.
 - c. Information as to whether the tree is within a Habitat Conservation Area overlay district or is part of an approved landscape or mitigation plan.
 - d. Any additional information required by the City.
 - e. An application for a tree cutting permit must be accompanied by the correct fee as established in the Master Fee Schedule.

5. Application Procedures Type 1 Tree Removal Permit: Type 1 permits are technical determinations regarding the facts of a particular request, and applications of city standards to ensure that work is performed in accordance with best management practices to protect trees, the public, or public infrastructure, and to ensure appropriate tree replacement. Type 1 permits are reviewed administratively by the Urban Forester without public notice, and the decision may be appealed to the City Manager by the applicant.
 - a. Application Procedures Type 1 Tree Removal Permit.
 - (1) Applications for a Type 1 Tree Removal Permit must meet the requirements of Section MMC 16.32.042. 1.4.
 - (2) Additional information required.
 - (a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.
 - (b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.
 - (c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.
 - b. Decision by the Urban Forester.
 - (1) The Urban Forester's decision will be based on an evaluation of the facts and applicable standards and review criteria in MMC 16.32.042 1.2.a.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review criteria and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5) If no appeal is filed as specified in subsection 7, the decision of the Urban Forester is final.

6. Application Procedures Type 2 Tree Removal Permit: Type 2 Tree Removal permits involve the consideration of relevant technical and qualitative factors to prevent risks to public health and safety and to ensure that the impacts of tree removal are mitigated and may require public notice as set forth below. Type 2 permits are reviewed administratively by the Urban Forester, and the decision may be appealed to the City Manager by the applicant.

a. Application.

(1) Generally. Applications for a Type 2 Tree Removal Permit must meet the requirements of Section 16.32.042. I.4.

(2) Additional information required:

(a) If the Urban Forester requires additional information to review an application, the Urban Forester will send a notice to the applicant requesting the additional information.

(b) The applicant will have a maximum of 30 days from the date of the Urban Forester's notice to submit the additional information.

(c) If the additional information is not received by the Urban Forester within 30 days from the date of the Urban Forester's notice, the application will be voided on the 31st day. The City will not refund the filing fee.

(d) Public notice is required if the tree is healthy and larger than 12 inches in diameter at breast height.

b. Decision by the Urban Forester.

(1) The Urban Forester's decision must be based on an evaluation of the facts and applicable standards and review factors in MMC 16.32.042 I.3.

(2) The Urban Forester may issue the permit, deny the permit, or may apply conditions of approval to the permit to ensure the request complies with the applicable review factors and standards.

(3) Any work done under a permit must be performed in strict accordance with the terms and provisions of this chapter and conditions of approval of the permit.

(4) The Urban Forester must notify the applicant of the decision in writing.

(5). If no appeal is filed as specified in subsection 7. below, the decision of the Urban Forester is final.

c. Appeal. The applicant may appeal the Urban Forester's decision. Appeals must be:

(1) Filed with the Urban Forester on forms prescribed by the City;

(2) Filed within 14 days from the date of the Urban Forester's decision; and

(3) Specifically identify how the Urban Forester erred in applying the standards or review criteria.

(4) Appeals are heard by the City Manager.

(5) The City Manager will consider the application against the applicable standards or review criteria, taking into consideration information provided by the applicant and City staff.

(5) The City Manager may affirm or reverse the Urban Forester's decision or remand the decision to the Urban Forester to determine appropriate mitigation.

(6) The appeal decision of the City Manager is final and may not be appealed to another review body within the City.

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) City of Milwaukie 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 MMC 16.32.042:

a. A person who removes a tree regulated by MMC 16.32.042 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.

b. Topping, pruning, or otherwise inflicting 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.

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.

d. Evidence of Violation.

(1) If a tree is removed without a type 1 or 2 tree removal permit, a violation will be determined by measuring the stump. A stump that is eight (8) caliper inches or more in diameter will be considered prima facie evidence of a violation of this chapter.

(2) Removal of the stump of a tree removed without a tree removal permit is a violation of this chapter.

(3) Proof of violation of this chapter will be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation was committed.

DRAFT



Fiscal Years 2021 & 2022

MASTER FEE SCHEDULE

REVISED FOR PROPOSED PRIVATE RESIDENTIAL TREE CODE

Revision date: 03/02/2022

4. TREES IN THE CITY

Trees are considered valuable urban infrastructure that should be nurtured and protected as a community asset. The Milwaukie Municipal Code Chapter 16.32 Tree Code, Council Ordinance 2197 (Resolution 11/17/2020), is to establish, maintain, and increase the quantity and quality of tree cover 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.

Per the City of Milwaukie Tree Code, a right-of-way (ROW) tree removal permit is required for all trees that are over 2" DBH (diameter at breast height) that are located in the ROW or on city property. A tree is considered to be in the ROW if any portion of its trunk falls in the ROW. A pruning permit is required if more than 20% of the tree's canopy is going to be removed or if more than 10% of its root system will be impacted. To prune or remove a tree that is in the ROW, an ROW permit application must be submitted along with a \$50.00 application processing fee. A permit application is typically approved if the tree is invasive, dead/dying, diseased, or poses an unreasonable risk to public safety. If the tree is healthy, the City of Milwaukie encourages applicants to reconsider removing the tree.

Public Trees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Public Tree Removal or Major Pruning Permit ¹	\$50.00	\$50.00
Public Tree Permit (Planting)	No charge	No charge
Healthy Tree Removal Fee:		
2" or less diameter of breast height (DBH)	\$40.00	\$40.00
2" to 4" DBH	\$60.00 per inch DBH	\$60.00 per inch DBH
4" to 8" DBH	\$80.00 per inch DBH	\$80.00 per inch DBH
8" to 14" DBH	\$100.00 per inch DBH	\$100.00 per inch DBH
14" to 20" DBH	\$150.00 per inch DBH	\$150.00 per inch DBH
20" or greater DBH	\$200.00 per inch DBH	\$200.00 per inch DBH
Public Tree Planting and Establishment Fee (in lieu of planting)	\$675.00 per tree	\$675.00 per tree
Public Tree Enforcement/Restoration Fee:		
Damaged Tree	\$225.00 per inch DBH	\$225.00 per inch DBH
Removed Tree	\$450.00 per inch DBH	\$450.00 per inch DBH

Proposed revisions to Master Fee Schedule – Private Tree Code

Proposed Private Tree Code Fee Schedule

The following fees are associated with the proposed private residential tree code (MMC 16.32.042 proposed). For more information on the proposed tree code, visit: milwaukieoregon.gov/planning/za-2021-002.

Red text indicates changes since 2/15/22 public hearing.

Private Non-Development Tree Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Residential Tree Application Fee (Type 1)	\$0.00	\$0.00
Residential Tree Application Fee (Type 1 and 2)	\$50.00	\$50.00
Healthy private tree removal fee beyond one tree per 12-month period ¹ Measurements are in diameter at breast height (DBH). 6 to <8" DBH 8 to <14" DBH 14" to <20" DBH 20" to <36" DBH 36" or greater ¹ No removal fee for 1 st tree less than 12" DBH removed under type 1 permit.	\$80.00 per inch DBH \$100.00 per inch DBH \$150.00 per inch DBH \$200.00 per inch DBH \$250.00 per inch DBH	\$80.00 per inch DBH \$100.00 per inch DBH \$150.00 per inch DBH \$200.00 per inch DBH \$250.00 per inch DBH
Rare or Threatened Tree	\$250.00 per inch DBH	\$250.00 per inch DBH
Planting and Establishment Fee in lieu of Replanting for Non-Development Private Residential Trees	\$2000 675.00 per tree	\$2000 675.00 per tree

Private Development Tree Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Residential Construction Tree Plan Review Fee	\$200.00	\$200.00
Site Inspection Fee	\$50.00	\$50.00
Site Re-inspection Fee	\$175.00	\$175.00
Fee in lieu of canopy preservation standard in residential development <i>Canopy percentage measurements are in sq ft canopy / total site sq ft</i>	\$4000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: \$4000.00 <22.5%-15%: \$4000.00 <15%-7.5%: \$4000.00 <7.5%-0%: \$4000.00	\$4000.00 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: \$4000.00 <22.5%-15%: \$4000.00 <15%-7.5%: \$4000.00 <7.5%-0%: \$4000.00
Fee in lieu of canopy preservation standard for eligible residential affordable housing <i>Canopy percentage measurements are in sq ft canopy / total site sq ft</i>	\$2000 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: \$2000.00 <22.5%-15%: \$2000.00 <15%-7.5%: \$2000.00 <7.5%-0%: \$2000.00	\$2000 for each reduction of 7.5% site canopy coverage below 30% total site canopy. Fees are cumulative based on total canopy reduction. Remaining site canopy <30%-22.5%: \$2000.00 <22.5%-15%: \$2000.00 <15%-7.5%: \$2000.00 <7.5%-0%: \$2000.00

Proposed revisions to Master Fee Schedule – Private Tree Code

Significant Tree Credits <i>Retained significant trees in diameter at breast height (DBH)</i>		
Retained significant tree 12" to <20" DBH	125% existing or future canopy multiplier	125% existing or future canopy multiplier
Retained significant tree >20" DBH	150% existing or future canopy multiplier	150% existing or future canopy multiplier
Retained significant tree >36" DBH	175% existing or future canopy multiplier	175% existing or future canopy multiplier
Rare or Threatened Tree	\$250.00 per inch DBH	\$250.00 per inch DBH
Fees in Lieu of Canopy-Planting Standard	\$5.00 per square foot of canopy necessary to meet 40% site coverage	\$5.00 per square foot of canopy necessary to meet 40% site coverage
Bonding Requirements		
Tree Protection	150% of appraised value of protected trees held for 3 years	150% of appraised value of protected trees held for 3 years
Post Development	\$3500.00 per newly planted tree for a 5-year period	\$3500.00 per newly planted tree for a 5-year period

Private Enforcement and Restoration Fees	Fiscal Year 2023 Fee	Fiscal Year 2024 Fee
Violation Review Fee	\$200.00	\$200.00
Damaged Private Tree Fee	\$225.00 per inch DBH	\$225.00 per inch DBH
Unpermitted Private Tree Removal Fee		
6" to <12" DBH	\$2000.00 per tree	\$2000.00 per tree
12" to <18" DBH	\$167.00 per inch DBH	\$167.00 per inch DBH
18" to <24" DBH	\$200.00 per inch DBH	\$200.00 per inch DBH
24" to <36" DBH	\$250.00 per inch DBH	\$250.00 per inch DBH
36" or greater DBH	\$300.00 per inch DBH	\$300.00 per inch DBH



COUNCIL RESOLUTION No.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, REVISING FEES AND CHARGES AND UPDATING SECTION 5 OF THE MASTER FEE SCHEDULE FOR FISCAL YEARS 2021 AND 2022.

WHEREAS it is the policy and practice of the city to determine and recover certain city costs from fees and charges levied for various services, products, and regulations; and

WHEREAS the city manager must periodically review city fees and charges to ensure the recovery of city costs in providing services, products, and regulations, and recommend adjustments to the City Council; and

WHEREAS Milwaukie advisory boards, commissions, and committees periodically recommend adjustments to the fees and charges levied for various services, products, and regulations; and

WHEREAS the city manager has reviewed city fees and charges, has received guidance from advisory boards, commissions, committees, and city staff, and has finalized the updated master fee schedule.

Now, Therefore, be it Resolved that:

SECTION 1. The City of Milwaukie "Fees" document included as Exhibit A to this resolution is hereby adopted.

SECTION 2. This resolution supersedes previously adopted fee resolutions.

Introduced and adopted by the City Council on _____.

This resolution is effective immediately.

Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

Scott S. Stauffer, City Recorder

Justin D. Gericke, City Attorney

Scott Stauffer

From: Sara Van Dyke <sara.vandyke.design@gmail.com>
Sent: Monday, March 21, 2022 4:19 PM
To: OCR
Subject: Private Tree Code

Follow Up Flag: Follow up
Flag Status: Flagged

This Message originated outside your organization.

Hello,

I am writing to voice my support for the Private Tree Code which is due to go into effect soon.

We live next door to a property that was recently sold to developers. The property has several large/old-growth trees with one oak tree being especially magnificent. Not only does this tree provide all of our East-side shade in the summer months; it is also home to owls, squirrels, and countless other species of birds. I estimate the circumference of the trunk is between six and eight feet. The tree is easily 100 feet tall and hundreds of years old--making it one of the oldest residents in Milwaukie.

I have heard through the neighbors that the developers plan to cut down the tree and sell the wood for profit. The tree is not damaging the existing home's foundation and the property is large enough to build around it. The previous owners of the property had the tree regularly maintained by arborists and it rarely loses limbs in storms. The developers are making the *choice* to cut this tree down and it is a choice that is purely based on greed.

I understand that private property owners should have the freedom to make changes on their property if needed but in this case, this tree is a local treasure and it belongs to the neighborhood--rather than the current developers. With global warming in full swing and our depleting tree canopy, I want to ask in the strongest words possible that the city move the private tree code forward to save this tree from destruction. Once it is gone, there is no replacing it. Replanting will not replace this tree--not in any of our lifetimes. My children and their children deserve to grow up in a world where there are still giants like this one and where they can be assured that our generation made the choice to preserve rather than destroy.

Thank you,

--

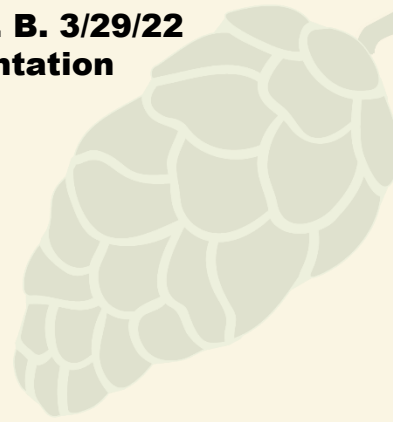
Sara Van Dyke
sara.vandyke.design@gmail.com
503-929-5448

Residential Tree Code

urbanforest@milwaukieoregon.gov

503-786-7655

milwaukieoregon.gov/trees



**MILWAUKIE
URBAN FOREST**
Growing Trees
Growing Community

Code updates since 02/15 hearing

- Revisions for clarity
- Rephrasing of 'canopy standard' to 'planting standard'
- Revision of Type 2 replacement requirements to # of trees instead of equivalent DBH
- Removal of penalty language in MMC 16.32.040 and MMC 16.32.042.J to allow for situational reduction of fines

Fee updates

- Revision of Type 1 tree permit application fee from \$50 to \$0
- Revision of fee-in-lieu of replanting for private non-development from \$2000 to \$675 to match public fees
- Revisions for clarity

Questions?

urbanforest@milwaukieoregon.gov

503-786-7655

milwaukieoregon.gov/trees



**MILWAUKIE
URBAN FOREST**

Growing Trees
Growing Community

Residential Non-Development

Permit required for trees >6" diameter at breast height (DBH)

Type 1 Tree Permit No Fees

- Dead/dying/diseased
- Unmitigable infrastructure impacts
- Public safety risk
- Invasive
- Fire hazard
- Public transportation ROW projects
- Utility infrastructure or building permit
- One Healthy Tree per Year <12" DBH

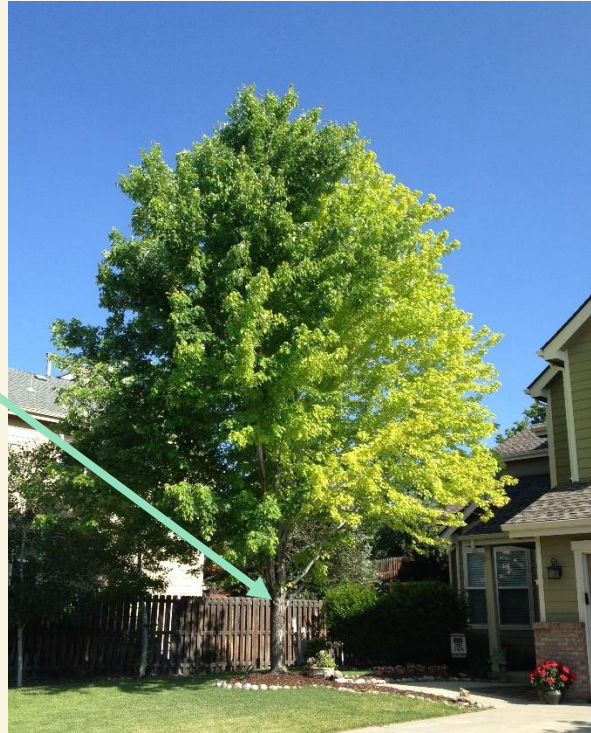
Type 2 Tree Permit Permit/Removal Fees

- Healthy tree >12" DBH
 - *Public notice required*
- More than one healthy tree >6" DBH

Replanting Requirements

- Replanting requirement for type 1 and type 2 tree removals
- Additional replanting requirements for trees >18"
- Exemption for invasive tree removal or approved thinning removal
- Fee-in-lieu of replanting option available

Residential ND Example – Type 2



Example: Type 2* - One healthy tree removal > 12'' - \$1350.00

Private Non-Development Tree Fees	Fiscal Year 2023 Fee
Residential Tree Application Fee (Type 1 and 2)	\$50.00
Healthy private tree removal fee beyond one tree per 12-month period ¹ Measurements are in diameter at breast height (DBH).	
6 to <8" DBH	\$80.00 per inch DBH
8 to <14" DBH	\$100.00 per inch DBH
14" to <20" DBH	\$150.00 per inch DBH
20" or greater	\$200.00 per inch DBH
¹ No removal fee for 1 st tree less than 12" DBH removed under type 1 permit.	
Planting and Establishment Fee in lieu of Replanting for Non-Development Private Residential Trees	\$2000.00 per tree

*Other qualifying criteria for approval

Residential Development – Preservation Standards

- Established to protect existing trees on site
- No breakdown of species priority besides additional fees for removal of rare or threatened species
- Invasive species not included
- Mitigation required if removing past 30% onsite canopy
- Significant tree credit for >12" trees

New Canopy Coverage	Mitigation Fee
<30% - 22.5%	\$4000
<22.5% - 15%	\$4000
<15% - 7.5%	\$4000
<7.5% - 0%	\$4000



30% Existing Site Canopy
Removal of tree
24% site coverage
Ex. \$4000 Mitigation Fee



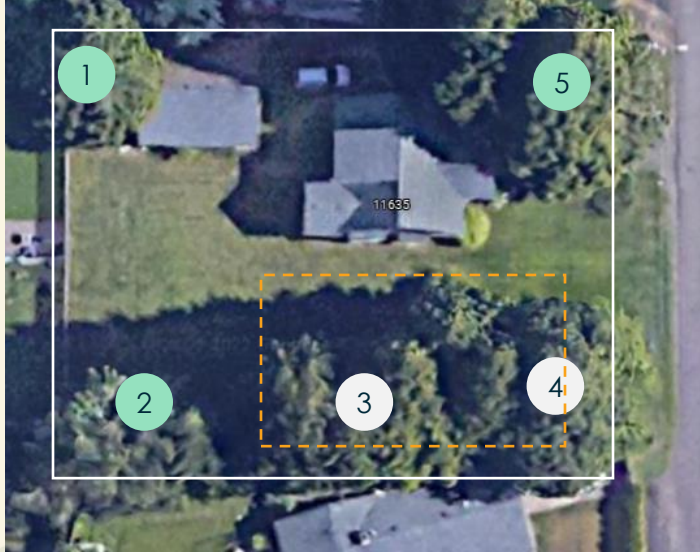
50% Existing Site Canopy
Removal of tree
20% site coverage
Ex. \$8000 Mitigation Fee



90% Existing Site Canopy
Removal of 3 trees
70% site coverage
Ex. No Mitigation Fee

Preservation Standard

SITE DESIGN A



New Canopy Coverage	Mit. Fee
<30% - 22.5%	\$4000
<22.5% - 15%	\$4000
<15% - 7.5%	\$4000
<7.5% - 0%	\$4000

Tree	DBH	Species	Existing Canopy Radius	Existing Canopy	Sig. Tree Credit	Potential Canopy Credit
1	8"	True Fir	9 ft	254 ft ²	--	--
2	10"	Washington Hawthorne	11 ft	380 ft ²	--	--
3	14"	American Elm	17 ft	907 ft ²	X 125%	1133.75
4	15"	Red Oak	18 ft	1017 ft ²	X 125%	1271.25
5	13"	Big Leaf Maple	17 ft	908 ft ²	X 125%	1135.0 ft ²
				3466 ft ² existing canopy ~35%		1769.25 ft ² Final canopy 17.7% \$8000

Significant Tree Credit:

125% for 12" to <20" DBH, 150% for >20" DBH,
175% for >36"



CITY OF MILWAUKIE



MILWAUKIE
 URBAN FOREST
 Growing Trees
 Growing Community

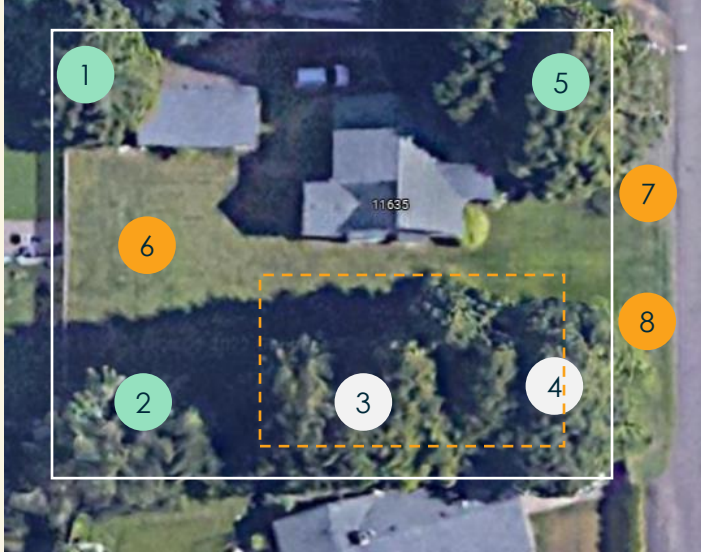
Residential Development – Canopy Standards

- Tree canopy goals of 40% canopy cover by 2040
- Canopy standards ensure **intentional preservation and planting** on development sites to achieve canopy goals
- 40% tree canopy coverage required on completed development sites through **existing tree canopy** or through **future mature canopy of new plantings**
- **Significant tree credit is given for existing trees >12"**
- \$5.00 per square foot mitigation is required if unable to meet canopy standards

Tree Location	% Canopy Credit
Existing onsite	100%
Planted onsite	75%
Existing ROW	50%
Planted ROW	50%
Sig Tree >12"	125%
Sig Tree >20"	150%
Sig Tree >36"	175%

Canopy Standard

SITE DESIGN A



In lieu of canopy fee	Mit. Fee
<40% Canopy Standard	\$5/sq ft

Tree	DBH	Species	Existing Canopy Radius	Existing Canopy	Mature Canopy	Sig. Tree Credit	Potential Canopy Credit
1	8"	True Fir	9 ft	254 ft ²	280 ft²	--	--
2	10"	Washington Hawthorne	11 ft	380 ft ²	490 ft²	--	--
3	14"	American Elm	17 ft	907 ft ²	1962 ft ²	X 125%	2452.5
4	15"	Red Oak	18 ft	1017 ft ²	1580 ft ²	X 125%	1975
5	13"	Big Leaf Maple	17 ft	908 ft ²	1962 ft ²	X 125%	2452.5 ft²
Final existing canopy							3222.5 sq ft
Tree	DBH	Species			Mature Canopy	Canopy Credit	Final Canopy
6		Pacific Madrone			710 ft²	75%	532.5 ft²
7		Eastern Redbud			452 ft²	50%	226 ft²
8		Eastern Redbud			452 ft²	50%	226 ft²
Final planted canopy							984.5 sq ft
Total site canopy							4207 sq ft 42% COVERAGE
<i>Alternative mitigation fee (\$5/sq ft x (4,000-3222.5 sf))</i>							\$3887.50

Residential Development – Protection and Soil Volume Standards

Protection Standards

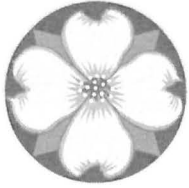
- Avoid tree harm / death from construction practices
- Protection standards must be followed to obtain preservation and canopy credits
- Must submit protection plan with root protection zone, fencing, etc. **before development**
- **Performance path available** under ISA arborist guidance



Soil Volume Standards

- Ensures new planting success
- 1000 cubic feet per tree
- Must submit protection plan with root protection zone, fencing, etc. **before development**
- **New plantings must be considered**
- **Performance path available** under ISA arborist guidance





PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

If you wish to have standing and/or to be on the mailing list for Council information from tonight's hearing, please sign-in below.

3/29/2022 | **2. B. Comprehensive Plan Implementation,
Tree Amendments – Ordinance, Resolution**

Land Use File No. ZA-2021-002

NAME	ADDRESS	PHONE	EMAIL