



**Regular Session**

**RS**

# **Milwaukie City Council**

**Part 2 of 2 of the  
December 6, 2022  
Online Packet**

**COUNCIL REGULAR SESSION**

**AGENDA**

City Hall Council Chambers, 10722 SE Main Street  
 & Zoom Video Conference ([www.milwaukieoregon.gov](http://www.milwaukieoregon.gov))

DECEMBER 6, 2022

**Council will hold this meeting in-person and through video conference.** The public may attend the meeting by coming to City Hall or joining the Zoom webinar, or watch the meeting on the [city's YouTube channel](#) or Comcast Cable channel 30 in city limits. **For Zoom login** visit <https://www.milwaukieoregon.gov/citycouncil/city-council-regular-session-337>.

**To participate in this meeting by phone** dial 1-253-215-8782 and enter Webinar ID 831 8669 0512 and Passcode: 023745. To raise hand by phone dial \*9.

**Written comments** may be delivered to City Hall or emailed to [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov). Council will take verbal comments.

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

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- 1. **CALL TO ORDER** (6:00 p.m.)
  - A. **Pledge of Allegiance**
  - B. **Native Lands Acknowledgment**
- 2. **ANNOUNCEMENTS** (6:01 p.m.) 2
- 3. **PROCLAMATIONS AND AWARDS**
  - A. **None Scheduled.**
- 4. **SPECIAL REPORTS**
  - A. **None Scheduled.**
- 5. **COMMUNITY COMMENTS** (6:05 p.m.)
 

To speak to Council, please submit a comment card to staff. Comments must be limited to city business topics that are not on the agenda. A topic may not be discussed if the topic record has been closed. All remarks should be directed to the whole Council. The presiding officer may refuse to recognize speakers, limit the time permitted for comments, and ask groups to select a spokesperson. **Comments may also be submitted in writing before the meeting, by mail, e-mail (to [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov)), or in person to city staff.**
- 6. **CONSENT AGENDA** (6:10 p.m.)
 

Consent items are not discussed during the meeting; they are approved in one motion and any Council member may remove an item for separate consideration.

  - A. **Approval of Council Meeting Minutes of:** 4
    - 1. **October 18, 2022, work session,**
    - 2. **October 18, 2022, regular session,**
    - 3. **November 1, 2022, work session, and**
    - 4. **November 1, 2022, regular session.**
  - B. **Authorization of a Janitorial Services Contract – Resolution** 18
  - C. **Authorization of a Seismic Rehabilitation Services Contract – Resolution** 38
  - D. **Authorization of a Signage Services Contract – Resolution** 537
  - E. **Authorization of a Deferred Compensation Contract Renewal – Resolution** 542
  - F. **Authorization of Bonding for Capital Projects – Resolution** 544
  - G. **Authorization of a Good Neighbor Program Agreement – Resolution** 559

**Agenda Note:** after the consent agenda, Council will recess the regular session to meet as the Milwaukie Redevelopment Commission (MRC); Council will reconvene after the MRC meeting. For information about the MRC meeting visit <https://www.milwaukieoregon.gov/bc-rc/redevelopment-commission-11>.

**Agenda Order Note:** Council will proceed to the hearing items before the business items.

- 8. PUBLIC HEARINGS** (moved up the agenda)
  - A. Camping Ordinance Adoption – Ordinance** (6:30 p.m.) **644**  
Staff: Luke Strait, Police Chief
  - B. High Density Residential Zones Adoption – Ordinance** (6:50 p.m.) **653**  
Staff: Vera Koliass, Senior Planner, and  
Adam Heroux, Associate Planner
- 7. BUSINESS ITEMS** (moved down the agenda)
  - A. Transportation System Plan Advisory Committee (TSPAC) Formation – Discussion** (7:10 p.m.) **574**  
Staff: Laura Weigel, Planning Manager
  - B. New Building Energy – Resolutions (2) (continued)** (8:00 p.m.) **578**  
Staff: Natalie Rogers, Climate & Natural Resources Manager
  - C. Neighborhood Parks Master Plans Adoption – Resolutions (3)** (8:30 p.m.) **602**  
Staff: Adam Moore, Parks Development Coordinator
  - D. Stormwater Code Amendments – Ordinance** (9:30 p.m.) **612**  
Staff: Peter Passarelli, Public Works Director
- 9. COUNCIL REPORTS** (9:55 p.m.)
- 10. ADJOURNMENT** (10:00 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](mailto:ocr@milwaukieoregon.gov) or phone at 503-786-7502. To request Spanish language translation services email [espanol@milwaukieoregon.gov](mailto: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](mailto:ocr@milwaukieoregon.gov) o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a [espanol@milwaukieoregon.gov](mailto: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.

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Nov. 21, 2022

**Reviewed:** Scott Stauffer (as to form), City Recorder

**From:** Kelly Brooks, Assistant City Manager  
Mandy Byrd, Development Project Manager, and  
Kelli Tucker, Accounting and Contracting Specialist

**Subject:** Exterior Signage and Wayfinding Design and Construction Services

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**ACTION REQUESTED**

Council is asked to authorize the city manager to sign a contract with Security Signs Inc. to approve a contract for design and installation of exterior signage and wayfinding at 15101 SE Main St.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[June 4, 2019](#): Council directed staff to explore funding options for the acquisition of 10501 SE Main Street, hire a real estate broker to negotiate the purchase, and initiate appraisals on city owned properties (the Pond House and Bertman House) to help fund the potential acquisition.

[June 18, 2019](#): Council authorized staff to investigate the building acquisition and develop a financing strategy for a potential purchase.

[July 16, 2019](#): Council approved [Resolution 49-2019](#) authorizing the city manager to negotiate terms for the possible acquisition of 10501 SE Main Street for use as a new city hall.

[August 27, 2019](#): Council approved [Resolution 57-2019](#) authorizing a purchase and sale agreement (PSA) for the acquisition of 10501 SE Main Street to use as a new city hall.

[December 17, 2019](#): Council adopted [Resolution 75-2019](#) authorizing the city manager to waive general conditions and Council waiver approval and delegation of authority to the city manager to finalize lease negotiations, waive the leaseback condition and execute a lease with the seller to remove all contingences from the PSA for the acquisition of 10501 SE Main Street.

[February 18, 2020](#): Council supported placing council chambers and public facing operations on the third floor. Council also asked staff to include an improved entrance and stairs in the new design of the building.

[January 4, 2022](#): Council met with staff to confirm basic elements of the project including placement of council chambers and a public facing front counter on the third floor.

[March 15, 2022](#): Council received an updated schedule and project management information.

[June 21, 2022](#): Council provided direction the preferred layout of the future council chambers.

[July 19, 2022](#): Staff updated Council on the revised chambers layout.

[October 4, 2022](#): Staff provided an update on design in advance of going to bid for a general contractor for the project.

[October 18, 2022](#): Staff presented findings for and gained approval from City Council to proceed with alternative contracting.

### **ANALYSIS**

Staff has negotiated a contract with Security Signs Inc. to design and install two exterior signs at 15101 SE Main St. Staff also plan to use Security Signs for internal wayfinding signs. The external signs will be edge lit and mounted flush to the wall. The edge lighting will make the signs viewable at night.



### **BUDGET IMPACT**

The total cost of the exterior signage for design, installation, and removal of the existing Advantis signs is \$102,920. The contract authorization request is for \$125,000 to fund internal wayfinding as well. Staff plans to approach the Milwaukie Redevelopment Commission about funding a portion of this cost as part of a Main Street improvement project. Any remaining funds will come from the City Hall Fund.

### **WORKLOAD & CLIMATE IMPACTS**

Not applicable.

### **COORDINATION, CONCURRENCE, OR DISSENT**

Staff coordinated with the project steering and management teams on this process and design.

### **STAFF RECOMMENDATION**

Staff recommends Council approve the requested action via resolution.

### **ALTERNATIVES**

Council could delay the decision to solicit more information about the contract.

## **ATTACHMENTS**

1. Resolution
2. Purchase Agreement

**COUNCIL RESOLUTION No.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING AN AMENDMENT TO A CONTRACT WITH SECURITY SIGNS FOR EXTERIOR SIGNS AND INTERIOR WAYFINDING.**

**WHEREAS** the city has identified the need for signage at 10501 SE Main Street, and

**WHEREAS** the city followed an intermediate procurement process in compliance with its Public Contracting Rules to contract for design, fabrication, and installation of signage, and

**WHEREAS** a purchase agreement was competitively awarded to Security Signs Inc., who was the only responsive proposer, and

**WHEREAS** the city manager authorized the contract establishing a not-to-exceed value of \$100,000, and

**WHEREAS** city staff requests that Council increase the contract limit by \$25,000 to purchase and install the necessary exterior signage and interior wayfinding, as it is critical to the functionality of Milwaukie's new City Hall.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the city manager or their designee is authorized to execute an amendment to the existing contract with Security Signs Inc. to increase the cost and scope of designing and installing exterior signage and interior wayfinding to not exceed \$125,000.

Introduced and adopted by the City Council on **December 6, 2022.**

This resolution is effective immediately.

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Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

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Scott S. Stauffer, City Recorder

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Justin D. Gericke, City Attorney



**AMENDMENT #1 TO PURCHASE AGREEMENT  
WITH SECURITY SIGNS, INC.  
FOR NEW CITY HALL EXTERIOR SIGNAGE**

**This agreement** hereby amends the above-entitled contract between the City of Milwaukie and Security Signs, Inc., the original compensation amount of which was \$100,000 for goods and services.

This amendment is as follows:

1. To change the compensation amount by adding \$25,000 making the total contract amount not to exceed \$125,000.
2. To change the scope of work (Exhibit B) to include wayfinding design, fabrication and installation at the new city hall.

Except for the above, all other conditions remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

**City of Milwaukie**

**Security Signs, Inc.**

\_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Signature*

Ann Ober, City Manager  
*Print Name & Title*

\_\_\_\_\_  
*Print Name & Title*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
*Date*



**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Nov. 28, 2022

**Reviewed:** Kelli Tucker, Accounting and Contracts Specialist, and  
Justin Gericke, City Attorney

**From:** Brandi Leos, Human Resources Director

**Subject:** **Administrative Services Agreement for Deferred Compensation Management**

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**ACTION REQUESTED**

Council is asked to approve the renewal of an administrative services agreement with MissionSquare for the purposes of administering city employees' deferred compensation accounts.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

In 2017, the city entered a five-year contract with MissionSquare (formerly ICMA-RC) for the administration and record keeping of city employee's deferred compensation accounts following a formal solicitation t. That contract expires in December 2022.

**ANALYSIS**

As an employee benefit, the city provides access to deferred compensation (457(b)) plans to aid employees in saving for retirement using pre-tax dollars. It is important that this benefit is administered by a trusted partner such as MissionSquare and that services are continuous.

**BUDGET IMPACT**

Fees for administration of the deferred compensation plan are paid by plan participants.

**WORKLOAD IMPACT**

City staff will provide plan oversight and perform limited additional tasks related to plan administration.

**CLIMATE IMPACT**

None.

**STAFF RECOMMENDATION**

Staff recommends that Council approve the resolution to authorize renewal of the administrative services agreement for an additional five years.

**ALTERNATIVES**

Council could decline to approve the resolution and/or request changes to the agreement before considering approving it.

**ATTACHMENTS**

1. Resolution



**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ACTING AS THE LOCAL CONTRACT REVIEW BOARD, AUTHORIZING AN ADMINISTRATIVE SERVICES AGREEMENT WITH MISSIONSQUARE FOR THE ADMINISTRATION AND RECORD KEEPING OF EMPLOYEE DEFERRED COMPENSATION ACCOUNTS.**

**WHEREAS** in 2017 the city completed a formal solicitation process and selected MissionSquare, formerly known as ICMA-RC, as the administrator and record keeper of employee deferred compensation accounts; and

**WHEREAS** the initial five-year agreement expires in December 2022; and

**WHEREAS** city staff recommended that the city renew the agreement term with MissionSquare to ensure that city staff deferred compensation accounts continue to be administered in an efficient and effective manner.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the city manager is authorized to sign a five-year renewal of the administrative services contract for administration and record keeping of employee deferred compensation accounts.

Introduced and adopted by the City Council on **December 6, 2022.**

This resolution is effective immediately.

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Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

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Scott S. Stauffer, City Recorder

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Justin D. Gericke, City Attorney

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Nov. 21, 2022

**Reviewed:** Scott Stauffer (as to form), City Recorder

**From:** Kelly Brooks, Assistant City Manager, and  
Michael Osborne, Assistant Finance Director

**Subject:** **Safe Access for Everyone (SAFE), Street Surface Maintenance Program (SSMP)  
and Tax Increment Financing (TIF) Bonds**

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**ACTION REQUESTED**

Council is asked to approve a resolution authorizing financing for transportation projects and urban renewal projects.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[February 27, 2018](#): Council directed staff to develop a three phased financing schedule to implement an integrated SAFE, SSMP, and Transportation program

[March 20, 2018](#): Council authorized [Resolution 19-2018](#), which included a maximum principal amount of \$21,000,000, a total interest cost (TIC) of 4.5% plus 25 basis points to account for market changes between approval and issuance.

[June 7, 2022](#): The city's Capital Improvement Plan (CIP) for 2023-2027 and the Milwaukie Redevelopment Commission (MRC) budget and Five-Year Action Plan were adopted. All documents assumed a second bond issuance in fiscal year (FY) 2023 consistent with direction provided in 2018.

[September 20, 2022](#): Staff provided updates on capital projects funded with SAFE, SSMP, and transportation bonds during the regular session. MRC also discussed upcoming financing needs and capital projects that would be included in a December bond issuance.

[November 15, 2022](#): Staff and bond counsel reviewed staff's proposal for a combined transportation and TIF bond issuance.

**ANALYSIS**

At the conclusion of 2022, the city has substantially obligated the 2018 bonded SAFE, SSMP, and transportation funds. The Milwaukie Redevelopment Commission (MRC) has also adopted a five-year action plan that identified the design and construction of capital improvement projects over the course of the next three years. On November 15 Council directed staff to proceed with issuing up to \$25,500,000 in debt to fund multiple transportation and urban renewal projects.

**FINANCIAL**

The resolution provided for adoption has been updated to include a maximum principal amount of \$25,500,000 per the analysis provided on November 15. The city will pursue debt with banks vs. the public market based on similar interest rates and the banks' ability to refinance the debt at a lower interest rate, if available, after 3-5 years. An estimated total interest cost (TIC) of 4.1% per

the current market plus 50 basis points to account for market changes between approval and issuance. Per the discussion on November 15 the final maturity not later than 20 years has been maintained in the resolution to maximize lower interest rates. The city is well positioned to add this debt with estimated yearly revenues to annual debt service ratio at roughly 2 to 1.

### **PROJECT INFORMATION**

The bonded funds will be used to fund the following projects:

- Ardenwald North Improvements
- Washington Street Area Improvements
- Downtown Main Street Enhancements – Dogwood Vertical Element and Wayfinding
- Milwaukie Bay Park Trolley Trail
- Tenant Improvements – Food Cart Pod Sewer Connection
- Harvey Street Improvements
- King Road Improvements
- Downtown Streetscape Improvements – Downtown Sidewalk
- SAFE Spot Improvements
- Logus Road, 40<sup>th</sup> & 42<sup>nd</sup> Avenues
- Monroe Street Greenway
- Street Surface Slurry Seal
- Dogwood Park
- Residential Street Surface Repair
- Signal Upgrades
- Mcloughlin Boulevard Intersection Upgrades
- Downtown Parking Strategy Implementation – Bike Parking, Metering Study and Partial Implementation
- Transit Stop Improvements

### **BUDGET IMPACT**

The fees and debt payments for this bond were included in the fiscal year (FY) 2023 / 2024 budget. The city's total debt service prior to issuing of this bond is \$40,777,721 through 2048. Following the issuance of this bond the city will increase its total debt service to an estimated \$75,811,231 through 2048.

### **WORKLOAD IMPACT**

None.

### **CLIMATE IMPACT**

Building out the city's active transportation network as an alternative to single occupancy vehicle travel is an identified strategy within Milwaukie's Community Climate Action Plan (CAP). Continuation of and expedited delivery of the SAFE program will meaningfully contribute towards a more bikeable and walkable city. It is important to note, however, that bonded funds would go towards construction projects that include materials and equipment that contribute to greenhouse gas emissions.

**COORDINATION, CONCURRENCE, OR DISSENT**

Staff coordinated with public works, engineering, community development, and finance in compilation of this report.

**STAFF RECOMMENDATION**

Staff recommends that Council approve the proposed resolution.

**ALTERNATIVES**

Council could delay the decision to solicit more information about projects and financing option or decline to proceed with bonding all-together.

**ATTACHMENTS**

1. Resolution
2. Draft Intergovernmental Agreement



**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING FINANCING FOR TRANSPORTATION PROJECTS AND URBAN RENEWAL PROJECTS AND PROVIDING FOR RELATED MATTERS.**

**WHEREAS** the City of Milwaukie, Oregon (the “City”) is authorized by Oregon Revised Statutes (“ORS”) Section 271.390 to enter into financing agreements to finance real or personal property which the City Council determines is needed; and

**WHEREAS** the estimated weighted average life of a financing agreement may not exceed the estimated dollar weighted average life of the real or personal property to be financed by such financing agreement; and

**WHEREAS** it is desirable to obtain up to \$20 million to finance certain transportation projects (the “Transportation Projects”); and

**WHEREAS** it is also desirable to obtain up to \$5.5 million to finance certain capital projects described in the Milwaukie Urban Renewal Plan, as it has been and may be amended (the “Urban Renewal Projects,” and together with the Transportation Projects, the “Projects”); and

**WHEREAS** the Milwaukie Redevelopment Commission (the “Agency”) is projected to have sufficient tax increment revenues from the Milwaukie Urban Renewal Area to pay the amounts due from the City in connection with the financing of the Urban Renewal Projects, and will enter into an intergovernmental agreement with the City to use tax increment revenues to pay those amounts; and

**WHEREAS** the City or the Agency may incur expenditures (the “Expenditures”) to pay costs of the Projects prior to the issuance of the financing agreement and the City wishes to declare its official intent to reimburse itself or the Agency for any Expenditures the City or the Agency may make from its own funds on the Projects from the proceeds of the financing agreement, the interest on which may be excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”).

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon as follows:

**Section 1. Financing Authorized.** The City Council authorizes the City to enter into one or more financing agreements to obtain up to an aggregate principal amount of \$20 million for the Transportation Projects, up to an aggregate principal amount of \$5.5 million for the Urban Renewal Projects, and to pay costs related to the financing. The financing agreements authorized by this Section shall be executed

and sold pursuant to ORS 271.390, ORS 287A.315, and the other relevant provisions of ORS Chapter 287A, and as provided in this Resolution.

**Section 2. Determination of Need.** Pursuant to ORS 271.390, the City Council has determined that the Projects are needed.

**Section 3. Delegation.** The City manager, assistant city manager, or the person designated by the city manager or the assistant city manager to act on behalf of the City under this resolution (the “City Official”) is authorized, on behalf of the City and without further action by the City Council, to:

- 3.1 Negotiate, execute, and deliver one or more financing agreements (the “Financing Agreements”) to accomplish the financing authorized in this Resolution. Subject to the limitations of this Resolution, the Financing Agreements may be in such form and contain such terms as the City Official may approve.
- 3.2 Negotiate, execute and deliver one or more escrow agreements or similar documents (the “Escrow Agreements”) that provide for the issuance of one or more series of full faith and credit obligations (the “Obligations”) that represent ownership interests in the principal and interest payments due from the City under the Financing Agreements. Subject to the limitations of this Resolution, the Escrow Agreements and each series of Obligations may be in such form and contain such terms as the City Official may approve.
- 3.3 Authorize the preparation and distribution of a disclosure document for each series of Obligations.
- 3.4 Undertake to provide continuing disclosure for each series of Obligations in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- 3.5 Apply for ratings for each series of Obligations, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Obligations, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- 3.6 Enter into covenants which the City Official determines are desirable to obtain favorable terms for the Financing Agreements.
- 3.7 Appoint and enter into agreements with service providers whose services are desirable for the financing.
- 3.8 Determine the final principal amount, interest rates, prepayment rights, and other terms of each Financing Agreement and each series of Obligations.
- 3.9 Solicit competitive bids for the purchase of the Obligations and award the sale to the bidders offering the most favorable terms to the City, select underwriters to purchase the Obligations and negotiate the terms of the sale of those Obligations

with the underwriters, or place any Financing Agreement directly with a commercial bank or other lender.

- 3.10 Issue any qualifying Financing Agreement as a “tax-exempt bond” bearing interest that is excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and enter into covenants to maintain the excludability of interest on those Financing Agreements from gross income under the Code.
- 3.11 Issue any Financing Agreement as a “taxable bond” bearing interest that is includable in gross income under the Code.
- 3.12 Execute and deliver any other certificates or documents and take any other actions that the City Official determines are desirable to carry out this Resolution.

**Section 4. Security.** Pursuant to ORS 287A.315, the Financing Agreements may constitute unconditional obligations of the City, which are payable from all legally available funds of the City. The City Official may pledge the City’s full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution to pay the amounts due under the Financing Agreements. The City is not authorized to levy additional taxes to pay the amounts due under the Financing Agreements.

**Section 5. Payments from Tax Increment Revenues.** The City Official is authorized to enter into an intergovernmental agreement (the “IGA”) with the Agency, under which the Agency agrees to provide tax increment revenues from the Milwaukie Urban Renewal Area in sufficient amounts to pay all amounts due from the City under the portion of the Financing Agreements related to Urban Renewal Projects. The IGA shall be in substantially the form attached to this resolution as Exhibit A, but with any changes the City Official may approve.

**Section 6. Reimbursement Declaration.** The City hereby declares its official intent to reimburse itself or the Agency with the proceeds of the Financing Agreements for any of the Expenditures incurred prior to the issuance of the Financing Agreements. This Resolution is adopted as official action of the City in order to comply with Treasury Regulation Section 1.150-2 and any other regulations of the Internal Revenue Service relating to the qualification for reimbursement of Expenditures of the City or Agency incurred prior to the date of issue of the Financing Agreement. The City Manager is hereby authorized to make future declarations of intent to reimburse under Section 1.150-2 of the federal Income Tax Regulations, on behalf of the City and Agency and without further action by the City Council. All such future declarations shall be in writing and the original or a certified copy of each declaration shall be maintained in the public records of the City.

**Section 7. Effective Date.** This Resolution will take effect upon passage.

This resolution was approved and adopted by the City Council on **December 6, 2022.**



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Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

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Scott S. Stauffer, City Recorder

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Justin D. Gericke, City Attorney

Exhibit A

FORM OF INTERGOVERNMENTAL AGREEMENT

**INTERGOVERNMENTAL AGREEMENT**

to make financing payments  
by and between the

**Milwaukie Redevelopment Commission**

and the

**City of Milwaukie, Oregon**

Dated as of [Dated Date], 2022

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- (1) Definitions.
- (2) Findings.

### Section 2. The Financing Payments.

- (1) The Financing Payments.
- (2) Security for the Obligation of the Agency to Pay the Financing Payments.

### Section 3. Prepayment.

### Section 4. Estoppel.

### Section 5. Title.

### Section 6. Miscellaneous.

- (1) Binding Effect.
- (2) Severability.
- (3) Amendments.
- (4) Execution in Counterparts.
- (5) Applicable Law.
- (6) Rules of Construction.
- (7) Headings.

Exhibit A - Financing Payments Schedule

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement is dated as of [Dated Date], 2022, and is entered into by and between the Milwaukie Redevelopment Commission, Oregon (the “Agency”) and the City of Milwaukie, Oregon (the “City”) in connection with the Milwaukie Urban Renewal Area (the “Area”). The parties hereby agree as follows:

### Section 1. Definitions and Recitals.

(1) Definitions.

Unless the context clearly requires otherwise, capitalized terms used in this Intergovernmental Agreement which are defined in this Section 1(1) shall have the following meanings:

“Financing Agreement” means the Financing Agreement, Series 2022 between the City and [Escrow Agent] which is dated as of [Dated Date], 2022.

“Financing Payments” means the principal and interest payments the City is required to make under the Financing Agreement that are attributable to the Urban Renewal Projects, which payments are provided in Exhibit A hereto.

“IGA Amount” means \$[Principal Amount], the principal amount of the Financing Agreement that is attributable to the Urban Renewal Projects.

“Plan” means the Milwaukie Urban Renewal Plan adopted by the City August 25, 2016 under Ordinance No. 2130, as that plan has been and may in the future be, amended in accordance with its terms.

“Resolutions” means Resolution No. \_\_\_\_\_ adopted by the City Council on [December 6, 2022] and Agency Resolution No. \_\_\_\_\_ adopted by the Agency Board on [December 6, 2022].

“Tax Increment Revenues” means all revenues which the Agency collects for the Area under the provisions of Article IX, Section 1c of the Oregon Constitution and ORS Chapter 457.

“Urban Renewal Projects” means the Urban Renewal Projects as described in the Resolutions.

(2) Findings.

- (A) This Agreement is authorized by the Resolutions.
- (B) The City has entered into the Financing Agreement in part to finance the Urban Renewal Projects.
- (C) The Urban Renewal Projects are or will be properly described as urban renewal projects in the Plan and located in the Area when proceeds of this Intergovernmental Agreement are spent on such Urban Renewal Projects.

- (D) So long as the Financing Agreement is outstanding, the Agency and City agree the Urban Renewal Projects will remain owned by the City, Agency or another governmental entity.
- (E) The Agency is authorized to spend Tax Increment Revenues to pay for the costs of the Urban Renewal Projects.
- (F) The Urban Renewal Projects will assist the Agency in carrying out its Plan.
- (G) By entering into this Intergovernmental Agreement, the Agency is issuing debt in the IGA Amount which counts against the Agency's maximum indebtedness limit.
- (H) The Agency's maximum indebtedness limit is \$ 92,500,000; the Agency has made \$ \_\_\_ of expenditures that count against that limit, and therefore has \$ \_\_\_ of unused maximum indebtedness available prior to executing this Intergovernmental Agreement. The Agency certifies that by entering into this Intergovernmental Agreement it will not exceed its maximum indebtedness limit for the Plan.

## **Section 2. The Financing Payments.**

- (1) The Financing Payments.

The Agency hereby agrees to pay to the City, not less than three business days prior to the dates on which the Financing Payments are due, amounts that are equal to the Financing Payments. The amounts and dates of the Financing Payments are shown in Exhibit A.

- (2) Security for the Obligation of the Agency to Pay the Financing Payments.

This Intergovernmental Agreement shall constitute indebtedness of the Agency in a principal amount that is equal to the IGA Amount. The Agency is obligated to make the payments due under this Intergovernmental Agreement solely from the Tax Increment Revenues. Pursuant to ORS 287A.310, the Agency pledges the Tax Increment Revenues to pay the amounts described in Section 2(1) of this Intergovernmental Agreement. The pledge that secures this Intergovernmental Agreement shall be superior to all other pledges or commitments of Tax Increment Revenues that the Agency makes, unless the City agrees in writing to subordinate its claim against the Tax Increment Revenues or to allow the Agency to grant a lien on the Tax Increment Revenues on parity with the lien that secures this Intergovernmental Agreement.

## **Section 3. Prepayment.**

If the City exercises its option to prepay the Financing Payments in whole or in part, unless the Agency consents in advance and in writing, the Agency shall not be obligated to prepay the amounts due from it under this Intergovernmental Agreement.

## **Section 4. Estoppel.**

The Agency hereby certifies, recites and declares that all things, conditions and acts required by the Constitution and Statutes of the State of Oregon and by this Intergovernmental Agreement to

exist, to have happened and to have been performed precedent to and in the execution and the delivery of this Intergovernmental Agreement, do exist, have happened and have been performed in due time, form and manner, as required by law, and that this Intergovernmental Agreement is a valid and binding obligation of the Agency which is enforceable against the Agency in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other laws or judicial decisions or principles of equity relating to or affecting the enforcement of creditors' rights or contractual obligations generally.

### **Section 5. Title.**

This Intergovernmental Agreement does not grant the City or the investors in the Financing Agreement a lien on, or security interest in the Urban Renewal Projects.

### **Section 6. Miscellaneous.**

#### **(1) Binding Effect.**

This Intergovernmental Agreement shall inure to the benefit of and shall be binding upon the Agency and the City and their respective successors and assigns.

#### **(2) Severability.**

In the event any provisions of this Intergovernmental Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

#### **(3) Amendments.**

This Intergovernmental Agreement may be amended only by a writing signed by both parties.

#### **(4) Execution in Counterparts.**

This Intergovernmental Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute the same instrument.

#### **(5) Applicable Law.**

This Intergovernmental Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any action regarding this Intergovernmental Agreement or the transactions contemplated hereby shall be brought in an appropriate court of the State of Oregon in Clackamas County, Oregon.

#### **(6) Rules of Construction.**

References to section numbers in documents which do not specify the document in which the section is located shall be construed as references to section numbers in this Intergovernmental Agreement.

(7) Headings.

The headings, titles and table of contents in this Intergovernmental Agreement are provided for convenience and shall not affect the meaning, construction or effect of this Intergovernmental Agreement.

IN WITNESS WHEREOF, the City and the Agency have executed this Intergovernmental Agreement as of [Dated Date], 2022.

**For the Milwaukie Redevelopment Commission**

\_\_\_\_\_  
Agency Official

**For the City of Milwaukie, Oregon**

\_\_\_\_\_  
City Official



**EXHIBIT A**

**FINANCING PAYMENTS SCHEDULE**

The Financing Payments are payable semi-annually as outlined in the following table:

[To be provided after the Obligations are sold and pricing is known]

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Nov. 21, 2022

**Reviewed:** Sasha Freeman (as to form), Administrative Specialist II

**From:** Peter Passarelli, Public Works Director

**Subject:** **Milwaukie/WES Modified Good Neighbor Agreement**

---

**ACTION REQUESTED**

Council is asked to authorize the city manager to sign the Milwaukie - Water Environment Services Good Neighbor Agreement.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[February 5, 2013](#): Council created the Kellogg Good Neighbor Committee (KGNC) by resolution.

[September 21, 2021](#): Council received a presentation on the KGNC, background, accomplishments, and the committee's recommendation to dissolve.

[October 5, 2021](#): The KGNC was dissolved by resolution.

February 28, 2022: The public works director discussed proposed changes to the Good Neighbor Program.

**ANALYSIS**

Clackamas County Water Environment Services (WES) currently maintains the Good Neighbor fund, which collects monthly deposits equivalent to \$1.00 per equivalent dwelling unit (EDU) for city connections to the Kellogg Wastewater Treatment Plant. This currently generates approximately \$135,000 per year. The purpose of the fund is to invest in property improvements to mitigate the impact of the treatment plant on the surrounding neighborhoods with the requirement that projects are within a 200-yard buffer of the treatment plant.

WES implemented a new Good Neighbor model with the cities of Gladstone and Oregon City and has proposed the new model for Milwaukie. Use of this new model would expand the use of funds both in purpose and geographically. This model would also allow Milwaukie to directly manage these funds and explore more programmatic approaches and projects that were previously not eligible under the existing agreement but provide similar mitigation and environmental benefits. This change to fund management would require future projects to be budgeted as part of the city's capital improvement program.

City staff and WES have finalized a draft agreement. The new agreement provides:

- A. Lump sum transfer to the city from WES in the amount of \$300,000 which was the estimated fund balance as of September 30, 2022. As a result of this transfer, WES will no longer be responsible for reimbursing the city for debt service payments related to the city, Clackamas and Multnomah counties, and the Oregon Full Faith and Credit Obligation Series 2014.
- B. An annual transfer from WES to the city by July 15, 2023, and every July 15 thereafter, in an amount equal to \$1 per EDU per month for connections served by WES in the city. Due to the \$300,000 lump sum transfer above, the first annual payment shall include amounts for EDUs served from October 1, 2022, through June 30, 2023. The annual contribution from WES will be adjusted annually to reflect the growth in the number of utility connections served by WES in the city.
- C. Eligible projects must have at least one of the following purposes:
  - i. Provide improved recreational opportunities, such as pathways, parks, and trails.
  - ii. Enhance fish and wildlife habitat and riparian areas.
  - iii. Create opportunities for collaboration and leverage resources between the city and WES relating to another purpose approved by the Parties.
  - iv. Enhance public knowledge on wastewater treatment and surface water management and what they can do to protect water quality through education and special projects.
- D. The city may use the Good Neighbor Fund to make debt payments where the underlying debt was incurred for a fund-approved purpose.

The city and WES agreed upon an expanded boundary that includes the area of impact around the treatment facility and an expanded area with a focus on stream corridors that coincide with water quality protection priorities for the city. Projects located within this boundary will be eligible to receive funding through the new Good Neighbor Fund.

### **BUDGET IMPACTS**

The Good Neighbor Fund program was incorporated into the biennial budget.

### **CLIMATE IMPACTS**

This program supports city climate efforts by providing another funding mechanism for the city to protect riparian corridors and potentially minimize the city's carbon and energy footprints through natural resource improvements and protection. Improvements to riparian and floodplain areas will result in increased natural hazard resiliency benefits and will aid Milwaukie's stormwater program in surface water management and treatment. These mitigation benefits are important considering the increased temperatures and urban pressures that urban natural areas will face over time with climate change.

### **WORKLOAD IMPACTS**

This agreement will not impact staff workload.

**COORDINATION, CONCURRENCE, OR DISSENT**

Not applicable.

**STAFF RECOMMENDATION**

Staff recommends that Council authorize the city manager to sign the Milwaukie - WES Good Neighbor Agreement.

**ALTERNATIVES**

Council could alternatively decide to:

1. Not adopt the resolution and continue the discussion to a later date, or
2. Not adopt resolution and continue under the current agreement.

**ATTACHMENTS**

1. Good Neighbor Agreement
2. Good Neighbor Boundary Map
3. Resolution

**INTERGOVERNMENTAL AGREEMENT  
BETWEEN WATER ENVIRONMENT SERVICES AND  
THE CITY OF MILWAUKIE  
FOR THE KELLOGG GOOD NEIGHBOR PROGRAM**

THIS INTERGOVERNMENTAL AGREEMENT (this “Agreement”) is entered into and between **Water Environment Services** (“WES”), an intergovernmental entity formed pursuant to ORS Chapter 190, and the **City of Milwaukie** (“City”), an Oregon municipality, collectively referred to as the “Parties” and each as “Party.”

**RECITALS**

This Agreement is made pursuant to Oregon Revised Statutes Chapter 190.010, which confers authority upon local governments to enter into agreements for the performance of any and all functions and activities that a party to the agreement, its officers or agencies have authority to perform.

Since 1974, WES has provided wastewater treatment services for the city, and the Kellogg Creek Water Resource Recovery Facility (“Kellogg”) is located in the city. WES desires for Kellogg to have a positive impact on multiple aspects of the host community beyond just resource recovery. In the spirit of governmental collaboration, the city is partnering with WES to advance environmental restoration, economic development, and community improvement opportunities in the Kellogg neighborhood area as defined on Exhibit A attached hereto (the “Good Neighbor Area”). The outcome of this partnership is to build greater community together through strategically agreed upon projects that support our economy, ecology, and the community with funding provided by WES (“Good Neighbor Program”).

In consideration of the mutual promises set forth below and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

**TERMS**

1. **Term.** This Agreement shall be effective upon execution by both parties (“Effective Date”) and shall expire on June 30, 2037. The Parties shall review this Agreement every five (5) years, with any changes incorporated into a signed writing executed by the Parties.
2. **Good Neighbor Fund.**
  - A. Lump Sum Transfer. WES’ Milwaukie Good Neighbor Fund (“Good Neighbor Fund”), established as a part of the agreement between the Parties in 2012, holds funds available for use by the city to advance environmental restoration, economic

development, and community improvement opportunities in the Good Neighbor Area. WES agrees to transfer the balance of the Good Neighbor Fund as of September 30, 2022, estimated to be approximately **Three Hundred Thousand Dollars** (\$300,000), to the city within thirty days of execution of this Agreement. As a result of this transfer, WES will no longer be responsible for reimbursing the city for debt service payments related to the City of Milwaukie, Clackamas and Multnomah Counties, Oregon Full Faith and Credit Obligation Series 2014.

- B. Annual Transfer. By July 15, 2023, and every July 15 thereafter, WES will transfer an amount equal to **\$1 per equivalent dwelling unit (“EDU”) per month** for connections served by WES in the city. Due to the lump sum transfer above, the first annual payment shall include amounts for EDUs served from October 1, 2022 through June 30, 2023. It is the intention of the Parties that the amount of the WES contribution to the Good Neighbor Fund shall adjust annually to reflect the growth in the number of connections served by WES in the city. The city shall continue to deliver a written report to WES stating the current number of connections to the city system and noting new connections and any permanent disconnections on March 1 and September 1 of each year.
  - C. Eligible Expenditures. Projects eligible to receive Good Neighbor Fund monies must have at least one of the following purposes (“Fund Approved Purpose”):
    - i. Provide improved recreational opportunities, such as pathways, parks, and trails.
    - ii. Enhance fish and wildlife habitat and riparian areas.
    - iii. Create opportunities for collaboration and leverage resources between the City and WES relating to another purpose approved by the Parties.
    - iv. Enhance public knowledge on wastewater treatment and surface water management and what they can do to protect water quality through education and special projects.
  - D. Debt Payments. The city may only use Good Neighbor Fund monies to make debt payments where the underlying debt was incurred for a Fund Approved Purpose.
3. **Obligations of the city.**
- A. Coordination amongst the Cities. The city agrees to manage its own funds and project list in accordance with the terms of this Agreement.
  - B. Project Development; Public Involvement. The city agrees to establish a process for developing and prioritizing projects and/or efforts to be undertaken with the Good Neighbor Fund, and will ensure there is an opportunity for citizen involvement or feedback throughout the project development and/or prioritization process.

- C. Establishment of Separate Program Account; Unused Funds. The city agrees to create a separate program account for deposit of Good Neighbor Fund monies and will ensure that projects align with terms outlined in this Agreement. The city agrees not to use Good Neighbor Fund monies for projects not authorized under this Agreement. The city will carry forward any funds not expended during a budget year to the following year; however, any Good Neighbor Fund monies, other than the lump sum transfer in Section 2A above, not spent within three years of their transfer to the city will be returned to WES, unless agreed to in advance for longer-term projects.
  - D. Annual Report. By April 1 of each year, the city will provide a written report to WES summarizing the work performed under the Good Neighbor Program for the year, including the revenues and expenditures of the Good Neighbor Fund monies and the balance carried forward, if any. The city agrees to use the report template provided by WES.
  - E. Promotion of Program. The city agrees to publish information about the program, including the goals, projects, annual reports, and relevant contact information on its website, and to include WES signage on projects supported by the Good Neighbor Fund. The city agrees to coordinate with WES on the development of a shared branding icon and appropriate signage for each project.
  - F. Records. The city agrees to maintain complete and accurate records related to the administration of the Good Neighbor Program consistent with the requirements of Oregon Public Records Law and all funds expended and carried forward, and will make these records available to WES for inspection, auditing and copying in compliance with Section 9(D) below.
4. **Representations and Warranties.**
- A. City Representations and Warranties. The city represents and warrants to WES that it has the power and authority to enter into and perform under this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of the city enforceable in accordance with its terms.
  - B. WES Representations and Warranties. WES represents and warrants to the city that it has the power and authority to enter into and perform this Agreement, and this Agreement, when executed and delivered, shall be a valid and binding obligation of WES enforceable in accordance with its terms.
  - C. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

5. **Termination.**

- A. Either party may terminate their participation in this Agreement at any time upon (i) the mutual written consent of the Parties, or (ii) upon (12) months' notice to the other Party.
  - B. Either party may terminate this Agreement in the event of a breach of the Agreement by another Party. Prior to such termination however, the Party seeking the termination shall give the other Party written notice of the breach and of the Party's intent to terminate. If the breaching Party has not entirely cured the breach within fifteen (15) days of deemed or actual receipt of the notice, then the Party giving notice may terminate the Agreement at any time thereafter by giving written notice of termination stating the effective date of the termination. If the default is of such a nature that it cannot be completely remedied within such fifteen (15) day period, this provision shall be complied with if the breaching Party begins correction of the default within the fifteen (15) day period and thereafter proceeds with reasonable diligence and in good faith to cure the default as soon as practicable. The Party giving notice shall not be required to give more than one (1) notice for a similar default in any twelve (12) month period.
  - C. The Parties shall not be deemed to have waived any breach of this Agreement by the other Party except by an express waiver in writing. An express written waiver as to one breach shall not be deemed a waiver of any other breach not expressly identified, even though the other breach is of the same nature as that waived.
  - D. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination
6. **Indemnification.** The city agrees to indemnify, hold harmless and defend WES and Clackamas County, and their officers, elected officials, agents and employees from and against all claims and actions, and all expenses incidental to the investigation and defense thereof, arising out of or based upon damage or injuries to persons or property caused by the errors, omissions, fault or negligence of the city's employees, subcontractors, or agents. However, neither the city nor any attorney engaged by the city shall defend the claim in the name of WES or County or any department of County, nor purport to act as legal representative of WES or County, without first receiving written authority from the Clackamas County Counsel's Office to act as legal counsel for WES or County, nor shall the city settle any claim on behalf of WES or County without express written approval of the Clackamas County Counsel's Office. WES or County may, at its election and expense, assume its own defense and settlement.
7. **Insurance.** The Parties agree to maintain levels of insurance, or self-insurance, sufficient to satisfy their obligations under this Agreement and all requirements under applicable law.



8. **Notices; Contacts.** Legal notice provided under this Agreement shall be delivered personally, by email or by certified mail to the individuals identified below. Any communication or notice so addressed and mailed shall be deemed to be given upon receipt. Any communication or notice sent by electronic mail to an address indicated herein is deemed to be received 2 hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered. Any communication or notice by personal delivery shall be deemed to be given when actually delivered. Either Party may change the Party contact information, or the invoice or payment addresses by giving prior written notice thereof to the other Party at its then current notice address.

WES Director, or their designee will act as liaison for the WES.

**Contact Information:**

150 Beaver Creek Road, 4<sup>th</sup> Floor  
Oregon City, OR 97045

Copy to:

County Counsel  
2051 Kaen Rd  
Oregon City, OR 97045  
Attn: Amanda Keller

Ann Ober, City Manager, or their designee will act as liaison for Milwaukie.

**Contact Information:**

10722 SE Main Street  
Milwaukie, OR 9722

9. **General Provisions**

- A. **Oregon Law and Forum.** This Agreement, and all rights, obligations, and disputes arising out of it will be governed by and construed in accordance with the laws of the State of Oregon and the ordinances of WES without giving effect to the conflict of law provisions thereof. Any claim between WES and the city that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Clackamas County for the State of Oregon; provided, however, if a claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this section be construed as a waiver by the WES of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the

Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court. The city, by execution of this Agreement, hereby consents to the in personam jurisdiction of the courts referenced in this section.

- B. **Compliance with Applicable Law.** Both Parties shall comply with all applicable local, state and federal ordinances, statutes, laws and regulations. All provisions of law required to be a part of this Agreement, whether listed or otherwise, are hereby integrated and adopted herein. Failure to comply with such obligations is a material breach of this Agreement.
- C. **Non-Exclusive Rights and Remedies.** Except as otherwise expressly provided herein, the rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, and shall be in addition to and cumulative with any and all rights and remedies otherwise available at law or in equity. The exercise by a Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach, or for any other default or breach, by another Party.
- D. **Access to Records.** The Parties shall retain, maintain, and keep accessible all records relevant to this Agreement (“Records”) for a minimum of six (6) years, following Agreement termination or full performance or any longer period as may be required by applicable law, or until the conclusion of an audit, controversy or litigation arising out of or related to this Agreement, whichever is later. The Parties shall maintain all financial records in accordance with generally accepted accounting principles. All other Records shall be maintained to the extent necessary to clearly reflect actions taken. During this record retention period, the Parties shall permit each other access to the Records at reasonable times and places for purposes of examining and copying.
- E. **Debt Limitation.** This Agreement is expressly subject to the limitations of the Oregon Constitution and Oregon Tort Claims Act, and is contingent upon appropriation of funds. Any provisions herein that conflict with the above referenced laws are deemed inoperative to that extent.
- F. **Severability.** If any provision of this Agreement is found to be unconstitutional, illegal or unenforceable, this Agreement nevertheless shall remain in full force and effect and the offending provision shall be stricken. The Court or other authorized body finding such provision unconstitutional, illegal or unenforceable shall construe this Agreement without such provision to give effect to the maximum extent possible the intentions of the Parties.
- G. **Integration, Amendment and Waiver.** Except as otherwise set forth herein, this Agreement constitutes the entire agreement between the Parties on the matter of the Project. There are no understandings, agreements, or representations, oral or

written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind any Party unless in writing and signed by the Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of any Party to enforce any provision of this Agreement shall not constitute a waiver by such Party of that or any other provision.

- H. **Interpretation.** The titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.
- I. **Independent Contractor.** Each of the Parties hereto shall be deemed an independent contractor for purposes of this Agreement. No representative, agent, employee or contractor of one Party shall be deemed to be a representative, agent, employee or contractor of another Party for any purpose, except to the extent specifically provided herein. Nothing herein is intended, nor shall it be construed, to create between the Parties any relationship of principal and agent, partnership, joint venture or any similar relationship, and each Party hereby specifically disclaims any such relationship.
- J. **No Third-Party Beneficiary.** City and WES are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement.
- K. **Subcontract and Assignment.** The Parties shall not assign or transfer any of their interests in this Agreement by operation of law or otherwise, without obtaining prior written approval from the other Party, which shall be granted or denied in the other Parties' sole and absolute discretion. Consent under this section shall not relieve the Parties of any of their duties or obligations under this Agreement.
- L. **Counterparts.** This Agreement may be executed in several counterparts (electronic or otherwise), each of which shall be an original, all of which shall constitute the same instrument.
- M. **Survival.** All provisions in sections 6, 8, and 9 shall survive the termination of this Agreement.
- N. **Necessary Acts.** Each Party shall execute and deliver to the others all such further instruments and documents as may be reasonably necessary to carry out this Agreement.

- O. **Successors in Interest.** The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective authorized successors and assigns.
- P. **Force Majeure.** Neither the city nor WES shall be held responsible for delay or default caused by events outside of the City's or WES' reasonable control including, but not limited to, fire, terrorism, riot, acts of God, or war. However, the Parties shall make all reasonable efforts to remove or eliminate such a cause of delay or default and shall upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.
- Q. **No Attorney Fees.** In the event any arbitration, action or proceeding, including any bankruptcy proceeding, is instituted to enforce any term of this Agreement, each party shall be responsible for its own attorneys' fees and expenses.

*\*Signature Page Follows\**

IN WITNESS HEREOF, the Parties have executed this Agreement by the date set forth opposite their names below.

**Water Environment Services**

**City of Milwaukie**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Ann Ober, City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**Approved as to Form:**

**Approved as to Form:**

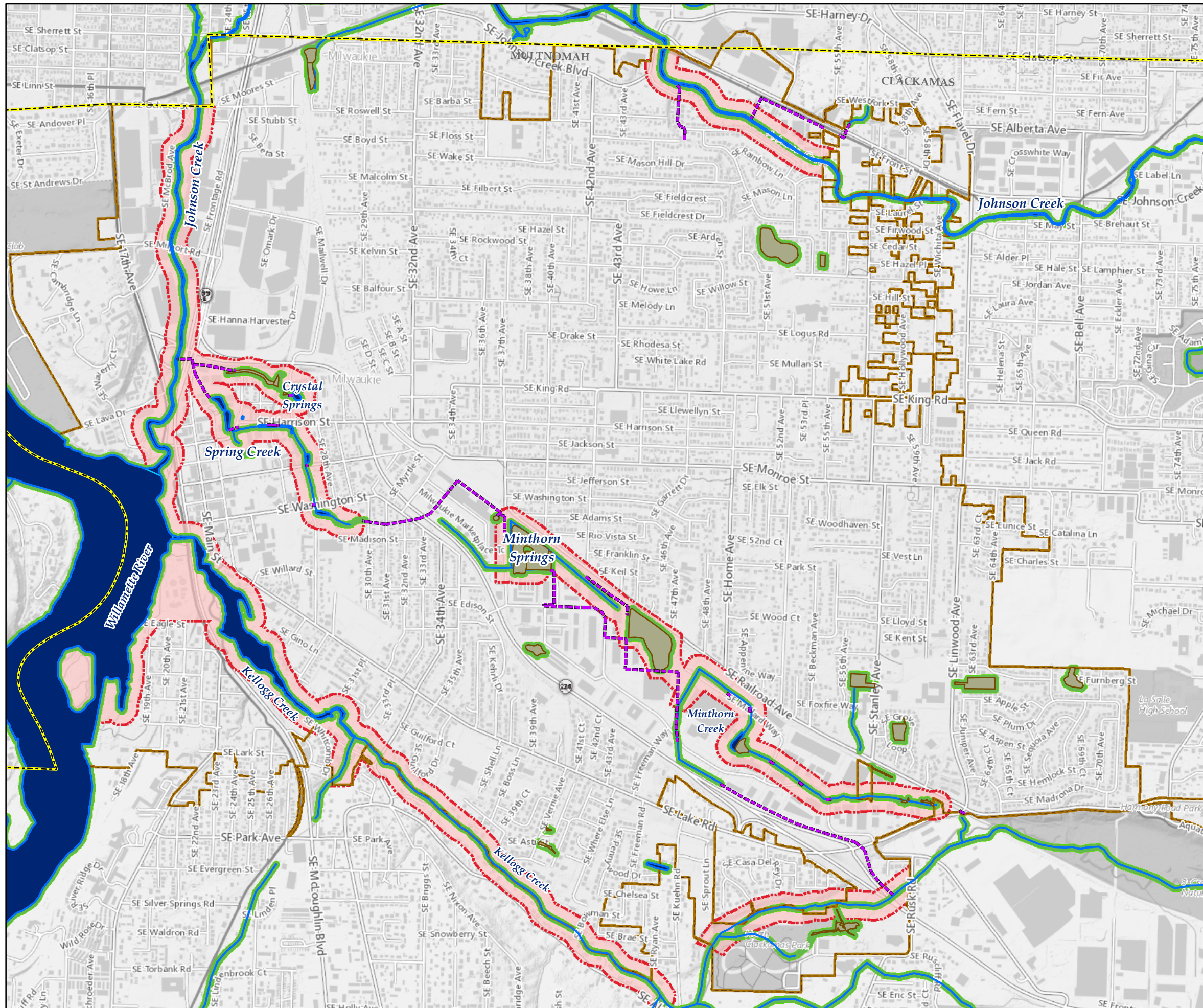
\_\_\_\_\_  
County Counsel                      Date

\_\_\_\_\_  
City Attorney                      Date

**City of Milwaukie  
Good Neighbor Program Areas**

-  Milwaukie City Limits
-  County Boundary
-  Storm Piped Streams
-  Wetlands
-  Streams
-  Water Bodies
-  Vegetated Corridors
-  Proposed Good Neighbor Program Areas

Note: Vegetated Corridors (or WQR, the water quality resource Areas)



Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Thursday, March 31, 2022

The information depicted on this map is for general reference only. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

GIS Coordinator  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206  
(503) 786-7498

0 0.5 1 Miles



**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH CLACKAMAS COUNTY WATER ENVIRONMENT SERVICES (WES) FOR THE PURPOSES OF PROVIDING FUNDS FOR A GOOD NEIGHBOR PROGRAM.**

**WHEREAS** Clackamas County Water Environment Services (WES) established a Good Neighbor Fund and with the city committed that the fund would be used for the purpose of mitigating the impact of the Kellogg Wastewater Recovery Facility on the surrounding neighborhoods, and

**WHEREAS** Funds from the Good Neighbor Fund have been instrumental in reducing odor impacts of the treatment plant within surrounding neighborhoods, improving the aesthetics of the landscaping and screening surrounding the plant, providing additional path lighting and park amenities, and strengthening the community’s relationship with WES, and

**WHEREAS** WES has proposed a new Good Neighbor Fund model that would allow the city to expand the geographic eligibility of projects, prioritize, budget, and manage those funds, and will require future projects and other expenditures to be included in the city’s budget process, which is overseen by the Budget Committee.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the city manager, or their designee, is authorized to sign an intergovernmental agreement between WES and the City of Milwaukie.

Introduced and adopted by the City Council on **December 6, 2022.**

This resolution is effective immediately.

\_\_\_\_\_  
Mark F. Gamba, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney

**Scott Stauffer**

---

**From:** Jo Anne Bird <evenstar@hevanet.com>  
**Sent:** Tuesday, December 6, 2022 2:22 PM  
**To:** OCR  
**Subject:** WES Goodneighbor fund.

**This Message originated outside your organization.**

---

I understand that a decision on WES Good Neighbor Funds is on the consent agenda. I am requesting that it be removed from the consent agenda so that our neighborhood will have time to discuss it this time.

Thank you.

Jo Anne Bird  
[evenstar@hevanet.com](mailto:evenstar@hevanet.com)



**Scott Stauffer**

---

**From:** charlesbird@juno.com  
**Sent:** Tuesday, December 6, 2022 3:55 PM  
**To:** OCR  
**Cc:** pardenham@gmail.com; cst11907@gmail.com  
**Subject:** Consent Agenda agreement with WES about handling good neighbor funds

This Message originated outside your organization.

City of Milwaukie Council,

Please remove this item from the consent agenda to give time for citizens to review and provide comments.

Sincerely,

Charles Bird, Chair ISNDA

Charles L. Bird, P.E.  
ARO KG7OJJ - GMRS WQZJ967  
12312 SE River Road  
Milwaukie, Oregon 97222  
503.318.5065



**RS Agenda Item**

**7**

**Business Items**

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
**Reviewed:** Ann Ober, City Manager,  
Joseph Briglio, Community Development Director, and  
Steve Adams, City Engineer  
**From:** Laura Weigel, Planning Manager  
**Subject:** **Transportation System Plan Advisory Committee Formation**

**Date Written:** Nov. 18, 2022

**ACTION REQUESTED**

Council is asked to provide additional direction regarding the formation of the Transportation System Plan (TSP) Advisory Committee (TSPAC).

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[August 2, 2022](#): Staff proposed the composition and structure of the TSPAC, and Council directed staff to recruit and interview committee members.

September: the city recruited community members to apply for the TSPAC. Information encouraging people to apply was posted in the Pilot, through the city's weekly emails to the neighborhood district associations, on the city website, and at Planning Commission meetings.

October: an interview panel consisting of Mayor Mark Gamba, Councilor Adam Khosroabadi, Planning Manager Laura Weigel, and City Engineer Steve Adams, met to interview applicants.

**BACKGROUND****Community Engagement – TSPAC**

Based on the last Council discussion to form the TSPAC, staff opened the recruitment for the following open positions:

- One Comprehensive Plan Advisory Committee (CPAC)/Comprehensive Plan Implementation Committee (CPIC) member, and
- Six members who represent the following areas of interest:  
cyclists, walkers, people under the age of 18, older adults, parents w/ young children, disabled persons, business interests.

In addition to the seven positions listed above, there were four additional proposed positions on the TSPAC: one Councilor, one Planning Commissioner, one Equity Steering Committee member, and one Public Safety Advisory Committee (PSAC) member, for a total of 11 members.

The recruitment yielded 25 applications for seven positions, although two of the 25 were members of PSAC. Due to the high interest in the committee, the experience of the applicants, and a desire to have representation from each neighborhood (who may or may not participate in the NDA), the panel suggests adding one additional "area of interest," one additional PSAC, one additional CPAC/CPIC, and one representative of community members that are age 65 or older to the TSPAC.

Additionally, no business/freight or mobility challenged people applied for the TSPAC, therefore the panel suggests seeking out people to fill these roles. The addition of these potential new representatives would increase the TSPAC from the original 11 members to 17 or 18 members.

The TSPAC is one piece of a much larger engagement effort that will be ongoing throughout the TSP update. The selection process of the TSPAC started before the formal TSP kick-off because it is one task that the city can get started on prior to having the consultant on board. The city received a grant from the Oregon Department of Transportation and due to that agency's procurement processes, work with consultants cannot start until the paperwork is signed and processed.

[Kittleson](#) will be the primary consultant and [JLA](#) and [We All Rise](#), who specialize in public engagement, are subconsultants on the project. The consultant team, with staff assistance, will develop an engagement plan to hear from all Milwaukians throughout the project. Additionally, the city will adhere to the International Association for Public Participation [code of ethics](#) when developing the public engagement plan.

### **Community Engagement - Overall**

The city is dedicated to building meaningful relationships with a variety of audiences throughout Milwaukie and using various tools and techniques to reach the community. Development of the TSP will only succeed if Milwaukians feel heard and those most impacted are meaningfully engaged. The TSP development and adoption process will incorporate engagement throughout to build community trust and gain consensus on community values, needs, and priorities.

The development of the TSP is a very iterative process where each different segment of the plan, as identified below under outreach events, will be discussed, reviewed, and commented on by each group: TSPAC, TSP Technical Committee (TSPTC), the public, Planning Commission, and Council. Additional meetings with specific working groups, such as cyclists or business representatives, and focus groups with underrepresented communities will also have specific opportunities to influence the development of the plan. The plan will evolve based on the feedback of all of these groups.

- TSPAC – 8 meetings (in-person and virtual)
- TSPTC – 8 meetings (virtual)
- Outreach events with the entire community
  - Vision, Goals and Policies (in-person and virtual)
  - Performance Measures (virtual)
  - Livable Streets (virtual)
  - Transportation System Conditions and Needs/Gap Analysis (virtual)
  - Future Conditions and Solutions (in-person and virtual)
  - Capital Projects List (in-person and virtual)
  - Draft TSP Review (virtual)
- Working group meetings
- Focus group meetings with under-represented communities
- Planning Commission - 8 meetings (including hearings/adoption)

- City Council – 8 meetings (including hearings/adoption)

## The TSP

The TSP is the city's long-term plan for transportation improvements and includes goals and policies that guide improvements to the system over a 20-year horizon. It also identifies projects that can be implemented through the city's Capital Improvement Plan (CIP), development review, or grant funding.

The last major update to the TSP was in 2007. While parts of the TSP have been updated, much of the plan remains out-of-date and not informed by the 2020 Comprehensive Plan update, the 2018 Climate Action Plan, the extension of light rail to the city, and the city's current level of development.

A big step towards building transportation projects identified in the TSP was the development of the Safe Access for Everyone (SAFE) program, which is the city's program to improve safety for people walking, biking, and more. SAFE calls for upgrading the city's network of connections, such as sidewalks, ramps, and crossings, to fill network gaps, replace portions that do not meet Americans with Disabilities Act (ADA) standards, and remove barriers for people to get where they need to go safely. SAFE's goal is to build 27.9 miles of sidewalk and/or paths and 900 ADA ramps. Five miles of sidewalk and/or multi-use paths and 151 ADA ramps have been added since the program began.

From a state perspective, the TSP fulfills the requirements of Statewide Planning Goal 12 (Transportation), which is largely implemented through the state's Transportation Planning Rule (TPR). The TPR specifies what must be included in local planning efforts for transportation, and what must be addressed and included in a transportation system plan.

New requirements in the TPR were issued earlier this year as a result Governor Kate Brown 2020 [Executive Order 20-4](#) directing various state agencies and commissions to take action to reduce and regulate greenhouse gas emissions to address equity. Recognizing that past planning processes and policies have harmed underserved populations (and that these populations are often most exposed to risks associated with climate pollution), cities and counties are required to center the voices and interests of underserved populations in the transportation planning process. The city must demonstrate through the newly required Equity Analysis component of the TSP how it engaged members of underserved populations in the TSP update, which is where the consultant We All Rise will be especially valuable. Jurisdictions are also required to prioritize transportation investments based on new criteria. The new criteria require that jurisdictions prioritize transportation projects that reduce per-capita vehicle-miles-traveled, lead to more walkable communities, promote safety, and improve transportation outcomes for underserved populations. Specifically, the TSP must:

- Assess, document, acknowledge, and address where past policies and effects of climate change have harmed and are likely to perpetuate harm to underserved populations.
- Assess, document, acknowledge, and address where current and past racism has harmed and continues to harm underserved populations.
- Recognize where and how intersectional discrimination compounds disadvantages.

These new state requirements reflect Council goals to mitigate climate change and Council's commitment to the pursuit of making Milwaukie entirely equitable.

## DISCUSSION

Is Council comfortable with the recommended revisions to the composition of the TSPAC or are there recommended changes to the committee composition?

### **BUDGET IMPACTS**

The TSP update project has been identified as part of the planning department work plan for several years and has been budgeted for accordingly.

### **CLIMATE IMPACTS**

Administering a new city committee will require new meetings and activities that will bring people together – therefore minor climate impacts related to this increased travel is likely. However, a goal of the TSPAC's work is to update the city's transportation plans to promote transit modes that will have an overall positive impact on the climate.

### **WORKLOAD IMPACTS**

Planning and engineering department and city recorder staff time has already been used to recruit and interview the nominated individuals. And once the TPSAC is operational significant staff time will be required to administer the committee. However, these staff workload considerations have been factored into staff's work and do not pose any significant unforeseen increase.

### **COORDINATION, CONCURRENCE, OR DISSENT**

The planning and engineering departments and the office of the city recorder worked with members of Council to recruit and interview the nominated individuals.

### **ALTERNATIVES**

Staff is seeking general direction. No alternative approaches have been explored.

### **ATTACHMENTS**

None.



**RS 7. A. 12/6/22  
Presentation**

# **TRANSPORTATION SYSTEM PLAN ADVISORY COMMITTEE**

City Council  
December 6, 2022

Laura Weigel, Planning Manager

# TRANSPORTATION SYSTEM PLAN

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Last major update in 2007

Light rail extension

Safe Access for Everyone (SAFE) Program

2018 Climate Action Plan

2020 Comprehensive Plan Update

2022 legislative requirements





# COMMUNITY ENGAGEMENT

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The city is dedicated to **building meaningful relationships with a variety of audiences** throughout Milwaukie and using various tools and techniques to reach the community.

**TSP will only succeed if Milwaukians feel heard and those most impacted are meaningfully engaged.**

Engagement designed to **build community trust** and gain consensus on community values, needs, and priorities.



# COMMUNITY ENGAGEMENT

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- TSPAC – 8 meetings (in-person and virtual)
- TSPTC – 8 meetings (virtual)
- Outreach events with the entire community
  - Vision, Goals and Policies (in-person and virtual)
  - Performance Measures (virtual)
  - Livable Streets (virtual)
  - Transportation System Conditions and Needs/Gap Analysis (virtual)
  - Future Conditions and Solutions (in-person and virtual)
  - Capital Projects List (in-person and virtual)
  - Draft TSP Review (virtual)
- Working group meetings
- Focus group meetings with under-represented communities
- Planning Commission - 8 meetings
- City Council – 8 meetings



# TSP ADVISORY COMMITTEE

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**City Council Provided direction to recruit the following:**

**Six** members who represent the following areas of interest:

cyclists

walkers

people under the age of 18

older adults

parents w/ young children

mobility challenged

business interests



# TSP ADVISORY COMMITTEE

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## One

- Comprehensive Plan Advisory Committee (CPAC)/Comprehensive Plan Implementation Committee (CPIC) member
- Public Safety Committee representative
- Equity Steering Committee representative
- Planning Commissioner
- City Councilor

For a total of **11** committee members



# SEPTEMBER RECRUITMENT

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**Yielded 25 applications**, including several PSAC and Comprehensive Plan committee members who applied in the general recruitment.



# PANEL RECOMMENDATION

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The panel suggests adding the following additional representatives:

- One more “area of interest”
- One more PSAC
- One more CPAC/CPIC
- Age 65 or older
- Business and/or freight
- Disabled

\*Two alternates

For a total of **17/18** committee members\*





# TSP TECHNICAL COMMITTEE

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- ODOT
- Department of Land Conservation and Development
- Metro
- Clackamas County
- TriMet
- Milwaukie Police Department
- North Clackamas
  - Fire District
  - School District
  - Parks and Recreation District
  - **Watershed Council**
- Unite Oregon





**Scott Stauffer**

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**From:** Jay Panagos <jaypanagos64@gmail.com>  
**Sent:** Monday, December 5, 2022 3:30 PM  
**To:** OCR  
**Subject:** TSPAC

**This Message originated outside your organization.**

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Hello Scott,

I will not be able to be present at this week's City Council meeting due to an early start at work Wednesday at 3am. Please pass my thoughts on to City Council and Laura in regards to having Bike Milwaukie represented on TSPAC. Bike Milwaukie is a citizen lead effort to encourage residents to use bicycles to explore their town and to engage residents to advocate for safer cycling and pedestrian infrastructure in Milwaukie. Bike Milwaukie has been a sounding board for cyclists to suggest improvements, to promote greater use of bicycles as an alternative mode of transportation, and also to promote a healthy climate/environment. Please consider a rep from Bike Milwaukie when adding more members to TSPAC.

Thanks,  
Jay Panagos

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Reviewed:** Peter Passarelli, Public Works Director, and  
Sasha Freeman, Administrative Specialist (as to form)

**From:** Natalie Rogers, Climate & Natural Resource Manager

**Subject:** **Building Energy Decarbonization Resolutions (continued)**

**Date Written:** Nov. 21, 2022

**ACTION REQUESTED**

Council is asked to provide direction to staff on the proposed building energy decarbonization resolution(s) and consider resolution adoption.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[January 18, 2022:](#) Mayor Gamba introduced a resolution directing city staff to coordinate with regional stakeholders to develop code which would require new construction to be electric-only, for the city to develop a roadmap to decarbonization of existing buildings and directs the city to require electrification of city building purchased and renovated exceeding established thresholds.

[July 12, 2022:](#) Council heard informational presentations from NW Natural Gas and Climate Solutions on the topics of methane gas, utility services, climate goals, and gas-related impacts.

[September 6, 2022:](#) Council discussed three separate resolutions addressing building carbon emission reduction and city climate goals, including a resolution establishing requirements for city-owned and city-financed buildings to be systematically decarbonized, a resolution directing city exploration of programming to assist in the voluntary decarbonization of existing buildings, and a resolution for the city to develop an ordinance to accelerate new construction decarbonization by implementing a ban on methane gas as a fuel source for new construction. Council heard testimony and directed staff to return with staff recommendations on each resolution.

[November 1, 2022:](#) Council heard staff response and recommendations on the proposed resolutions. Council heard additional public testimony. Council directed staff to bring back revised versions of the city-owned buildings decarbonization resolution and the new construction resolution with additional information from the concurrent regional discussions on buildings decarbonization mandates.

**ANALYSIS**

The city adopted the 2018 Climate Action Plan (CAP) which called for emission reductions from buildings to achieve local climate goals. The 2020 Climate Emergency Declaration accelerated the community's climate goal timeline, including the net-zero emissions from buildings goal which was moved to 2035. The decarbonization resolutions presented by council and discussed in this report would assist the city in achieving the adopted goals and could provide additional benefits such as public health and economic advantages.

### **Resolution Addressing Decarbonization of City-Owned and City-Financed Buildings**

This resolution establishes decarbonization requirements and retrofits for city-owned or city-financed buildings. The resolution makes replacement of inoperable assets with decarbonized options effective immediately and requires the city to perform asset replacement with large city building investments or renovations starting July 1, 2024. The resolution also outlines exemption opportunities and flexibility to account for project and financial feasibility and alternatives to maximize emission reduction.

### **Resolution to Accelerate Decarbonization of New Construction Buildings**

This resolution calls for a prohibition on new connections to fossil fuel infrastructure for residential buildings. This resolution establishes a timeline for city engagement and consideration of a similar prohibition on new connections for exclusively commercial and industrial buildings. This resolution does not introduce any mandates or requirements for buildings that have existing fossil fuel connections.

### **City of Eugene Follow Up**

As discussed at the November 1 Council session, the City of Eugene has been exploring their own methane natural gas ban following dissolving discussions around NW Natural's franchise agreement with the city. Eugene staff are working with the Good Company to evaluate emission reduction potential in the community through a methane natural gas ban for new construction. Eugene City Council recently adopted four resolutions associated with the methane natural gas ban at their July 27, 2022 session, directing staff to draft ordinance language requiring new residential construction be all electric by June 1, 2023, directing the city manager to continue conversations with council on commercial and industrial customers, directing the city manager to bring a revision to their climate action plan to formalize their electrification goals, and directing the city manager to bring a proposal in the fall for engaging the community on decarbonization of existing buildings.

At the November 21 Eugene City Council session, Eugene staff presented an ordinance to prohibit natural gas and other fossil fuel infrastructure from low-rise residential buildings (staff report and ordinance attached). Eugene's City Council heard public testimony, but the item was not scheduled for an action as of this report's drafting. On November 28, Eugene City Council discussed next steps for commercial buildings and fossil fuel infrastructure. Milwaukie staff will follow up with Eugene's staff following their discussion to learn of next steps for Eugene's work in this area.

### **BUDGET IMPACT**

Building renovations, asset replacements and other infrastructure investments will result in funding needs for equipment and installation. The resolution for city-owned buildings has been drafted to align with the city budget cycle to include these funding needs in larger budget and capital improvement discussions. Prohibitions on new fossil fuel infrastructure connections will require investment in community outreach and engagement, existing staff resources, and potentially legal fees if the ordinance is challenged in court.

### **WORKLOAD IMPACT**

Implementation of actions called for in these resolutions could impact the workloads of a variety of staff at the city, including public works staff, code compliance, building, and planning staff.

## **CLIMATE IMPACT**

Implementing the resolutions will reduce the city's carbon footprint and help us achieve the city's goal of net-zero building energy by 2035.

## **COORDINATION, CONCURRENCE, OR DISSENT**

City staff continue to coordinate with regional governments and authorities on these efforts. Engagement efforts with local utility customers, utility providers, and advocates will occur through these discussions with council.

## **STAFF RECOMMENDATION**

Staff recommends that Council discuss each resolution and consider adoption or provide direction on next steps.

## **ALTERNATIVES**

Council could consider the following alternatives:

1. Adopt only the city-owned buildings resolution, or
2. Adopt only the new-construction resolution, or
3. Delay adoption of both resolutions, or
4. Choose to not adopt either resolution and halt discussions on fossil fuel bans and building decarbonization.

## **ATTACHMENTS**

1. Draft Resolution Addressing City-Owned and Financed Buildings
2. Draft Resolution Accelerating the Decarbonization of New Buildings
3. City of Eugene's November 21, 2022, Staff Report and Ordinance
4. City of Eugene's November 28, 2022 Staff Report

**COUNCIL RESOLUTION No.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO DECARBONIZE THE BUILDING SECTOR AND TO ACCELERATE THE TRANSITION TO DECARBONIZED CITY-OWNED AND CITY-FINANCED BUILDINGS TO PROMOTE CLIMATE, PUBLIC HEALTH, AND RESILIENCY BENEFITS.**

**WHEREAS** decarbonization is the reduction of carbon dioxide and other greenhouse gas emissions that are created through the burning of fossil fuels and contribute to climate change, and

**WHEREAS** climate change is an existential crisis posing one of the most serious threats to the existence of humanity and all species on the planet; a threat that intersects and compounds multiple other crises facing humanity and our Earth, and

**WHEREAS** the 11th United Nations Intergovernmental Panel on Climate Change (“IPCC”) report from October 2018 states that we must cut greenhouse gas emissions in half by 2030 to limit global warming and avoid a climate catastrophe<sup>1</sup>, and

**WHEREAS** in 2021, the United States and other leading economies agreed to the Global Methane Pledge to reduce methane emissions 30 percent by 2030<sup>2</sup>, and

**WHEREAS** in Oregon, homes and buildings are the second highest source of Oregon’s greenhouse gas emissions<sup>3</sup>, and

**WHEREAS** the transportation and combustion of “natural” methane gas creates significant harms to public health and safety<sup>4</sup>, and

**WHEREAS** leaks during the production, processing, transmission, and distribution of “natural” methane gas are substantial,<sup>5</sup> releasing a potent greenhouse gas with approximately 86 times the global warming potential of carbon dioxide over a 20-year period<sup>6</sup>, and

**WHEREAS** methane gas stoves emit hazardous air pollutants such as nitrogen dioxide and carbon monoxide, which compromise indoor air quality and the respiratory health of vulnerable populations, including low-income households, children, the elderly, and those with existing health conditions, and

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<sup>1</sup> See, e.g., [IPCC report: ‘now or never’ if world is to stave off climate disaster | Climate crisis | The Guardian](#).

<sup>2</sup> See [Joint US-EU Press Release on the Global Methane Pledge - The White House](#).

<sup>3</sup> See Figure 5 at [State of Oregon: Energy in Oregon - Greenhouse Gas Emissions Data](#).

<sup>4</sup> See, e.g., “Methane Gas: Health, Safety, and Decarbonization” at [Methane Gas: Health, Safety, and Decarbonization \(powerpastfrackedgas.org\)](#); See also US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), “Gas Distribution Significant Incidents 20 Year Trend,” (data as of July 12, 2021). Available at: [https://portal.phmsa.dot.gov/analytics/saw.dll?Portalpages&PortalPath=%2Fshared%2FPDM%20Public%20Website%2F\\_portal%2FSC%20Incident%20Trend&Page=Significant](https://portal.phmsa.dot.gov/analytics/saw.dll?Portalpages&PortalPath=%2Fshared%2FPDM%20Public%20Website%2F_portal%2FSC%20Incident%20Trend&Page=Significant); See also Oregon & Washington Physicians for Social Responsibility, “Fracked Gas Infrastructure: A Threat to Healthy Communities,” (2019). Available at: [https://www.oregonpsr.org/fracked\\_gas\\_a\\_threat\\_to\\_healthy\\_communities](https://www.oregonpsr.org/fracked_gas_a_threat_to_healthy_communities);

**WHEREAS** children who grow up in homes with methane gas cooking appliances have a 42% higher risk of asthma symptoms<sup>7</sup>, and

**WHEREAS** methane gas for heating in buildings leads to increases in outdoor air pollution<sup>8</sup>, and

**WHEREAS** historically marginalized communities including low-income and Black, Indigenous and People of Color (BIPOC) households are disproportionately impacted by outdoor air pollution<sup>9</sup>, and

**WHEREAS** methane gas pipelines are prone to leaks and explosions and endanger the health and safety of communities<sup>10</sup>, and

**WHEREAS** methane gas infrastructure poses a significant threat to Oregon residents in the event of a major earthquake<sup>11</sup>, and

**WHEREAS** “renewable natural” methane gas still poses the same health and safety risks to communities as traditional “natural” gas<sup>12</sup>, and

**WHEREAS** NW Natural, the state’s largest methane gas utility which serves Milwaukie customers, is expected to cumulatively increase bills approximately 42 percent between October 2021 and November 2022<sup>13</sup>, and

**WHEREAS** gas utility ratepayers are at significant risk of incurring additional costs and rate increases due to methane gas price volatility and utility business practices<sup>14</sup>, and

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<sup>5</sup> See, e.g., [Assessment of methane emissions from the U.S. oil and gas supply chain | Science](#) (quantifying methane leaks in the gas supply chain and finding that in 2015, supply chain emissions were ~60% higher than the U.S. Environmental Protection Agency inventory estimate).

<sup>6</sup> See [Methane is like 'CO2 on Steroids' When It Comes to Trapping Heat \(sightline.org\)](#) (Citing IPCC 2018 Report [WG1AR5 Chapter08 FINAL.pdf \(ipcc.ch\)](#) at 731).

<sup>7</sup> See [Meta-analysis of the effects of indoor nitrogen dioxide and gas cooking on asthma and wheeze in children | International Journal of Epidemiology | Oxford Academic \(oup.com\)](#).

<sup>8</sup> See [Effects of Residential Gas Appliances on Indoor and Outdoor Air Quality and Public Health in California – Center for Occupational & Environmental Health \(ucla.edu\)](#).

<sup>9</sup> See [Air pollution exposure disparities across US population and income groups | Nature](#); See also [Low-income, black neighborhoods still hit hard by air pollution – ScienceDaily](#).

<sup>10</sup> See, e.g., Ahrens, M. and Everts, B., “Natural Gas and Propane Fires, Explosions and Leaks Estimates and Incident Description,” National Fire Protection Association Research (NFPA), (October 2018). Available at: <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Hazardo us- materials/osNaturalGasPropaneFires.ashx>.

<sup>11</sup> See Wang, Y. et al, “Earthquake Risk Study for Oregon’s Critical Energy Infrastructure Hub,” State of Oregon Department of Geology and Mineral Industries,” (2013). Available at: <https://www.oregon.gov/energy/safety-resiliency/Documents/2013%20Earthquake%20Risk%20Study%20in%20Oregon%E2%80%99s%20Critical%20Energy%20Infrastructure%20Hub.pdf>.

<sup>12</sup> See, e.g., [Report Building-Decarbonization-2020.pdf \(earthjustice.org\)](#).

<sup>13</sup> See [Natural Gas Prices Are Going Up Before Winter | Blog | News | Oregon CUB](#).

<sup>14</sup> See, e.g., “U.S. natural gas price saw record volatility in the first quarter of 2022” at [U.S. Energy Information Administration - EIA - Independent Statistics and Analysis](#).

**WHEREAS** in 2021, the Oregon House of Representatives passed House Bill (HB) 2021, which sets milestones for electric utilities to transition to 100% clean electricity by 2040<sup>15</sup>, and

**WHEREAS** in 2018, the city approved a Community Climate Action Plan (CAP) that established ambitious decarbonization, and

**WHEREAS** in 2020, the city declared a climate emergency and accelerated the goals in the CAP by five years which made them: carbon-free electricity powering the city by 2030; net zero emissions from all buildings by 2035; carbon neutral city by 2045; and

**WHEREAS** electrification is widely recognized as a powerful decarbonization strategy to address both climate change and poor air quality in frontline communities most vulnerable to climate impacts<sup>16</sup>, and

**WHEREAS** in 2022, the United States passed the Inflation Reduction Act, which among other things, will provide billions of dollars to homeowners and businesses for increasing energy efficiency and installing high-efficiency electric appliances like heat pumps<sup>17</sup>, and

**WHEREAS** electric heat pumps provide both heating and cooling while providing significant operational greenhouse gas reduction benefits compared to gas furnaces<sup>18</sup>, and

**WHEREAS** electrification will improve indoor air quality and overall health, by eliminating natural gas combustion inside homes that produces harmful indoor air pollution<sup>19</sup>, and

**WHEREAS** every new building constructed with high-efficiency electric appliances will have climate, public health, and cost savings benefits for decades to come<sup>20</sup>, and

**WHEREAS** the city has the opportunity to lead by example to make decisive, transformative, and sustainable changes in its municipal energy consumption, and can significantly lower the city's greenhouse gas emissions and overall carbon impact, and

**WHEREAS** citywide, rapidly reducing methane gas use in buildings will help achieve Milwaukie's Community CAP targets, and such actions will also improve public health and increase the quality of life throughout the city.

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<sup>15</sup> [HB2021 2021 Regular Session - Oregon Legislative Information System \(oregonlegislature.gov\)](https://legislature.oregon.gov/2021/Bills/200-299/2021HB2021.htm).

<sup>16</sup> See, e.g., [Equitable Building Electrification: A Framework for Powering Resilient Communities \(greenlining.org\)](https://greenlining.org/equitable-building-electrification).

<sup>17</sup> See, e.g., <https://www.forbes.com/sites/energyinnovation/2022/08/30/inflation-reduction-act-benefits-millions-of-efficient-electrified-buildings/>.

<sup>18</sup> See [Heat Pumps: A Path to Health and Climate Benefits - Energy Foundation](https://energyfoundation.org/heat-pumps-a-path-to-health-and-climate-benefits); see also [Rapid Electric Heat Transition Will Save Oregon \\$1.7 Billion, Report Finds - DeSmog](https://www.dsmog.org/rapid-electric-heat-transition-will-save-oregon-17-billion-report-finds).

<sup>19</sup> See, e.g., [Eight Benefits of Building Electrification for Households, Communities, and Climate - RMI](https://www.rmi.org/eight-benefits-of-building-electrification).

<sup>20</sup> See, e.g., [The New Economics of Electrifying Buildings - RMI](https://www.rmi.org/the-new-economics-of-electrifying-buildings).

**NOW, THEREFORE**, be it resolved by the City Council of the City of Milwaukie, Oregon, that the city recognizes the global and local benefits of decarbonizing homes and buildings and accelerating the transition to decarbonized homes and buildings throughout the city, and

**BE IT FURTHER RESOLVED** as follows:

**Resolution – Decarbonize City-Owned and City-Financed Buildings**

**Section 1.** Effective immediately, the city manager is directed to require that all building using natural gas-consuming assets and related system components be replaced with electric assets when the system has lost functionality and repair is not an option, or when the repair and/or associated continuing servicing to maintain functionality over the remaining expected lifetime of the asset exceeds 50% of the value of the asset. Public buildings which offer key services to the community may be permitted to maintain emergency generators.

**Section 2.** Effective July 1, 2024, replacement of existing city-building natural gas consuming assets with electric assets are required when:

- When the system has lost functionality at the required level and repair is not an option.
- The city finances a building and invests \$500,000 or more in the transaction.
- The city performs major renovations resulting in expenditure of \$200,000 or more. If building energy assets are already scoped for replacement in the renovation, electric assets must be prioritized for replacement options other than emergency generators.
- The city donates a property with an appraised market value of \$500,000 or more.
- The city sells a city-owned property and the difference between the appraised value and sale price is \$200,000 or more.

**Section 3.** The city manager may request approval from Council to exempt or delay retrofit requirements. Any exemption or extension granted by the Council will be narrowly tailored to maximize decarbonization efforts within given cost constraints. Council may approve the following alternatives:

- A full exemption from performing required retrofit actions.
- A partial exemption to exclude specific asset replacements required.
- An extension to allow for required asset replacement at future defined date.
- A modification to allow equivalent asset replacement or equivalent financial investment in a different city building if the emission reduction potential or environmental benefit is the same or greater than the otherwise required improvement.



**Section 4.** The city manager is directed to inventory city-owned facilities that currently use natural gas and evaluate the feasibility of retrofitting those facilities to cease using natural gas, with a priority of decarbonization where feasible. The inventory and evaluation will make use of existing reports and data to prepare preliminary feasibility recommendations by **June 30, 2024**.

Introduced and adopted by the City Council on **December 6, 2022**.

This resolution is effective immediately.

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Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

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Scott S. Stauffer, City Recorder

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Justin D. Gericke, City Attorney

**COUNCIL RESOLUTION No.****A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, TO DECARBONIZE THE BUILDING SECTOR AND TO ACCELERATE ALL-ELECTRIC FUTURE BUILDINGS TO PROMOTE CLIMATE, PUBLIC HEALTH, AND RESILIENCY BENEFITS.**

**WHEREAS** climate change is an existential crisis posing one of the most serious threats to the existence of humanity and all species on the planet; a threat that intersects and compounds multiple other crises facing humanity and our Earth, and

**WHEREAS** the 11th United Nations Intergovernmental Panel on Climate Change (“IPCC”) report from October 2018 states that we must cut greenhouse gas emissions in half by 2030 to limit global warming and avoid a climate catastrophe<sup>1</sup>, and

**WHEREAS** in 2021, the United States and other leading economies agreed to the Global Methane Pledge to reduce methane emissions 30 percent by 2030<sup>2</sup>, and

**WHEREAS** in Oregon, homes and buildings are the second highest source of Oregon’s greenhouse gas emissions<sup>3</sup>, and

**WHEREAS** the transportation and combustion of “natural” methane gas creates significant harms to public health and safety<sup>4</sup>, and

**WHEREAS** leaks during the production, processing, transmission, and distribution of “natural” methane gas are substantial,<sup>5</sup> releasing a potent greenhouse gas with approximately 86 times the global warming potential of carbon dioxide over a 20-year period<sup>6</sup>, and

**WHEREAS** methane gas stoves emit hazardous air pollutants such as nitrogen dioxide and carbon monoxide, which compromise indoor air quality and the respiratory health of vulnerable populations, including low-income households, children, the elderly, and those with existing health conditions, and

<sup>1</sup> See, e.g., [IPCC report: ‘now or never’ if world is to stave off climate disaster | Climate crisis | The Guardian](#).

<sup>2</sup> See [Joint US-EU Press Release on the Global Methane Pledge - The White House](#).

<sup>3</sup> See Figure 5 at [State of Oregon: Energy in Oregon - Greenhouse Gas Emissions Data](#).

<sup>4</sup> See, e.g., “Methane Gas: Health, Safety, and Decarbonization” at [Methane Gas: Health, Safety, and Decarbonization \(powerpastfrackedgas.org\)](#); See also US Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), “Gas Distribution Significant Incidents 20 Year Trend,” (data as of July 12, 2021). Available at: [https://portal.phmsa.dot.gov/analytics/saw.dll?Portalpages&PortalPath=%2Fshared%2FPDM%20Public%20Website%2F\\_portal%2FSC%20Incident%20Trend&Page=Significant](https://portal.phmsa.dot.gov/analytics/saw.dll?Portalpages&PortalPath=%2Fshared%2FPDM%20Public%20Website%2F_portal%2FSC%20Incident%20Trend&Page=Significant); See also Oregon & Washington Physicians for Social Responsibility, “Fracked Gas Infrastructure: A Threat to Healthy Communities,” (2019). Available at: [https://www.oregonpsr.org/fracked\\_gas\\_a\\_threat\\_to\\_healthy\\_communities](https://www.oregonpsr.org/fracked_gas_a_threat_to_healthy_communities);

<sup>5</sup> See, e.g., [Assessment of methane emissions from the U.S. oil and gas supply chain | Science](#) (quantifying methane leaks in the gas supply chain and finding that in 2015, supply chain emissions were ~60% higher than the U.S. Environmental Protection Agency inventory estimate).

<sup>6</sup> See [Methane is like ‘CO2 on Steroids’ When It Comes to Trapping Heat \(sightline.org\)](#) (Citing IPCC 2018 Report [WG1AR5\\_Chapter08\\_FINAL.pdf \(ipcc.ch\)](#) at 731).

**WHEREAS** children who grow up in homes with methane gas cooking appliances have a 42% higher risk of asthma symptoms<sup>7</sup>, and

**WHEREAS** methane gas for heating in buildings leads to increases in outdoor air pollution<sup>8</sup>, and

**WHEREAS** historically marginalized communities including low-income and Black, Indigenous and people of color (BIPOC) households are disproportionately impacted by outdoor air pollution<sup>9</sup>, and

**WHEREAS** methane gas pipelines are prone to leaks and explosions and endanger the health and safety of communities<sup>10</sup>, and

**WHEREAS** methane gas infrastructure poses a significant threat to Oregon residents in the event of a major earthquake<sup>11</sup>, and

**WHEREAS** “renewable natural” methane gas still poses the same health and safety risks to communities as traditional “natural” gas<sup>12</sup>, and

**WHEREAS** NW Natural, the state’s largest methane gas utility which serves Milwaukie customers, is expected to cumulatively increase bills approximately 42 percent between October 2021 and November 2022<sup>13</sup>, and

**WHEREAS** gas utility ratepayers are at significant risk of incurring additional costs and rate increases due to methane gas price volatility and utility business practices<sup>14</sup>, and

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<sup>7</sup> See [Meta-analysis of the effects of indoor nitrogen dioxide and gas cooking on asthma and wheeze in children | International Journal of Epidemiology | Oxford Academic \(oup.com\)](#).

<sup>8</sup> See [Effects of Residential Gas Appliances on Indoor and Outdoor Air Quality and Public Health in California – Center for Occupational & Environmental Health \(ucla.edu\)](#).

<sup>9</sup> See [Air pollution exposure disparities across US population and income groups | Nature](#); See also [Low-income, black neighborhoods still hit hard by air pollution -- ScienceDaily](#).

<sup>10</sup> See, e.g., Ahrens, M. and Evarts, B., “Natural Gas and Propane Fires, Explosions and Leaks Estimates and Incident Description,” National Fire Protection Association Research (NFPA), (October 2018). Available at: <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Hazardous-materials/osNaturalGasPropaneFires.ashx>.

<sup>11</sup> See Wang, Y. et al, “Earthquake Risk Study for Oregon’s Critical Energy Infrastructure Hub,” State of Oregon Department of Geology and Mineral Industries,” (2013). Available at: <https://www.oregon.gov/energy/safety-resiliency/Documents/2013%20Earthquake%20Risk%20Study%20in%20Oregon%20-%20Critical%20Energy%20Infrastructure%20Hub.pdf>.

<sup>12</sup> See, e.g., [Report Building-Decarbonization-2020.pdf \(earthjustice.org\)](#).

<sup>13</sup> See [Natural Gas Prices Are Going Up Before Winter | Blog | News | Oregon CUB](#).

<sup>14</sup> See, e.g., “U.S. natural gas price saw record volatility in the first quarter of 2022” at [U.S. Energy Information Administration - EIA - Independent Statistics and Analysis](#).

**WHEREAS** in 2021, Oregon passed HB 2021, which sets milestones for electric utilities to transition to 100% clean electricity by 2040<sup>15</sup>, and

**WHEREAS** in 2018, the city approved a Community Climate Action Plan (CAP) that established ambitious decarbonization; and

**WHEREAS** in 2020, the city declared a climate emergency and accelerated the goals in the CAP by five years which made them: carbon-free electricity powering the city by 2030; net zero emissions from all buildings by 2035; carbon neutral city by 2045; and

**WHEREAS** in 2022, the United States passed the Inflation Reduction Act, which among other things, will provide billions of dollars to homeowners and businesses for increasing energy efficiency and installing high-efficiency electric appliances like heat pumps<sup>16</sup>, and

**WHEREAS** electric heat pumps provide both heating and cooling while providing significant operational greenhouse gas reduction benefits compared to gas furnaces<sup>17</sup>, and

**WHEREAS** electrification will improve indoor air quality and overall health, by eliminating natural gas combustion inside homes that produces harmful indoor air pollution<sup>18</sup>, and

**WHEREAS** electrification is widely recognized as a powerful decarbonization strategy to address both climate change and poor air quality in frontline communities most vulnerable to climate impacts<sup>19</sup>, and

**WHEREAS** every new building constructed with high-efficiency electric appliances will have climate, public health, and cost savings benefits for decades to come<sup>20</sup>, and

**WHEREAS** the city has the opportunity to lead by example to make decisive, transformative, and sustainable changes in its municipal energy consumption, and can significantly lower the city's greenhouse gas emissions and overall carbon impact, and

**WHEREAS** citywide, rapidly reducing methane gas use in buildings will help achieve Milwaukie's Community CAP targets, and such actions will also improve public health and increase the quality of life throughout the city, and

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<sup>15</sup> [HB2021 2021 Regular Session - Oregon Legislative Information System \(oregonlegislature.gov\)](https://legislature.oregon.gov/2021/Bills/200-299/2021HB2021.htm).

<sup>16</sup> See, e.g., <https://www.forbes.com/sites/energyinnovation/2022/08/30/inflation-reduction-act-benefits-millions-of-efficient-electrified-buildings/>.

<sup>17</sup> See [Heat Pumps: A Path to Health and Climate Benefits - Energy Foundation](https://www.energyfoundation.org/heat-pumps-a-path-to-health-and-climate-benefits/); see also [Rapid Electric Heat Transition Will Save Oregon \\$1.7 Billion, Report Finds - DeSmog](https://www.deSmog.com/2022/08/30/rapid-electric-heat-transition-will-save-oregon-1-7-billion-report-finds/).

<sup>18</sup> See, e.g., [Eight Benefits of Building Electrification for Households, Communities, and Climate - RMI](https://www.rmi.org/eight-benefits-of-building-electrification-for-households-communities-and-climate).

<sup>19</sup> See, e.g., [Equitable Building Electrification: A Framework for Powering Resilient Communities \(greenlining.org\)](https://www.greenlining.org/equitable-building-electrification-a-framework-for-powering-resilient-communities/).

<sup>20</sup> See, e.g., [The New Economics of Electrifying Buildings - RMI](https://www.rmi.org/the-new-economics-of-electrifying-buildings).

**WHEREAS** a city may "Determine by contract or prescribe by ordinance or otherwise, the terms and conditions, including payment of charges and fees, upon which any public utility, electric cooperative, people’s utility district or heating company, or Oregon Community Power, may be permitted to occupy the streets, highways or other public property within such city and exclude or eject any public utility or heating company therefrom."<sup>1</sup>

**NOW, THEREFORE**, be it resolved by the City Council of the City of Milwaukie, Oregon, that the city recognizes the global and local environmental, public health, and energy efficiency benefits of decarbonizing buildings at time of construction and accelerating the transition to carbon-free homes to reach Milwaukie’s 2035 zero-energy building goal; and

**BE IT FURTHER RESOLVED** as follows:

**Resolution – Decarbonize future homes and residential buildings**

**Section 1.** The city staff are directed to develop code changes or take other actions, as necessary, to achieve the following outcome: Fuel gas piping, defined as conveying hydrocarbon ‘fossil fuels’ including natural gas, propane, manufactured gas, liquefied petroleum gas or mixtures of these gases, is prohibited from connecting to any residential building after March 1, 2024.

**Section 2.** The city staff are directed to engage with commercial and industrial building owners on the opportunities and challenges of decarbonization of these building types and use these learnings to explore decarbonization regulations for new construction of commercial and industrial buildings. Staff are directed to return to Council with the summary of this engagement and potential regulations by June 30, 2025.

Introduced and adopted by the City Council on **December 6, 2022**.

This resolution is effective immediately.

\_\_\_\_\_  
Mark F. Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney

<sup>1</sup> [ORS § 221.420\(2\)\(a\)](#).

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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**Public Hearing: An Ordinance Prohibiting Fossil Fuel  
Infrastructure in New Low-Rise Residential Buildings; and Adding  
Section 6.695 and 6.696 to the Eugene Code, 1971.**

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Meeting Date: November 21, 2022  
Department: Planning and Development  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 4  
Staff Contact: Lydia Bishop  
Contact Telephone Number: 541-682-5482

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## **ISSUE STATEMENT**

The purpose of this public hearing is for the Eugene City Council to hear public testimony on a proposed ordinance to prohibit fossil fuel infrastructure in new low-rise residential buildings. Low-rise residential buildings include single-family dwellings, duplexes, triplexes, quadraplexes, cottage clusters and any residential structure that is three-stories or less.

## **BACKGROUND**

On November 17, 2021, the City Council received an update on the Climate Action Plan (CAP) 2.0. Regulation of natural gas is one of the strategies specified in the CAP 2.0, and at that meeting, Council provided direction regarding fossil fuel infrastructure, specifically to explore code changes that would require newly constructed buildings to be electric-only. In response, staff reviewed local and State building code and determined that requiring electric-only buildings may be achieved through a local code amendment by adding language to Eugene Code Chapter 6. Staff concluded that prohibiting natural gas and other fossil fuel infrastructure from new buildings is not preempted and would not necessitate a local amendment to the State building code.

On April 13, 2022, staff presented the information about amending Chapter 6 to prohibit fossil fuel infrastructure during a Council work session. Council had a robust discussion regarding the code process and raised several questions regarding greenhouse gas emission reduction and related legislation. The Council requested that staff research these and other questions subsequently sent to staff and requested that information be provided at a follow-up work session in the summer of 2022.

Staff researched these questions raised and returned to present the information at a work session scheduled for July 25, 2022. Council discussed a fossil fuel prohibition and the related questions. The discussion wasn't complete at the July 25, 2022 work session, so Council moved to continue the discussion at the July 27, 2022 work session. At the end of these two work sessions, Council directed the City Manager to prepare an ordinance to prohibit natural gas and other fossil fuel infrastructure from low-rise residential buildings. This ordinance is attached to this Agenda Item Summary as Attachment A.

## **PREVIOUS COUNCIL DIRECTION**

### [November 17, 2021 Work Session](#)

City Council was provided an update to the Climate Action Plan (CAP 2.0), and at that work session, Council passed the following motion:

Direct City Manager to schedule a work session to discuss changes to City code that would require all newly constructed commercial and residential and industrial buildings be electric-only beginning January 1, 2023.

### [April 13, 2022 Work Session](#)

City Council held a work session to discuss providing a code path for all new buildings to be electric-only. At that meeting, Council passed the following motion:

Direct the City Manager to schedule the next work session on this topic before July 31, 2022 to answer the questions brought forth in this work session and other questions submitted by Councilors.

### [July 25, 2022 Work Session](#) and [July 27, 2022 Work Session](#)

Starting on July 25, 2022 and continuing into the July 27, 2022 work session, the Council discussed details of prohibiting natural gas and other fossil fuel infrastructure. This included a discussion of an infeasibility waiver for equipment and businesses that would not be able to function without the use of fossil fuel. This discussion was held during two full work sessions, and resulted in the following motion which passed 5:3:

Direct the City Manager to draft an ordinance prohibiting natural gas and other fossil fuel infrastructure in all new low-rise residential buildings for which permits are submitted after June 30, 2023 and schedule a public hearing on the ordinance in the fall.

## **COUNCIL OPTIONS**

No action is required at this time. Options will be provided when this item is scheduled for action.

## **CITY MANAGER'S RECOMMENDATION**

This item is scheduled for public hearing only. Following the public hearing and the City's receipt of any testimony, the City Manager will make a recommendation to be included in the Council's materials when this item is scheduled for action.

## **ATTACHMENTS**

- A. An Ordinance Prohibiting Fossil Fuel Infrastructure in New Low-Rise Residential Buildings; and Adding Section 6.695 and 6.696 to the Eugene Code, 1971.

**FOR MORE INFORMATION**

Staff Contact: Lydia Bishop  
Telephone: 541-682-5482  
Staff E-Mail: [LBishop@Eugene-or.gov](mailto:LBishop@Eugene-or.gov)



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE PROHIBITING FOSSIL FUEL INFRASTRUCTURE IN NEW LOW-RISE RESIDENTIAL BUILDINGS; AND ADDING SECTIONS 6.695 AND 6.696 TO THE EUGENE CODE, 1971.**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** The following heading and Section 6.695 of the Eugene Code, 1971, are added to provide as follows:

**Prohibition on Fossil Fuel Infrastructure**

**6.695 Prohibition on Fossil Fuel Infrastructure – Definitions.**

***For purposes of EC 6.696, the following words and phrases shall mean:***

***Fossil fuel. Any of a class of hydrocarbon-containing materials of biological origin occurring within Earth’s crust that can be used as a source of energy. This includes coal, petroleum or petroleum products, and natural gas.***

***Fossil fuel Infrastructure. Natural gas piping, fuel oil piping, or other fossil fuel piping or conveyance system within a building, that connects a source of supply to a fossil-fuel-burning appliance.***

***Low-rise Residential Building. Any building that has a height of three stories above grade or less, that includes one or more dwelling units, and where occupants are primarily permanent in nature (30 days or more) including but not limited to detached one- and two-family dwellings, attached single family dwellings (townhouses), manufactured dwellings, and multi-family residential buildings. This does not include a mixed occupancy building, as defined by Oregon building code, that includes a commercial use.***

***Natural Gas. A natural gas, liquified petroleum gas or mixture of these.***

**Section 2.** Section 6.696 of the Eugene Code, 1971, is added to provide as follows:

**6.696 Prohibition on Fossil Fuel Infrastructure – Prohibition and Applicability**

**(1) Fossil fuel infrastructure is prohibited in a low-rise residential building that has never before been used or occupied for any purpose.**

**(2) The City shall deny an application for a permit, or suspend or revoke an issued permit, that does not comply with this section.**

**(3) This section applies to building permit applications, including those necessary to**

*install a new manufactured dwelling, submitted on or after June 30, 2023.*

**(4) This section shall in no way be construed as amending the state building code, as defined in ORS 455.010.**

**Section 3.** The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

**Passed by the City Council this**

\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
**City Recorder**

**Approved by the Mayor this**

\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
**Mayor**



**Eugene City Council**

101 W 10th Ave., Suite 203  
Eugene, OR 97401  
541-682-5010 • 541-682-5414 Fax  
www.eugene-or.gov

# **EUGENE CITY COUNCIL AGENDA**

**November 28, 2022**

## **5:30 p.m. CITY COUNCIL WORK SESSION**

City Council meetings will continue to be held in hybrid format using in person and virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

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**Meeting of November 28, 2022;  
Her Honor Mayor Lucy Vinis Presiding**

**Councilors**

Greg Evans, President  
Mike Clark  
Jennifer Yeh  
Alan Zelenka

Matt Keating, Vice President  
Randy Groves  
Emily Semple

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## **5:30 p.m. CITY COUNCIL WORK SESSION**

### **1. WORK SESSION: Proposed Plan for Community Engagement on Building Electrification and Decarbonization**

The Eugene City Council welcomes your interest in these agenda items. This meeting location is wheelchair-accessible. For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010,  
or visit us online at [www.eugene-or.gov](http://www.eugene-or.gov).

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Work Session: Proposed Plan for Community Engagement on Building Electrification and Decarbonization

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Meeting Date: November 28, 2022  
Department: Public Works  
[www.eugene-or.gov](http://www.eugene-or.gov)

Agenda Item Number: 1  
Staff Contact: Ian Penn  
Contact Telephone Number: 541-682-5513

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### ISSUE STATEMENT

The purpose of this work session is to discuss a proposed plan for developing and implementing community engagement strategies to gather information and feedback from the community on building decarbonization (existing buildings), solicit community input on commercial building electrification (new buildings) and identify opportunities to coordinate other community engagement activities.

### BACKGROUND

The City's Climate Recovery Ordinance ([Ordinance No: 20567](#)) includes the following goals:

1. The City organization to be carbon neutral by 2020,
2. The City organization to reduce fossil fuel use by 50 percent by 2030 compared to 2010 levels,
3. Community-wide reduction of fossil fuel use by 50 percent by 2030 compared to 2010 levels, and
4. Reduce community-wide greenhouse gas emissions by 7.6 percent annually through 2100. The City's Internal Climate Action Plan and the CAP2.0 are roadmaps to reaching CRO goals.

The CAP2.0 was approved by City Council in July 2020 and is the City's roadmap to achieving goals three and four of the CRO. The full document can be found here: <https://www.eugene-or.gov/4284/Climate-Action-Plan-20>.

In consideration of furthering work towards CAP 2.0 goals to reduce community fossil fuel use and greenhouse gas emissions, in November 2021, Council passed motions directing the City Manager to explore changes to City code that would require newly constructed buildings to be electric-only and directing the City Manager to prepare a roadmap for how the City can achieve decarbonization of the existing commercial, industrial, and residential building stock by 2045.

In subsequent work sessions, staff have discussed with Council the ability to potentially use local code amendments that would prohibit natural gas and fossil fuel use in newly constructed buildings (either all or in part). Council provided direction at the July 27, 2022 work session that staff prepare an ordinance to prohibit natural gas and other fossil fuel infrastructure in new low-rise

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residential buildings. A public hearing is scheduled for this proposed ordinance on November 21, 2022.

In July 2022, Council also directed the City Manager across several motions to engage the community on a number of topics related to the Climate Recovery Ordinance and CAP 2.0 goals, including engagement with the business community on a potential ordinance that would prohibit natural gas and fossil fuels, all or in part, from commercial buildings and creating a proposal for engaging the community in developing a plan for decarbonization of existing buildings, with a specific focus on engagement with historically marginalized communities.

Concurrent with the work to explore potential prohibitions of natural gas and fossil fuels uses in new buildings, consulting firm The Good Company conducted an analysis for the City that assessed the potential actions the City of Eugene and the Eugene community could take to achieve decarbonization of residential, commercial, and industrial building energy use by 2045. The findings of this research and analysis were presented to Council over two work sessions, the first in July 2022 that focused on residential building decarbonization and the second, in October 2022, that looked at commercial and industrial building stock and energy use. Key findings from this analysis and report included recommendations to “engage deeply with managers and owners of food service and buildings with boilers” and in thinking about industrial buildings, to “invest in understanding what technology, financial support and timeframes are reasonable” and to engage in “listening and learning to determine a reasonable path forward business by business” for production equipment changes.

This work session is to discuss a proposed plan and funding strategy for community engagement that will be designed to gather input and feedback to help inform Council consideration of potential prohibitions of natural gas and other fossil fuels uses in commercial buildings (new construction) and to engage gather feedback from the community, especially those most impacted by a decarbonization transition, to inform and shape the development of a plan for decarbonization of existing buildings.

In particular, the proposed plan will identify ways staff will work to coordinate community engagement efforts across these separate, but related, electrification and decarbonization conversations to make the most of these engagement opportunities with community stakeholders. The proposed plan will also provide an initial framework for considering how other priorities in the city aligned with these topic areas (e.g., Climate Friendly Equitable Communities rulemaking-related work) can be coordinated across a range of engagement tools and approaches to optimize staff’s engagement efforts.

### **PREVIOUS COUNCIL DIRECTION**

#### [January 16, 2019 Work Session](#)

Staff presented an overview of Home Energy Scores and related programs.

#### [July 29, 2020 Work Session](#)

City Council approved the CAP2.0.

### [December 9, 2020 Work Session](#)

City Council directed staff to put together a CAP2.0 Implementation Plan.

### [September 22, 2021 Work Session](#)

Staff provided an overview of the CAP2.0 12 Additional Strategies.

### [September 27, 2021 Work Session](#)

This Joint Work Session with City Council and EWEB's Board of Directors included staff presentations on the CAP2.0 and EWEB's Electrification Study.

### [November 17, 2021 Work Session](#)

City Council was provided an update to the Climate Action Plan (CAP 2.0), and at that work session, Council passed the following motions:

1. Direct City Manager to schedule work sessions to discuss changes to City Code that would require all newly constructed commercial and residential and industrial buildings be electric-only beginning January 1, 2023.
2. Direct the City Manager to provide Council with a roadmap for how the City can achieve decarbonization of the existing commercial, industrial, and residential building stock by 2045 with particular consideration for how low-income and historically marginalized households will be impacted and included in this process. This roadmap must include strategies for decarbonization of rental housing stock. A draft of this roadmap shall be provided to Council before June 30, 2022.

### [April 13, 2022 Work Session](#)

On April 13<sup>th</sup> City Council held a work session on new building electrification and passed a motion to Direct the City Manager to schedule the next work session before July 31 to answer the questions brought forth in this work session and other questions submitted by councilors.

### [July 20, 2022 Work Session](#)

City Council held a work session that included presentations from The Good Company on preliminary findings of the Draft Report "City of Eugene Community Decarbonization by 2045 for Existing Residential, Commercial, and Industrial Buildings Energy Use – Part 1 Residential" as well as an update on state level GHG modeling from the Global Warming Commission's Roadmap to 2035 project.

### [July 25, 2022](#) and [July 27, 2022](#) Work Sessions

Starting on July 25, 2022 and continuing into the July 27, 2022 work session, the Council discussed details of prohibiting natural gas and other fossil fuel infrastructure. This included a discussion of an infeasibility waiver for equipment and businesses that would not be able to function without the use of fossil fuel. This discussion was held during two full work sessions and resulted in the following motions related to building electrification and decarbonization:

1. Direct the City Manager to schedule a work session in the fall to discuss prohibiting natural gas and other fossil fuel infrastructure in all new commercial buildings including as part of that work session a potential waiver process for buildings or uses that may not have feasible access

November 28, 2022 Work Session – Item 1

- to electric-only options, including a discussion of applicability to certain building types.
2. Direct the City Manager to return to Council in the Fall with a proposal for engaging the community in developing a plan for the transition of buildings to be decarbonized that has at its foundation social, environmental, and economic equity with the emphasis on engagement of historically marginalized communities and their representatives.
  3. Prior to the drafting of an electrification ordinance the City Manager engage the business community with an outreach process to discuss and solicit their input.

#### October 26, 2022 Work Session

On July 20<sup>th</sup> City Council held a work session to discuss the findings of the report “City of Eugene Community Decarbonization by 2045 for Existing Residential, Commercial, and Industrial Buildings Energy Use” completed by sustainability consulting firm The Good Company on behalf of the City. The work session focused specifically on decarbonization of commercial and industrial buildings.

#### **COUNCIL OPTIONS**

Informational work session only.

#### **CITY MANAGER’S RECOMMENDATION**

Informational work session only.

#### **ATTACHMENTS**

None

#### **FOR MORE INFORMATION**

Staff Contact: Ian Penn  
Telephone: 541-682-5513  
Staff E-Mail: [ipenn@eugene-or.gov](mailto:ipenn@eugene-or.gov)

December 1, 2022

**RS 7. B. 12/6/22  
Correspondence**

Mayor Mark Gamba  
Council President Kathy Hyzy  
Councilor Lisa Batey  
Councilor Adam Khosroabadi  
Councilor Desi Nicodemus

Dear Milwaukie Mayor, City Council, and Staff,

I am writing to you from the Portland Metropolitan Association of Realtors (PMAR), the non-profit trade association dedicated to promoting and enhancing the Realtor® member's ability to conduct business ethically, professionally, and profitably. The more than 8,200 members of PMAR are committed to protecting and promoting homeownership and creating communities that are healthy and vibrant to work, live and play. As the preeminent voice for the real estate industry and our customers, we felt it necessary to express our concerns about two resolutions that the City of Milwaukie will be considering at your upcoming December 6th meeting around new buildings, energy choice, and climate policy.

We understand that climate change, housing affordability, energy cost and choice are all issues that we must collectively find solutions to over the next decade. PMAR applauds and supports your work to make meaningful decreases in greenhouse gas emissions. We work every day with clients to help them purchase homes, invest in communities, and create generational wealth, and we look forward to working with you to draft code language that promotes homeownership.

Many of our members have earned designations that demonstrate their deep experience and dedication to understanding and marketing green building features and energy efficiency in the market: The National Association of Realtors® GREEN and locally, Earth Advantage Broker certification. PMAR members understand the need for green homes while also striving to offer clients the breadth of energy choices they desire.

According to the Regional Multiple Listing Service (RMLS) 1,876 residential units have been sold in the city limits of Milwaukie over the past 24 months. Of those homes, 1,509 have had natural gas as a fuel source including 731 with gas fireplaces. Beyond that, natural gas is a regular "must have" that our members hear from clients. Often, if a home does not have natural gas available, clients will not even look at the home and will instead move to another home or even community to find the features they want.

Additionally, with the growing electricity power outages the region has experienced, many people rely on their gas stove tops and gas fireplaces to heat their home and food during the hours and even days

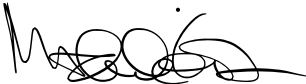


that they are without electricity. This diversity in energy supply is essential for people of all ages and income levels.

Lastly, we are in a housing crisis, and now is not the time to restrict options and increase barriers for the development of new housing. We need housing of all types from single-family homes to duplexes to larger apartment and condo buildings to meet the current needs of the region let alone the people that continue to move here. We need housing for the workforce to sustain our existing businesses and to attract new ones. We need housing for the less fortunate that are houseless.

To this end we ask the council to table any resolutions regarding energy, climate, or building codes until there is a formalized process for public engagement that is well publicized. We also request that any policy proposals are data driven and focus on net carbon reduction and include industry input.

Thank you for your consideration,



Michele Gila  
PMAR Director of Realtor® Advocacy

## Scott Stauffer

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**From:** brian@oakgrovelbr.com  
**Sent:** Monday, December 5, 2022 9:28 AM  
**To:** OCR; Adam Khosroabadi; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba  
**Subject:** Natural gas ban on new homes

This Message originated outside your organization.

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City of Milwaukie

I really hope that my letter makes a difference in the vote on banning natural gas in new home builds. The main concern with Natural Gas is the potential of leakage being harmful to the environment. I have lived in the Milwaukie area for more than 20 years and have relied both on gas and electricity in that time. NW has always checked my meter and lines for leaks and maintained my meter over the years. They have always been great to work with as compared to other energy options.

I am providing a source in support of the advantages of having Natural Gas as an energy source:

**(Natural gas and its advantages. Shell Global. (n.d.). Retrieved December 5, 2022, from <https://www.shell.com/energy-and-innovation/natural-gas/natural-gas-and-its-advantages.html>**

\* Natural gas is the cleanest-burning hydrocarbon.

\*It is abundant and versatile, helping meet growing demand for energy globally, and able to partner with renewable energy sources.

\*Natural gas is cooled to liquid for easy shipping to energy-hungry places and can be converted to make lower-emission fuels.

\*Environmentally Stable.

\*Global demand for gas is on the rise. By 2030, it's expected to increase by 40%.

The most important reason to NOT BAN natural gas is... Diversified energy source for the people. When you cannot rely on electricity.

As many other residences in my neighborhood have discussed with me over the past. We all feel it's very important to sustain a more diversified energy option.

Regards,

Brian R. Gordon



December 5, 2022

Mayor Mark Gamba & City Councilors  
City of Milwaukie  
10722 SE Main St.  
Milwaukie, OR 97222

BY EMAIL TO [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov)

RE: City Ordinance to Promote Building Electrification

Dear Mayor Gamba and City Councilors:

We are writing in support of municipal action to electrify buildings and other construction in the City of Milwaukie. Many of our clients and partners in Milwaukie are strongly urging the City to follow the City of Eugene's lead in using municipal authority to phase out fossil fuels in new construction. While such measures are becoming commonplace in other states, municipalities in Oregon have been slower to approve measures promoting building electrification.

One reason for this hesitancy may be concern about litigation risk attendant to bold legislative action. The purpose of this letter is to assure you that our organization, in partnership with our clients, will stand behind the City against any effort to challenge a building electrification ordinance.

Earthjustice is a national law firm with approximately 450 staff, including scores of experienced litigating attorneys, lobbyists, and communications professionals. We often work to defend environmentally progressive legislation from attack, and have a strong track record doing so.

At a time when the implications of the climate crisis are becoming ever clearer, there is no room for hesitancy in enacting solutions. Moreover, the science shows us that fossil fuels in homes create serious public health and safety concerns. Building electrification is a critical tool for cities and counties that wish to address these matters. Should Milwaukie choose to use its power to help decrease Oregon's greenhouse gas emissions—as it should—this organization and its clients will stand with you to defend such efforts.

Please do not hesitate to get in touch if you would like to discuss this matter further.

Sincerely,

Jan Hasselman, Senior Attorney



November 30<sup>th</sup>, 2022

Mayor Gamba and City Councilors  
City of Milwaukie  
10722 SE Main St.  
Milwaukie, OR 97222

Mayor Gamba and City Councilors:

My name is Preston Korst and I'm the Director of Government Affairs at the Home Building Association of Greater Portland. The HBA is dedicated to maximizing housing choice for all who reside in our region by shaping an environment in which industry professionals can effectively meet the diversified needs of all communities.

Our industry has delivered strong economic and community impact in Milwaukie—in the past five years alone, residential builders have generated over \$186 million of value and over 900 new housing units in the City of Milwaukie. The downstream impact of this economic engine is multiplied when thinking about the many other industries that rely on and benefit from residential construction.

Our many members have deep experience in bringing energy efficiency and sustainable design to the homes they help build, remodel or upgrade. Given the region's severe housing supply shortage, governments should nurture more cost-effective and diverse energy options that help bring new homes to market while making older homes healthier and more efficient. The combined effect of this approach is greater affordability and more choice for working families and first-time homebuyers. Therefore, we implore policymakers of all stripes to view policies (both new and existing) in light of a vastly undersupplied housing stock—we're roughly 60,000 housing units short in the Portland Region.

With this in mind, I am writing to express our deep concern over the current process unfolding to potentially alter the city's building and energy codes. We believe that, given the strong economic and societal bearing that our industry has on the livability of Milwaukie, the city and council should inform, if not consult, industry partners when considering new building codes related to energy policy and the climate. Additionally, we would encourage the city to release for review any resolutions that council is considering adopting to foster public input and industry feedback. As a rule, we believe that public policy works best when all stakeholders are represented and engaged.

Additionally, we believe in a balanced energy supply system, recognizing all forms of transitional and renewable energy including renewable hydrogen and natural gas, solar, etc. as part of the solution. Just

as best practices dictate having a diverse stock portfolio, a diverse energy portfolio is important to the resiliency and cost effectiveness of the energy system and buildings it serves. The net result is a healthier energy grid, more consumer choice, and greater affordability. Especially as extreme weather events become more common due to climate change, transitioning away from varied and reliable energy sources could overwhelm grids and create potential health and safety challenges for residents. That is why we are concerned when jurisdictions consider unilateral action on energy code policy, especially when that action is as drastic as potentially banning certain forms of energy options in new home construction. Such a move deserves a robust and thoughtful dialogue with public interests.

Lastly, the HBA supports a strong statewide building code system because we know that a uniform building environment supports healthy housing production. We are proud to have one of the nation's most efficient building codes—Oregon ranks #9 in the nation. In the same light, individual building and energy code mandates create confusion among builders working across multiple jurisdictions. Unvetted local mandates often undermine or defeat the purpose of a statewide system and ultimately create a patchwork of disordered compliance requirements, limiting economies and hindering affordability.

To this end we ask the council to table any resolutions regarding energy, climate, or building codes until there is a formalized process for public engagement. We also request that the city publicize a process for gathering community and industry input while ensuring that any policy proposals are data driven and focus on net carbon reduction in both the near and long term. We appreciate that the Milwaukie City Council has robust climate goals and we stand ready to work with all stakeholders in shaping policy that achieves carbon reductions on a meaningful scale.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read "Preston Korst". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**Preston Korst**

Director of Public Policy and Government Affairs  
Home Builders Association of Metro Portland  
15555 Bangy Rd, Lake Oswego, OR 97035  
email: [prestonk@hbapdx.org](mailto:prestonk@hbapdx.org)  
phone: 503-684-1880

## Scott Stauffer

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**From:** Dana German <dana@positionofstrength.net>  
**Sent:** Monday, December 5, 2022 11:32 AM  
**To:** OCR; Adam Khosroabadi; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba  
**Cc:** Nina Carlson  
**Subject:** Electrification  
**Attachments:** We sent you safe versions of your files; Electrification.pdf

Mimecast Attachment Protection has deemed this file to be safe, but always exercise caution when opening files.

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**This Message originated outside your organization.**

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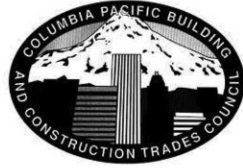
I would like to check in and add my voice to the comments regarding this matter.

Attached is a letter submitted by a list of concerned business and organizations. I feel that this letter sums up and elaborates the same concerns I have. I do not feel that enough time or effort has yet been put into analyzing this fully to reach an educated, well thought out decision on topic. Much more research should be done before voting on anything so dramatic and impactful to the community. All energy sources come with measurable environmental impact. I would ask that ALL energy sources be studied and compared, and a comprehensive management plan be designed that meets the needs of the community you serve as well as the environmental needs of the world around us.

I ask that my "voice" also be heard through this letter in the upcoming meeting that will discuss this issue.

Thanks,

**Dana German**  
**Position of Strength, LLC**  
**12712 SE 27<sup>th</sup> Ave**  
**Milwaukie, OR 97222**  
**(503) 936-5399 Direct**  
**(888) 522-6771 Fax**



Home Builders Association  
of Metropolitan Portland



November 1, 2022

Dear Mayor Gamba and Milwaukie City Council,

Thank you for the opportunity to provide comments to you. We have seen that the City is considering a series of resolutions on forced electrification and we are concerned that the resolutions—instead of being measured authorizations and request for City staff to *begin* work—are framed as forgone conclusions that electrifying everything and removing energy choice are the only options to achieve emissions reduction goals. **The City has not yet completed the most basic research necessary to make a recommendation to Council on a policy direction, or, if staff has done that work, none of it has been shared publicly.**

**We request the Council not vote on these resolutions at all until the new Milwaukie City Council is sworn into office in January (because policies as impactful as these should be reasoned and reviewed by the new Council in 2023).** Further, we request Council not vote on these resolutions until they are reframed as *technology neutral* opportunities to move forward with rigorous analysis, research and outreach work—as currently written, they make the forgone conclusion that electrifying everything is the correct outcome—but that is a false start for good policy making.

*(continued to next page)*



Once the new Council is sworn in, we request the following:

1. **We request a thorough analysis of the potential impacts of gas bans on our community.** We request to see the carbon emissions modeling, the economic modeling, and the costs to residents and businesses—both capital and operating costs.
  - a. There is an inconvenient fact about forced electrification – namely, about half of Oregon’s electricity is generated by coal and natural gas.<sup>1</sup> Electric utilities in Oregon use about as much natural gas to generate electricity as is delivered by all the natural gas utilities in the state combined.<sup>2</sup> We expect that the City’s analysis will include state level laws and rules for both the electric side and the gas side as well as up to date information from utilities on their Integrated Resource Plans and other plans.
  - b. Please include time for the community and utilities to review the staff’s modeling work before Council votes.
2. **We request to see a thorough community engagement plan and then also the results of that community outreach and survey work.** We underscore that engagement should include all stakeholders and pay special attention to our most vulnerable residents as well as the small businesses that are the fabric of our community.

Additionally, passage of the Inflation Reduction Act (IRA) incentivizes progress around all forms of renewables, including renewable natural gas and hydrogen. It also includes innovations like carbon capture. This is an all-of-the-above approach to fighting climate change and we encourage the City to review the IRA’s funding opportunities—and the IRA’s *technology neutral* approach—as part of its analysis.

**Finally, while we come from different perspectives, we share a principled approach to thoughtful carbon reduction policies and believe in economic prosperity and housing policies that ensure affordability, reliability and resiliency in the long run for the people we serve and represent.** With a group as diversified as our membership—we urge you to meet with us and understand that our requests are backed by years of experience, investment in our community and deeply held belief that working together is the best approach. We can set a course of action that achieves a carbon neutral future without sacrificing the affordability, reliability and energy choice Milwaukie needs.

Sincerely,

Clackamas County Business Alliance  
Columbia Pacific Building and Construction Trades Council  
International Union of Operating Engineers, Local 701  
Ironworkers, Local 29  
Home Builders Association of Metropolitan Portland  
Lisac’s Fireplaces & Stoves  
National Electrical Contractors Association – *Oregon  
Columbia Chapter*

NW Natural  
North Clackamas Chamber, Your Chamber  
OPEIU, Local 11  
Oregon Hearth, Patio & Barbeque Association  
Oregon Restaurant & Lodging Association  
Portland Metropolitan Association of Realtors  
United Association of Plumbers & Steamfitters, Local 290

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<sup>1</sup> <https://www.oregon.gov/energy/energy-oregon/Pages/Electricity-Mix-in-Oregon.aspx>

<sup>2</sup> <https://www.eia.gov/state/print.php?sid=OR>



December 6, 2022

Milwaukie City Council  
Regular Session agenda item 7.  
Business Item B. New Building Energy – Resolution (2) (continued)

Dear City Council,

I am writing this letter as a follow up to the testimony that I provided during the last City Council meeting in November. Based on other meetings that have taken place in the state related to the topic of natural gas bans (Eugene and Multnomah County as examples), many additional facts have come to light that I would encourage the Milwaukie City Council to investigate before making any final decision on considering the ban of natural gas. This request to halt any decisions would include any proposed ban or instruction to city staff to draw up plans to ban now, or in the future, natural gas, or any other alternative energy sources until you have completed your due diligence.

Furthermore, we still encourage the City Council to hold public conversations that include all interested parties who would like to provide input on the effect of such bans. The Council took extra steps in ensuring robust conversations took place around their park's goals, this major decision that impacts so many more individuals and businesses should have no less special consideration.

We would also recommend taking a more unilateral approach to working with all utility companies to ensure that you are taking a strategic approach to ensuring that citizens and businesses have access to the affordable energy sources that they need. When citing price increases for utility customers, also please take into consideration the upcoming increase to electric utility customers as well as those of natural gas customers. I believe you will find that utilities across the board are on the rise and that each company are taking part in the decarbonization of their offerings.

I'm attaching a letter from David Dodge with Gradient who wrote a summary letter providing additional expert findings and facts related to indoor air quality and the use of natural gas appliances. If the Milwaukie City Council is going to use specific health reports to support their decision, then I would highly recommend that a more thorough job is performed in reviewing all reports & data that are related to this topic to ensure you are using a more balanced approach to your decision-making process. Using just one finding or report that suits your decision-making process is not taking into full consideration the facts surrounding your decision.

What will it cost the city to hold off until February and until community engagement has been completed? It will cost you nothing and, in the long run, gain you more trust from your community.

I encourage you to wait, not make any decisions on this topic at tonight's meeting.

Sincerely,

Laura Edmonds, CEO

November 29, 2022

Dear Eugene City Council Members:

My name is David Dodge and I live in Bend, OR. I am a Principal Scientist at Gradient, an environmental and risk sciences consulting firm. I am board-certified in both toxicology and industrial hygiene, and commonly apply these disciplines to human health risk assessment.

On behalf of NW Natural, I am writing to respond to certain speakers' comments during the November 21 City Council Public Hearing on agenda item 4: "An Ordinance Prohibiting Fossil Fuel Infrastructure in New Low-Rise Residential Buildings." My response addresses unsupported and out of context statements regarding purported adverse effects from use of gas appliances in homes on indoor air quality and human health. These comments fail to consider important factors in evaluating scientific evidence relevant to this topic, including measurement, modeling, and epidemiology studies.

First, the mere presence of a chemical in indoor air, whether attributable to gas cooking or not, is not informative as to whether it can pose health risks. Some of the speakers named specific air pollutants (*e.g.*, nitrogen dioxide [NO<sub>2</sub>], particulate matter [PM]) emitted to indoor air when using gas appliances, and the purported health effects these pollutants are capable of causing. In order to understand the potential for a chemical to pose health risks, we must have information on dose (*i.e.*, the amount of a chemical that actually gets into the body). For all chemicals, a sufficient dose is necessary in order for it to cause adverse health effects. For a chemical in air, dose depends on how much of the chemical is in the air where a person breathes, and how often and for how long that person breathes it. Standards exist for many chemicals so we can judge whether a chemical measured at a certain concentration over a certain time period is harmless or has the potential to cause health effects.

Second, it is important to understand the methods and assumptions used in studies that have measured or modeled (*i.e.*, predicted) indoor air concentrations of chemicals in homes with gas and/or electric stoves so that they are not misinterpreted. For example, some studies have measured chemicals in unburned natural gas before it is actually used for cooking.<sup>1,2</sup> These studies are not informative as to actual exposures because the measurements do not represent what people actually breathe. It is also important to view the results in appropriate context. For example, certain speakers noted that some studies have reported higher indoor air concentrations of NO<sub>2</sub> when using gas appliances compared to electric appliances.<sup>3,4</sup> Often, however, the NO<sub>2</sub> concentrations when using gas appliances do not exceed national standards for NO<sub>2</sub> in ambient air under most scenarios, and thus are not significant from a health perspective. For example, Belanger *et al.* (2013) measured a mean indoor NO<sub>2</sub> level over 1 month of 10.6 parts per billion (ppb) in all homes, and 15.6 ppb from homes with gas stoves. By comparison, the US EPA primary National Ambient Air Quality Standard (NAAQS) for NO<sub>2</sub> is 53 ppb as an annual average concentration. NAAQS are intended to be protective of public health, including sensitive populations such as asthmatics, children, and the elderly.

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<sup>1</sup> Michanowicz, DR, *et al.* 2022. "Home is where the pipeline ends: Characterization of volatile organic compounds present in natural gas at the point of the residential end user." *Environ. Sci. Technol.* 56(14):10258-10268.

<sup>2</sup> Lebel, ED, *et al.* 2022. "Composition, emissions, and air quality impacts of hazardous air pollutants in unburned natural gas from residential stoves in California." *Environ. Sci. Technol.* 56(22):15828-15838.

<sup>3</sup> Mullen, NA; Li, J; Russell, ML; Spears, M; Less, BD; Singer, BC. 2016. "Results of the California Healthy Homes Indoor Air Quality Study of 2011-2013: Impact of natural gas appliances on air pollutant concentrations." *Indoor Air* 26(2):231-245.

<sup>4</sup> Belanger, K; Holford, TR; Gent, JF; Hill, ME; Kezik, JM; Leaderer, BP. 2013. "Household levels of nitrogen dioxide and pediatric asthma severity." *Epidemiology* 24(2):320-330.

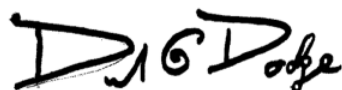
Third, some speakers recited a finding from an epidemiology study that there is a 42% increase in asthma in children living in homes with gas appliances. This finding is inconsistent with other parts of the study, as well as other epidemiology studies. Epidemiology studies look at health outcomes in populations having a particular exposure at issue and compare them to populations that do not have the exposure. The reliability of epidemiology studies depends on their design, which can vary in quality. Several epidemiology studies have looked at health outcomes in populations using gas appliances in comparison to populations using other fuel sources. These studies have yielded inconsistent results.<sup>5</sup> The referenced 42% increase in asthma in children living in homes with gas appliances comes from an epidemiology study by Lin *et al.* (2013).<sup>6</sup> These authors evaluated associations for the four combinations between gas cooking and indoor NO<sub>2</sub> and the outcomes asthma and wheeze. They reported small, but statistically significant, associations between gas cooking and asthma and between indoor NO<sub>2</sub> and wheeze, but not between gas cooking and wheeze or between indoor NO<sub>2</sub> and asthma. The speakers only mentioned one of these findings, and not the inconsistent, negative findings. Moreover, this study relied on data from several older studies, which may not be representative of modern indoor air concentrations because of technological advances that have resulted in reduced emissions from gas appliances.<sup>7</sup>

Notably, none of the speakers mentioned a much larger study, Wong *et al.* (2013),<sup>8</sup> with a number of study design strengths that "reported no association between gas cooking and lifetime asthma or current asthma in children when compared to children who lived in households that used electric stoves for cooking." This larger study included one of the authors of the Lin *et al.* (2013) study.

Finally, proponents of the ordinance did not address the beneficial role of kitchen ventilation (*i.e.*, range hood, exhaust fan) in mitigating indoor air emissions associated with cooking activities, no matter the fuel type. Several studies have demonstrated reductions in indoor air levels of NO<sub>2</sub>, PM, and other chemicals associated with cooking when kitchen ventilation is used.<sup>9,10,11,12,13</sup>

In summary, in considering the use of gas appliances, information and scientific evidence needs to be evaluated and interpreted carefully.

Sincerely,



David G. Dodge, MS, DABT, CIH

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<sup>5</sup> Zhu, Y; Connolly, R; Lin, Y; Mathews, T; Wang, Z. April 2020. "Effects of Residential Gas Appliances on Indoor and Outdoor Air Quality and Public Health in California." Report to Sierra Club National (Oakland, CA). 68p.

<sup>6</sup> Lin, W; Brunekreef, B; Gehring, U. 2013. "Meta-analysis of the effects of indoor nitrogen dioxide and gas cooking on asthma and wheeze in children." *Int. J. Epidemiol.* 42(6):1724-1737.

<sup>7</sup> Zhu *supra* note 5.

<sup>8</sup> Wong, GW, *et al.* 2013. "Cooking fuels and prevalence of asthma: A global analysis of phase three of the International Study of Asthma and Allergies in Childhood (ISAAC)." *Lancet Respir. Med.* 1(5):386-394. .

<sup>9</sup> Lawrence Berkeley National Laboratory, *et al.* March 30, 2020. "Simulations of Short-Term Exposure to NO<sub>2</sub> and PM<sub>2.5</sub> to Inform Capture Efficiency Standards (Final)." Report to California Energy Commission; US Dept. of Energy (US DOE). 27p. .

<sup>10</sup> Dobbin, NA; Sun, L; Wallace, L; Kulka, R; You, H; Shin, T; Aubin, D; St-Jean, M; Singer, BC. 2018. "The benefit of kitchen exhaust fan use after cooking - An experimental assessment." *Building Environ.* 135:286-296. .

<sup>11</sup> Mullen *supra* note 3.

<sup>12</sup> Singer, BC; Pass, RZ; Delp, WW; Lorenzetti, DM; Mallalena, RL. 2017. "Pollutant concentrations and emission rates from natural gas cooking burners without and with range hood exhaust in nine California homes." *Building Environ.* 122:215-229.

<sup>13</sup> Logue, JM; Klepeis, NE; Lobscheid, AB; Singer, BC. 2014. "Pollutant exposures from natural gas cooking burners: A simulation-based assessment for Southern California." *Environ. Health Perspect.* 122(1):43-50.

December 6, 2022

Mayor Mark Gamba  
Council President Kathy Hyzy  
Councilor Lisa Batey  
Councilor Desi Nicodemus  
Councilor Adam Khosroabadi

Dear Mayor, Council President and Councilors,

We would like to express our concerns with the two resolutions regarding decarbonization, more accurately described as forced electrification, that the Council is considering tonight. These resolutions are misguided and fail to meaningfully address the supposed goals of the City to reduce carbon.

Illustrating the City's illogical rush to ban natural gas, we (and others) have yet to receive responses or feedback regarding a number of questions asked of staff and the City about these proposals, including questions about carbon accounting and cost analysis of a gas ban—information that seems critical for the Council review before making this type of significant policy decision. Further, in the most recent version of these resolutions, there are a number of inaccurate or incomplete statements, false frames, and language that is misaligned with best practices in carbon reduction and carbon accounting, federal and state law, or other standards.

We are unsure why the City has relied upon unsupported and incorrect assertions when contrary data has been provided. We are concerned that the City has not done the appropriate analysis with independent sources because the facts would refute the oft-repeated rhetoric used by proponents of forced electrification. Simply repeating a claim does not make that claim true or accurate.

Some examples of the City's mistaken assumptions and analysis embodied in these resolutions include:

- The resolution cites incorrect information on indoor air quality. What multiple scientific studies<sup>1</sup> show is that ventilation plays a key role in mitigating cooking-related air emissions that come from both gas and electric stoves. This is why kitchen exhaust has been required for all new homes in Oregon for many years, whether they have gas or electric cooking. NW Natural provides this information on its website, and experts in the fields of toxicology and

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<sup>1</sup> Logue, JM; Klepeis, NE; Lobscheid, AB; Singer, BC. "Pollutant exposures from natural gas cooking burners: A simulation-based assessment for Southern California." *Environ. Health Perspect.* (2014) available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3888569/>; Singer, BC; Pass, RZ; Delp, WW; Lorenzetti, DM; Mallalena, RL. "Pollutant concentrations and emission rates from natural gas cooking burners without and with range hood exhaust in nine California homes." *Building Environ.* (2017) available at: <https://www.sciencedirect.com/science/article/abs/pii/S036013231730255X>; Dobbin, NA; Sun, L; Wallace, L; Kulka, R; You, H; Shin, T; Aubin, D; St. Jean, M; Singer, BC

epidemiology have addressed this topic in proceedings by Multnomah County and the City of Eugene (please see this [webpage](#) and the attached).

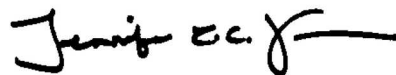
- The resolution states that leaks during the production, processing, transmission and distribution of “natural” methane gas are substantial.
  - NW Natural is a proud member of ONE Future, an organization focused on reducing fugitive methane emissions from the entire value chain from production to distribution. This organization includes over 50 companies and has a goal of reducing emissions to 1.0% or less by 2025. In 2020, the emissions from member companies equated to only 0.424%. Unfortunately, we have heard some activists make claims that fugitive emissions for our region are higher than that—those claims are simply not true. For more information on fugitive leaks from the natural gas value chain, we encourage you to take a look at the ONE Future annual report available [here](#).
  - NW Natural has one of the tightest pipelines systems in the U.S., having been among the first utilities to replace all of our older cast iron and bare steel pipes. As a result, we have one of the **lowest leak rates in the country**.
- In addition to citing incorrect information, the resolutions, as currently constructed, leave out important information relevant to the regulation of carbon as well as the regulation of energy systems in Oregon.
  - The City failed to cite the complete passage of ORS 221.420(2).
  - Additionally, NW Natural is required to decarbonize under the Climate Protection Program and the City has not accounted for that at all in its resolutions. Further, NW Natural’s own decarbonization scenario analysis and recently submitted integrated resource plan demonstrate our commitment to carbon neutrality.
- Overall, the City’s resolutions makes the assumption that a ban on natural gas will reduce carbon, yet there is no analysis from independent experts analyzing the carbon accounting. We note that the [City of Eugene’s own analysis \(page 10\)](#), states the residential new construction ban they are proposing would cut less than 1/10 of 1% of carbon emissions in 2037. That is with a clean electric grid. The electric grid in Milwaukie has a very different resource mix and an appropriate analysis based on accurate data should be completed in Milwaukie before resolutions are recommended to the public.

The above are just a few examples of inaccurate or incomplete information and incorrect conclusions in the resolutions. NW Natural looks forward to following up with the City after the December 6 hearing with additional information to help inform this critical public policy discussion.

Sincerely,



Nina Carlson  
NW Natural, Government Affairs



Jennifer Yocom  
NW Natural, Local Government Affairs Manager

*Attachment: 2022-11-29 Gradient Eugene City Council Letter.pdf*

November 29, 2022

Dear Eugene City Council Members:

My name is David Dodge and I live in Bend, OR. I am a Principal Scientist at Gradient, an environmental and risk sciences consulting firm. I am board-certified in both toxicology and industrial hygiene, and commonly apply these disciplines to human health risk assessment.

On behalf of NW Natural, I am writing to respond to certain speakers' comments during the November 21 City Council Public Hearing on agenda item 4: "An Ordinance Prohibiting Fossil Fuel Infrastructure in New Low-Rise Residential Buildings." My response addresses unsupported and out of context statements regarding purported adverse effects from use of gas appliances in homes on indoor air quality and human health. These comments fail to consider important factors in evaluating scientific evidence relevant to this topic, including measurement, modeling, and epidemiology studies.

First, the mere presence of a chemical in indoor air, whether attributable to gas cooking or not, is not informative as to whether it can pose health risks. Some of the speakers named specific air pollutants (*e.g.*, nitrogen dioxide [NO<sub>2</sub>], particulate matter [PM]) emitted to indoor air when using gas appliances, and the purported health effects these pollutants are capable of causing. In order to understand the potential for a chemical to pose health risks, we must have information on dose (*i.e.*, the amount of a chemical that actually gets into the body). For all chemicals, a sufficient dose is necessary in order for it to cause adverse health effects. For a chemical in air, dose depends on how much of the chemical is in the air where a person breathes, and how often and for how long that person breathes it. Standards exist for many chemicals so we can judge whether a chemical measured at a certain concentration over a certain time period is harmless or has the potential to cause health effects.

Second, it is important to understand the methods and assumptions used in studies that have measured or modeled (*i.e.*, predicted) indoor air concentrations of chemicals in homes with gas and/or electric stoves so that they are not misinterpreted. For example, some studies have measured chemicals in unburned natural gas before it is actually used for cooking.<sup>1,2</sup> These studies are not informative as to actual exposures because the measurements do not represent what people actually breathe. It is also important to view the results in appropriate context. For example, certain speakers noted that some studies have reported higher indoor air concentrations of NO<sub>2</sub> when using gas appliances compared to electric appliances.<sup>3,4</sup> Often, however, the NO<sub>2</sub> concentrations when using gas appliances do not exceed national standards for NO<sub>2</sub> in ambient air under most scenarios, and thus are not significant from a health perspective. For example, Belanger *et al.* (2013) measured a mean indoor NO<sub>2</sub> level over 1 month of 10.6 parts per billion (ppb) in all homes, and 15.6 ppb from homes with gas stoves. By comparison, the US EPA primary National Ambient Air Quality Standard (NAAQS) for NO<sub>2</sub> is 53 ppb as an annual average concentration. NAAQS are intended to be protective of public health, including sensitive populations such as asthmatics, children, and the elderly.

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<sup>1</sup> Michanowicz, DR, *et al.* 2022. "Home is where the pipeline ends: Characterization of volatile organic compounds present in natural gas at the point of the residential end user." *Environ. Sci. Technol.* 56(14):10258-10268.

<sup>2</sup> Lebel, ED, *et al.* 2022. "Composition, emissions, and air quality impacts of hazardous air pollutants in unburned natural gas from residential stoves in California." *Environ. Sci. Technol.* 56(22):15828-15838.

<sup>3</sup> Mullen, NA; Li, J; Russell, ML; Spears, M; Less, BD; Singer, BC. 2016. "Results of the California Healthy Homes Indoor Air Quality Study of 2011-2013: Impact of natural gas appliances on air pollutant concentrations." *Indoor Air* 26(2):231-245.

<sup>4</sup> Belanger, K; Holford, TR; Gent, JF; Hill, ME; Kezik, JM; Leaderer, BP. 2013. "Household levels of nitrogen dioxide and pediatric asthma severity." *Epidemiology* 24(2):320-330.

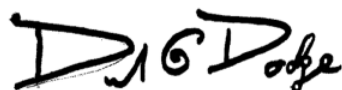
Third, some speakers recited a finding from an epidemiology study that there is a 42% increase in asthma in children living in homes with gas appliances. This finding is inconsistent with other parts of the study, as well as other epidemiology studies. Epidemiology studies look at health outcomes in populations having a particular exposure at issue and compare them to populations that do not have the exposure. The reliability of epidemiology studies depends on their design, which can vary in quality. Several epidemiology studies have looked at health outcomes in populations using gas appliances in comparison to populations using other fuel sources. These studies have yielded inconsistent results.<sup>5</sup> The referenced 42% increase in asthma in children living in homes with gas appliances comes from an epidemiology study by Lin *et al.* (2013).<sup>6</sup> These authors evaluated associations for the four combinations between gas cooking and indoor NO<sub>2</sub> and the outcomes asthma and wheeze. They reported small, but statistically significant, associations between gas cooking and asthma and between indoor NO<sub>2</sub> and wheeze, but not between gas cooking and wheeze or between indoor NO<sub>2</sub> and asthma. The speakers only mentioned one of these findings, and not the inconsistent, negative findings. Moreover, this study relied on data from several older studies, which may not be representative of modern indoor air concentrations because of technological advances that have resulted in reduced emissions from gas appliances.<sup>7</sup>

Notably, none of the speakers mentioned a much larger study, Wong *et al.* (2013),<sup>8</sup> with a number of study design strengths that "reported no association between gas cooking and lifetime asthma or current asthma in children when compared to children who lived in households that used electric stoves for cooking." This larger study included one of the authors of the Lin *et al.* (2013) study.

Finally, proponents of the ordinance did not address the beneficial role of kitchen ventilation (*i.e.*, range hood, exhaust fan) in mitigating indoor air emissions associated with cooking activities, no matter the fuel type. Several studies have demonstrated reductions in indoor air levels of NO<sub>2</sub>, PM, and other chemicals associated with cooking when kitchen ventilation is used.<sup>9,10,11,12,13</sup>

In summary, in considering the use of gas appliances, information and scientific evidence needs to be evaluated and interpreted carefully.

Sincerely,



David G. Dodge, MS, DABT, CIH

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<sup>5</sup> Zhu, Y; Connolly, R; Lin, Y; Mathews, T; Wang, Z. April 2020. "Effects of Residential Gas Appliances on Indoor and Outdoor Air Quality and Public Health in California." Report to Sierra Club National (Oakland, CA). 68p.

<sup>6</sup> Lin, W; Brunekreef, B; Gehring, U. 2013. "Meta-analysis of the effects of indoor nitrogen dioxide and gas cooking on asthma and wheeze in children." *Int. J. Epidemiol.* 42(6):1724-1737.

<sup>7</sup> Zhu *supra* note 5.

<sup>8</sup> Wong, GW, *et al.* 2013. "Cooking fuels and prevalence of asthma: A global analysis of phase three of the International Study of Asthma and Allergies in Childhood (ISAAC)." *Lancet Respir. Med.* 1(5):386-394. .

<sup>9</sup> Lawrence Berkeley National Laboratory, *et al.* March 30, 2020. "Simulations of Short-Term Exposure to NO<sub>2</sub> and PM<sub>2.5</sub> to Inform Capture Efficiency Standards (Final)." Report to California Energy Commission; US Dept. of Energy (US DOE). 27p. .

<sup>10</sup> Dobbin, NA; Sun, L; Wallace, L; Kulka, R; You, H; Shin, T; Aubin, D; St-Jean, M; Singer, BC. 2018. "The benefit of kitchen exhaust fan use after cooking - An experimental assessment." *Building Environ.* 135:286-296. .

<sup>11</sup> Mullen *supra* note 3.

<sup>12</sup> Singer, BC; Pass, RZ; Delp, WW; Lorenzetti, DM; Mallalena, RL. 2017. "Pollutant concentrations and emission rates from natural gas cooking burners without and with range hood exhaust in nine California homes." *Building Environ.* 122:215-229.

<sup>13</sup> Logue, JM; Klepeis, NE; Lobscheid, AB; Singer, BC. 2014. "Pollutant exposures from natural gas cooking burners: A simulation-based assessment for Southern California." *Environ. Health Perspect.* 122(1):43-50.



## Scott Stauffer

---

**From:** Nathan Stokes <nathan@IUOE701.com>  
**Sent:** Tuesday, December 6, 2022 5:53 PM  
**To:** Adam Khosroabadi; Lisa Batey; Desi Nicodemus; Kathy Hyzy; Mark Gamba; OCR  
**Subject:** Gas Ban

**This Message originated outside your organization.**

---

Dear Mayor Gamba and Milwaukie City Council,

As the assistant business manager for the International Union of Operating Engineers, Local 701, I am writing on behalf of 3800 Union Members. I am also writing to remind us not to put our eggs in one basket and not to force our neighbors to either.

I'm seeing consistent references in Milwaukie to the discussion our Members have been participating in Eugene. It's possible that you aren't getting the correct information so I respectfully ask that you read and watch what I have sent to you today. First, and foremost, according to the [City of Eugene's own analysis \(page 10\)](#), the ban on new residential construction they are considering will result in carbon savings of less than  $\frac{1}{10}$  of 1% in 2037. Please note: this carbon savings of less than  $\frac{1}{10}$  of 1% is projected for the Eugene ban—knowing the [carbon content of the electricity grid](#) in Milwaukie and the comparable efficiency of direct use natural gas, we anticipate the savings would be barely measurable (if any). Gas bans are a reduction in significant reliability and resiliency with extremely little carbon savings. There is a better way—through collaboration and innovation together.

**To learn more, I urge you to watch these three clips from the public hearing on the ordinance for a residential gas ban in Eugene:**

- Jeff McGillivray of [UA 290](#) and Secretary Treasurer of the Lane Coos Curry Douglas Building Trades Council and representing Eugene Residents for Energy Choice: <https://youtu.be/KVIWDzZehGU?t=10978>
  - Please note that in addition to testifying that night on behalf of our Operating Engineers, I stood with Jeff as we presented the thousands of letters we had on hand from the people of Eugene. We had over 2500 letters that night and hundreds more have come in since.
    - Earlier in the month, about 1600 people had already signed on to a coalition in Eugene – they want energy choice, and want the reliability and innovation provided with the gas system (and having two energy systems). You can find their names [here](#), and please note that many more have joined since to share their names publicly.
- Tiffany Monroe – representing Farms and Food systems: <https://youtu.be/KVIWDzZehGU?t=16165>
- Eugene Water & Electric Board – the local public electricity provider in Eugene - Commissioner John Barofsky representing himself: <https://youtu.be/KVIWDzZehGU?t=16320>

Due to the overwhelming response from residents in Eugene, there is a continuation of the public hearing on December 12.

**We encourage you to do the proper carbon analysis and then the appropriate community outreach before voting on gas bans resolutions on December 6. If you have done the carbon analysis, minimally, we ask for the appropriate amount of time for the public to review your analysis before a vote is taken.**

Thank you

Nate Stokes  
Assistant Business Manager  
IUOE Local 701

Sent from my iPhone

To : Mayor and Council, City of Milwaukee  
From : Leslie Schockner  
Subject : Comments on the Milwaukee proposed code changes with regard to all-electric building mandates  
Date : December 6, 2022

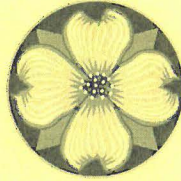
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I am writing to ask that you take the following points into consideration as you debate the issue of banning any power source but electricity in the City, whether in City-owned buildings, new residential construction, modifications to residential construction, or commercial and industrial areas, whether new or retrofit.

1. I looked for information about the rationale and research on the implications of mandating all-electric in those various areas, and found that the studies about how dangerous natural gas is within the home to be relatively small studies, which don't in fact call for banning all other fuels. See "We measured methane emissions from stoves in 53 homes in 7 California counties between January 2020 and May 2021" (<https://pubs.acs.org/doi/10.1021/acs.est.1c04707>). Likewise from a Harvard study - "Between December 2019 and May 2021, researchers collected over 200 unburned natural gas samples from 69 unique kitchen stoves and building pipelines across Greater Boston" (<https://www.hsph.harvard.edu/c-change/news/natural-gas-used-in-homes/>). Neither of these studies compared the pollution from natural gas to that of other sources of indoor pollution, and the latter suggested both public policy options and options for individuals, none of which involved banning natural gas.<sup>1</sup>
2. My next point is about issues related to the resilience of an all-electric system when there are known threats to it's viability for smaller or larger populations over smaller or larger geographic areas. Since I studied energy law in law school years ago and clerked at Bonneville, there have been concerns raised with the resilience of the electrical grid, regionally and nationally (<https://www.ieee-pes.org/technical-activities/trending-technologies/grid-resilience>). One only has to remember recent history, such as the ongoing situation of the deliberately sabotaged grid in North Carolina today, in which 40,000 people have been without electricity in very cold weather for days. Not to mention the ice storm of a couple of years ago here in which a large neighborhood to the east of me was without power for over a week. Someone who is all electric does not have a back-up resource to stay warm in such a situation. And of course extreme weather events are becoming more frequent. In such a situation the solution for many folks – the ones who can afford it – is to run a gas generator, which has way more emissions impact than a stove.

Clearly the speed with which a community, or region can move to reliable green power with adequate back-up in place for emergencies should be a factor in considering mandates that remove all options to citizens themselves to deal with power emergencies. I ask that you consider whatever action you take to give due regard to the implications of things not working exactly as you think they will.

- 
- 1 I also wondered at the use of the word methane to refer to natural gas. I have a lengthy experience with natural gas, having spent many years in Texas, prior to my 30 years here in Oregon, and as an English major with an ear for nuance of language, it rang a little bell in my head. Sure enough there is a study saying that methane has a more negative resonance with people than calling it natural gas - which is mostly methane but not completely. <https://climatecommunication.yale.edu/publications/should-it-be-called-natural-gas-or-methane/>



**CITY OF MILWAUKIE  
CITY COUNCIL**

10722 SE Main Street  
P) 503-786-7502  
F) 503-653-2444  
ocr@milwaukieoregon.gov

**Speaker Card**

2

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speaker Card, once submitted to the City Recorder, becomes part of the public record.

**Name:** Michele Gila

**Address:** 150 SW Harrison St Suite 200, Portland, OR, 97201

**Organization:** Portland Metropolitan Association of Realtors

**Phone:** 503-459-2163

**Email:**

**Meeting Date:** 12/6/2022

**Topic:** 7:B New Building Energy

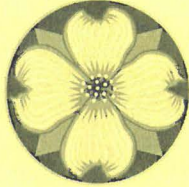
**Agenda Item You Wish to Speak to:**

- #5 Community Comments
- #7 Other Business, Topic:
- #8 Public Hearing, Topic:

**You are Speaking...**

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

**Comments:**



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# Speaker Card

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**Name:** Greer Ryan

**Address:**

**Organization:** Climate Solutions

**Phone:**

**Email:**

**Meeting Date:** 12/6/22

**Topic:** Clean & Healthy Buildings

**Agenda Item You Wish to Speak to:**

- #5 Community Comments
- #7 Other Business, Topic:
- #8 Public Hearing, Topic:

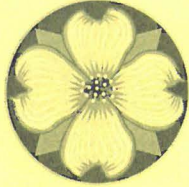
) not sure!

**You are Speaking...**

- in Support
- in Opposition
- from a Neutral Position
- to ask a Question

- Town Hall Event

**Comments:**



CITY OF MILWAUKIE  
CITY COUNCIL

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# Speaker Card

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speaker Card, once submitted to the City Recorder, becomes part of the public record.

**Name:** Nina Carlson

**Organization:** NW Natural

**Address:**

**Phone:**

**Email:**

**Meeting Date:** 12/10/06

**Topic:** Resolution of municipal electrification  
resolution of electric only new const.

**Agenda Item You Wish to Speak to:**

- #5 Community Comments
- #7 Other Business, Topic:
- #8 Public Hearing, Topic:

**You are Speaking...**

- in Support of energy choice
- in Opposition of forced electrification
- from a Neutral Position
- to ask a Question
- Point of Clarification

**Comments:**

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Nov. 22, 2022

**Reviewed:** Peter Passarelli, Public Works Director, and  
Sasha Freeman, Administrative Specialist II

**From:** Adam Moore, Parks Development Coordinator

**Subject:** **Neighborhood Parks Master Plans Adoption**

---

**ACTION REQUESTED**

Council is asked to receive an update on the development process of Balfour, Bowman-Brae, and Scott parks and consider individual resolutions for the adoption of each separate park plan.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS****Balfour & Bowman-Brae Parks**

[August 11, 2015](#): The Planning Commission recommended adoption by Council of the park master plans for Balfour, Bowman-Brae, and Robert Kronberg Nature Park.

[October 20, 2015](#): Following a public hearing, the park master plans were adopted by Council but were not implemented due to lack of funding.

**Scott Park**

[November 6, 1990](#): Council adopted the Scott Park Master Plan, which has not been fully implemented.

[May 1, 2018](#): Council repealed the Scott Park Master Plan after a public hearing. Repeal of the plan had been recommended by the Planning Commission after a separate public hearing.

**Park Development Project**

[September 14, 2021](#): The park development project was presented by staff and discussed by Council during a study session.

[January 4, 2022](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[January 18](#): Council adopted a resolution authorizing a grant agreement with the State of Oregon Department of Administrative Services (DAS).

[February 1](#): Council adopted a resolution authorizing a contract for park design and development services with GreenWorks, P.C.

[June 7](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[September 20](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[October 18](#): A resolution declaring the public necessity to acquire a public right-of-way (ROW) and temporary construction easement to construct a multi-use trail and provide public access to Bowman-Brae Park from Where Else Lane was adopted.

[November 1](#): An update on the status of the park development project was presented by staff and discussed by Council during a study session.

[November 15](#): An update on the status of the park development project regarding the Balfour Park concept plan was presented by staff and discussed by Council during a study session.

## **ANALYSIS**

### **Project History**

The State of Oregon awarded Milwaukie federal funding to complete the design and construction of the city's remaining neighborhood parks. This will include the refinement of existing plans for Balfour and Bowman-Brae parks, and the creation of a new master plan for Scott Park. Awarded funding totaled \$2,250,000 with an anticipated allocation of \$1,000,000 for Balfour, \$700,000 for Bowman-Brae, and \$550,000 for Scott. Scott Park was also allocated \$60,000 in city general fund dollars. This project is primarily paid for with Federal American Recovery Plan Act (ARPA) funds received through Oregon's Coronavirus State Fiscal Recovery Funding. Funding for Balfour Park was provided through Oregon House Bill (HB) 5006, which designated funds for use in Oregon House of Representatives District 41 as requested by Representative Karin Power. Funding for Scott and Bowman-Brae Parks was included in HB 5006 for use in Oregon Senate District 21 as requested by Senator Kathleen Taylor. Funding from other sources may also be used to ensure that the parks and their amenities are accessible to all members of the community. Additional donations or grants may be sought to supplement the funding described above.

City staff completed a grant agreement with the state to accept the funds on January 24, 2022. Council adopted a resolution authorizing staff to enter into the grant agreement on January 18. On February 1 Council authorized staff to enter a contract with GreenWorks, P.C. to provide park design and development services. The contract was completed by staff on February 7. City staff and GreenWorks held a project kick-off meeting on February 2.

In 2020, Council adopted a new goal focusing on equity, inclusion, and justice. The city has spent a significant amount of time this year honing our outreach efforts to assure engagement with the Black, Indigenous, and People of Color (BIPOC) community. The city will be working with the newly created Equity Steering Committee (ESC) and the BIPOC community throughout the design process to assure these voices and the voices of our changing community are heard prior to development. On March 14, 2022, the consulting team lead by GreenWorks held an equity and public involvement discussion with members of the Parks and Recreation Board (PARB), the ESC, and city staff. The purpose of this meeting was to gather feedback and revise a draft on the project's public involvement plan (PIP). This PIP is an internal city document that was developed to help guide the community engagement process with a focus on equity. The PIP provides several recommendations to the city to ensure that community



engagement is approachable and removes barriers from participation for all, especially members of the BIPOC community.

### **Planning & Approval Process**

Of the three parks, Balfour and Bowman-Brae are currently undeveloped and receive only light maintenance, whereas Scott Park is a developed park site adjacent to the new Ledding Library building. The parks have differing land use designations. Balfour and Bowman-Brae have approved master plans from 2015 that will need to be revised through a Council resolution and community service use approval process before the Planning Commission.

Scott Park has a master plan adopted by Council in the early 1990s, though the plan has aged, and the construction of the new library has made that plan obsolete. In 2018, the Scott Park Master Plan was repealed to allow for the development of the new library. Scott Park will require an approved resolution by Council; however, it will not require a community use approval by the Planning Commission. While the community use approval process is not necessary, the city intends to present the new master plan to the Planning Commission prior to the permit and construction phases. Given the natural resources, aquatic habitat, and conservation area on site, Scott Park will require a Type III development review before the Planning Commission.

The current grant agreement with the state ends on June 30, 2024, however, extensions may be provided by the state on a case-by-case basis. The project timeline below uses the project deadline of mid-October 2024.

### **FINAL CONCEPT PLANS AND NOVEMBER UPDATES**

The project team considered all feedback received for all three parks from May through the end of November. Overall, total attendance of 448 people signed in to 3 open houses, 4 planning meetings, 3 focus groups, and multiple other engagements. Combined a total of 631 surveys were received across all engagements, with 8.4% of these surveys coming from people who identify as a race or ethnicity other than white and 27.4% of these surveys came from people new to the Milwaukie planning process. Based on the information received staff worked to blend the two concepts for Scott Park into one final master plan. Revisions will also be made to the Balfour Park and Bowman-Brae Park plans based on feedback with careful consideration to the project budget and direction provided by council at the November 1 and November 15 project updates. Overall feedback from the meetings and surveys was generally positive with residents requesting revisions to improve inclusivity and accessibility of each of the three parks.

The final park master plans were presented to the public at a special PARB meeting on Wednesday, November 16 at 5:30 p.m. on Zoom. The meeting was open to the public where questions and comments were answered by city staff. Postcards with details on the meeting will be mailed to addresses within a half mile of each of the three parks. Due to the number of questions regarding Balfour Park, staff attended the November 28 Ardenwald-Johnson Creek NDA meeting to present the plans and additional information on the different amenities and tree protection efforts in the park.

## **CLIMATE IMPACTS**

The park development project will help the city address climate change adaptation and mitigation goals at the neighborhood level. This project will add park amenities, vegetation, stormwater facilities, and sidewalks to existing city parkland. These new park amenities have the potential to limit automotive trips as residents living in the Ardenwald, Lake Road, and Historic Milwaukie neighborhoods will have developed parks within a walkable distance of their homes. Additional trees and plants will help meet the city's 40% tree cover goals, while small rain gardens will help with storm water detention. Any development project will have a carbon footprint, though this project will strive to keep its carbon footprint small using natural, recycled, and/or locally sourced products wherever possible.

## **BUDGET IMPACTS**

This project is primarily paid for with ARPA funds received through the state. Staff will work on a budget amendment to account for any revenue and expenses in the current fiscal year. Guidance provided by the League of Oregon Cities (LOC) and the state confirms that all project expenses since March 2020 will be eligible for reimbursement.

## **WORKLOAD IMPACTS**

Public works staff will be leading the effort to develop these three parks while coordinating with other city departments and outside agencies as required. A full-time parks development coordinator has been hired, who will act as project manager and oversee the project consulting team. Under the direction of the public works director, the parks development coordinator will collaborate with NCPRD staff where appropriate, and staff in the city manager's office and the planning and engineering departments. In addition to Council, other public boards, and commissions, such as the ESC, PARB, and the Planning Commission will all be engaged, particularly as park master plans are created and refined. NCPRD's District Advisory Committee (DAC) and the Clackamas County Board of County Commissioners, which acts as the NCPRD Board, will also be informed of the city's progress on the project, where appropriate. Staff will manage workloads and currently have the capacity to manage the work detailed in this report.

## **COORDINATION, CONCURRENCE, OR DISSENT**

Development of new public recreation space will require close collaboration between departments within the city, related outside agencies, and the public. Continued partnership with NCPRD and Clackamas County will be sought to help ensure successful completion of this important project.

## **STAFF RECOMMENDATION**

Staff recommends that Council adopt the individual master plans for each park.

## **ALTERNATIVES**

Council could decide to:

1. Provide staff with additional direction for revisions of the individual park plans, or
2. Do nothing.

## **ATTACHMENTS**

1. Bowman-Brae Park Revised Master Plan Concept and Resolution
2. Balfour Park Revised Master Plan Concept and Resolution
3. Scott Park Final Master Plan Concept and Resolution



**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE REVISED MASTER PLAN FOR BOWMAN-BRAE PARK.**

**WHEREAS** the City Council has prioritized the development of Milwaukie’s undeveloped parks, and

**WHEREAS** the city has made it a practice to develop and revise master plans for each of the various city parks, to guide the future physical and programmatic development of each park, and to ensure that adjacent neighborhoods and the community have improved access to recreational facilities and open space, and

**WHEREAS** the city has conducted an extensive public involvement process with the community to develop/revise the master plan for Bowman-Brae Park, and

**WHEREAS** the conceptual plans provide a clear vision for future improvements and amenities to the park site.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the new / revised master plan for Bowman-Brae Park is adopted.

Introduced and adopted by the City Council on **December 6, 2022.**

This resolution is effective immediately.

\_\_\_\_\_  
Mark F. Gamba, Mayor

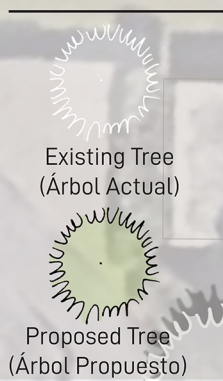
APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney

TREE KEY:



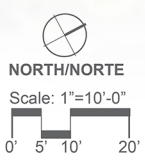
Existing Pump House  
(Estación de bombeo actual)

Property to be Acquired  
(Propiedad será Adquirida)



LEGEND (LEYENDA)

- |   |  |  |  |
|---|--|--|--|
| 1 Stormwater Swale<br>(Pantano de aguas de tormentas) | 4 Bench<br>(Banco)                       | 7 Picnic Shelter<br>(Área cubierta para comer)   | 10 Log<br>(Leño)                         |
| 2 6'-9' Wide Pathway<br>(Camino 6' - 9' de ancho)     | 5 Bike Rack<br>(Portabicicletas)         | 8 Screening Shrubs<br>(Arbustos de ocultación)   | 11 Drinking Fountain<br>(Fuente de agua) |
| 3 Picnic Table (2)<br>(Mesa de picnic -2)             | 6 Main Park Entry<br>(Entrada principal) | 9 Pollinator Garden<br>(Jardín de Polinizadoras) | 12 Entry Sign<br>(Letrero de Entrada)    |



November 2022/Noviembre 2022



**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
ADOPTING THE REVISED MASTER PLAN FOR BALFOUR PARK**

**WHEREAS** the City Council has prioritized the development of Milwaukie’s undeveloped parks, and

**WHEREAS** the city has made it a practice to develop and revise master plans for each of the various city parks, to guide the future physical and programmatic development of each park, and to ensure that adjacent neighborhoods and the community have improved access to recreational facilities and open space, and

**WHEREAS** the city has conducted an extensive public involvement process with the community to develop/revise the master plan for Balfour Park, and

**WHEREAS** the conceptual plans provide a clear vision for future improvements and amenities to the park site.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the new / revised master plan for Balfour Park is adopted.

Introduced and adopted by the City Council on **December 6, 2022.**

This resolution is effective immediately.

\_\_\_\_\_  
Mark F. Gamba, Mayor

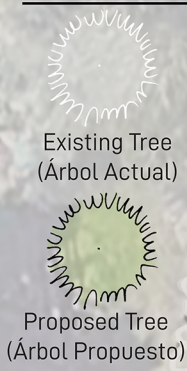
APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

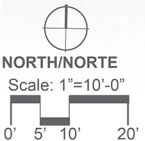
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Justin D. Gericke, City Attorney

TREE KEY:



LEGEND/LEYENDA

- |  |                               |   |   |
|--|-------------------------------|---|---|
| 1 Stormwater Swale (Pantano de aguas de tormentas) | 4 Bike Rack (Portabicicletas) | 7 Picnic Table (Mesa de picnic)             | 10 Park Entry Sign (Letrero de entrada al parque) |
| 2 6'-8' Wide Pathway (Camino 6' - 8' de ancho)     | 5 Slide Mound (Montículo)     | 8 Picnic Shelter (Área cubierta para comer) | 11 Drinking Fountain (Fuente de Agua)             |
| 3 Low Retaining Wall (Muro de contención pequeño)  | 6 Bench (Banco)               | 9 Water Feature (Instalación de Agua)       |   |



November 2022/Noviembre 2022





**COUNCIL RESOLUTION No.**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, ADOPTING THE NEW MASTER PLAN FOR SCOTT PARK.**

**WHEREAS** the City Council has prioritized the development of Milwaukie’s undeveloped parks, and

**WHEREAS** the city has made it a practice to develop and revise master plans for each of the various city parks, to guide the future physical and programmatic development of each park, and to ensure that adjacent neighborhoods and the community have improved access to recreational facilities and open space, and

**WHEREAS** the city has conducted an extensive public involvement process with the community to develop/revise the master plan for Scott Park, and

**WHEREAS** the conceptual plans provide a clear vision for future improvements and amenities to the park site.

**Now, Therefore, be it Resolved** by the City Council of the City of Milwaukie, Oregon, that the new / revised master plan for Scott Park is adopted.

Introduced and adopted by the City Council on **December 6, 2022.**

This resolution is effective immediately.

ATTEST:

\_\_\_\_\_  
Mark F. Gamba, Mayor  
APPROVED AS TO FORM:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney

**KEYNOTES**

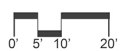
- ① PLAYGROUND  
(EL CAMPO DE JUEGOS)
- ② POND PLATFORM  
(PLATAFORMA DEL ESTANQUE)
- ③ STAGE  
(ESCENARIO)
- ④ BENCH  
(BANCA)
- ⑤ RIPARIAN  
(RIBEREÑO)
- ⑥ NATIVE PLANTING  
(PLANTA NATIVA)
- ⑦ LAWN  
(CÉSPED)
- ⑧ ROCK STEPPERS  
(ADOQUINES)
- ⑨ LOG  
(LEÑO)
- ⑩ ACCESSIBLE PICNIC TABLE  
(MESA DE PICNIC ACCESIBLE)
- ⑪ DRINKING FOUNTAIN  
(FUENTE DE AGUA)
- ⑫ BIKE RACK  
(PORTABICICLETAS)



NOVEMBER 2022/NOVEMBRE 2022

**SCOTT PARK | FINAL DESIGN CONCEPT**

**RS611**  
SCALE: 1" = 10'-0"







# Bowman-Brae, Balfour, and Scott Final Draft Plans

December 6, 2022



# Engagement Review



Public Involvement Plan created with Equity Steering Committee & Parks and Recreation Board.

Monthly PARB updates with NDA & Library Board representatives invited.

NDA meetings attended in September with follow up to Ardenwald-Johnson Creek in November.

City Council updates in January, June, September, November 2023.

Presented to PARB November 16, 2023.



# Engagement Review

## Scott Park:

Open house in May and planning meetings in August & October.

## Bowman-Brae & Balfour Parks:

Summer open houses with planning meetings in October.

Focus Groups with Spanish-speaking community, BIPOC community, and People with Disabilities.

Total of 631 surveys with 27% from new participants and 8% from the BIPOC communities.



# Upcoming Next Steps

## **Bowman-Brae & Balfour Parks:**

Community Service Use via  
Planning Commission

## **Scott Park:**

Type III Development Review via Planning Commission

## **All Three:**

- Design & Permitting until late Fall 2023
- Construction early Winter 2024
- Ribbons cut October 2024



# Final Draft Bowman-Brae Concept

Where Else Lane acquisition has begun.

Multiuse trail connection to Bowman Street has moved to the middle of the streets.

Changed northside of the loop path back to concrete.

Tree placement has adjusted to meet the comments from October. Will add more if the budget allows.

151 total surveys received.



# Final Draft Balfour Concept

Focus on protecting tree coverage & providing community space.

Paths have changed to protect trees.

Community garden has been removed to protect trees. Fruit trees will be added instead.

Half street improvements to come later with the rest of Balfour Street.

179 total surveys.



# Final Draft Scott Concept

Blends Concept 1 & Concept 2.

Includes accessible playground with a musical instrument & nature-based play elements.

Amphitheater stage will be accessible with programing improvements.

289 total surveys received.

## KEYNOTES

- ① PLAYGROUND  
(EL CAMPO DE JUEGOS)
- ② POND PLATFORM  
(PLATAFORMA DEL ESTANQUE)
- ③ STAGE  
(ESCENARIO)
- ④ BENCH  
(BANCA)
- ⑤ RIPARIAN  
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(MESA DE PICNIC ACCESIBLE)
- ⑪ DRINKING FOUNTAIN  
(FUENTE DE AGUA)
- ⑫ BIKE RACK  
(PORTABICICLETAS)



# Thank you!

Questions?

**Adam M. Moore**

Parks Development Coordinator

503-786-7624

[moorea@milwaukieoregon.gov](mailto:moorea@milwaukieoregon.gov)





**Scott Stauffer**

---

**From:** Teresa Bresaw <tbresaw50@gmail.com>  
**Sent:** Monday, December 5, 2022 2:54 PM  
**To:** OCR  
**Subject:** Dec 6 city council meeting

**This Message originated outside your organization.**

---

Hi, Scott!

I spent over 2 hrs trying to open agendas and packets (new Motorola cell phone) and finally success (extremely irritating)!

City council has many agenda items so I will try and be succinct and clear for my letter to city council regarding Bowman-Brae. Would you please respond to question about public comment not in the packet, that you received mine (and either read it out loud or ask if all members have read it?).

Mayor and Councilors

The 7-8 yr old master plan for Bowman-Brae does not adequately provide the needed shade mainly on the west end of the park. The plan was tweaked to add more trees on the south side around the playground which is fine but I have been told the budget may not allow for more trees elsewhere.

I am asking the city council to direct that 2 more trees be planted on the west side. Either the 2 middle trees of the 4 by the playground could be moved or 2 additional trees be added to the master plan which I have been told is conceptual.

Keep in mind there are evergreen trees across Bowman St providing some shade.

The park plan looks very pretty and green but in the heat of summer people will be looking for more shade. If the city's goal is to increase tree canopy this is their opportunity.

Thank you

Teresa Bresaw

Lake Road Land-Use member

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Nov. 23, 2022

**Reviewed:** Peter Passarelli, Public Works Director

**From:** Natalie Rogers, Climate & Natural Resource Manager

**Subject:** **Stormwater Code Amendments**

---

**ACTION REQUESTED**

Council is asked to review and adopt amendments to the stormwater code.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[November 15, 2022](#) : Staff presented revisions to the stormwater code during to discussions and deliberation of the climate fee.

**ANALYSIS**

Staff have proposed amendments to the stormwater code for Council consideration and potential adoption. Changes to the stormwater code are necessary to better define intended funding sources for overlapping stormwater and climate programming. These amendments add a definition for nature-based stormwater facilities and clarify what circumstances stormwater funds may be used on private property. These circumstances are outlined below:

1. Providing non-federal grant match funding to projects that reduce or eliminate the risk of repetitive flood damage to buildings insured by the National Flood Insurance Program.
2. The facility is a nature-based stormwater facility or component of, and it can be demonstrated to the satisfaction of the city engineer, using a science-based approach, that the facility provides stormwater and public benefits that extend beyond the boundaries of the property or development.
3. It can be demonstrated that a private tree, using a science-based approach, that the tree provides stormwater and public benefits that extend beyond the boundaries of the property or development to the satisfaction of the city engineer in consultation with the urban forester.
4. The facility has been dedicated to the city and is within a public easement.

Staff will return in early 2024 with future amendments to the stormwater code to fulfill the requirements of the city's National Pollution Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) permit related to new regulatory requirements associated with construction site runoff controls and post-construction runoff controls.

**BUDGET & WORKLOAD IMPACTS**

Not applicable.

**CLIMATE IMPACT**

The proposed amendments align with the city's Climate Action Plan (CAP) and better define nature-based stormwater facilities that are a component of the natural resource adaptation strategies outlined in the CAP.

**COORDINATION, CONCURRENCE, OR DISSENT**

The proposed amendments have been coordinated with the city engineer.

**STAFF RECOMMENDATION**

Staff recommends that Council adopt the attached ordinance.

**ALTERNATIVES**

Council could alternatively decide to:

1. Not adopt the ordinance discussion to a later date, or
2. Not adopt the ordinance and resolution and end discussion.

**ATTACHMENTS**

1. Ordinance amending the Stormwater code
2. Stormwater code amendments

**COUNCIL ORDINANCE No.**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MILWAUKIE MUNICIPAL CODE (MMC) BY AMENDING CHAPTER 13.14 STORMWATER MANAGEMENT TO CLARIFY THE USE OF STORMWATER FUNDS.**

**WHEREAS** the City of Milwaukie is required by federal law to have an approved National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Stormwater Discharge Permit along with an approved Stormwater Management Plan (SWMP) for its municipal storm sewer system, and

**WHEREAS** the City Council finds that stormwater runoff causes property damage and erosion; carries concentrations of nutrients, heavy metals, oil, and toxic materials into receiving waters and ground water, and

**WHEREAS** the City Council has determined that stormwater runoff must be managed in a manner that protects the public health and the environment.

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

Section 1. Amendments. The Milwaukie Municipal Code (MMC) Chapter 13.14 Stormwater Management is amended as described in Exhibit A (underline/strikeout version) and Exhibit B (clean version).

Section 2. Effective Date. This ordinance will become effective on January 1, 2023.

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

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney

13.14.010 PURPOSE

The City finds and declares that absent effective maintenance, operation, regulation, and control, existing stormwater drainage conditions in all drainage basins and subbasins within the City constitute a potential hazard to the health, safety, and general welfare of the City. The City Council further finds that ~~natural~~ nature-based and manmade stormwater facilities and conveyances together constitute a stormwater system and that the effective regulation and control of stormwater can best be accomplished through formation, by the City, of a stormwater utility. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

13.14.020 DEFINITIONS

“City” means the City of Milwaukie, a municipality, and its authorized employees.

“City Council” means the City Council of Milwaukie.

“Customer” means a person in whose name service is rendered as evidenced by the signature on the application/contract for stormwater, sanitary sewer, or water service or, in the absence of a signed instrument, by the receipt and payment of bills regularly issued in their name.

“Developed” means an area which has been altered by grading or filling of the ground surface, or by construction of any improvement or other impervious surface area, which affects the hydraulic properties of the location.

“Equivalent service unit (ESU)” means a configuration of development or impervious surface estimated to contribute an amount of runoff to the City’s stormwater system which is approximately equal to that created by the average developed single-family residence within Milwaukie. One ESU is equal to two thousand seven hundred six (2,706) square feet of impervious surface area.

“Impervious surface” means that hard surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions. Impervious surfaces may include, but are not limited to, rooftops, concrete, or asphalt paving, walkways, patios, driveways, parking lots, or storage areas, trafficked gravel, and oiled, macadam, or other surfaces which similarly impede the natural infiltration or runoff of stormwater.

“Improved premises” means any area which the Public Works Director determines has been altered such that the runoff from the site is greater than that which could historically have been expected. Improved premises do not include public roads under the jurisdiction of the City, County, State or federal government.

“Manager” means the City Manager or designee of the City stormwater management system.

**EXHIBIT A**  
**Strikeout/Underline Version**

“One- or two-family residential” means an area which is improved with one or two (2) attached single-family dwelling units for occupancy each by a single family or a similar group of people, provided each dwelling has a separate billing within the City’s utility billing system.

“On-site mitigation control system” means a stormwater drainage facility which the Public Works Director has determined prevents the discharge, or substantially reduces the discharge, of stormwater or nonpoint source pollution into a receiving water or public stormwater system facility.

“Person responsible” means the occupant, lessee, tenant, contract purchaser, owner, agent, or other person having possession of property, or if no person is in possession, then the person in control of the use of the property, or in control of the supervision of development on the property.

“Public Works Standards” mean the City of Milwaukie Public Works Standards and the referenced City of Portland Stormwater Management Manual that the City requires be complied with for the design and construction of on-site mitigation facilities including stormwater detention, retention, and water quality treatment facilities.

“Stormwater” means water from precipitation, surface or subterranean water from any source, drainage, and nonseptic wastewater.

“Stormwater service” means the operations of the City’s stormwater utility in providing programs and facilities for maintaining, improving, regulating, collecting, and managing stormwater quantity and quality within the City’s service area.

“Stormwater system” means any manmade or nature-based structure or configuration of ground that is used or by its location becomes a place where stormwater flows or is accumulated, including, but not limited to, pipes, sewers, curbs, gutters, manholes, catch basins, ponds, creeks, underground injection control (UIC) facilities, open drainageways, rain gardens, vegetated swales, permeable pavement, green roofs, urban forest canopy, tree trenches, rainwater harvesting, green streets and their appurtenances. Stormwater system does not include the Willamette River.

“Street wash water” means water that originates from publicly financed street cleaning activities consistent with the City’s National Pollutant Discharge Elimination System (NPDES) municipal stormwater permit.

“Toxic substances” mean any chemical listed as toxic under Section 307(a)(1) of the Federal Clean Water Act (CWA) or Section 313 of Title III of Superfund Amendments and Reauthorization Act (SARA).

**EXHIBIT A**  
**Strikeout/Underline Version**

“Undeveloped” means any area which has not been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area, which affects the hydraulic properties of the location. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

13.14.025 REGULATIONS AND REQUIREMENTS

A. Compliance with Industrial NPDES Stormwater Permits

Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES permit issued by the Oregon DEQ, from which pollutants may enter the public or private stormwater system, shall comply with all provisions of such permits, including notification to and cooperation with local entities as required by federal regulations. Proof of compliance with said permits may be required in a form acceptable to the Manager of the City stormwater management system prior to issuance of any grading, building, or occupancy permits or business license.

B. Compliance with State, Local, and Federal Regulations

All users of the public stormwater system, and any person or entity whose actions may affect the system, shall comply with all applicable federal, State, and local laws, including Section 19.402 Natural Resources. Compliance with the requirements of this chapter shall in no way substitute for, or eliminate the necessity for compliance with, applicable federal, State, and local laws.

C. Conflicts with Existing and Future Regulatory Requirements of Other Agencies

Any provisions or limitations of this chapter, and any rules adopted pursuant hereto, are superseded and supplemented by any applicable federal, State, or local requirements existing or adopted subsequent hereto which are more stringent than the provisions and limitations contained herein. Any provision of this chapter and rules adopted pursuant hereto which are more stringent than any such applicable federal, State, or local requirement shall prevail and shall be the standard for compliance by the connectors to and the discharges to the public stormwater system.

D. Accidental Spill Prevention and Control

Dischargers who are not required to obtain an NPDES permit; but who handle, store, or use hazardous or toxic substances or discharges prohibited under Section 13.14.105.E General Discharge Prohibitions, on their sites; shall prepare and submit to the Manager, at the Manager’s request, an Accidental Spill Prevention Plan within sixty (60) days of notification by the City. If other laws or regulations require an Accidental Spill Prevention and Control Plan, a plan that meets the requirement of those other laws and regulations will satisfy the requirement of this section.

**EXHIBIT A**  
**Strikeout/Underline Version**

E. Notification of Spills

As soon as any person in charge of a facility, or responsible for emergency response for a facility, becomes aware of any suspected, confirmed, or unconfirmed release of material, pollutants, or waste creating a risk of discharge to the public stormwater system, such persons shall:

1. Begin containment procedures;
2. Notify proper emergency personnel in case of an emergency;
3. Notify appropriate City and/or State officials regarding the nature of spill;
4. Follow up with the City regarding compliance and modified practices to minimize future spills, as appropriate.

The notification requirements of this section are in addition to any other notification requirements set forth in federal, State, or local regulations and laws. The notification requirements do not relieve the person of necessary remediation.

F. Requirement to Eliminate Illicit Connections

1. The Manager may require by written notice that a person responsible for an illicit connection to the public stormwater system comply with the requirements of this chapter to eliminate the illicit connection or secure approval for the connection by a specified date.

2. If, subsequent to eliminating a connection found to be in violation of the chapter, the responsible person can demonstrate that an illicit discharge will no longer occur, that person may request approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

G. Requirement to Remediate

Whenever the Manager finds that a discharge of pollutants is taking place, or has taken place, which will result in, or has resulted in, pollution of stormwater or the public stormwater system, the Manager may require by written notice to the responsible person that the pollution be remediated and the affected property restored, to the standards established by the Manager, within a specified time.

H. Requirement to Monitor and Analyze

Whenever the Manager determines that any person is engaged in any activity, and/or owns or operates any facility, which may cause or contribute to stormwater pollution or illicit discharges to the public stormwater system, the Manager may, by written notice, order that such person



**EXHIBIT A**  
**Strikeout/Underline Version**

undertake such monitoring activities and/or analyses, and furnish such reports, as the Manager may deem necessary to demonstrate compliance with this chapter. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator; including costs of these activities, analyses, and reports; shall bear a reasonable relationship to the need for the monitoring, analyses, and/or reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses, and/or reports within the time frames set forth in the order.

**I. Stormwater Treatment**

The quality of stormwater leaving the site after development shall be equal to or better than the quality of stormwater leaving the site before development, based on the following criteria:

1. On-site mitigation facilities for water quality required for development shall be designed, installed, and maintained in accordance with the Public Works Standards.
2. Land use activities of particular concern as pollution sources shall implement additional best management practices for pollution control including, but not limited to, those management practices specified in the Public Works Standards.
3. Development in a watershed that drains to streams with established total maximum daily load (TMDL) limitations; as provided under the CWA, Oregon Law, Administrative Rules, and other legal mechanisms; shall assure that on-site mitigation facilities for water quality control meet the requirements for pollutants of concern.

**J. Design and Performance Criteria for Stormwater Detention and Water Quality Treatment Facilities Constructed on Private Property**

1. All on-site mitigation facilities; including stormwater detention, retention, and water quality treatment facilities required by the City; shall be designed and constructed to meet the Public Works Standards.
2. Except as permitted by the Engineering Director, as provided by the Public Works Standards, on-site mitigation facilities shall be located on private property and shall not be located on property that will become a public right-of-way, public stormwater easement, or future street plan.
3. Except as permitted by the Manager, as provided by the Public Works Standards, once constructed, the on-site mitigation facilities shall be privately owned, operated, and maintained. Maintenance responsibility shall include all elements of the stormwater detention and water quality treatment system up to the point of connection with a drainage structure or waterway of the public stormwater system. Such connection shall be subject to City approval.

**EXHIBIT A**  
**Strikeout/Underline Version**

4. Maintenance as required by the Public Works Standards shall be specified in an operation and maintenance plan submitted to and approved by the Manager prior to issuance of a notice to proceed with public improvements. Prior to the time of project acceptance, the developer or applicant shall enter into an agreement with the City to ensure the implementation of the operation and maintenance plan, and a memorandum of agreement shall be recorded with Clackamas County. Private stormwater detention and water quality treatment facilities are subject to periodic inspection by the City to ensure proper maintenance and performance.

5. Failure to properly operate or maintain on-site mitigation facilities for stormwater detention, retention, and water quality treatment according to the operation and maintenance plan of the adopted City of Portland Stormwater Management Manual in effect on the date of the ordinance codified in this chapter is a violation.

(Ord. 2036 § 3, 2011; Ord. 2025 § 3, 2011; Ord. 2013 § 1, 2010)

**13.14.030 REQUEST FOR SERVICE, INITIATION OF BILLING**

A request for water service constitutes a request for stormwater service and will initiate appropriate billing for stormwater services as established in this chapter. If development of a parcel does not require initiating water service, the creation of an improved premises from which stormwater may be discharged into the public stormwater system shall constitute a request for service and initiate the obligation to pay the fees and charges authorized in this chapter. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.040 CHARGES FOR STORMWATER SERVICE**

A. Except as the charges may be reduced under subsection C of this section, the obligation to pay stormwater service charges arises whenever there is a request for stormwater service for an improved premises. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the City, the person receiving the City's water utility charge bill shall pay the stormwater charges as set by City Council resolution. If there is no water service to the property or if water service is discontinued and the property is an improved premises, the stormwater charges shall be paid by the person responsible for the property. The person required to pay the charge is hereafter referred to as the customer.

B. The City Council may by resolution establish fees and charges necessary to provide and operate a stormwater system and service.

C. Upon completion of the on-site mitigation credit application package available from the City's Public Works Department, a customer of the utility may request a reduction of the stormwater service charge. The service charge will be reduced in relation to the customer's ability to demonstrate that on-site stormwater facilities meet or exceed the City's standards for stormwater quantity and quality control at that site.

**EXHIBIT A**  
**Strikeout/Underline Version**

Any reduction given shall continue until the condition of the property is changed or until the Public Works Director determines the property no longer qualifies for the credit given. Upon change in the condition of the property, another application may be made by a person responsible.

D. Service charge avoidance may be requested through the application package available from the Public Works Department. The criteria for waiver of the service charge as it applies to a specific customer includes total retention of stormwater with no effective discharge to the City's stormwater system; the petitioner's ability to demonstrate through hydrologic/hydraulic analysis that the site receives no stormwater service from the City's stormwater system; and proof that stormwater facilities are constructed and maintained to City standards.

E. For the purposes of this chapter, dry wells are not an on-site mitigation control system eligible for service charge reduction or service charge avoidance because of the potential water quality impact that dry wells may have on the City's groundwater resources. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.050 STORMWATER CHARGES—BILLING**

A. Charges for stormwater service supplied by the City to any customer shall be charged for and billed to each such customer in accordance with rates established by the City Council. Prior to the establishment of stormwater service fees and charges by the City Council, the Milwaukie Citizens Utility Advisory Board shall prepare and deliver a report and recommendation on rates to the City Council. The Committee shall prepare and deliver its recommendation to City Council on an annual basis, according to the rules established by City Council. Stormwater service fees and charges as established by the City Council shall be added to and made a part of the billings for water and sewer service.

B. The customer shall be responsible for all stormwater service fees and charges, except as allowed by Section 13.14.040. The City may require deposits prior to providing stormwater service or in lieu of a deposit, obtain a signed agreement from the property owner, whether the customer or not, that they will be ultimately liable for the charges and that the City may use a lien as one method to secure payment if the charges are not paid. However, the City may not require a property owner to sign such an agreement.

C. Billings may be prorated. The proration shall be a daily rate determined by dividing the annual minimum billing by three hundred sixty-five (365) days times the number of days of occupancy from last meter reading and/or billing date.

D. A reduced stormwater service charge may be charged for customers who qualify as low income utility customers under the provisions of Chapter 13.20 of this code.

**EXHIBIT A**  
**Strikeout/Underline Version**

E. All money collected through stormwater fees and charges shall be deposited in the stormwater utility account as established and maintained by the City's Finance Director. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

F. Funds collected under this chapter will be used for the purpose of designing, acquiring, developing, constructing, maintaining, improving, and operating both manmade and nature-based stormwater systems.

13.14.055 PUBLIC INVESTMENT OF STORMWATER FUNDS

A. Funds collected under this chapter will not be used for maintaining, operating, or improving a stormwater system on private property, or to provide direct financial assistance for private tree removal except when:

1. Providing non-federal grant match funding to projects that reduce or eliminate the risk of repetitive flood damage to buildings on private property insured by the National Flood Insurance Program; or

2. The stormwater system is (or component thereof) demonstrated to the satisfaction of the City Engineer to provide a stormwater benefit that extends beyond the boundaries of the private property; or

3. It can be demonstrated to the satisfaction of the City Engineer in consultation with the Urban Forester that a private tree provides a stormwater benefit that extends beyond the boundaries of the private property or:

4. The stormwater system has been dedicated to the city and is within a public easement.

13.14.060 STORMWATER CHARGES—WHEN DELINQUENT

A. The City shall prepare and mail billings for stormwater fees and charges on the last business day of each month. Payment is due on the 15th of the month following the billing date. Accounts are delinquent if the City does not receive full payment by 5:00 p.m. on the last business day of the month immediately following the billing date.

B. A delinquent fee, in an amount established by resolution of the City Council, shall be added to all delinquent accounts.

C. The Finance Director or designee is authorized to determine what constitutes a de minimis account balance and to waive the penalties in subsections B and D of this section in de minimis or extenuating circumstances.

D. In addition to other lawful remedies, the Finance Director may enforce the collection of charges authorized by this chapter by withholding delivery of water to any premises where the stormwater service fees and charges are delinquent or unpaid, following the procedures and

**EXHIBIT A**  
**Strikeout/Underline Version**

standards for shutting off water service for nonpayment of water bills as provided in Chapter 13.04. However, the Finance Director shall not deny or shut off water service to any subsequent tenant based upon an unpaid claim for services furnished to a previous tenant who has vacated the premises. (Ord. 2013 § 1, 2010; Ord. 1895 § 4, 2001; Ord. 1755 § 6, 1994)

**13.14.070 DELINQUENT CHARGES—LIEN**

If the property owner elects pursuant to Section 13.14.050.B to authorize the use of a lien on real property to secure stormwater charge payment in lieu of a security deposit, all stormwater charges shall be a lien against the premises served from and after the date of billing and entry on the ledger or other records of the City pertaining to its municipal stormwater system, and such ledger record or other record shall be made accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for stormwater service remains unpaid sixty (60) days after it has been rendered, the lien thereby created may be foreclosed in the manner provided for by ORS 223.610 or in any other manner provided by law or City ordinance. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.080 APPEAL**

Any customer aggrieved by any decision made with regard to the customer's account or a decision on charge reduction or avoidance may appeal to the Manager by filing with the City a written request for review no later than ten (10) days after receiving the decision. The Manager's decision shall be subject to review by the City Council upon filing of an appeal within fifteen (15) days of the notice of decision. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.090 RIGHT OF ACCESS**

Employees of the City shall be provided access during regular business hours to all parts of the premises which include portions of the City's stormwater drainage system for the purpose of inspecting the condition of the pipes and fixtures and the manner in which the system is used. Should there be no one available on the premises, notice will be provided to the owner, tenant, occupant, or their agent that arrangements must be made to allow the inspection. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.100 TAMPERING WITH SYSTEM**

- A. No unauthorized person shall damage, destroy, uncover, deface, or tamper with any conduit, structure, appurtenance, or equipment which is a part of the stormwater system.
- B. The Manager may adopt such rules and regulations as are necessary to protect the stormwater system and the public health, safety, and welfare. Violation of said rules or regulations is deemed a violation of this chapter and shall be punished accordingly.
- C. Portions of Johnson Creek, Kellogg Creek, and their natural tributaries are within the boundaries of the city and are considered waters of the United States pursuant to the CWA.

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In order to protect the waters the City has a comprehensive enforcement program to comply with:

1. The 1987 Amendments to the CWA, as implemented by the Environmental Protection Agency (EPA) NPDES regulations adopted November 16, 1990, make necessary the adoption of plans and programs for stormwater management meeting specified criteria.
2. Section 402(p) of the CWA (33 U.S.C. 1251 et seq.), as amended by the Water Quality Act of 1987, requires that municipalities must:
  - a. Prohibit nonstormwater discharge into the public stormwater system; and
  - b. Require controls to reduce the discharge of pollutants from stormwater to the maximum extent practicable.
3. Section 303(d) of the CWA requiring states and the EPA to identify certain substandard waters and to set total maximum daily loads (TMDLs). The Oregon Department of Environmental Quality has and will continue to establish TMDLs for some water bodies within the city. The City seeks to comply with all TMDL requirements.
4. The Endangered Species Act (ESA) and associated 4(d) rules covering protection of West Coast salmon and steelhead.
5. All provisions of the federal law by implementing a stormwater management plan, in conjunction with other co-permittees.
6. The Safe Drinking Water Act and Divisions 40 and 44 of Chapter 340 of the Oregon Administrative Rules pertaining to UIC facilities.

(Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

#### 13.14.105 DISCHARGE REGULATIONS

##### A. Discharge of Pollutants

The commencement, conduct, or continuance of any nonstormwater discharge to the public stormwater system is prohibited and is a violation of this chapter, except as described below.

1. The prohibition shall not apply to any nonstormwater discharge permitted or approved under an Industrial or Municipal NPDES permit, waiver, or discharge order issued to the discharger and administered by the DEQ, provided that the discharger is in full compliance with all requirements of the permit, waiver, or discharge order and other applicable laws or regulations and provided that written approval has been granted by the City for any discharge to the municipal separate storm wastewater system (MS4).

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2. Except as provided in subsection A.3, the prohibition shall not apply to the following nonstormwater discharges to the public stormwater system: municipal water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20)) to the municipal separate storm sewer system (MS4), uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and flows from fire fighting activities.

3. The Manager may require best management practices to reduce pollutants, or may prohibit a specific discharger from engaging in a specific activity identified in subsection A.2, if at any time the Manager determines that the discharge is, was, or will be a significant source of pollution.

**B. Discharge in Violation of Permit**

Any discharge that would result in or contribute to a violation of an existing or future Municipal NPDES permit and any amendments, revisions, or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this chapter and is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the City in any administrative or judicial enforcement action against the permit holder relating to such discharge.

**C. Illicit Connections and Illicit Discharges**

It is prohibited to establish, use, maintain, or continue illicit connections to the public stormwater system, or to commence or continue any illicit discharges to the public stormwater system.

**D. Waste Disposal Prohibitions**

1. No person may throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, catch basin, inlet, or other component of the public stormwater system, materials that may cause or contribute to pollution, including, but not limited to, any refuse, rubbish, garbage, litter, yard debris, landscape materials, compost, topsoil, bark, gravel, sand, dirt, sod, sediment or sediment-laden runoff from construction or landscaping activities, hazardous materials, or other discarded or abandoned objects, articles, and accumulations.

2. Runoff from commercial or industrial operations or businesses that wash or detail vehicles, engines, transmissions, equipment, interior floors, or parking lots, shall not discharge directly to a private or public stormwater system; this includes, but is not limited to, outdoor

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commercial, industrial, or business activities that create airborne particulate matter, process by-products or wastes, hazardous materials or fluids from stored vehicles, where runoff from these activities discharges directly or indirectly to a private or public stormwater system.

E. General Discharge Prohibitions

1. Discharge to Sanitary Sewer System

No person shall discharge or contribute to the discharge of any stormwater or other unpolluted water into the City's sanitary sewer system.

2. Discharge to Public Storm Sewer System

It is unlawful to discharge or cause to be discharged directly or indirectly into the public stormwater system any of the following:

- a. Any discharge having a visible sheen, or containing floating solids or discoloration (including, but not limited to, dyes and inks);
- b. Any discharge having a pH of less than 6.5 or greater than 8.5 or that contains toxic substances;
- c. Any discharge which causes or may cause damage, interference, nuisance, or hazard to the public stormwater system or the City personnel;
- d. Any discharge containing human sanitary waste or animal feces.

(Ord. 2013 § 1, 2010)

13.14.110 COMPLIANCE REQUIRED

The provisions of this chapter must be strictly complied with in every instance, and service must be paid for by all premises supplied, according to the rates established by the City Council. Exceptions to these provisions shall be made only upon the written authorization of the Manager. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

13.14.115 INSPECTION AND ENFORCEMENT

A. Authority to Inspect

1. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Manager has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this chapter, the Manager may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Manager by this chapter; provided that: (a) if such building or premises is occupied, he or she first shall present proper credentials



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and request entry; and (b) if such building or premises is unoccupied, he or she first shall make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

2. The property owner or occupant has the right to refuse entry but, in the event such entry is refused, the Manager is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry and performing such inspection.

3. As used in this section, inspection includes, but is not limited to, the physical inspection of a facility, and the review and copying of records relating to compliance with Sections 13.14.025 to 13.14.130.

**B. Authority to Sample, Establish Sampling Devices, and Test**

With the consent of the owner or occupant, or with court consent, the Manager may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the Manager may take any samples deemed necessary to aid in the pursuit of the inquiry or to record the on-site activities.

**C. Continuing Violation**

Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued, or permitted by the person.

**D. Concealment**

Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of the chapter.

**E. Acts Resulting in Violation of Federal Law**

Any person who violates any provision of this chapter, or any provision of any stormwater-related permit issued by DEQ, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the CWA, Safe Drinking Water Act, or the ESA and may be subject to the sanctions of these Acts including civil and criminal penalties.

**F. Violations Deemed a Nuisance**

Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance. In addition to any other remedies, the Manager may enforce this chapter by compliance order, stop work order, abatement proceedings, or civil action as provided in MMC 8.04.070, or as otherwise authorized by law. (Ord. 2013 § 1, 2010)

13.14.120 VIOLATION – PENALTY

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Violation of any provision of this chapter by any person, firm, or corporation is punishable by a fine of not more than one thousand dollars (\$1,000.00). Each day on which a violation occurs or continues is a separate offense. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

13.14.130 DISCLAIMER OF LIABILITY

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and the chapter does not imply that compliance will insure that there will be no unauthorized discharge of pollutants into the public stormwater system. This chapter shall not create liability on the part of the City, or any agent or employee thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2013 § 1, 2010)

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13.14.010 PURPOSE

The City finds and declares that absent effective maintenance, operation, regulation, and control, existing stormwater drainage conditions in all drainage basins and subbasins within the City constitute a potential hazard to the health, safety, and general welfare of the City. The City Council further finds that nature-based and manmade stormwater facilities and conveyances together constitute a stormwater system and that the effective regulation and control of stormwater can best be accomplished through formation, by the City, of a stormwater utility. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

13.14.020 DEFINITIONS

“City” means the City of Milwaukie, a municipality, and its authorized employees.

“City Council” means the City Council of Milwaukie.

“Customer” means a person in whose name service is rendered as evidenced by the signature on the application/contract for stormwater, sanitary sewer, or water service or, in the absence of a signed instrument, by the receipt and payment of bills regularly issued in their name.

“Developed” means an area which has been altered by grading or filling of the ground surface, or by construction of any improvement or other impervious surface area, which affects the hydraulic properties of the location.

“Equivalent service unit (ESU)” means a configuration of development or impervious surface estimated to contribute an amount of runoff to the City’s stormwater system which is approximately equal to that created by the average developed single-family residence within Milwaukie. One ESU is equal to two thousand seven hundred six (2,706) square feet of impervious surface area.

“Impervious surface” means that hard surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions. Impervious surfaces may include, but are not limited to, rooftops, concrete, or asphalt paving, walkways, patios, driveways, parking lots, or storage areas, trafficked gravel, and oiled, macadam, or other surfaces which similarly impede the natural infiltration or runoff of stormwater.

“Improved premises” means any area which the Public Works Director determines has been altered such that the runoff from the site is greater than that which could historically have been expected. Improved premises do not include public roads under the jurisdiction of the City, County, State or federal government.

“Manager” means the City Manager or designee of the City stormwater management system.

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“One- or two-family residential” means an area which is improved with one or two (2) attached single-family dwelling units for occupancy each by a single family or a similar group of people, provided each dwelling has a separate billing within the City’s utility billing system.

“On-site mitigation control system” means a stormwater drainage facility which the Public Works Director has determined prevents the discharge, or substantially reduces the discharge, of stormwater or nonpoint source pollution into a receiving water or public stormwater system facility.

“Person responsible” means the occupant, lessee, tenant, contract purchaser, owner, agent, or other person having possession of property, or if no person is in possession, then the person in control of the use of the property, or in control of the supervision of development on the property.

“Public Works Standards” mean the City of Milwaukie Public Works Standards and the referenced City of Portland Stormwater Management Manual that the City requires be complied with for the design and construction of on-site mitigation facilities including stormwater detention, retention, and water quality treatment facilities.

“Stormwater” means water from precipitation, surface or subterranean water from any source, drainage, and nonseptic wastewater.

“Stormwater service” means the operations of the City’s stormwater utility in providing programs and facilities for maintaining, improving, regulating, collecting, and managing stormwater quantity and quality within the City’s service area.

“Stormwater system” means any manmade or nature-based structure or configuration of ground that is used or by its location becomes a place where stormwater flows or is accumulated, including, but not limited to, pipes, sewers, curbs, gutters, manholes, catch basins, ponds, creeks, underground injection control (UIC) facilities, open drainageways, rain gardens, vegetated swales, permeable pavement, green roofs, urban forest canopy, tree trenches, rainwater harvesting, green streets and their appurtenances. Stormwater system does not include the Willamette River.

“Street wash water” means water that originates from publicly financed street cleaning activities consistent with the City’s National Pollutant Discharge Elimination System (NPDES) municipal stormwater permit.

“Toxic substances” mean any chemical listed as toxic under Section 307(a)(1) of the Federal Clean Water Act (CWA) or Section 313 of Title III of Superfund Amendments and Reauthorization Act (SARA).

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“Undeveloped” means any area which has not been altered by grading or filling of the ground surface, or by construction of any improvements or other impervious surface area, which affects the hydraulic properties of the location. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

13.14.025 REGULATIONS AND REQUIREMENTS

A. Compliance with Industrial NPDES Stormwater Permits

Any industrial discharger, discharger associated with construction activity, or other discharger subject to any NPDES permit issued by the Oregon DEQ, from which pollutants may enter the public or private stormwater system, shall comply with all provisions of such permits, including notification to and cooperation with local entities as required by federal regulations. Proof of compliance with said permits may be required in a form acceptable to the Manager of the City stormwater management system prior to issuance of any grading, building, or occupancy permits or business license.

B. Compliance with State, Local, and Federal Regulations

All users of the public stormwater system, and any person or entity whose actions may affect the system, shall comply with all applicable federal, State, and local laws, including Section 19.402 Natural Resources. Compliance with the requirements of this chapter shall in no way substitute for, or eliminate the necessity for compliance with, applicable federal, State, and local laws.

C. Conflicts with Existing and Future Regulatory Requirements of Other Agencies

Any provisions or limitations of this chapter, and any rules adopted pursuant hereto, are superseded and supplemented by any applicable federal, State, or local requirements existing or adopted subsequent hereto which are more stringent than the provisions and limitations contained herein. Any provision of this chapter and rules adopted pursuant hereto which are more stringent than any such applicable federal, State, or local requirement shall prevail and shall be the standard for compliance by the connectors to and the discharges to the public stormwater system.

D. Accidental Spill Prevention and Control

Dischargers who are not required to obtain an NPDES permit; but who handle, store, or use hazardous or toxic substances or discharges prohibited under Section 13.14.105.E General Discharge Prohibitions, on their sites; shall prepare and submit to the Manager, at the Manager’s request, an Accidental Spill Prevention Plan within sixty (60) days of notification by the City. If other laws or regulations require an Accidental Spill Prevention and Control Plan, a plan that meets the requirement of those other laws and regulations will satisfy the requirement of this section.

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E. Notification of Spills

As soon as any person in charge of a facility, or responsible for emergency response for a facility, becomes aware of any suspected, confirmed, or unconfirmed release of material, pollutants, or waste creating a risk of discharge to the public stormwater system, such persons shall:

1. Begin containment procedures;
2. Notify proper emergency personnel in case of an emergency;
3. Notify appropriate City and/or State officials regarding the nature of spill;
4. Follow up with the City regarding compliance and modified practices to minimize future spills, as appropriate.

The notification requirements of this section are in addition to any other notification requirements set forth in federal, State, or local regulations and laws. The notification requirements do not relieve the person of necessary remediation.

F. Requirement to Eliminate Illicit Connections

1. The Manager may require by written notice that a person responsible for an illicit connection to the public stormwater system comply with the requirements of this chapter to eliminate the illicit connection or secure approval for the connection by a specified date.

2. If, subsequent to eliminating a connection found to be in violation of the chapter, the responsible person can demonstrate that an illicit discharge will no longer occur, that person may request approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible person's expense.

G. Requirement to Remediate

Whenever the Manager finds that a discharge of pollutants is taking place, or has taken place, which will result in, or has resulted in, pollution of stormwater or the public stormwater system, the Manager may require by written notice to the responsible person that the pollution be remediated and the affected property restored, to the standards established by the Manager, within a specified time.

H. Requirement to Monitor and Analyze

Whenever the Manager determines that any person is engaged in any activity, and/or owns or operates any facility, which may cause or contribute to stormwater pollution or illicit discharges to the public stormwater system, the Manager may, by written notice, order that such person

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undertake such monitoring activities and/or analyses, and furnish such reports, as the Manager may deem necessary to demonstrate compliance with this chapter. The written notice shall be served either in person or by certified or registered mail, return receipt requested, and shall set forth the basis for such order and shall particularly describe the monitoring activities and/or analyses and reports required. The burden to be borne by the owner or operator; including costs of these activities, analyses, and reports; shall bear a reasonable relationship to the need for the monitoring, analyses, and/or reports and the benefits to be obtained. The recipient of such order shall undertake and provide the monitoring, analyses, and/or reports within the time frames set forth in the order.

**I. Stormwater Treatment**

The quality of stormwater leaving the site after development shall be equal to or better than the quality of stormwater leaving the site before development, based on the following criteria:

1. On-site mitigation facilities for water quality required for development shall be designed, installed, and maintained in accordance with the Public Works Standards.
2. Land use activities of particular concern as pollution sources shall implement additional best management practices for pollution control including, but not limited to, those management practices specified in the Public Works Standards.
3. Development in a watershed that drains to streams with established total maximum daily load (TMDL) limitations; as provided under the CWA, Oregon Law, Administrative Rules, and other legal mechanisms; shall assure that on-site mitigation facilities for water quality control meet the requirements for pollutants of concern.

**J. Design and Performance Criteria for Stormwater Detention and Water Quality Treatment Facilities Constructed on Private Property**

1. All on-site mitigation facilities; including stormwater detention, retention, and water quality treatment facilities required by the City; shall be designed and constructed to meet the Public Works Standards.
2. Except as permitted by the Engineering Director, as provided by the Public Works Standards, on-site mitigation facilities shall be located on private property and shall not be located on property that will become a public right-of-way, public stormwater easement, or future street plan.
3. Except as permitted by the Manager, as provided by the Public Works Standards, once constructed, the on-site mitigation facilities shall be privately owned, operated, and maintained. Maintenance responsibility shall include all elements of the stormwater detention and water quality treatment system up to the point of connection with a drainage structure or waterway of the public stormwater system. Such connection shall be subject to City approval.

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4. Maintenance as required by the Public Works Standards shall be specified in an operation and maintenance plan submitted to and approved by the Manager prior to issuance of a notice to proceed with public improvements. Prior to the time of project acceptance, the developer or applicant shall enter into an agreement with the City to ensure the implementation of the operation and maintenance plan, and a memorandum of agreement shall be recorded with Clackamas County. Private stormwater detention and water quality treatment facilities are subject to periodic inspection by the City to ensure proper maintenance and performance.

5. Failure to properly operate or maintain on-site mitigation facilities for stormwater detention, retention, and water quality treatment according to the operation and maintenance plan of the adopted City of Portland Stormwater Management Manual in effect on the date of the ordinance codified in this chapter is a violation.

(Ord. 2036 § 3, 2011; Ord. 2025 § 3, 2011; Ord. 2013 § 1, 2010)

**13.14.030 REQUEST FOR SERVICE, INITIATION OF BILLING**

A request for water service constitutes a request for stormwater service and will initiate appropriate billing for stormwater services as established in this chapter. If development of a parcel does not require initiating water service, the creation of an improved premises from which stormwater may be discharged into the public stormwater system shall constitute a request for service and initiate the obligation to pay the fees and charges authorized in this chapter. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.040 CHARGES FOR STORMWATER SERVICE**

A. Except as the charges may be reduced under subsection C of this section, the obligation to pay stormwater service charges arises whenever there is a request for stormwater service for an improved premises. Unless another person responsible has agreed in writing to pay and a copy of that writing is filed with the City, the person receiving the City's water utility charge bill shall pay the stormwater charges as set by City Council resolution. If there is no water service to the property or if water service is discontinued and the property is an improved premises, the stormwater charges shall be paid by the person responsible for the property. The person required to pay the charge is hereafter referred to as the customer.

B. The City Council may by resolution establish fees and charges necessary to provide and operate a stormwater system and service.

C. Upon completion of the on-site mitigation credit application package available from the City's Public Works Department, a customer of the utility may request a reduction of the stormwater service charge. The service charge will be reduced in relation to the customer's ability to demonstrate that on-site stormwater facilities meet or exceed the City's standards for stormwater quantity and quality control at that site.



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Any reduction given shall continue until the condition of the property is changed or until the Public Works Director determines the property no longer qualifies for the credit given. Upon change in the condition of the property, another application may be made by a person responsible.

D. Service charge avoidance may be requested through the application package available from the Public Works Department. The criteria for waiver of the service charge as it applies to a specific customer includes total retention of stormwater with no effective discharge to the City's stormwater system; the petitioner's ability to demonstrate through hydrologic/hydraulic analysis that the site receives no stormwater service from the City's stormwater system; and proof that stormwater facilities are constructed and maintained to City standards.

E. For the purposes of this chapter, dry wells are not an on-site mitigation control system eligible for service charge reduction or service charge avoidance because of the potential water quality impact that dry wells may have on the City's groundwater resources. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.050 STORMWATER CHARGES—BILLING**

A. Charges for stormwater service supplied by the City to any customer shall be charged for and billed to each such customer in accordance with rates established by the City Council. Prior to the establishment of stormwater service fees and charges by the City Council, the Milwaukie Citizens Utility Advisory Board shall prepare and deliver a report and recommendation on rates to the City Council. The Committee shall prepare and deliver its recommendation to City Council on an annual basis, according to the rules established by City Council. Stormwater service fees and charges as established by the City Council shall be added to and made a part of the billings for water and sewer service.

B. The customer shall be responsible for all stormwater service fees and charges, except as allowed by Section 13.14.040. The City may require deposits prior to providing stormwater service or in lieu of a deposit, obtain a signed agreement from the property owner, whether the customer or not, that they will be ultimately liable for the charges and that the City may use a lien as one method to secure payment if the charges are not paid. However, the City may not require a property owner to sign such an agreement.

C. Billings may be prorated. The proration shall be a daily rate determined by dividing the annual minimum billing by three hundred sixty-five (365) days times the number of days of occupancy from last meter reading and/or billing date.

D. A reduced stormwater service charge may be charged for customers who qualify as low income utility customers under the provisions of Chapter 13.20 of this code.

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E. All money collected through stormwater fees and charges shall be deposited in the stormwater utility account as established and maintained by the City's Finance Director. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

F. Funds collected under this chapter will be used for the purpose of designing, acquiring, developing, constructing, maintaining, improving, and operating both manmade and nature-based stormwater systems.

13.14.055 PUBLIC INVESTMENT OF STORMWATER FUNDS

A. Funds collected under this chapter will not be used for maintaining, operating, or improving a stormwater system on private property, or to provide direct financial assistance for private tree removal except when:

1. Providing non-federal grant match funding to projects that reduce or eliminate the risk of repetitive flood damage to buildings on private property insured by the National Flood Insurance Program; or

2. The stormwater system is (or component thereof) demonstrated to the satisfaction of the City Engineer to provide a stormwater benefit that extends beyond the boundaries of the private property; or

3. It can be demonstrated to the satisfaction of the City Engineer in consultation with the Urban Forester that a private tree provides a stormwater benefit that extends beyond the boundaries of the private property or:

4. The stormwater system has been dedicated to the city and is within a public easement.

13.14.060 STORMWATER CHARGES—WHEN DELINQUENT

A. The City shall prepare and mail billings for stormwater fees and charges on the last business day of each month. Payment is due on the 15th of the month following the billing date. Accounts are delinquent if the City does not receive full payment by 5:00 p.m. on the last business day of the month immediately following the billing date.

B. A delinquent fee, in an amount established by resolution of the City Council, shall be added to all delinquent accounts.

C. The Finance Director or designee is authorized to determine what constitutes a de minimis account balance and to waive the penalties in subsections B and D of this section in de minimis or extenuating circumstances.

D. In addition to other lawful remedies, the Finance Director may enforce the collection of charges authorized by this chapter by withholding delivery of water to any premises where the stormwater service fees and charges are delinquent or unpaid, following the procedures and

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standards for shutting off water service for nonpayment of water bills as provided in Chapter 13.04. However, the Finance Director shall not deny or shut off water service to any subsequent tenant based upon an unpaid claim for services furnished to a previous tenant who has vacated the premises. (Ord. 2013 § 1, 2010; Ord. 1895 § 4, 2001; Ord. 1755 § 6, 1994)

**13.14.070 DELINQUENT CHARGES—LIEN**

If the property owner elects pursuant to Section 13.14.050.B to authorize the use of a lien on real property to secure stormwater charge payment in lieu of a security deposit, all stormwater charges shall be a lien against the premises served from and after the date of billing and entry on the ledger or other records of the City pertaining to its municipal stormwater system, and such ledger record or other record shall be made accessible for inspection by anyone interested in ascertaining the amount of such charges against the property. Whenever a bill for stormwater service remains unpaid sixty (60) days after it has been rendered, the lien thereby created may be foreclosed in the manner provided for by ORS 223.610 or in any other manner provided by law or City ordinance. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.080 APPEAL**

Any customer aggrieved by any decision made with regard to the customer's account or a decision on charge reduction or avoidance may appeal to the Manager by filing with the City a written request for review no later than ten (10) days after receiving the decision. The Manager's decision shall be subject to review by the City Council upon filing of an appeal within fifteen (15) days of the notice of decision. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

**13.14.090 RIGHT OF ACCESS**

Employees of the City shall be provided access during regular business hours to all parts of the premises which include portions of the City's stormwater drainage system for the purpose of inspecting the condition of the pipes and fixtures and the manner in which the system is used. Should there be no one available on the premises, notice will be provided to the owner, tenant, occupant, or their agent that arrangements must be made to allow the inspection. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

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- A. No unauthorized person shall damage, destroy, uncover, deface, or tamper with any conduit, structure, appurtenance, or equipment which is a part of the stormwater system.
- B. The Manager may adopt such rules and regulations as are necessary to protect the stormwater system and the public health, safety, and welfare. Violation of said rules or regulations is deemed a violation of this chapter and shall be punished accordingly.
- C. Portions of Johnson Creek, Kellogg Creek, and their natural tributaries are within the boundaries of the city and are considered waters of the United States pursuant to the CWA.

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In order to protect the waters the City has a comprehensive enforcement program to comply with:

1. The 1987 Amendments to the CWA, as implemented by the Environmental Protection Agency (EPA) NPDES regulations adopted November 16, 1990, make necessary the adoption of plans and programs for stormwater management meeting specified criteria.
2. Section 402(p) of the CWA (33 U.S.C. 1251 et seq.), as amended by the Water Quality Act of 1987, requires that municipalities must:
  - a. Prohibit non-stormwater discharge into the public stormwater system; and
  - b. Require controls to reduce the discharge of pollutants from stormwater to the maximum extent practicable.
3. Section 303(d) of the CWA requiring states and the EPA to identify certain substandard waters and to set total maximum daily loads (TMDLs). The Oregon Department of Environmental Quality has and will continue to establish TMDLs for some water bodies within the city. The City seeks to comply with all TMDL requirements.
4. The Endangered Species Act (ESA) and associated 4(d) rules covering protection of West Coast salmon and steelhead.
5. All provisions of the federal law by implementing a stormwater management plan, in conjunction with other co-permittees.
6. The Safe Drinking Water Act and Divisions 40 and 44 of Chapter 340 of the Oregon Administrative Rules pertaining to UIC facilities.

(Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

#### 13.14.105 DISCHARGE REGULATIONS

##### A. Discharge of Pollutants

The commencement, conduct, or continuance of any nonstormwater discharge to the public stormwater system is prohibited and is a violation of this chapter, except as described below.

1. The prohibition shall not apply to any nonstormwater discharge permitted or approved under an Industrial or Municipal NPDES permit, waiver, or discharge order issued to the discharger and administered by the DEQ, provided that the discharger is in full compliance with all requirements of the permit, waiver, or discharge order and other applicable laws or regulations and provided that written approval has been granted by the City for any discharge to the municipal separate storm wastewater system (MS4).

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2. Except as provided in subsection A.3, the prohibition shall not apply to the following nonstormwater discharges to the public stormwater system: municipal water line flushing, landscape irrigation, diverted stream flows, rising groundwater, uncontaminated groundwater infiltration (as defined in 40 CFR 35.2005(20)) to the municipal separate storm sewer system (MS4), uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and flows from fire fighting activities.

3. The Manager may require best management practices to reduce pollutants, or may prohibit a specific discharger from engaging in a specific activity identified in subsection A.2, if at any time the Manager determines that the discharge is, was, or will be a significant source of pollution.

**B. Discharge in Violation of Permit**

Any discharge that would result in or contribute to a violation of an existing or future Municipal NPDES permit and any amendments, revisions, or reissuance thereof, either separately considered or when combined with other discharges, is a violation of this chapter and is prohibited. Liability for any such discharge shall be the responsibility of the person(s) causing or responsible for the discharge, and such persons shall defend, indemnify, and hold harmless the City in any administrative or judicial enforcement action against the permit holder relating to such discharge.

**C. Illicit Connections and Illicit Discharges**

It is prohibited to establish, use, maintain, or continue illicit connections to the public stormwater system, or to commence or continue any illicit discharges to the public stormwater system.

**D. Waste Disposal Prohibitions**

1. No person may throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, catch basin, inlet, or other component of the public stormwater system, materials that may cause or contribute to pollution, including, but not limited to, any refuse, rubbish, garbage, litter, yard debris, landscape materials, compost, topsoil, bark, gravel, sand, dirt, sod, sediment or sediment-laden runoff from construction or landscaping activities, hazardous materials, or other discarded or abandoned objects, articles, and accumulations.

2. Runoff from commercial or industrial operations or businesses that wash or detail vehicles, engines, transmissions, equipment, interior floors, or parking lots, shall not discharge directly to a private or public stormwater system; this includes, but is not limited to, outdoor

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**Clean Version**

commercial, industrial, or business activities that create airborne particulate matter, process by-products or wastes, hazardous materials or fluids from stored vehicles, where runoff from these activities discharges directly or indirectly to a private or public stormwater system.

E. General Discharge Prohibitions

1. Discharge to Sanitary Sewer System

No person shall discharge or contribute to the discharge of any stormwater or other unpolluted water into the City's sanitary sewer system.

2. Discharge to Public Storm Sewer System

It is unlawful to discharge or cause to be discharged directly or indirectly into the public stormwater system any of the following:

- a. Any discharge having a visible sheen, or containing floating solids or discoloration (including, but not limited to, dyes and inks);
- b. Any discharge having a pH of less than 6.5 or greater than 8.5 or that contains toxic substances;
- c. Any discharge which causes or may cause damage, interference, nuisance, or hazard to the public stormwater system or the City personnel;
- d. Any discharge containing human sanitary waste or animal feces.

(Ord. 2013 § 1, 2010)

13.14.110 COMPLIANCE REQUIRED

The provisions of this chapter must be strictly complied with in every instance, and service must be paid for by all premises supplied, according to the rates established by the City Council. Exceptions to these provisions shall be made only upon the written authorization of the Manager. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

13.14.115 INSPECTION AND ENFORCEMENT

A. Authority to Inspect

1. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Manager has reasonable cause to believe that there exists in any building or upon any premises any condition which may constitute a violation of the provisions of this chapter, the Manager may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon the Manager by this chapter; provided that: (a) if such building or premises is occupied, he or she first shall present proper credentials

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and request entry; and (b) if such building or premises is unoccupied, he or she first shall make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

2. The property owner or occupant has the right to refuse entry but, in the event such entry is refused, the Manager is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry and performing such inspection.

3. As used in this section, inspection includes, but is not limited to, the physical inspection of a facility, and the review and copying of records relating to compliance with Sections 13.14.025 to 13.14.130.

**B. Authority to Sample, Establish Sampling Devices, and Test**

With the consent of the owner or occupant, or with court consent, the Manager may establish on any property such devices as are necessary to conduct sampling or metering operations. During all inspections as provided herein, the Manager may take any samples deemed necessary to aid in the pursuit of the inquiry or to record the on-site activities.

**C. Continuing Violation**

Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this chapter is committed, continued, or permitted by the person.

**D. Concealment**

Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall constitute a violation of the chapter.

**E. Acts Resulting in Violation of Federal Law**

Any person who violates any provision of this chapter, or any provision of any stormwater-related permit issued by DEQ, or who discharges waste or wastewater which causes pollution, or who violates any cease and desist order, prohibition, or effluent limitation, also may be in violation of the CWA, Safe Drinking Water Act, or the ESA and may be subject to the sanctions of these Acts including civil and criminal penalties.

**F. Violations Deemed a Nuisance**

Any condition caused or permitted to exist in violation of any provision of this chapter is a threat to public health and safety. Any such condition is unlawful and constitutes a nuisance. In addition to any other remedies, the Manager may enforce this chapter by compliance order, stop work order, abatement proceedings, or civil action as provided in MMC 8.04.070, or as otherwise authorized by law. (Ord. 2013 § 1, 2010)

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13.14.120 VIOLATION—PENALTY

Violation of any provision of this chapter by any person, firm, or corporation is punishable by a fine of not more than one thousand dollars (\$1,000.00). Each day on which a violation occurs or continues is a separate offense. (Ord. 2013 § 1, 2010; Ord. 1755 § 6, 1994)

13.14.130 DISCLAIMER OF LIABILITY

The degree of protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific, engineering, and other relevant technical considerations. The standards set forth herein are minimum standards and the chapter does not imply that compliance will insure that there will be no unauthorized discharge of pollutants into the public stormwater system. This chapter shall not create liability on the part of the City, or any agent or employee thereof, for any damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 2013 § 1, 2010)





**RS Agenda Item**

**8**

**Public Hearings**



**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Nov. 23, 2022

**Reviewed:** Joseph Briglio, Community Development Director, and  
Tim Salyers, Code Compliance Coordinator

**From:** Luke Strait, Chief of Police

**Subject:** **Camping Ordinance Adoption**

**ACTION REQUESTED**

Council is asked to adopt the proposed camping ordinance.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

The city has not had code provisions in the past designed to specifically address camping as it pertains to houselessness.

Recent court cases, most notably Martin v. Boise (2018), prohibit criminal punishments for sitting, lying, or sleeping in public when a shelter bed is unavailable. Oregon House Bill 3115 (2021) further clarified that any laws attempting to address the acts of sitting, lying, sleeping, or keeping warm and dry outdoors on public property that is open to the public must be “objectively reasonable” as to time, place, and manner. These new laws have challenged jurisdictions to consider how to balance the constitutional rights of people experiencing houselessness with the health, safety, welfare, and economic livelihoods of businesses and other residents.

The city is currently in negotiations with Clackamas County to fund a peer mentor who would work full-time in the city through an intergovernmental agreement (IGA), dedicated to outreach to those experiencing houselessness within the city. Those negotiations began prior to July 2022 and the county is continuing to indicate this position has been funded and is in process.

[August 18, 2020:](#) Council approved a resolution adopting a goal of equity, inclusion, and justice. This resolution prompted the consistent application of an equity lens perspective to assess our delivery of services, particularly to our marginalized communities.

[June 6, 2022:](#) Council adopted the city budget and approved the addition of a behavioral health specialist position within the police department

[July 19, 2022:](#) Council received a presentation on behavioral health and houseless peer support within the city.

[November 15, 2022:](#) Council received a presentation on the draft camping ordinance and had a robust discussion about houselessness, services and camping in public spaces.

On November 28, 2022, the city hired a new behavioral health clinician, Glen Suchanek.

## **ANALYSIS**

City staff have engaged in a robust collaborative process to discuss houselessness, camping in public areas, and the best way to manage these needs and challenges. Staff believes the camping ordinance, coupled with the new behavioral health specialist, and ideally the future houseless peer mentor, would provide critical support to all community members and city staff, obtaining the best services and outcomes.

Staff believes the ordinance will compel the city to continue building relationships with stakeholders and service providers and ensure a higher level of service for community members who are struggling with mental health crisis and housing instability.

### **Ordinance Overview**

The draft ordinance stipulates that daytime camping would be prohibited between the hours of 7:00 AM and 9:00 PM. It would be a violation of code to camp, occupy camp facilities for the purpose of habitation, or use camp paraphernalia in the following areas:

1. Any public park or [mapped natural resource area](#);
2. Any street or sidewalk; or
3. Any publicly owned or maintained parking lot, alley, public right-of-way or other publicly owned or maintained area, improved or unimproved, or public water or stormwater utility facilities.

The draft code stipulates the following:

Before issuing a municipal code citation under this chapter, a police officer will first give the person a written, and if possible, a verbal notice of violation with guidance and direction to remedy the violation. The person will be given 72 hours to remedy the violation. The person will also be offered assistance accessing social services, including shelter resources (to the extent they are available), veteran resources, mental health support and drug/alcohol addiction and recovery resources. A citation will not be issued if the person promptly complies with the direction and remedies the violation within 72 hours following the notice of violation. Any person who does not remedy the violation within the 72 hours may be subject to the following:

1. First violation in 30-days: Written and/or verbal warning that the violation is subject to citation and/or arrest. Staff will initiate outreach and support for accessing social services.
2. Second violation in 30-days: A citation of not more than \$50 and a 30-day exclusion, if applicable pursuant to Milwaukie Municipal Code (MMC) 9.20.020
3. Third violation in 30-days: A municipal citation of not more than \$50 and a 90-day exclusion if applicable pursuant to MMC 9.20.020  
OR, if applicable, a criminal citation for violation of any applicable Oregon Revised Statute including, but not limited to: Offensive Littering, Depositing Trash within 100 yards of a waterway, Disorderly Conduct II, Interfering with a Peace Officer, and Obstructing Governmental or Judicial Administration.

If the city calls for removal of a campsite, the violation notice and removal order will be posted for a minimum of 72 hours prior to removal, unless there are grounds for law enforcement to believe there are illegal activities other than camping occurring, or in the event of an exceptional emergency such as site contamination by hazardous materials, other public health emergency, or immediate danger to life or safety.

The draft ordinance complies with existing law, directing that property seized will be stored for a minimum of 30 days prior to being considered for disposal.

### **BUDGET IMPACT**

At this time, city staff believe the budget impact specific to the camping ordinance would be negligible. The city has fully funded the behavioral health specialist to assist in managing resources.

### **WORKLOAD IMPACT**

This ordinance will not significantly change workload but will clarify expectations and direction for staff already struggling with demands and competing interests.

### **CLIMATE IMPACT**

The community members experiencing houselessness or housing uncertainty are disproportionately vulnerable to and impacted by climate-related natural hazards, including heatwaves and storm events. Community members without shelter or with unstable shelter may require additional assistance to connect to life-saving resources and services in these extreme weather events. As more people move to the area to escape extreme climate events in other states and seek refuge in the Pacific Northwest, the city may see an increase in the number of houseless or housing insecure residents who require assistance during Oregon's own increasingly frequent natural hazard events.

Providing empathetic and compassionate response to illegal camping sites is also essential in ensuring the preservation and functionality of city infrastructure and greenspaces which provide important resiliency and climate mitigation benefits. This ordinance is drafted to address concerns around degradation of greenspaces and environmental services which the city invests in for greater community climate benefits.

### **COORDINATION, CONCURRENCE, OR DISSENT**

City and Clackamas County staff support this decision and will actively collaborate as the ordinance is implemented. Library, city hall, and police staff will benefit significantly from having additional guidance and the activation of additional services to produce more positive outcomes. Public works staff will benefit from additional regulation that aides in the preservation and management of important city infrastructure and public spaces. The residential and business community will support this as a thoughtful step in the right direction.

### **STAFF RECOMMENDATION**

Staff recommends that Council adopt the proposed camping ordinance.

### **ALTERNATIVES**

None considered.

### **ATTACHMENTS**

1. Camping Ordinance

**COUNCIL ORDINANCE No.****AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MUNICIPAL CODE (MMC) BY ADDING A NEW SECTION 9.32 CAMPING.**

**WHEREAS** recent court cases prohibit civil or criminal punishments for sitting, lying, or sleeping in public when a shelter bed is unavailable, and

**WHEREAS** Oregon House Bill (HB) 3115 (2021) requires that any law regulating the acts of sitting, lying, sleeping or keeping warm and dry outdoors on public property that is open to the public must be “objectively reasonable” as to time, place, and manner with regards to people experiencing homelessness, and

**WHEREAS** the metro region is currently facing a housing affordability crisis and thousands of individuals have been priced out of the housing market, and

**WHEREAS** this city continues to approve the construction of more affordable units, but cannot meet the demand alone, and

**WHEREAS** the city supports the dignity and wellbeing of individuals needing a safe location to sleep in at night, and

**WHEREAS** the city strongly recognizes the need to take action to restore and protect our natural areas, ecosystems, climate, and planet, and the shared desire for a resilient community, environmental justice, and access to nature for all community members, and

**WHEREAS** we must balance the needs of all residents and the natural environment as we strive to meet the needs of our houseless population, and

**WHEREAS** the city is in the process of hiring and partnering to hire both a mental health specialist and houseless liaison for individuals in crisis, and

**WHEREAS** the Milwaukie Police Department has an exceptional record of developing positive relationships with our houseless community and working with many to find a path to stable housing, and

**WHEREAS** the community development department has led work on behalf of the City Council to address the needs of those in crisis over the past six years.

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

Section 1. Amendments. The Milwaukie Municipal Code (MMC) is amended as described below.

Section 2. Effective Date. The amendments will become effective 30 days from the date of adoption.

### **9.32.010 Purpose.**

The purpose of this chapter is to provide objectively reasonable time, place, and manner restrictions for temporary camping on public property while also taking into consideration environmental impact, human dignity, and community safety concerns.

### **9.32.020 Definitions.**

The following definitions are applicable in this chapter unless the context otherwise requires:

“Camp” or “camping” means to pitch, create, maintain, use, or occupy camp facilities for the purposes of habitation, as evidenced by the use of camp paraphernalia.

“Camp facilities” include, but are not limited to, tents, huts, temporary shelters, natural materials, or vehicles.

“Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-city-designated cooking facilities and similar equipment.

“Camping impact area” means the areas specified within MMC 9.32.030.

“Campsite” means any place where one or more persons have established temporary sleeping accommodations by use of camp facilities and/or camp paraphernalia.

“Family” means any person or group of persons living within a single housekeeping unit as defined in MMC 19.201.

“Mapped natural resource area” means any land designated as a natural resource area on the Natural Resource Administrative Map, including, but not limited to, Habitat Conservation Areas and Water Quality Resources.

“Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater

“Parking lot” means a developed location that is designated for parking motor vehicles, whether developed with asphalt, concrete, gravel, or other material.

“Public Park” means a park, playground, swimming pool, reservoir, or athletic field within the city that is under the control, operation, management, or ownership of the City of Milwaukie or another public agency as defined in MMC 19.201.

“Solid waste” means any garbage, trash, debris, yard waste, food waste, or other discarded materials.

“Solid waste disposal services” means contracted solid waste collection service for a campsite with the city’s exclusive franchisee for the collection of solid waste.

“Store” means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

“Stormwater system” means any structure or configuration of ground that is used or by its location becomes a place where stormwater flows or is accumulated, including, but

not limited to, pipes, sewers, curbs, gutters, manholes, catch basins, detention facilities, ponds, creeks, underground injection control (UIC) facilities, open drainageways, and their appurtenances.

“Street” means any highway, lane, road, street, right-of-way, boulevard, alley, and every way or place in the City of Milwaukie that is publicly owned or maintained for public vehicular travel.

“Transitional Housing Facility” means a camp facility for which a permit has been sought and obtained from the Milwaukie City Manager, or their designee, and/or a city-sponsored Transitional Housing Facility

“Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a public street, except devices moved by human power or used exclusively upon stationary rails or tracks as defined in MMC 19.201

“Water Supply System” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes, and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use.

### **9.32.030 Unlawful Camping.**

A. *Camping Impact Areas.* It is unlawful to camp at any time within a camping impact area. The following locations are camping impact areas:

1. Within 1000 feet of the nearest point of any transitional housing facility;
2. Within 50 feet of the nearest edge of the Willamette River, Kellogg Creek, and Johnson Creek.
3. Within any publicly owned Mapped Natural Resource Special Area
4. Upon any land managed for the operation and regulatory compliance of the municipal water supply system, stormwater systems and associated natural outlets.

B. *Daytime Camping Prohibited.* During the hours of 7:00 a.m. to 9:00 p.m., it will be unlawful for any person to camp, occupy camp facilities for purposes of habitation, or use camp paraphernalia in the following areas:

1. Any Public Park or Mapped Natural Resource Area;
2. Any street or sidewalk; or
3. Any publicly owned or maintained parking lot, alley, public right-of-way or other publicly owned or maintained area, improved or unimproved.

### **9.32.040 Unlawful storage of personal property in public space.**

Except as otherwise provided within this chapter, during the hours of 7:00 a.m. to 9:00 p.m., it will be unlawful for any person to store personal property, including camp facilities (other than vehicles) and camp paraphernalia, in the following areas:

1. Any Park or Mapped Natural Resource Area;
2. Any street or sidewalk; or
3. Any publicly owned or maintained parking lot, alley, public right-of-way or other publicly owned or maintained area, improved or unimproved.

### **9.32.050 Penalty for violations.**

Before issuing a citation under this chapter, a municipal police officer will first give the person a written, and if possible, a verbal notice of violation with guidance and direction to remedy the violation. The written notice will be physically served on the camp occupant(s) if they can be contacted or prominently posted at the camp. The person will be given a minimum of 72 hours to remedy from the violation. The person will also be offered assistance accessing social services, including shelter resources (to the extent they are available), veteran resources, mental health support, and drug and alcohol addiction and recovery resources. A citation will not be issued if the person promptly complies with the direction and remedies the violation within the 72 hours following the notice of violation. Any person who does not remedy the violation within 72 hours may be subject to the following penalties:

1. First violation in 30-days: Written and/or verbal warning that violation is subject to citation and/or arrest. City staff will initiate outreach and support for accessing social services.
2. Second violation in 30-days: A citation of not more than \$50 and a 30-day exclusion pursuant to MMC 9.20.020.
3. Third violation in 30-days: A municipal citation of not more than \$50 and a 90-day exclusion pursuant to MMC 9.20.020.

OR a criminal citation for violation of any applicable Oregon Revised Statute including, but not limited to, the following:

- a. ORS 164.805- Offensive Littering;
- b. ORS 164.775- Deposit of trash within 100 yards of a waterway.
- c. ORS 166.025- Disorderly Conduct II;
- d. ORS 162.247-Interfering with a Peace Officer I; and
- e. ORS 162.235- Obstructing Governmental or Judicial Administration.

Any single municipal citation and fine issued to a person experiencing homelessness will not exceed \$50.00. The Municipal Court Judge may waive fines for anyone providing proof they are actively engaging in social services which relate all or in part



to the offense cited for (camping, mental health support, addiction, and recovery support).

### **9.32.060 Removal of Campsite.**

A. The City may call for the removal of campsites, regardless of location, if a campsite poses a safety or health risk to the public or environment. These circumstances include, but are not limited to, the following:

1. Violation of the Milwaukie Municipal Code.
2. To ensure the safety of people camping and other users of the roadway, including pedestrians, due to camp facilities being in or near the portion of the right-of-way used by vehicles.
3. To abate solid waste and debris left in the right-of-way or on nearby public or private property other than the right-of-way if attempts to manage solid waste and debris have been unsuccessful.
4. To prevent violence and/or criminal activity reported to and/or observed by the Milwaukie Police Department.
5. To prevent adverse environmental impact including, but not limited to, improper disposal of solid waste, public urination and defecation, and open burning.
6. To prevent hostile interactions and/or altercations (which are not protected under the state and federal constitution as free speech) with members of the public .
7. To prevent the construction or erection of unpermitted structures in the right-of-way.
8. To prevent a campsite from blocking vehicle or bicycle travel lanes or reducing the clear, continuous sidewalk width to less than three feet.

B. The 72-hour notice requirement under 9.32.050 does not apply:

1. When there are grounds for law enforcement officials to believe that illegal activities other than camping are occurring at an established camping site.
2. In the event of an exceptional emergency at an established camping site, including, but not limited to, possible site contamination by hazardous materials, a public health emergency or other immediate danger to human life or safety.
3. If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under 9.32.050 may be posted at least 24 hours before removing people camping from the camping site.

Any person ordered to remove a campsite under this subsection must vacate and remove all belonging from the campsite within four hours of receiving notice of the

safety or health risk to the public necessitating the removal unless additional time is otherwise required by law.

C. In addition to any other penalties that may be imposed under this chapter, any violation of this chapter will constitute a public nuisance and may be abated pursuant to ORS 202.077 and 203.079.

D. Property seized will be stored for a minimum of 30 days. Property that has no apparent utility or value, or that is in an unsanitary condition rendering it unsafe to store, will be discarded immediately. An unsanitary condition is one that will likely lead to injury or health problems for individual near it or required to handle it. Property simply being wet and/or dirty does not constitute an unsanitary condition for the purpose of this ordinance. A substance or material is hazardous or contaminated if it is capable of posing an unreasonable risk to health, safety and property when contacted or transported. There will be no fee to retrieve property collected and stored for safekeeping.

**9.32.070 Administrative Rules.**

The city manager or designee may adopt administrative rules to implement any of the provisions of this chapter.

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

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**WHEREAS** the metro region is currently facing a housing affordability crisis and thousands of individuals have been priced out of the housing market, and

**WHEREAS** this city continues to approve the construction of more affordable units, but cannot meet the demand alone, and

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**WHEREAS** the city strongly recognizes the need to take action to restore and protect our natural areas, ecosystems, climate, and planet, and the shared desire for a resilient community, environmental justice, and access to nature for all community members, and

**WHEREAS** we must balance the needs of all residents and the natural environment as we strive to meet the needs of our houseless population, and

**WHEREAS** the city is in the process of hiring and partnering to hire both a mental health specialist and houseless liaison for individuals in crisis, and

**WHEREAS** the Milwaukie Police Department has an exceptional record of developing positive relationships with our houseless community and working with many to find a path to stable housing, and

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“Camp facilities” include, but are not limited to, tents, huts, temporary shelters, natural materials, or vehicles.

“Camp paraphernalia” includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, blankets, mattresses, hammocks, or non-city-designated cooking facilities and similar equipment.

“Camping impact area” means the areas specified within MMC 9.32.030.

“Campsite” means any place where one or more persons have established temporary sleeping accommodations by use of camp facilities and/or camp paraphernalia.

“Family” means any person or group of persons living within a single housekeeping unit as defined in MMC 19.201.

“Mapped natural resource area” means any land designated as a natural resource area on the Natural Resource Administrative Map, including, but not limited to, Habitat Conservation Areas and Water Quality Resources.

“Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater

“Parking lot” means a developed location that is designated for parking motor vehicles, whether developed with asphalt, concrete, gravel, or other material.

“Public Park” means a park, playground, swimming pool, reservoir, or athletic field within the city that is under the control, operation, management, or ownership of the City of Milwaukie or another public agency as defined in MMC 19.201.

“Solid waste” means any garbage, trash, debris, yard waste, food waste, or other discarded materials.

“Solid waste disposal services” means contracted solid waste collection service for a campsite with the city’s exclusive franchisee for the collection of solid waste.

“Store” means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

“Stormwater system” means any structure or configuration of ground that is used or by its location becomes a place where stormwater flows or is accumulated, including, but

not limited to, pipes, sewers, curbs, gutters, manholes, catch basins, detention facilities, ponds, creeks, underground injection control (UIC) facilities, open drainageways, and their appurtenances.

“Street” means any highway, lane, road, street, right-of-way, boulevard, alley, and every way or place in the City of Milwaukie that is publicly owned or maintained for public vehicular travel.

“Transitional Housing Facility” means a camp facility for which a permit has been sought and obtained from the Milwaukie City Manager, or their designee, and/or a city-sponsored Transitional Housing Facility

“Vehicle” means a device in, upon, or by which any person or property is or may be transported or drawn upon a public street, except devices moved by human power or used exclusively upon stationary rails or tracks as defined in MMC 19.201

“Water Supply System” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes, and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use.

### **9.32.030 Unlawful Camping.**

A. *Camping Impact Areas.* It is unlawful to camp at any time within a camping impact area. The following locations are camping impact areas:

1. Within 1000 feet of the nearest point of any transitional housing facility;
2. Within 50 feet of the nearest edge of the Willamette River, Kellogg Creek, and Johnson Creek.
3. Within any publicly owned Mapped Natural Resource Special Area
4. Upon any land managed for the operation and regulatory compliance of the municipal water supply system, stormwater systems and associated natural outlets.

B. *Daytime Camping Prohibited.* During the hours of 7:00 a.m. to 9:00 p.m., it will be unlawful for any person to camp, occupy camp facilities for purposes of habitation, or use camp paraphernalia in the following areas:

1. Any Public Park or Mapped Natural Resource Area;
2. Any street or sidewalk; or
3. Any publicly owned or maintained parking lot, alley, public right-of-way or other publicly owned or maintained area, improved or unimproved.

### **9.32.040 Unlawful storage of personal property in public space.**

Except as otherwise provided within this chapter, during the hours of 7:00 a.m. to 9:00 p.m., it will be unlawful for any person to store personal property, including camp facilities (other than vehicles) and camp paraphernalia, in the following areas:

1. Any Park or Mapped Natural Resource Area;
2. Any street or sidewalk; or
3. Any publicly owned or maintained parking lot, alley, public right-of-way or other publicly owned or maintained area, improved or unimproved.

### **9.32.050 Penalty for violations.**

Before issuing a citation under this chapter, a municipal police officer will first give the person a written, and if possible, a verbal notice of violation with guidance and direction to remedy the violation. The written notice will be physically served on the camp occupant(s) if they can be contacted or prominently posted at the camp. The person will be given a minimum of 72 hours to remedy from the violation. The person will also be offered assistance accessing social services, including shelter resources (to the extent they are available), veteran resources, mental health support, and drug and alcohol addiction and recovery resources. A citation will not be issued if the person promptly complies with the direction and remedies the violation within the 72 hours following the notice of violation. Any person who does not remedy the violation within 72 hours may be subject to the following penalties:

1. First violation in 30-days: Written and/or verbal warning that violation is subject to citation and/or arrest. City staff will initiate outreach and support for accessing social services.
2. Second violation in 30-days: A citation of not more than \$50 and a 30-day exclusion pursuant to MMC 9.20.020.
3. Third violation in 30-days: A municipal citation of not more than \$50 and a 90-day exclusion pursuant to MMC 9.20.020.

OR a criminal citation for violation of any applicable Oregon Revised Statute including, but not limited to, the following:

- a. ORS 164.805- Offensive Littering;
- b. ORS 164.775- Deposit of trash within 100 yards of a waterway.
- c. ORS 166.025- Disorderly Conduct II;
- d. ORS 162.247-Interfering with a Peace Officer I; and
- e. ORS 162.235- Obstructing Governmental or Judicial Administration.

Any single municipal citation and fine issued to a person experiencing homelessness will not exceed \$50.00. The Municipal Court Judge may waive fines for anyone providing proof they are actively engaging in social services which relate all or in part

to the offense cited for (camping, mental health support, addiction, and recovery support).

### **9.32.060 Removal of Campsite.**

A. The City may call for the removal of campsites, regardless of location, if a campsite poses a safety or health risk to the public or environment. These circumstances include, but are not limited to, the following:

1. Violation of the Milwaukie Municipal Code.
2. To ensure the safety of people camping and other users of the roadway, including pedestrians, due to camp facilities being in or near the portion of the right-of-way used by vehicles.
3. To abate solid waste and debris left in the right-of-way or on nearby public or private property other than the right-of-way if attempts to manage solid waste and debris have been unsuccessful.
4. To prevent violence and/or criminal activity reported to and/or observed by the Milwaukie Police Department.
5. To prevent adverse environmental impact including, but not limited to, improper disposal of solid waste, public urination and defecation, and open burning.
6. To prevent hostile interactions and/or altercations (which are not protected under the state and federal constitution as free speech) with members of the public .
7. To prevent the construction or erection of unpermitted structures in the right-of-way.
8. To prevent a campsite from blocking vehicle or bicycle travel lanes or reducing the clear, continuous sidewalk width to less than three feet.

B. The 72-hour notice requirement under 9.32.050 does not apply:

1. When ~~there are grounds for~~ law enforcement officials have a reasonable belief or suspicion to believe that illegal activities other than camping are occurring at an established camping site.

2. In the event of an exceptional emergency at an established camping site, including, but not limited to, possible site contamination by hazardous materials, a public health emergency or other immediate danger to human life or safety.

3. If a funeral service is scheduled with less than 72 hours' notice at a cemetery at which there is a camping site, or a camping site is established at the cemetery less than 72 hours before the scheduled service, the written notice required under 9.32.050 may be posted at least 24 hours before removing people camping from the camping site.

Any person ordered to remove a campsite under this subsection must vacate and remove all belonging from the campsite within four hours of receiving notice of the safety or health risk to the public necessitating the removal unless additional time is otherwise required by law.

C. In addition to any other penalties that may be imposed under this chapter, any violation of this chapter will constitute a public nuisance and may be abated pursuant to ORS 202.077 and 203.079.

D. Property seized will be stored for a minimum of 30 days. Property that has no apparent utility or value, or that is in an unsanitary condition rendering it unsafe to store, will be discarded immediately. An unsanitary condition is one that will likely lead to injury or health problems for individual near it or required to handle it. Property simply being wet and/or dirty does not constitute an unsanitary condition for the purpose of this ordinance. A substance or material is hazardous or contaminated if it is capable of posing an unreasonable risk to health, safety and property when contacted or transported. There will be no fee to retrieve property collected and stored for safekeeping.

**9.32.070 Administrative Rules.**

The city manager or designee may adopt administrative rules to implement any of the provisions of this chapter.

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

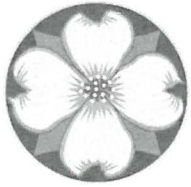
ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney





# PUBLIC HEARING ATTENDANCE SIGN-UP SHEET

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

**12/6/2022** | **8. A. Camping Ordinance**

**Land Use File No. (none)**

NAME	ADDRESS	PHONE	EMAIL

**COUNCIL STAFF REPORT**

**To:** Mayor and City Council  
Ann Ober, City Manager

**Date Written:** Dec. 1, 2022

**Reviewed:** Laura Weigel, Planning Manager

**From:** Vera Kolias, Senior Planner, and  
Adam Heroux, Associate Planner

**Subject: Proposed Code Amendments – High Density Residential Zones**

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**ACTION REQUESTED**

Council is asked to re-open the public hearing for final deliberations and adoption of land use file #ZA-2022-001 related to the proposed amendments to Milwaukie Municipal Code (MMC) Title 19 (Zoning), Title 14 (Signs), Zoning map, and Comprehensive Plan, related to consolidation of the high-density residential (HDR) zones.

Public hearing #1, held on [November 15](#), focused on the proposed consolidation and related code and map amendments. Council discussion included interest in a full consolidation of the HDR zones and creating an overlay zone for the area encompassed by the existing R-1-B Zone to allow for a 5-ft front yard setback.

The requested action on December 6 is to complete deliberations and take a final vote to adopt the ordinance and associated findings and code amendments found in Attachment 1.

**HISTORY OF PRIOR ACTIONS AND DISCUSSIONS**

[September 27, 2022](#): The Planning Commission held a public hearing on the package of code amendments and voted 7-0 to recommend approval. The Commission's vote included the following recommendations to Council:

- Council should find ways to preserve and protect manufactured home parks, which are a critical form of deeply affordable housing.
- Council should discuss the proposed amendment allowing hotels and motels in the R-3 and R-2 zones as conditional uses, which are prohibited in the current code. The Commission was not unanimous in its support of this proposed amendment.

[October 18, 2022](#): Council held a work session to review proposed code amendments.

[November 15, 2022](#): Council held a public hearing on the code amendment package and asked staff to return on December 6 with an option that represented a full consolidation of the HDR zones and an overlay zone for the area encompassed by the existing R-1-B zone to allow for a smaller minimum front yard setback.

## BACKGROUND AND ANALYSIS

Consolidation of the high-density residential zones was originally envisioned as part of the Phase 1 Comprehensive Plan implementation project. However, due to the complexity involved in the permitted uses and their respective review processes across HDR zones, the effort was paused until it was restarted at the Planning Commission’s June 28, 2022, work session.

The purpose of the amendments are to:

- Consolidate and simplify the zones and zoning map
- Remove barriers and bias from the zoning code
- Update outdated terminology
- Streamline overly complicated use categories and review processes

### Full consolidation of HDR zones

The following tables reflect the permitted uses and key development standards for a full consolidation into one HDR zone. Figure 1 illustrates the zoning map with the full consolidation.

**Table 1. Key development standards: full consolidation compared to existing code**

<b>Standard</b>	<b>HDR</b>	<b>R3</b>	<b>R2.5</b>	<b>R2</b>	<b>R1</b>	<b>R1B</b>
Max Building height	45 ft	35 ft	35 ft	45 ft	45 ft	45 ft
Side yard height plane	25 ft/45 degrees	20 ft/45 degrees	20 ft/45 degrees	25 ft/45 degrees	25 ft/45 degrees	25 ft/45 degrees
Max lot coverage	50%	40%	40%	45%	45%	50%
Min vegetation	15%	35%	35%	15%	15%	15%
Density (du/ac)						
min.	25	11.6	11.6	11.6	25	25
max.	32	14.5	17.4	17.4	32	32

**Table 2. Permitted Uses: full consolidation compared to existing code**

Full Consolidation	Existing Code					
	HDR	R3	R2.5	R2	R1	R1B
<b>Residential Uses</b>						
Single Detached Dwelling	P	P	P	P	P	P
Duplex	P	P	P	P	P	P
Triplex	P	P	P	P	P	P
Quadplex	P	P	P	P	P	P
Townhouse/Rowhouse	P	P	P	P	P	P
Cottage Cluster	P	P	P	P	P	P
Adult foster/care homes	P	P	P	P	P	P
Accessory Dwelling Unit	P	P	P	P	P	P
Manufactured Dwelling Park	III	III	N	N	N	N
Multi-unit Development	P	CU	CU	P	P	P
Single Room Occupancy	P	CU	CU	CU	CU	CU
Residential Care Facility	P	CU	CU	P	P	P
<i>Assisted Living</i>						
<i>Nursing Facility</i>						
<i>Memory care community</i>						
<b>Commercial Uses</b>						
Personal/Business Services	P	N	N	N	N	N
Office	P	CU	CU	CU	CU	P
Hotel or motel	CU	N	N	N	N	CU
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	CU
<b>Accessory and Other Uses</b>						
Accessory Use	P	P	P	P	P	P
Agricultural or horticultural	P	P	P	P	P	P
Community Service Use	CSU	CSU	CSU	CSU	CSU	CSU
Home occupation	P	P	P	P	P	P
Short-term rental	P	P	P	P	P	P

**HDR Business Zone Overlay – R-1-B**

As discussed on November 15, Council asked to see code that reflected the full consolidation and an allowance for a reduced minimum front yard setback of 5 ft for parcels now zoned as R-1-B. Rather than create an overlay zone for only one standard, staff proposes to accomplish in much the same way that the code requires different standards in different areas of the downtown: using a map (See Figure 1).

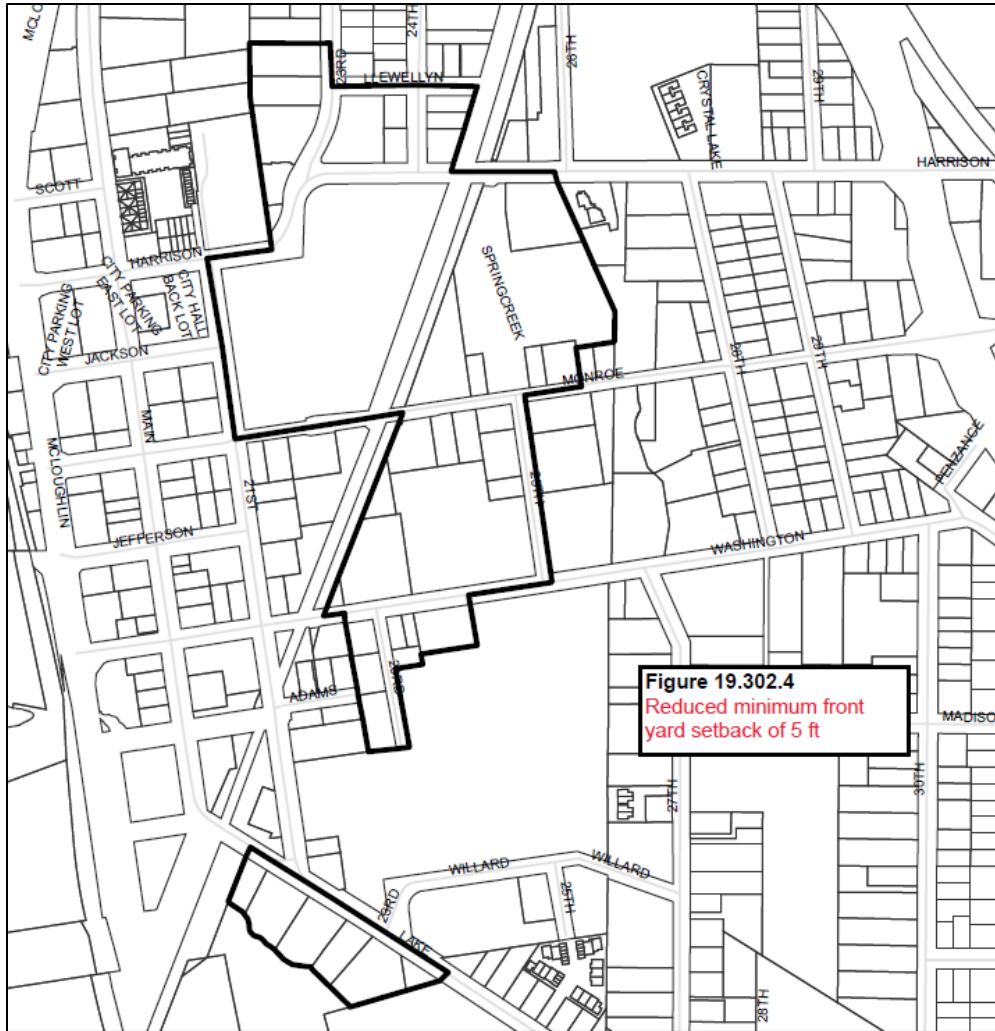


Figure 1. New HDR zone under full consolidation and map of 5-ft front yard setback area

Staff requests that Council, during the vote to adopt, clearly selects one of the five following code package options:

1. 3-zone consolidation
  - a. As originally proposed; or
  - b. With 5-ft minimum front yard setback in the R-1-B zone
2. Full consolidation
  - a. Same standards apply across the zone, including the 20-ft front yard setback; or
  - b. With R-1-B area identified with min. 5-ft front yard setbacks; or
  - c. With min. 5-ft front yard setbacks across the zone

Staff notes that if the full consolidation option is selected, the code amendments will include the requirement that new non-residential buildings comply with MMC 19.505.7 – design standards for non-residential buildings. These are the same standards that apply to commercial and mixed-use buildings in the GMU and NMU zones. This additional language will be included in the final code upon adoption.

Attachment 1 provides an ordinance package for numbers 1a and 2b as requested at the public hearing, but revisions can be accommodated in the final adoption package.

**BUDGET IMPACT**

Review of development in the HDR zones will be absorbed into current staff responsibilities. No budget impact is anticipated.

**WORKLOAD IMPACT**

The code amendments are a continuation of the comprehensive plan implementation process. While the new code may result in an increase in development proposals, review will be absorbed into staff duties.

**CLIMATE IMPACT**

The proposed code amendments are a continuation of the comprehensive plan implementation process, which supports a more compact and efficient use of residential land which promotes land development that has fewer climate impacts than traditional larger lot development of single detached dwellings.

**COORDINATION, CONCURRENCE, OR DISSENT**

Planning and community development staff have worked on the proposed code language.

**STAFF RECOMMENDATION**

Staff recommends that Council adopt the ordinance, findings, and proposed code amendments found in Attachment 1 – either the 3-zone or single zone option.

**ALTERNATIVES**

None.

**ATTACHMENTS**

1. Ordinance
  - a. Findings in Support of Approval
  - b. Code Amendments (underline/strikeout)
  - c. Code Amendments (clean)
  - d. Findings in Support of Approval – full consolidation with R-1-B area
  - e. Code Amendments (underline/strikeout) – full consolidation with R-1-B area
  - f. Code Amendments (clean) – full consolidation with R-1-B area

**COUNCIL ORDINANCE No.**

**AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE COMPREHENSIVE PLAN RESIDENTIAL LAND USE DESIGNATIONS, MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE, TITLE 14 SIGNS, AND THE ZONING MAP FOR THE PURPOSE OF ADDRESSING THE CONSOLIDATION OF THE HIGH-DENSITY RESIDENTIAL ZONES (FILE #ZA-2022-002).**

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 attainable housing and providing equitable access to housing for all; and streamline processes and simplify the code where possible, and

WHEREAS the proposed code amendments implement several of the goals and policies of the city’ comprehensive plan related to housing, and

WHEREAS legal and public notices have been provided as required by law, and multiple opportunities for public review and input has been provided, and

WHEREAS on September 27, 2022, the 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 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 will 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

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott S. Stauffer, City Recorder

\_\_\_\_\_  
Justin D. Gericke, City Attorney

## Exhibit A

### Findings in Support of Approval File #ZA-2022-002; CPA-2022-001; ZC-2022-001 High Density Residential Zones 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 map, comprehensive plan, and make code amendments to Titles 14 and 19 related to permitted uses in the high density residential zones and additional amendments for consistency across the various code sections. The intent is to implement portions of the city's comprehensive plan. The land use application file numbers are ZA-2022-002, CPA-2022-001, and ZC-2022-001.
2. The proposed amendments relate to implementation of portions of the Comprehensive Plan related to housing in, and consolidation of, the city's high density residential zones. Creating and supporting housing opportunities has been a key goal for Council and the community. The adopted Comprehensive Plan policies call for expanded housing opportunities throughout the city and consolidation of zones where possible to simplify the code.
3. Amendments are proposed in several titles of the municipal code, as follows:
  - Milwaukie Comprehensive Plan
    - Comprehensive Plan Residential Land Use Designations
  - Municipal Code - Title 19 Zoning Ordinance
    - Chapter 19.100 – INTRODUCTORY PROVISIONS
      - Section 19.107 Zoning
    - Chapter 19.200 – DEFINITIONS AND MEASUREMENTS
    - Chapter 19.300 – BASE ZONES
      - Section 19.301 Moderate Density Residential Zone
      - Section 19.302 High Density Residential Zones
      - Section 19.303 Commercial Mixed-Use Zones
      - Section 19.304 Downtown Zones
      - Section 19.306 Limited Commercial Zones
      - Section 19.307 General Commercial Zone
      - Section 19.312 North Milwaukie Innovation Area
    - Chapter 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS
      - Section 19.505 Building Design Standards
    - Chapter 19.600 OFF-STREET PARKING
    - Chapter 19.900 LAND USE APPLICATIONS
      - Section 19.904 Community Service Uses
      - Section 19.905 Conditional Uses
    - Chapter 19.1100 ANNEXATIONS AND BOUNDARY CHANGES
      - Section 19.1104 Expedited Process
    - Municipal Code - Title 14 Signs
      - Chapter 14.04 GENERAL PROVISIONS



o Section 14.04.030 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 September 27, 2022, November 15, 2022, and December 6, 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 1, 2022.*
  - 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 as follows:*

*The Planning Commission had 3 work sessions about the proposed code amendment language in June and August. The current version of the draft amendments has been posted on the application webpage since August 25, 2022. On August 29, 2022 staff e-mailed NDA leaders with information about the hearing and a link to the draft proposed amendments. On September 1, 2022, the city posted information about the public hearing on social media.*
    - (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 September 27, 2022 hearing was posted as required on August 25, 2022. A notice of the City Council's November 15, 2022 hearing was posted as required on October 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 high density residential properties in the city, not a discrete geographic area. Individual notice was not required.*

- (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 23, 2022.*

- (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 23, 2022.*

- (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 high density residential properties in the city but do not reduce the permissible uses or development opportunities on the properties.*

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

*The Planning Commission held a duly advertised public hearing on September 27, 2022, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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 a duly advertised public hearing on September 27, 2022, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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 high density residential zones.*

- (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 continue to provide opportunities for high density housing development in the city's high density residential zones.*

- (b) Title 7 Housing Choice

*The proposed amendments will continue to provide the opportunity for much-needed high density housing in the city's high density zones. The amendments also reduce barriers to the development of multi-unit housing, residential care facilities, and single room occupancy housing within these zones. The proposed amendments 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. Additional findings specific to the UGMFP are*

*included with these findings. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.*

- (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. Additional findings have been prepared demonstrating compliance with the Statewide Planning Goals.*

- 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 a duly advertised public hearing on September 27, 2022 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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 a duly advertised public hearing on September 27, 2022 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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 consolidate the high density zones and the allow multi-unit housing by right.*

- (c) 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.

(d) 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 multi-unit housing. The amendments propose to consolidate the existing five high density residential zones into three zones, simplify the review process for multi-unit housing in the new consolidation, re-define residential care facilities to use state-accepted terminology and allow them outright where multi-unit housing is permitted,*

*and redefine boarding houses using a more widely used term, single room occupancy, and allowing this use where multi-unit housing is permitted. The amendments simplify the code and also help to move the city closer to realizing its goal of providing “safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability”.*

- (e) 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 additional opportunities for multi-unit housing development throughout the city’s high density residential zones.*

- (ii) *Title 7 Housing Choice*

*The proposed amendments will provide additional opportunities for multi-unit development and group housing, as well as residential care facilities in the city’s high density 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.*

- (f) 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. Additional findings have been prepared demonstrating compliance with the Statewide Planning Goals.*

- (g) 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-3, R-2.5, R-2, R-1, and R-1-B, as well as commercially zoned properties for terminology clarifications. The amendments are legislative in nature and subject to Type V review.*

*The Planning Commission held a duly advertised public hearing on September 27, 2022, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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-3, R-2.5, R-2, R-1, and R-1-B zones into three zones: R-3, R-2, and R-1-B. The zones remain high density residential in nature, with amendments related to the land use review process, terminology, and the addition of personal service uses in the already mixed use R-1-B zone.*

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

*As noted above, the proposed zoning map amendments affect the R-3, R-2.5, R-2, R-1, and R-1-B zones which are currently predominantly residential in nature at a high density with limited permitted commercial uses. The consolidation of this zone reflects the intent of the comprehensive plan to simplify the zoning code.*

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

*Given that the amendments consolidate existing high density zones, and propose some changes to the land use review process for some uses, the change in development pattern in some areas may include a modest increase. The*



*intent of the amendments package is to consolidate and simplify the code and review processes, but not make significant changes to allowed uses.*

- (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 five high density residential zones to three high density zones to simplify the code and make modest adjustments to streamline land use review.*

- (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 high 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 may increase the demand on the facilities, utilities, or services in the area, which have been planned for.*

- (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 is unlikely to intensify the development potential of the high density residential zones. Any increase in development will likely be modest 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 and simplification of the code. 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 High Density Residential Zones**

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

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 consolidation of the city's high density residential zones 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 consolidation of the high density residential zones from five zones to three zones, updating of outdated definitions of residential care facilities, and streamlining of land use review processes in these zones. No changes or reduction to the areas zoned for high density residential uses are proposed and, in some cases, the permitted densities are increased. The amendments are intended to increase the supply of attainable housing, and provide equitable access and housing choice for all. The findings demonstrating compliance with city code requirements include information from the Housing Needs Analysis evaluating housing capacity and demonstrate 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 local code findings, 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 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 high density zones 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. Multi-unit development, residential care facilities, and single room occupancy housing are now proposed to be permitted by right in all high density 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, which was held on September 27, 2022.

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

## **Statewide Findings for Milwaukie Plan and Code Amendments – Consolidation of High Density Residential Zones**

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 10: Housing
- Goal 11: Public Facilities
- Goal 12: Transportation
- Goal 13: Energy
- Goal 14: Growth Management

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 to support the proposed code amendments related to consolidation of the high density residential zones.

#### Planning Commission and City Council Updates

City staff conducted three worksessions with the City’s Planning Commission and City Council to review the status of the work and solicit feedback on key issues.

The specific proposed code language was posted with a code commentary on the City’s website on August 26, 2022. Prior to the public hearings the Planning Commission had 3 work sessions about the proposed code amendment language in July and August 2022. These meetings also were open to the public and were recorded and available for public viewing after the meetings. A work session with the City Council was held before the City Council hearing on the amendments. Specific notice of the draft amendments and the September 27, 2022 public hearing was as follows: email notices were sent to all Neighborhood District Association members, members of the middle housing code project steering committee, and to everyone who registered on the Engage Milwaukie platform as part of the middle housing code project.. The current version of the draft amendments have been posted on the application webpage since August 26, 2022.

Based on the findings above, the Zoning Code 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 consolidation of the city’s high density residential zones. Only changes that reduce the required level of land use review for a limited number of residential uses 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 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 proposed code amendments implement a variety of goals and policies related to housing and will support consistency with Statewide Planning Goal 10. By increasing density in some high density zones, streamlining the land use review process for multi-unit development, single room occupancy housing, and residential care facilities, housing choice and opportunities to expand housing options are made possible.

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 high density housing on land capacity.

The proposed amendments relate to implementation of portions of the Comprehensive Plan related to housing in, and consolidation of, the city's high density residential zones. Creating and supporting housing opportunities has been a key goal for Council and the community. The adopted Comprehensive Plan policies call for expanded housing opportunities throughout the city and consolidation of zones where possible to simplify the code. The amendments also reduce barriers to the development of multi-unit housing, residential care facilities, and single room occupancy housing within these zones.

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 consolidation of the high density residential zones.

## **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 the high density zones consolidation, 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 consolidation of the high density residential zones, 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 consolidation of the high density residential zones, 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.

**Underline/Strikeout Amendments**

**Title 14 Signs**

**14.040.030 Definitions**

“Residential zones” means the R-MD, R-3, ~~R-2.5~~, R-2, and R-1-B Residential Zones as defined in the Zoning Ordinance.

**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:

<b>Table 19.107.1 Classification of Zones</b>	
<b>Zone Description</b>	<b>Abbreviated Description</b>
<b>Base Zones</b>	
Residential	R-MD
Residential	R-3
<del>Residential</del>	<del>R-2.5</del>
Residential	R-2
<del>Residential</del>	<del>R-4</del>
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 Mixed Use	MUTSA
General Mixed Use	GMU
North Milwaukie Employment	NME
Neighborhood Mixed Use	NMU

Overlay Zones	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F

## CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

### 19.201 DEFINITIONS

~~“Boarding house” means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided, and which is not occupied as a single-family unit. Lodging capacity is subject to provisions of the Uniform Building Code.~~

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

Office:

“Production-related office” means offices that are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers; and medical and dental labs.

“Professional and administrative office” means professional, executive, management, or administrative offices of firms or organizations, including government, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; sales offices; government offices and public utility offices; and medical and

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

~~“Traditional office” means offices that are characterized by activities that generally focus on business, government, professional, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic. Examples include: professional services such as lawyers, architects, or accountants; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; sales offices; government offices and public utility offices; and medical and dental clinics.~~

Residential Uses and Structures:

“Adult foster/care homes” means a dwelling unit operated to provide a permanent residence and licensed care for up to five people who are elderly, disabled, handicapped, or otherwise require such a residence.

“Single room occupancy housing (SRO)” means a building wherein nine (9) or more rooms are offered for rent and where rooms, individually or collectively, do not constitute separate dwellings. Each room is without a kitchen, but access must be provided to a shared cooking and eating facility. Each room may have provision for counter-top appliances and refrigerator. The toilet/bath may be private or shared with other room(s). SRO developments are designed to be occupied by long-term residents on a monthly or longer basis. For calculating residential density, four SRO rooms are equal to 1 dwelling unit with fractions rounded up.

“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. Residential care facilities are considered a type of multi-unit development.

~~“Residential home” means a dwelling unit operated as a single housekeeping unit for the purpose of providing a permanent residence—which includes food, shelter, personal services, and care—for the elderly, disabled, handicapped, or others requiring such a residence, as defined by the Federal Fair Housing Amendments Acts of 1988.~~

~~“Senior and retirement housing” means a multiunit dwelling where persons who are of retirement age reside. Activity levels, including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies, and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium.~~

“Residential care facility” means a licensed living facility for more than five (5) non-related persons, which provides specialized care, supervision, treatment or training, or a combination of these for residents. This use classification includes, but is not limited to assisted living facilities, nursing facilities, and memory care facilities.

“Temporary or transitional facility” means a facility which ~~may~~ provides temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers, and detention and detoxification facilities.

## CHAPTER 300 BASE ZONES

### 19.301 MODERATE DENSITY RESIDENTIAL ZONES

Table 19.301.2 Moderate Density Residential Uses Allowed		
Use	R-MD	Standards/Additional Provisions
<b>Residential Uses</b>		
Single detached dwelling	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Townhouse	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage Cluster	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing
<del>Residential home</del> <u>Adult foster/care home</u>	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Senior and retirement housing Residential care facility <u>Examples include:</u> <u>assisted living, nursing facilities, and memory care communities</u>	<del>CU</del> CSU	<del><b>Subsection 19.905.9.G</b></del> Senior and Retirement Housing <b>Subsection 19.904.8</b> <u>Specific Standards for Residential Care Facilities</u>

## 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-4, and Residential-Business Office Zone R-1B. 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.

Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
<b>Residential Uses</b>						
Single detached dwelling	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling	P	P	P	P	P	<b>Subsection 19.910.1</b>



unit						Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks
Townhouse	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage cluster	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing

Table 19.302.2 CONTINUED High Density Residential Uses Allowed						
Use	R-3	R-2.5	R-2	R-1	R-1-B	Standards/ Additional Provisions
<b>Residential Uses CONTINUED</b>						
Multi-unit Housing	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Congregate housing facility	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	<b>Section 19.905</b> Conditional Uses
<b>Commercial Uses</b>						
Office	CU	CU	CU	CU	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Personal/Business Services	CU	CU	CU	CU	P	
Hotel or motel	N	N	N	N	CU	<b>Section 19.905</b> Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	<b>Section 19.905</b> Conditional Uses
<b>Accessory and Other Uses</b>						
Accessory use	P	P	P	P	P	<b>Section 19.503</b> Accessory Uses

Agricultural or horticultural use	P	P	P	P	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards
Short-term rental	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards

<b>Table 19.302.2 High Density Residential Uses Allowed</b>				
<b>Use</b>	<b>R-3</b>	<b>R-2</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses</b>				
<b>Use</b>	<b>R-3</b>	<b>R-2</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
Single detached dwelling	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Adult foster/care home	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	P	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	N	N	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks
Townhouse	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development

				<b><u>Subsection 19.505.5 Standards for Townhouses</u></b>
<u>Cottage cluster</u>	<u>P</u>	<u>P</u>	<u>P</u>	<b><u>Subsection 19.505.1 Single Detached and Middle Housing Residential Development</u></b> <b><u>Subsection 19.505.4 Cottage Cluster Housing</u></b>
<u>Multi-unit Housing</u>	<u>CU P</u>	<u>P</u>	<u>P</u>	<b><u>Subsection 19.505.3 Multi-Unit Housing</u></b> <b><u>Subsection 19.302.5.F Residential Densities</u></b> <b><u>Subsection 19.302.5.H Building Limitations</u></b>
<u>Single room occupancy housing</u>	<u>CU P</u>	<u>P</u>	<u>P</u>	<b><u>Subsection 19.505.3 Multi-Unit Housing</u></b> <b><u>Subsection 19.302.5.F Residential Densities</u></b> <b><u>Subsection 19.302.5.H Building Limitations</u></b>
<u>Residential Care Facility</u>  <u>Examples include: assisted living, nursing facilities, and memory care communities</u>	<u>P</u>	<u>P</u>	<u>P</u>	<b><u>Subsection 19.505.3 Multi-Unit Housing</u></b> <b><u>Subsection 19.302.5.F Residential Densities</u></b> <b><u>Subsection 19.302.5.H Building Limitations</u></b>
<u>Office: Production-related office and Professional and administrative office</u>	<u>L/CU</u>	<u>L/CU</u>	<u>P</u>	<b><u>Subsection 19.302.3 Use Limitations and Restrictions</u></b> <b><u>Section 19.905 Conditional Uses</u></b>
<u>Personal/Business Services</u>	<u>L/CU</u>	<u>L/CU</u>	<u>P</u>	<b><u>Section 19.905 Conditional Uses</u></b>
<u>Hotel or motel</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<b><u>Section 19.905 Conditional Uses</u></b>
<u>Bed and breakfast or vacation rental</u>	<u>CU</u>	<u>CU</u>	<u>CU</u>	<b><u>Section 19.905 Conditional Uses</u></b>
<u>Accessory use</u>	<u>P</u>	<u>P</u>	<u>P</u>	<b><u>Section 19.503 Accessory Uses</u></b>
<u>Agricultural or horticultural use</u>	<u>P</u>	<u>P</u>	<u>P</u>	<b><u>Subsection 19.302.3 Use Limitations and Restrictions</u></b>
<u>Community service use</u>	<u>CSU</u>	<u>CSU</u>	<u>CSU</u>	<b><u>Section 19.904 Community Service Uses</u></b>
<u>Home occupation</u>	<u>P</u>	<u>P</u>	<u>P</u>	<b><u>Section 19.507 Home Occupation Standards</u></b>
<u>Short-term rental</u>	<u>P</u>	<u>P</u>	<u>P</u>	<b><u>Section 19.507 Home Occupation Standards</u></b>

**19.302.3 Use Limitations and Restrictions**

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. Office and personal service uses in the R-3 and R-2 zones are permitted provided the floor area does not exceed 2,000 sq ft.

<b>Table 19.302.4</b>						
<b>High-Density Residential Development Standards</b>						
<b>Standard</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>A. Lot Standards</b>						
Minimum lot size (sq ft)	1,500					<b>Subsection</b> <b>19.501.1</b> Lot Size Exceptions  <b>Subsection</b> <b>19.505.4</b> Cottage Cluster Housing  <b>Subsection</b> <b>19.505.5</b> Townhouses
Minimum lot width (ft)	20					-
Minimum lot depth (ft)	70					
Minimum street frontage requirements (ft)	-					
Townhouse	35					
Standard lot	25					
Flag lot	25					
Double flag lot						
<b>B. Development Standards</b>						
Minimum yard requirements for primary structures (ft)	-					20
Front yard	See Subsection 19.302.5.A					

Side yard		45	
Street side yard		45	
Rear yard			
Maximum building height for primary structures	35 ft	45 ft	<p><b>Subsection 19.302.5.E</b> Height Exceptions</p> <p><b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions</p> <p><b>Subsection 19.302.5.I</b> Transition Measures</p>

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**Table 19.302.4 CONTINUED**

**High Density Residential Development Standards**

Standard	Standards/					Additional Provisions
	R-3	R-2.5	R-2	R-1	R-1B	
Side yard height plane limit		-				<p><b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions</p>
Height above ground at minimum required side yard depth (ft)		20			25	
Slope of plane (degrees)		45			45	
Maximum lot coverage (percent of total lot area)		40%		45%	50%	<b>Section 19.201</b> "Lot coverage" definition
Minimum vegetation (percent of total lot area)		35%			15%	<p><b>Subsection 19.504.7</b> Minimum Vegetation</p> <p><b>Subsection 19.302.5.D</b> Front Yard Minimum Vegetation</p> <p><b>Subsection 19.302.5.C</b> Minimum</p>

				Vegetation
<b>C. Other Standards</b>				
Density requirements (dwelling units per acre)	- 11.6	- 11.6	- 25.0	<b>Subsection 19.202.4</b> Density Calculations
Minimum	14.5	17.4	32.0	<b>Subsection 19.302.5.F</b> Residential Densities
Maximum <sup>2</sup>				<b>Subsection 19.501.4</b> Density Exceptions

Table 19.302.4				
High Density Residential Development Standards				
Standard	R-3	R-2	R-1-B	Standards/ Additional Provisions
<b>A. Lot Standards</b>				
Minimum lot size (sq ft)	1,500			<b>Subsection 19.501.1</b> Lot Size Exceptions  <b>Subsection 19.505.4</b> Cottage Cluster Housing  <b>Subsection 19.505.5</b> Townhouses
Minimum lot width (ft)	20			
Minimum lot depth (ft)	70			
Minimum street frontage requirements (ft)	-			20

Townhouse		<u>35</u>	
Standard lot		<u>25</u>	
Flag lot		<u>25</u>	
Double flag lot			
<b>B. Development Standards</b>			
Minimum yard requirements for primary structures (ft)		- <u>20</u>	
Front yard		See Subsection 19.302.5.A	
Side yard		<u>15</u>	
Street side yard		<u>15</u>	
Rear yard			
Maximum building height for primary structures	<u>35 ft</u>	<u>45 ft</u>	<p><b>Subsection 19.302.5.E</b> Height Exceptions</p> <p><b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions</p> <p><b>Subsection 19.302.5.I</b> Transition Measures</p>

<b>Table 19.302.4 CONTINUED</b>				
<b>High Density Residential Development Standards</b>				
				<b>Standards/</b>
<b>Standard</b>	<b>R-3</b>	<b>R-2</b>	<b>R-1B</b>	<b>Additional Provisions</b>
Side yard height plane limit	-	-		<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
Height above ground at	<u>20</u>	<u>25</u>	<u>25</u>	

<u>minimum required side yard depth (ft)</u>	<u>45</u>	<u>45</u>	<u>45</u>	
<u>Slope of plane (degrees)</u>				
<u>Maximum lot coverage (percent of total lot area)</u>	<u>40%</u>	<u>45%</u>	<u>50%</u>	<b>Section 19.201 “Lot coverage” definition</b>
<u>Minimum vegetation (percent of total lot area)</u>	<u>35%</u>	<u>15%</u>	<u>15%</u>	<b>Subsection 19.504.7 Minimum Vegetation</b> <b>Subsection 19.302.5.D Front Yard Minimum Vegetation</b> <b>Subsection 19.302.5.C Minimum Vegetation</b>
<b>C. Other Standards</b>				
<u>Density requirements (dwelling units per acre)</u>	-	-	-	<b>Subsection 19.202.4 Density Calculations</b>
<u>Minimum</u>	<u>11.6</u>	<u>25.0</u>	<u>25.0</u>	<b>Subsection 19.302.5.F Residential Densities</b>
<u>Maximum<sup>2, 3</sup></u>	<u>14.5</u>	<u>32.0</u>	<u>32.0</u>	<b>Subsection 19.501.4 Density Exceptions</b>

<sup>3</sup> The density for single room occupancy (SRO) developments is calculated as follows: four SRO rooms equal one dwelling unit.

**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 in a cottage cluster
- Between 3,000 to 4,999 sq ft: Duplex, Triplex, and Quadplex.
- Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with up to 2 ADUs, Duplex, Triplex, and Quadplex.<sup>1</sup>



7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with up to 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster, Multi-Unit Housing.

All other uses require a minimum lot size of 5,000 sq ft.

**19.302.5 Additional Development Standards**

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 single detached dwelling or accessory dwelling units are exempt from the minimum and maximum density requirements. Middle housing, except for townhouses, is exempt from 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~~

<del>Units</del>	<del>R-2 Zone</del>	<del>R-1 and R-1-B Zone</del>
<del>First Dwelling Unit</del>	<del>5,000 sq ft per unit</del>	<del>5,000 sq ft per unit</del>
<del>Additional Dwelling Units</del>	<del>1,500 sq ft per unit</del>	<del>1,400 sq ft per unit</del>

## 19.303 COMMERCIAL MIXED-USE ZONES

Table 19.303.2			
Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Residential</b>			
Single-family detached	N	CU	<b>Subsection 19.505.1</b> Single Family Dwellings <b>Section 19.905</b> Conditional Uses
Rowhouse <sup>1</sup>	P	CU	<b>Subsection 19.505.5</b> Rowhouses
Multifamily <del>Multi-unit Housing</del>	P	CU	<b>Subsection 19.505.3</b> Multifamily <del>Multi-unit Housing</del>
Cottage cluster housing	P	CU	<b>Subsection 19.505.4</b> Cottage Cluster Housing
Mixed use <sup>2</sup>	P	P	<b>Subsection 19.505.7</b> <u>Nonresidential Development</u>
Live/work units	P	P	<b>Subsection 19.505.6</b> Live/Work Units
Senior and <i>retirement</i> housing	P	CU	<b>Subsection 19.505.3</b> Multifamily <del>Multi-unit Housing</del>

Table 19.303.2 CONTINUED

Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Commercial<sup>3, 4</sup> CONTINUED</b>			
<p><del>General office</del></p> <p><del>General office means professional, executive, management, or administrative offices of firms or organizations.</del></p> <p><del>Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; offices for testing and research-related businesses (including marijuana testing and research), and medical and dental clinics.</del></p>	P	P	<b>Subsection 19.303.6.C</b> Marijuana testing and research facilities

<u>Production-related office</u>			
<u>Professional and administrative office</u>			
Commercial lodging.  Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.  Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments. <del>Does not include senior and retirement housing.</del>	P	P	

**19.304 DOWNTOWN ZONES**

Table 19.304.2			
Uses Allowed in Downtown Zones			
Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
<b>Residential</b>			
<del>Boarding house</del>	<del>CU</del>	<del>N</del>	<del>Section 19.905</del> Conditional Uses
<u>Single room occupancy housing</u>	<u>P</u>	<u>N</u>	<b>Subsection 19.505.3</b> Multi-unit Housing
Rowhouse	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations  <b>Subsection 19.505.5</b> Rowhouses
<del>Multifamily</del> <u>Multi-unit Housing</u>	P	N	<b>Figure 19.304-2</b> Ground-Floor Residential Permitted  <b>Subsection 19.304.3.A.1</b> Downtown residential use limitations  <b>Subsection 19.505.3</b> Multifamily Multi-unit Housing
Live/work units	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations  <b>Subsection 19.505.6</b> Live/Work

			Units
Second-story housing	P	N	<b>Section 19.508</b> Downtown Site and Building Design Standards
Senior and retirement housing	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations  <b>Subsection 19.505.3</b> Multifamily <u>Multi-unit</u> Housing

**Table 19.304.2 CONTINUED**  
**Uses Allowed in Downtown Zones**

Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
<b>Commercial</b>			
<p>Commercial lodging</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than 1 month.</p> <p>Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments. <del>Does not include senior and retirement housing.</del></p>	P/CU	N	<b>Section 19.905</b> Conditional Uses (for vacation rentals only)
<p>Production-related office</p> <p><del>Production-related office uses are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the</del></p>	P/CU	N	<p><b>Subsection 19.304.3.A.2</b> Main St limitations</p> <p><b>Subsection 19.304.3.A.3</b> Commercial use limitations</p> <p><b>Subsection 19.509.2</b> Security and odor</p>

<p>development, testing, research, production, processing, packaging, or assembly of goods and products.</p> <p>Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers, marijuana testing and research facilities, and medical and dental labs.</p>			<p>control for certain marijuana business</p> <p><b>Section 19.905</b> Conditional Uses</p> <p>Note: Production, processing, packaging, and assembly uses must meet the standards listed below under Manufacturing.</p>
<p>Traditional office</p> <p>Traditional office uses are characterized by activities that generally focus on business, government, professional, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic.</p> <p>Examples include: professional services such as lawyers, architects, or accountants; financial businesses such as lenders, brokerage houses, bank headquarters, or real-estate agents; sales offices; government offices and public utility offices; and medical and dental clinics.</p>	<p>P/CU</p>	<p>N</p>	<p><b>Subsection 19.304.3.A.3</b> Commercial use limitations</p> <p><b>Section 19.905</b> Conditional Uses</p>
<p><u>Professional and Administrative Office</u></p>	<p><u>P/CU</u></p>	<p><u>N</u></p>	<p><b>Subsection 19.304.3.A.3</b> Commercial use limitations</p> <p><b>Section 19.905</b> Conditional Uses</p>

**19.304.5 Detailed Development Standards**

J. Residential Density

1. Intent

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied to residential development in the DMU Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

2. Standards

a. Minimum densities for rowhouses and live/work units shall be 10 units per acre.

b. Minimum densities for stand-alone multifamily dwellings ~~and senior/retirement housing~~ in the DMU Zone shall be 30 units per acre. Maximum residential densities are controlled by height limits.

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## 19.306 LIMITED COMMERCIAL ZONE C-L

### 19.306.2 Conditional Uses and Community Service Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section [19.905](#):

- A. Funeral home;
- B. Marina and boat sales;
- C. Parking facility;
- D. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- E. Financial institution;
- F. Trade or commercial school;
- G. ~~Single-family~~ unit detached dwelling;
- H. Agricultural or horticultural use, provided that poultry or 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. Marijuana production is not permitted as an agricultural use;
- I. ~~Duplex or multifamily development~~ Middle housing or multi-unit housing;

J. Adult foster/care home ~~Senior and retirement housing;~~

K. ~~Residential home;~~

L. ~~Congregate housing facility;~~

In a C-L Zone the following community service uses and their accessory uses are permitted subject to the provisions of Section 19.904:

A. Residential care facility

### 19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

#### 19.307.1 Uses Permitted Outright

In a C-G Zone the following uses and their accessory uses are permitted outright:

A. Production-related office; ~~Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature;~~

B. Professional and administrative office; ~~Offices for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific or statistical businesses or organizations;~~

### 19.312 NORTH MILWAUKIE INNOVATION AREA

**Table 19.312.2**

**Uses Allowed in the North Milwaukie Innovation Area**

Uses and Use Categories	NME	MUTSA	Standards/Additional Provisions
<b>Commercial</b>			

<p>Office</p> <p>1. Production-related office uses are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products.</p> <p>Examples include: corporate headquarters, architects, engineers, financial services or accounting firm headquarters, call offices/call centers; software and internet</p>	<p>P</p>	<p>P</p>	
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<p><b>Table 19.312.2 CONTINUED</b></p> <p>Uses Allowed in the North Milwaukie Innovation Area</p>			
<p><b>Uses and Use Categories</b></p>	<p><b>NME</b></p>	<p><b>MUTSA</b></p>	<p><b>Standards/Additional Provisions</b></p>
<p>content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; government and utility research offices; call centers, marijuana testing and research facilities, and medical and dental labs or research/bioscience facility.</p> <p><u>2. Professional and Administrative Office</u></p>			



Table 19.312.2 CONTINUED

## Uses Allowed in the North Milwaukie Innovation Area

Uses and Use Categories	NME	MUTSA	Standards/Additional Provisions
<p><del>2. Service-related office</del></p> <p><del>Traditional service-related office uses are characterized by activities that generally focus on direct in-person, customer-focused services including government, professional, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic.</del></p> <p><del>Examples include: professional services such as lawyers; financial businesses such as lenders, retail brokerage houses, bank branches, or real estate agents; sales offices; government offices and public utility offices; counseling offices; and medical and dental clinics.</del></p>	L	L	<p><b>Subsection 19.312.4.A</b> Standards for Limited Uses</p>

## CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

## 19.505 BUILDING DESIGN STANDARDS

## 19.505.3 Multi-unit Housing

## B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit developments and residential care facilities ~~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.

1. All new multi-unit or residential care facilities ~~congregate housing development~~ is subject to the design elements in this subsection.

## C. Review Process

Two possible review processes are available for review of ~~multifamily~~ multi-unit or residential care facilities ~~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.

D. Design Guidelines and Standards

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

**CHAPTER 19.600 OFF-STREET PARKING**

**19.605 VEHICLE PARKING QUANTITY REQUIREMENTS**

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
<b>A. Residential Uses</b>		
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 <sup>1</sup>		
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. Townhouses <sup>2</sup>	0	1 space per dwelling unit
e. Cottage Clusters	0.5 spaces per dwelling unit	1 space per dwelling unit
4. <del>Residential homes</del> <u>Adult foster/care homes</u> 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.
<b>B. Community Service and Other Public Uses</b>		
7. <u>Residential care facilities</u> <del>Nursing, convalescent, and extended-care facilities.</del>	1 space per 4 beds.	1 space per 3 beds.

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**CHAPTER 19.900 LAND USE APPLICATIONS****19.904 COMMUNITY SERVICE USES**

## A. Institutions—Public/Private and Other Public Facilities

1. Schools, public or private, and their accompanying sports facilities, day-care centers, private kindergartens;
2. Government office buildings for local, state, or federal government such as a City hall, courthouse, police station, or other similar buildings;
3. Hospital;
4. Cemetery;
5. ~~Nursing or convalescent home~~ Residential care facility;

~~19.904.8 Specific Standards for Nursing or Convalescent Homes~~~~A.—Public services must be adequate to serve the facility.~~~~B.—Facilities will access on arterial or collector streets.~~~~C.—Setbacks must be the greater of 25 ft or the setback of an adjacent residential zone or of the underlying zone.~~~~D.—Maximum height shall not exceed 45 ft.~~~~E.—Buffering of noise and light from adjacent streets and between adjacent properties may be required.~~~~F.—Sites which could cause hazard to disoriented patients through proximity to heavily traveled streets, water hazards, or ravines or steep slopes shall not be approved unless the applicant can satisfy the commission that safety measures will be used to prevent injury to patients.~~~~G.—On parcels surrounded by existing dwellings, additional conditions may be necessary to:~~~~1.—Mitigate the effects of traffic caused by shift changes, particularly regarding noise at night and safety of school children in transit; and/or~~~~2.—Maintain neighborhood scale, particularly regarding size of structure, width of driveway, signs, exterior lighting, and placement of parking facilities.~~

H. ~~Conversion of existing dwellings may be allowed if state codes and rules can be met and the conditions of this subsection are satisfied.~~

I. ~~Off-street parking must be provided as per Chapter 19.600.~~

J. ~~15% of the total site is to be landscaped~~

### 19.904.4410 Standards for Wireless Communications Facilities

#### C. Application Process

##### 3. Type II Review

Placement, construction, or modification of WCFs not involving the construction of a new monopole, other than those activities described in Subsection 19.904.4410.C.1, are subject to Section 19.1005 Type II Review, provided that the antennas and base equipment comply with the standards contained in this subsection. Also see Table 19.904.4410.C.

##### 4. Type III Review

All proposed new monopole towers, and projects exceeding the applicability for Type II review, are subject to Section 19.1006 Type III Review. Also see Table 19.904.4410.C.

Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower up to 100 Ft	Building Rooftop or Wall Mounted Antenna	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions
BI	III	P/I/II	P/I/II	P/I/II
M	III	P/I/II	P/I/II	P/I/II
M-TSA	III	P/I/II	P/I/II	P/I/II
C-N	N	P/I/II	P/I/II	P/I/II
C-G	N	P/I/II	P/I/II	P/I/II
C-L	N	P/I/II	P/I/II	P/I/II
C-CS	N	P/I/II	P/I/II	P/I/II
OS	N	P/I/II	P/I/II	P/I/II
DMU	N	P/I/II	P/I/II	P/I/II
GMU	N	P/I/II	P/I/II	P/I/II
NMU	N	P/I/II	P/I/II	P/I/II

R-1-B	N	P/I/II	P/I/II	P/I/II
<del>R-1</del>	<del>N</del>	<del>N</del>	<del>P/I/II</del>	<del>P/I/II</del>
R-2	N	N	P/I/II	P/I/II
<del>R-2.5</del>	<del>N</del>	<del>N</del>	<del>P/I/II</del>	<del>P/I/II</del>
R-3	N	N	P/I/II	P/I/II
R-MD	N	N	P/I/II	P/I/II

F. Location and Size Restrictions

1. Separation for New Monopole Towers

New monopole towers may not be constructed within 1,500 ft of any preexisting tower. The Planning Commission has the authority to approve a reduction in the minimum separation requirement to not less than 1,000 ft, provided that the applicant can demonstrate the need to the satisfaction of the Planning Commission, for the distance reduction. A tower shall include any preexisting tower or any tower for which the City has issued a building permit, or for which a land use application has been filed and not denied. This distance shall be measured in a straight line from the base of the existing tower to the base of the proposed tower.

2. Height: maximum heights. Also see Table 19.904.4410.C.

d. For antennas on utility poles in the right-of-way, one 15-ft extension is permitted to the original installation by the owner. The carrier may replace the existing pole with a new utility pole not to exceed 15 ft above the height of the pole that is to be replaced. Equipment cabinets shall be attached to the utility pole. Where this is not practicable, the base equipment shall be subject to requirements of Subsection 19.904.4410.G.1.b.

G. Development Standards for All WCFs

1. Setbacks and Equipment Cabinets

a. Setbacks for new monopole towers and equipment cabinets shall be established from the property line and not the leased area. Regardless of the zone, the setbacks shall be as follows:

(5) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.4410.G.6 Landscaping and Fencing Requirements.

b. For antennas placed on existing utility pole and other support structures located in the right-of-way, the equipment cabinet shall be located on the utility pole to the greatest extent.

(3) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.4410.G.6 Landscaping and Fencing Requirements.

c. Equipment cabinets for water towers, “stealth” designs or other antenna support structures not covered by the previous subsections.

(2) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.4410.G.6 Landscaping and Fencing Requirements.

## 19.905 CONDITIONAL USES

### 19.905.9 Standards Governing Conditional Uses

#### ~~G. Senior and Retirement Housing~~

~~In considering a conditional use application for senior and retirement housing, the Planning Commission shall consider the following:~~

- ~~1. Pedestrian access to transit.~~
- ~~2. Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center.~~
- ~~3. Pedestrian access to banking, churches, hospitals, and restaurants.~~
- ~~4. Quality of project as a living environment for residents.~~
- ~~5. Minimizing impact on the surrounding area.~~

~~An applicant shall submit materials and the Planning Commission shall attach conditions that will ensure that the special nature of the housing, and the groups to be served, are clearly defined and maintained in perpetuity. A project is required to meet the definition for this type of housing in Section [19.201](#).~~

#### ~~HG. Vacation Rentals~~

## CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES

### 19.1104.1 Administration and Approval Process

<b>Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes</b>		
<b>County Zoning Designation</b>	<b>Assigned City Zoning Designation</b>	<b>Assigned Comprehensive Plan Land Use Designation</b>
R-20	R-MD	<del>Low</del> <u>Moderate</u> density residential
R-15	R-MD	<del>Low</del> <u>Moderate</u> density residential
R-10	R-MD	<del>Low</del> <u>Moderate</u> density residential
R-8.5	R-MD	<del>Low</del> <u>Moderate</u> density residential
R-7	R-MD	<del>Low</del> <u>Moderate</u> density residential
MR1	R-2	<del>Medium</del> <u>High</u> density residential
MR2	R-2	<del>Medium</del> <u>High</u> density residential

**19.910.3 Manufactured Dwelling Parks**

**D. Development Requirements**

All manufactured dwelling parks shall meet the following minimum requirements:

1. The minimum size of a manufactured dwelling park shall be ≥ 1 acres.

Clean Amendments

Title 14 Signs

14.040.030 Definitions

“Residential zones” means the R-MD, R-3, R-2, and R-1-B Residential Zones as defined in the Zoning Ordinance.

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:

<b>Table 19.107.1 Classification of Zones</b>	
<b>Zone Description</b>	<b>Abbreviated Description</b>
<b>Base Zones</b>	
Residential	R-MD
Residential	R-3
Residential	R-2
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 Mixed Use	MUTSA
General Mixed Use	GMU
North Milwaukie Employment	NME
Neighborhood Mixed Use	NMU
<b>Overlay Zones</b>	
Willamette Greenway	WG



Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F

## CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

### 19.201 DEFINITIONS

#### Office:

“Production-related office” means offices that are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers; and medical and dental labs.

“Professional and administrative office” means professional, executive, management, or administrative offices of firms or organizations, including government, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; sales offices; government offices and public utility offices; and medical and dental clinics, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

#### Residential Uses and Structures:

“Adult foster/care homes” means a dwelling unit operated to provide a permanent residence and licensed care for up to five people who are elderly, disabled, handicapped, or otherwise require such a residence.

“Single room occupancy housing (SRO)” means a building wherein nine (9) or more rooms are offered for rent and where rooms, individually or collectively, do not constitute separate dwellings. Each room is without a kitchen, but access must be provided to a shared cooking and eating facility. Each room may have provision for counter-top appliances and refrigerator. The toilet/bath may be private or shared with other room(s). SRO developments are designed to be occupied by long-term residents on a monthly or longer basis. For calculating residential density, four SRO rooms are equal to 1 dwelling unit with fractions rounded up.

“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. Residential care facilities are considered a type of multi-unit development.

“Residential care facility” means a licensed living facility for more than five (5) non-related persons, which provides specialized care, supervision, treatment or training, or a combination of these for residents. This use classification includes, but is not limited to assisted living facilities, nursing facilities, and memory care facilities.

“Temporary or transitional facility” means a facility which ~~may~~ provides temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers, and detention and detoxification facilities.

**CHAPTER 300 BASE ZONES**

**19.301 MODERATE DENSITY RESIDENTIAL ZONES**

<b>Table 19.301.2 Moderate Density Residential Uses Allowed</b>		
<b>Use</b>	<b>R-MD</b>	<b>Standards/Additional Provisions</b>
<b>Residential Uses</b>		
Single detached dwelling	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Townhouse	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage Cluster	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing
Adult foster/care home	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Residential care facility Examples include: <i>assisted living, nursing</i>	<u>CSU</u>	<b>Subsection 19.904.8</b> <u>Specific Standards for Residential Care Facilities</u>

<i>facilities, and memory care communities</i>		
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**19.302 HIGH DENSITY RESIDENTIAL ZONES**

The high density residential zones are Residential Zone R-3, Residential Zone R-2, and Residential-Business Office Zone R-1B. 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.

<b>Table 19.302.2 High Density Residential Uses Allowed</b>				
Use	R-3	R-2	R-1-B	Standards/ Additional Provisions
<b>Residential Uses</b>				
Use	R-3	R-2	R-1-B	Standards/ Additional Provisions
Single detached dwelling	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential

				Development
Adult foster/care home	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	P	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	N	N	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks
Townhouse	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage cluster	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing
Multi-unit Housing	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Single room occupancy housing	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Residential Care Facility  Examples include: assisted living, nursing facilities, and memory care communities	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Office: Production-related office and Professional and administrative office	L/CU	L/CU	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions <b>Section 19.905</b> Conditional Uses
Personal/Business Services	L/CU	L/CU	P	<b>Section 19.905</b> Conditional Uses
Hotel or motel	CU	CU	CU	<b>Section 19.905</b> Conditional Uses
Bed and breakfast or	CU	CU	CU	<b>Section 19.905</b> Conditional

vacation rental				Uses
Accessory use	P	P	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	P	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	<b>Section 19.507</b> Home Occupation Standards
Short-term rental	P	P	P	<b>Section 19.507</b> Home Occupation Standards

**19.302.3 Use Limitations and Restrictions**

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. Office and personal service uses in the R-3 and R-2 zones are permitted provided the floor area does not exceed 2,000 sq ft.

Table 19.302.4				
High Density Residential Development Standards				
Standard	R-3	R-2	R-1-B	Standards/ Additional Provisions
<b>A. Lot Standards</b>				
Minimum lot size (sq ft)		1,500		<b>Subsection 19.501.1</b> Lot Size Exceptions  <b>Subsection 19.505.4</b> Cottage Cluster Housing  <b>Subsection 19.505.5</b> Townhouses
Minimum lot width (ft)		20		
Minimum lot depth (ft)		70		
Minimum street frontage requirements (ft)		20		

Townhouse	35			
Standard lot	25			
Flag lot	25			
Double flag lot				
<b>B. Development Standards</b>				
Minimum yard requirements for primary structures (ft)	20			
Front yard	See Subsection 19.302.5.A			
Side yard	15			
Street side yard	15			
Rear yard				
Maximum building height for primary structures	35 ft	45 ft	<p><b>Subsection 19.302.5.E</b> Height Exceptions</p> <p><b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions</p> <p><b>Subsection 19.302.5.I</b> Transition Measures</p>	
<b>Table 19.302.4 CONTINUED</b>				
<b>High Density Residential Development Standards</b>				
Standard	R-3	R-2	R-1B	Standards/ Additional Provisions
Side yard height plane limit				<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
Height above ground at minimum required side yard depth (ft)	20	25	25	
Slope of plane (degrees)	45	45	45	
Maximum lot coverage	40%	45%	50%	<b>Section 19.201</b> "Lot coverage" definition

(percent of total lot area)				
Minimum vegetation (percent of total lot area)	35%	15%	15%	<b>Subsection 19.504.7</b> Minimum Vegetation  <b>Subsection 19.302.5.D</b> Front Yard Minimum Vegetation  <b>Subsection 19.302.5.C</b> Minimum Vegetation
<b>C. Other Standards</b>				
Density requirements (dwelling units per acre)				<b>Subsection 19.202.4</b> Density Calculations  <b>Subsection 19.302.5.F</b> Residential Densities
Minimum	11.6	25.0	25.0	
Maximum <sup>2, 3</sup>	14.5	32.0	32.0	<b>Subsection 19.501.4</b> Density Exceptions

<sup>3</sup>The density for single room occupancy (SRO) developments is calculated as follows: four SRO rooms equal one dwelling unit.

**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 in a cottage cluster
- Between 3,000 to 4,999 sq ft: Duplex, Triplex, and Quadplex.
- Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with up to 2 ADUs, Duplex, Triplex, and Quadplex.<sup>1</sup>
- 7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with up to 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster, Multi-Unit Housing.

All other uses require a minimum lot size of 5,000 sq ft.

**19.302.5 Additional Development Standards**

## 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 single detached dwelling or accessory dwelling units are exempt from the minimum and maximum density requirements. Middle housing, except for townhouses, is exempt from 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.

## 19.303 COMMERCIAL MIXED-USE ZONES

Table 19.303.2			
Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Residential</b>			
Single-family detached	N	CU	<b>Subsection 19.505.1</b> Single Family Dwellings  <b>Section 19.905</b> Conditional Uses
Rowhouse <sup>1</sup>	P	CU	<b>Subsection 19.505.5</b> Rowhouses
Multi-unit Housing	P	CU	<b>Subsection 19.505.3</b> Multi-unit Housing
Cottage cluster housing	P	CU	<b>Subsection 19.505.4</b> Cottage Cluster Housing
Mixed use <sup>2</sup>	P	P	<b>Subsection 19.505.7</b> Nonresidential Development
Live/work units	P	P	<b>Subsection 19.505.6</b> Live/Work Units
Production-related office	P	P	<b>Subsection 19.303.6.C</b> Marijuana testing and research facilities
Professional and administrative office			
Commercial lodging.	P	P	
Commercial lodging includes for-profit residential facilities where tenancy is			



typically less than one month.			
Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments.			

## 19.304 DOWNTOWN ZONES

Table 19.304.2			
Uses Allowed in Downtown Zones			
Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
<b>Residential</b>			
Single room occupancy housing	P	N	<b>Subsection 19.505.3</b> Multi-unit Housing
Rowhouse	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations <b>Subsection 19.505.5</b> Rowhouses
<u>Multi-unit Housing</u>	P	N	<b>Figure 19.304-2</b> Ground-Floor Residential Permitted <b>Subsection 19.304.3.A.1</b> Downtown residential use limitations <b>Subsection 19.505.3</b> <u>Multi-unit Housing</u>
Live/work units	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations <b>Subsection 19.505.6</b> Live/Work Units
Second-story housing	P	N	<b>Section 19.508</b> Downtown Site and Building Design Standards
Commercial lodging  Commercial lodging includes for-profit residential facilities where tenancy is typically less than 1 month.  Examples include hotels, motels,	P/CU	N	<b>Section 19.905</b> Conditional Uses (for vacation rentals only)

vacation rentals, and bed-and-breakfast establishments.			
Production-related office	P/CU	N	<p><b>Subsection 19.304.3.A.2</b> Main St limitations</p> <p><b>Subsection 19.304.3.A.3</b> Commercial use limitations</p> <p><b>Subsection 19.509.2</b> Security and odor control for certain marijuana business</p> <p><b>Section 19.905</b> Conditional Uses</p> <p>Note: Production, processing, packaging, and assembly uses must meet the standards listed below under Manufacturing.</p>
Professional and Administrative Office	P/CU	N	<p><b>Subsection 19.304.3.A.3</b> Commercial use limitations</p> <p><b>Section 19.905</b> Conditional Uses</p>

**19.304.5 Detailed Development Standards**

J. Residential Density

1. Intent

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied to residential development in the DMU Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

2. Standards

a. Minimum densities for rowhouses and live/work units shall be 10 units per acre.

b. Minimum densities for stand-alone multifamily dwellings in the DMU Zone shall be 30 units per acre. Maximum residential densities are controlled by height limits.

## 19.306 LIMITED COMMERCIAL ZONE C-L

### 19.306.2 Conditional Uses and Community Service Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- A. Funeral home;
- B. Marina and boat sales;
- C. Parking facility;
- D. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- E. Financial institution;
- F. Trade or commercial school;
- G. Single- unit detached dwelling;
- H. Agricultural or horticultural use, provided that poultry or 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. Marijuana production is not permitted as an agricultural use;
- I. Middle housing or multi-unit housing;
- J. Adult foster/care home;

In a C-L Zone the following community service uses and their accessory uses are permitted subject to the provisions of Section [19.904](#):

- A. Residential care facility
- 

## 19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

### 19.307.1 Uses Permitted Outright

In a C-G Zone the following uses and their accessory uses are permitted outright:

- A. Production-related office;
- B. Professional and administrative office;

**19.312 NORTH MILWAUKIE INNOVATION AREA**

Table 19.312.2			
Uses Allowed in the North Milwaukie Innovation Area			
Uses and Use Categories	NME	MUTSA	Standards/Additional Provisions
<b>Commercial</b>			
Office	P	P	
1. Production-related office			
2. Professional and Administrative Office	L	L	<b>Subsection 19.312.4.A</b> Standards for Limited Uses

**CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS**

**19.505 BUILDING DESIGN STANDARDS**

**19.505.3 Multi-unit Housing**

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit developments and residential care facilities 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.

1. All new multi-unit or residential care facilities is subject to the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit or residential care facilities: 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.

D. Design Guidelines and Standards

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

**CHAPTER 19.600 OFF-STREET PARKING**

**19.605 VEHICLE PARKING QUANTITY REQUIREMENTS**

<b>Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements</b>		
<b>Use</b>	<b>Minimum Required</b>	<b>Maximum Allowed</b>
<b>A. Residential Uses</b>		
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 <sup>1</sup>		
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. Townhouses <sup>2</sup>	0	1 space per dwelling unit
e. Cottage Clusters	0.5 spaces per dwelling unit	1 space per dwelling unit
4. Adult foster/care homes and similar facilities allowed by right in	1 space per dwelling unit plus 1 space per employee on the largest shift.	Minimum required parking plus 1 space per bedroom.

residential zones.		
B. Community Service and Other Public Uses		
7. Residential care facilities	1 space per 4 beds.	1 space per 3 beds.

**CHAPTER 19.900 LAND USE APPLICATIONS**

**19.904 COMMUNITY SERVICE USES**

A. Institutions—Public/Private and Other Public Facilities

1. Schools, public or private, and their accompanying sports facilities, day-care centers, private kindergartens;
2. Government office buildings for local, state, or federal government such as a City hall, courthouse, police station, or other similar buildings;
3. Hospital;
4. Cemetery;
5. Residential care facility;

**19.904.10 Standards for Wireless Communications Facilities**

C. Application Process

3. Type II Review

Placement, construction, or modification of WCFs not involving the construction of a new monopole, other than those activities described in Subsection 19.904.4410.C.1, are subject to Section 19.1005 Type II Review, provided that the antennas and base equipment comply with the standards contained in this subsection. Also see Table 19.904.4410.C.

4. Type III Review

All proposed new monopole towers, and projects exceeding the applicability for Type II review, are subject to Section 19.1006 Type III Review. Also see Table 19.904.10.C.

<b>Table 19.904.10.C Wireless Communication Facilities—Type and Review Process</b>				
<b>Towers</b>		<b>WCFs Not Involving New Tower</b>		
<b>Zones</b>	<b>New Monopole Tower up to 100 Ft</b>	<b>Building Rooftop or Wall Mounted Antenna</b>	<b>Water Towers, Existing Towers, and Other Stealth Designs</b>	<b>On Existing Utility Pole in Row with or w/out Extensions</b>
BI	III	P/I/II	P/I/II	P/I/II
M	III	P/I/II	P/I/II	P/I/II
M-TSA	III	P/I/II	P/I/II	P/I/II
C-N	N	P/I/II	P/I/II	P/I/II
C-G	N	P/I/II	P/I/II	P/I/II
C-L	N	P/I/II	P/I/II	P/I/II
C-CS	N	P/I/II	P/I/II	P/I/II
OS	N	P/I/II	P/I/II	P/I/II
DMU	N	P/I/II	P/I/II	P/I/II
GMU	N	P/I/II	P/I/II	P/I/II
NMU	N	P/I/II	P/I/II	P/I/II
R-1-B	N	P/I/II	P/I/II	P/I/II
R-2	N	N	P/I/II	P/I/II
R-3	N	N	P/I/II	P/I/II
R-MD	N	N	P/I/II	P/I/II

## F. Location and Size Restrictions

### 1. Separation for New Monopole Towers

New monopole towers may not be constructed within 1,500 ft of any preexisting tower. The Planning Commission has the authority to approve a reduction in the minimum separation requirement to not less than 1,000 ft, provided that the applicant can demonstrate the need to the satisfaction of the Planning Commission, for the distance reduction. A tower shall include any preexisting tower or any tower for which the City has issued a building permit, or for which a land use application has been filed and not denied. This distance shall be measured in a straight line from the base of the existing tower to the base of the proposed tower.

### 2. Height: maximum heights. Also see Table 19.904.10.C.

d. For antennas on utility poles in the right-of-way, one 15-ft extension is permitted to the original installation by the owner. The carrier may replace the existing pole with a new utility pole not to exceed 15 ft above the height of the pole that is to be replaced. Equipment cabinets shall be attached to the utility pole. Where this is not practicable, the base equipment shall be subject to requirements of Subsection 19.904.10.G.1.b.

G. Development Standards for All WCFs

1. Setbacks and Equipment Cabinets

a. Setbacks for new monopole towers and equipment cabinets shall be established from the property line and not the leased area. Regardless of the zone, the setbacks shall be as follows:

(5) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.10.G.6 Landscaping and Fencing Requirements.

b. For antennas placed on existing utility pole and other support structures located in the right-of-way, the equipment cabinet shall be located on the utility pole to the greatest extent.

(3) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.10.G.6 Landscaping and Fencing Requirements.

c. Equipment cabinets for water towers, “stealth” designs or other antenna support structures not covered by the previous subsections.

(2) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.10.G.6 Landscaping and Fencing Requirements.

**19.905 CONDITIONAL USES**

19.905.9 Standards Governing Conditional Uses

G. Vacation Rentals

**CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES**

**19.1104.1 Administration and Approval Process**

**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

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

















### 19.910.3 Manufactured Dwelling Parks

#### D. Development Requirements

All manufactured dwelling parks shall meet the following minimum requirements:

1. The minimum size of a manufactured dwelling park shall be 1 acre.

## Milwaukie Comprehensive Plan Zoning Proposed Designations

-  City of Milwaukie
-  County Boundary
-  MUTSA
-  BI
-  GMU
-  C-CS
-  DMU
-  C-G
-  C-L
-  C-N
-  NMU
-  OS
-  M
-  NME
-  R-MD
-  R-1-B
-  R-2
-  R-3



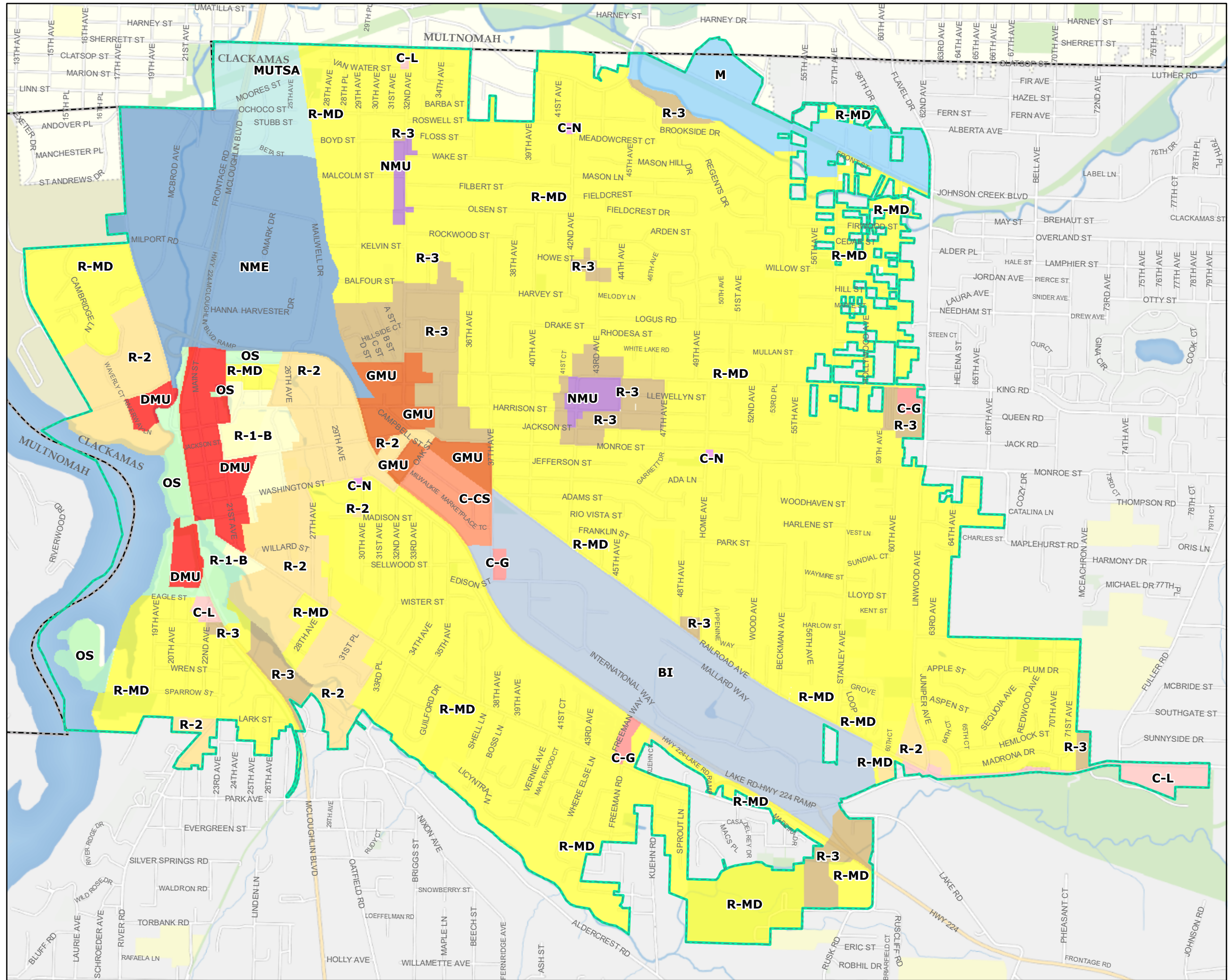
Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Monday, August 22, 2022

The information depicted on this map is for general reference only. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

GIS Coordinator  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206  
(503) 786-7687

0 0.25 0.5  
Miles



## EXHIBIT A

### Findings in Support of Approval File #ZA-2022-002; CPA-2022-001; ZC-2022-001 High Density Residential Zones 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 map, comprehensive plan, and make code amendments to Titles 14 and 19 related to permitted uses in the high density residential zones and additional amendments for consistency across the various code sections. The intent is to implement portions of the city's comprehensive plan. The land use application file numbers are ZA-2022-002, CPA-2022-001, and ZC-2022-001.
2. The proposed amendments relate to implementation of portions of the Comprehensive Plan related to housing in, and consolidation of, the city's high density residential zones. Creating and supporting housing opportunities has been a key goal for Council and the community. The adopted Comprehensive Plan policies call for expanded housing opportunities throughout the city and consolidation of zones where possible to simplify the code.
3. Amendments are proposed in several titles of the municipal code, as follows:
  - Milwaukie Comprehensive Plan
    - Comprehensive Plan Residential Land Use Designations
  - Municipal Code - Title 19 Zoning Ordinance
    - Chapter 19.100 – INTRODUCTORY PROVISIONS
      - Section 19.107 Zoning
    - Chapter 19.200 – DEFINITIONS AND MEASUREMENTS
    - Chapter 19.300 – BASE ZONES
      - Section 19.301 Moderate Density Residential Zone
      - Section 19.302 High Density Residential Zones
      - Section 19.303 Commercial Mixed-Use Zones
      - Section 19.304 Downtown Zones
      - Section 19.306 Limited Commercial Zones
      - Section 19.307 General Commercial Zone
      - Section 19.312 North Milwaukie Innovation Area
    - Chapter 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS
      - Section 19.505 Building Design Standards
    - Chapter 19.600 OFF-STREET PARKING
    - Chapter 19.900 LAND USE APPLICATIONS
      - Section 19.904 Community Service Uses
      - Section 19.905 Conditional Uses
    - Chapter 19.1100 ANNEXATIONS AND BOUNDARY CHANGES
      - Section 19.1104 Expedited Process
    - Municipal Code - Title 14 Signs
      - Chapter 14.04 GENERAL PROVISIONS

o Section 14.04.030 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 September 27, 2022, November 15, 2022, and December 6, 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 1, 2022.*
  - 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 as follows:*

*The Planning Commission had 3 work sessions about the proposed code amendment language in June and August. The current version of the draft amendments has been posted on the application webpage since August 25, 2022. On August 29, 2022 staff e-mailed NDA leaders with information about the hearing and a link to the draft proposed amendments. On September 1, 2022, the city posted information about the public hearing on social media.*
    - (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 September 27, 2022 hearing was posted as required on August 25, 2022. A notice of the City Council's November 15, 2022 hearing was posted as required on October 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 high density residential properties in the city, not a discrete geographic area. Individual notice was not required.*

- (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 23, 2022.*

- (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 23, 2022.*

- (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 high density residential properties in the city but do not reduce the permissible uses or development opportunities on the properties.*

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

*The Planning Commission held a duly advertised public hearing on September 27, 2022, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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 a duly advertised public hearing on September 27, 2022, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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 high density residential zones.*

- (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 continue to provide opportunities for high density housing development in the city's high density residential zones.*

- (b) Title 7 Housing Choice

*The proposed amendments will continue to provide the opportunity for much-needed high density housing in the city's high density zones. The amendments also reduce barriers to the development of multi-unit housing, residential care facilities, and single room occupancy housing within these zones. The proposed amendments 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. Additional findings specific to the UGMFP are*

*included with these findings. The proposed code amendments are in compliance with Metro's Functional Growth Management Plan.*

- (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. Additional findings have been prepared demonstrating compliance with the Statewide Planning Goals.*

- 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 a duly advertised public hearing on September 27, 2022 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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 a duly advertised public hearing on September 27, 2022 and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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 consolidate the high density zones and the allow multi-unit housing by right.*

- (c) 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.

(d) 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 multi-unit housing. The amendments propose to consolidate the existing five high density residential zones into one zone, simplify the review process for multi-unit housing in the new consolidation, re-define residential care facilities to use state-accepted terminology and allow them outright where multi-unit housing is permitted,*

*and redefine boarding houses using a more widely used term, single room occupancy, and allowing this use where multi-unit housing is permitted. The amendments simplify the code and also help to move the city closer to realizing its goal of providing “safe, affordable, stable housing for Milwaukie residents of every socioeconomic status and physical ability”.*

- (e) 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 additional opportunities for multi-unit housing development throughout the city’s high density residential zones.*

- (ii) *Title 7 Housing Choice*

*The proposed amendments will provide additional opportunities for multi-unit development and group housing, as well as residential care facilities in the city’s high density residential zone, 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.*

- (f) 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. Additional findings have been prepared demonstrating compliance with the Statewide Planning Goals.*

- (g) 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-3, R-2.5, R-2, R-1, and R-1-B, as well as commercially zoned properties for terminology clarifications. The amendments are legislative in nature and subject to Type V review.*

*The Planning Commission held a duly advertised public hearing on September 27, 2022, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held duly advertised public hearings on November 15, 2022 and December 6, 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-3, R-2.5, R-2, R-1, and R-1-B zones into one zone: HDR. The zone remains high density residential in nature, with amendments related to the land use review process, terminology, and the addition of personal service uses.*

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

*As noted above, the proposed zoning map amendments affect the R-3, R-2.5, R-2, R-1, and R-1-B zones which are currently predominantly residential in nature at a high density with limited permitted commercial uses. The consolidation of this zone reflects the intent of the comprehensive plan to simplify the zoning code.*

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

*Given that the amendments consolidate existing high density zones, and propose some changes to the land use review process for some uses, the change in development pattern in some areas may include a modest increase. The intent of the amendments package is to consolidate and simplify the code and review processes, but not make significant changes to allowed uses.*

- (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 five high density residential zones to one high density zone to simplify the code and make modest adjustments to streamline land use review.*

- (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 high 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 may increase the demand on the facilities, utilities, or services in the area, which have been planned for.*

- (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 is unlikely to intensify the development potential of the high density residential zones. Any increase in development will likely be modest 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 and simplification of the code. 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 High Density Residential Zones**

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

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 consolidation of the city's high density residential zones 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 consolidation of the high density residential zones from five zones to one zone, updating of outdated definitions of residential care facilities, and streamlining of land use review processes in these zones. No changes or reduction to the areas zoned for high density residential uses are proposed and, in some cases, the permitted densities are increased. The amendments are intended to increase the supply of attainable housing, and provide equitable access and housing choice for all. The findings demonstrating compliance with city code requirements include information from the Housing Needs Analysis evaluating housing capacity and demonstrate 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 local code findings, 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 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 high density zones 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. Multi-unit development, residential care facilities, and single room occupancy housing are now proposed to be permitted by right in all high density 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, which was held on September 27, 2022.

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



## **Statewide Findings for Milwaukie Plan and Code Amendments – Consolidation of High Density Residential Zones**

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 10: Housing
- Goal 11: Public Facilities
- Goal 12: Transportation
- Goal 13: Energy
- Goal 14: Growth Management

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 to support the proposed code amendments related to consolidation of the high density residential zones.

#### Planning Commission and City Council Updates

City staff conducted three worksessions with the City’s Planning Commission and City Council to review the status of the work and solicit feedback on key issues.

The specific proposed code language was posted with a code commentary on the City’s website on August 26, 2022. Prior to the public hearings the Planning Commission had 3 work sessions about the proposed code amendment language in July and August 2022. These meetings also were open to the public and were recorded and available for public viewing after the meetings. A work session with the City Council was held before the City Council hearing on the amendments. Specific notice of the draft amendments and the September 27, 2022 public hearing was as follows: email notices were sent to all Neighborhood District Association members, members of the middle housing code project steering committee, and to everyone who registered on the Engage Milwaukie platform as part of the middle housing code project. The current version of the draft amendments has been posted on the application webpage since August 26, 2022.

Based on the findings above, the Zoning Code 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 consolidation of the city’s high density residential zones. Only changes that reduce the required level of land use review for a limited number of residential uses 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 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 proposed code amendments implement a variety of goals and policies related to housing and will support consistency with Statewide Planning Goal 10. By increasing density in some high density zones, streamlining the land use review process for multi-unit development, single room occupancy housing, and residential care facilities, housing choice and opportunities to expand housing options are made possible.

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 high density housing on land capacity.

The proposed amendments relate to implementation of portions of the Comprehensive Plan related to housing in, and consolidation of, the city's high density residential zones. Creating and supporting housing opportunities has been a key goal for Council and the community. The adopted Comprehensive Plan policies call for expanded housing opportunities throughout the city and consolidation of zones where possible to simplify the code. The amendments also reduce barriers to the development of multi-unit housing, residential care facilities, and single room occupancy housing within these zones.

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 consolidation of the high density residential zones.

## **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 the high density zones consolidation, 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 consolidation of the high density residential zones, 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 consolidation of the high density residential zones, 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.

**Underline/Strikeout Amendments**

**Title 14 Signs**

**14.040.030 Definitions**

“Residential zones” means the R-MD, ~~R-3, R-2.5, R-2,~~ and ~~R-1-B~~ HDR Residential Zones as defined in the Zoning Ordinance.

~~“Residential-Business-Office-Zone~~ High Density Residential Business Zone” means the ~~R-1-B~~ B Zone, as defined in the Zoning Ordinance.

**14.16.010 MODERATE DENSITY RESIDENTIAL ZONE**

No sign shall be installed or maintained in ~~an~~ the ~~R~~ R-MD Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.010.

<b>Table 14.16.010 Standards for Signs in <u>Moderate Density Residential Zones</u></b>				
<b>Sign Type</b>	<b>Area</b>	<b>Height</b>	<b>Number</b>	<b>Illumination<sup>1</sup></b>
Signs at entrances to subdivisions or manufactured home parks	Max. 2 SF per dwelling unit to max. 32 SF per sign; max. 16 SF per display surface; total sign area for all display surfaces of no more than 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External illumination only
Freestanding signs on <del>multifamily unit</del> <u>family unit</u> properties	Limited to 2 SF per dwelling unit to a max. area of 32 SF, 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage. <sup>2</sup>	External illumination only
Wall signs on <del>multifamily unit</del> <u>family unit</u> properties	Limited to 2 SF per dwelling unit to a max. of 32 SF.	No wall sign shall extend above the roofline at the wall, or the top of a parapet wall, whichever is higher.	1 per street frontage permitted. <sup>2</sup>	External illumination only
Awning signs on <del>multifamily unit</del> <u>family unit</u> properties	Max. display surface is 25% of awning area, up to max. of 32 SF.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per street frontage. <sup>3</sup>	

Hanging sign suspended beneath awning	Max. area limited to 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground to the lowest portion of awning or sign.	1 per street frontage. <sup>3</sup>	External illumination only
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<sup>1</sup> Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

<sup>2</sup> Either 1 freestanding or 1 wall sign per street frontage is permitted.

<sup>3</sup> Either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

(Ord. 2051 § 2, 2012; Ord. 2001 § 2, 2009; Ord. 1965 §§ 2, 3, 2006; Ord. 1733 § 1(1) (Exh. A), 1993)

**14.16.020 RESIDENTIAL-BUSINESS OFFICE HIGH DENSITY RESIDENTIAL ZONE**

No sign shall be installed or maintained in an ~~R-1-B~~ HDR Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.020.

Table 14.16.020 Standards for Signs in <u>High Density Residential Zone HDR Residential-Business Office Zone R-1-B</u>				
Sign Type	Area	Height	Number	Illumination <sup>1</sup>
Signs at entrances to subdivisions	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External only
Freestanding signs on multifamily unit properties	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage.	External only
Wall signs on multifamily unit properties	Limited to 2 SF per dwelling unit to a max. 32 SF.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 per street frontage.	External only
Awning signs on multifamily unit properties	Max. display surface is 25% of awning area, up to a max. of 32 SF.		1 per street frontage.	External only



Freestanding signs on commercial property	Max. 32 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 12 ft.	1 permitted. <sup>2</sup>	External only
Wall signs on commercial property <sup>3</sup>	Max. 10% of building face related to commercial use.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 permitted. <sup>4</sup>	External only
Awning signs related to a commercial use	Max. display surface is 25% of surface of awning not to exceed 10% of the building face related to commercial use.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per frontage.	External only
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to lowest portion of awning or suspended sign.	1 per street frontage. <sup>5</sup>	External only
Daily display sign <sup>6</sup>	Max. 8 SF per display surface; total sign area may not exceed 16 SF.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

<sup>1</sup> Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

<sup>2</sup> One freestanding sign is permitted in addition to one wall sign.

<sup>3</sup> In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

<sup>4</sup> One wall sign is permitted in addition to one freestanding sign or 2 wall signs permitted.

<sup>5</sup> For awnings related to residential use, either one sign on an awning or one sign hanging beneath an awning is allowed.

<sup>6</sup> Location. A daily display sign shall not be located within required landscaped areas, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

(Ord. 2110 § 2 (Exh. G), 2015; Ord. 2078 § 2 (Exh. B), 2014; Ord. 2051 § 2, 2012; Ord. 2001 § 2, 2009; Ord. 1965 §§ 2, 3, 2006; Ord. 1917 § 3 (Exh. B), 2003; Ord. 1916 § 3 (Exh. B), 2003; Ord. 1880 § 6 (Exh. A), 2000; Ord. 1733 § 1(1) (Exh. A), 1993)

**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:

<b>Table 19.107.1 Classification of Zones</b>	
<b>Zone Description</b>	<b>Abbreviated Description</b>
<b>Base Zones</b>	
Residential	R-MD
Residential	HDR
<del>Residential</del>	<del>R-2.5</del>
<del>Residential</del>	<del>R-2</del>
<del>Residential</del>	<del>R-4</del>
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 Mixed Use	MUTSA
General Mixed Use	GMU
North Milwaukie Employment	NME
Neighborhood Mixed Use	NMU
<b>Overlay Zones</b>	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F

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**CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS****19.201 DEFINITIONS**

~~“Boarding house” means a building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided, and which is not occupied as a single-family unit. Lodging capacity is subject to provisions of the Uniform Building Code.~~

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

Office:

“Production-related office” means offices that are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers; and medical and dental labs.

“Professional and administrative office” means professional, executive, management, or administrative offices of firms or organizations, including government, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; sales offices; government offices and public utility offices; and medical and dental clinics, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

~~“Traditional office” means offices that are characterized by activities that generally focus on business, government, professional, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic. Examples include: professional services such as lawyers, architects, or accountants; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate~~

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~~agents; sales offices; government offices and public utility offices; and medical and dental clinics.~~

Residential Uses and Structures:

“Adult foster/care homes” means a dwelling unit operated to provide a permanent residence and licensed care for up to five people who are elderly, disabled, handicapped, or otherwise require such a residence.

“Single room occupancy housing (SRO)” means a building wherein nine (9) or more rooms are offered for rent and where rooms, individually or collectively, do not constitute separate dwellings. Each room is without a kitchen, but access must be provided to a shared cooking and eating facility. Each room may have provision for counter-top appliances and refrigerator. The toilet/bath may be private or shared with other room(s). SRO developments are designed to be occupied by long-term residents on a monthly or longer basis. For calculating residential density, four SRO rooms are equal to 1 dwelling unit with fractions rounded up.

“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. Residential care facilities are considered a type of multi-unit development.

~~“Residential home” means a dwelling unit operated as a single housekeeping unit for the purpose of providing a permanent residence which includes food, shelter, personal services, and care for the elderly, disabled, handicapped, or others requiring such a residence, as defined by the Federal Fair Housing Amendments Acts of 1988.~~

~~“Senior and retirement housing” means a multiunit dwelling where persons who are of retirement age reside. Activity levels, including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies, and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium.~~

“Residential care facility” means a licensed living facility for more than five (5) non-related persons, which provides specialized care, supervision, treatment or training, or a combination of these for residents. This use classification includes, but is not limited to assisted living facilities, nursing facilities, and memory care facilities.

“Temporary or transitional facility” means a facility which ~~may~~ provides temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers, and detention and detoxification facilities.

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## CHAPTER 300 BASE ZONES

## 19.301 MODERATE DENSITY RESIDENTIAL ZONE

Table 19.301.2 Moderate Density Residential Uses Allowed		
Use	R-MD	Standards/Additional Provisions
<b>Residential Uses</b>		
Single detached dwelling	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Townhouse	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage Cluster	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing
<del>Residential home</del> <u>Adult foster/care home</u>	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Senior and retirement housing <u>Residential care facility</u> <u>Examples include:</u> <u>assisted living, nursing facilities, and memory care communities</u>	<del>CU</del> CSU	<del><b>Subsection 19.905.9.G</b> Senior and Retirement Housing</del> <b>Subsection 19.904.8</b> <u>Specific Standards for Residential Care Facilities</u>

## 19.302 HIGH DENSITY RESIDENTIAL ZONES

The high density residential zones are is Residential Zone ~~HDR, R-3, Residential Zone R-2.5,~~ Residential Zone R-2, Residential Zone R-1, and Residential-Business Office Zone R-1B. These ~~This zone zones~~ implements the high density residential land use designations in the Milwaukie Comprehensive Plan.

**19.302.1 Purpose**

The high density residential zone is 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 the 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.

<b>Table 19.302.2 High Density Residential Uses Allowed</b>						
<b>Use</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses</b>						
Single detached dwelling	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Residential home	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	P	P	P	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	N	N	N	N	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks
Townhouse	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses

Cottage cluster	P	P	P	P	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing
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<b>Table 19.302.2 CONTINUED</b>						
<b>High Density Residential Uses Allowed</b>						
<b>Use</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses CONTINUED</b>						
Multi-unit Housing	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Congregate housing facility	CU	CU	P	P	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Senior and retirement housing	CU	CU	CU	P	P	<b>Subsection 19.905.9.G</b> Senior and Retirement Housing
Boarding house	CU	CU	CU	CU	CU	<b>Section 19.905</b> Conditional Uses
<b>Commercial Uses</b>						
Office	CU	CU	CU	CU	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Personal/Business Services	CU	CU	CU	CU	P	
Hotel or motel	N	N	N	N	CU	<b>Section 19.905</b> Conditional Uses
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	<b>Section 19.905</b> Conditional Uses
<b>Accessory and Other Uses</b>						
Accessory use	P	P	P	P	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	P	P	P	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Community service use	CSU	CSU	CSU	CSU	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards
Short-term rental	P	P	P	P	P	<b>Section 19.507</b> Home Occupation Standards

<b>Table 19.302.2 High Density Residential Uses Allowed</b>		
<b>Use</b>	<b>HDR</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses</b>		
<b>Use</b>	<b>HDR</b>	<b>Standards/ Additional Provisions</b>
<u>Single detached dwelling</u>	<u>P</u>	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
<u>Duplex</u>	<u>P</u>	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
<u>Triplex</u>	<u>P</u>	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
<u>Quadplex</u>	<u>P</u>	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
<u>Adult foster/care home</u>	<u>P</u>	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
<u>Accessory dwelling unit</u>	<u>P</u>	<b>Subsection 19.910.1</b> Accessory Dwelling Units
<u>Manufactured dwelling park</u>	<u>III</u>	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks
<u>Townhouse</u>	<u>P</u>	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
<u>Cottage cluster</u>	<u>P</u>	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing
<u>Multi-unit Housing</u>	<u>P</u>	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
<u>Single room occupancy housing</u>	<u>P</u>	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
<u>Residential Care Facility</u>  Examples include: assisted living, nursing facilities, and	<u>P</u>	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations



<u>memory care communities</u>		
<u>Office: Production-related office and Professional and administrative office</u>	P	<b>Subsection 19.302.3 Use Limitations and Restrictions</b>
<u>Personal/Business Services</u>	P	<b>Subsection 19.302.3 Use Limitations and Restrictions</b>
<u>Hotel or motel</u>	CU	<b>Section 19.905 Conditional Uses</b>
<u>Bed and breakfast or vacation rental</u>	CU	<b>Section 19.905 Conditional Uses</b>
<u>Accessory use</u>	P	<b>Section 19.503 Accessory Uses</b>
<u>Agricultural or horticultural use</u>	P	<b>Subsection 19.302.3 Use Limitations and Restrictions</b>
<u>Community service use</u>	CSU	<b>Section 19.904 Community Service Uses</b>
<u>Home occupation</u>	P	<b>Section 19.507 Home Occupation Standards</b>
<u>Short-term rental</u>	P	<b>Section 19.507 Home Occupation Standards</b>

**19.302.3 Use Limitations and Restrictions**

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 this zones.

<b>Table 19.302.4</b>						
<b>High Density Residential Development Standards</b>						
<b>Standard</b>	<b>R-3</b>	<b>R-2.5</b>	<b>R-2</b>	<b>R-1</b>	<b>R-1-B</b>	<b>Standards/ Additional Provisions</b>
<b>A. Lot Standards</b>						
<u>Minimum lot size (sq ft)</u>			4,500			<b>Subsection 19.501.1 Lot Size Exceptions</b>  <b>Subsection 19.505.4 Cottage Cluster Housing</b>  <b>Subsection 19.505.5 Townhouses</b>

Minimum lot width (ft)	20	-
Minimum lot depth (ft)	70	
Minimum street frontage requirements (ft)	-	
Townhouse	20	
Standard lot	35	
Flag lot	25	
Double flag lot	25	
<b>B. Development Standards</b>		
Minimum yard requirements for primary structures (ft)	-	
Front yard	20	
Side yard	See Subsection 19.302.5.A	
Street side yard	15	
Rear yard	15	
Maximum building height for primary structures	35 ft	45 ft
		<p><b>Subsection 19.302.5.E</b> Height Exceptions</p> <p><b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions</p> <p><b>Subsection 19.302.5.I</b> Transition Measures</p>

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Table 19.302.4 CONTINUED						
High Density Residential Development Standards						
Standard	R-3	R-2.5	R-2	R-1	R-1B	Standards/ Additional Provisions

Side yard height plane limit	-	-	-	<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
Height above ground at minimum required side yard depth (ft)	20	25	45	
Slope of plane (degrees)				
Maximum lot coverage (percent of total lot area)	40%	45%	50%	<b>Section 19.201</b> "Lot coverage" definition
Minimum vegetation (percent of total lot area)	35%		15%	<b>Subsection 19.504.7</b> Minimum Vegetation <b>Subsection 19.302.5.D</b> Front Yard Minimum Vegetation <b>Subsection 19.302.5.C</b> Minimum Vegetation
<b>C. Other Standards</b>				
Density requirements (dwelling units per acre)	-	-	-	<b>Subsection 19.202.4</b> Density Calculations
Minimum	11.6	11.6	25.0	
Maximum <sup>2</sup>	14.5	17.4	32.0	<b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.501.4</b> Density Exceptions

**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 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.

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 in a cottage cluster

Between 3,000 to 4,999 sq ft: Duplex, Triplex, and Quadplex.

Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with up to 2 ADUs, Duplex, Triplex, and Quadplex.<sup>1</sup>

7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with up to 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster, Multi-Unit Housing.

All other uses require a minimum lot size of 5,000 sq ft.

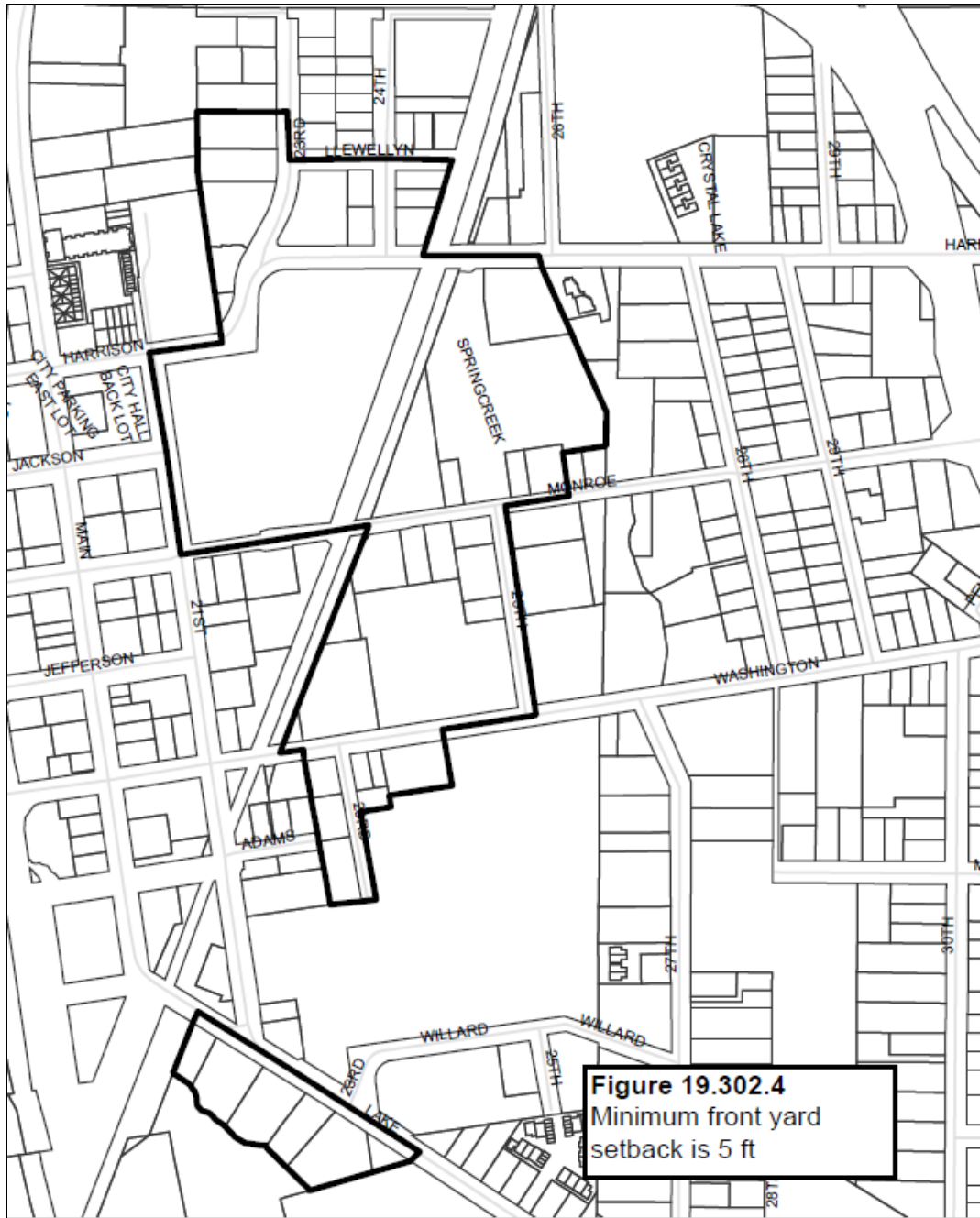
Table 19.302.4		
High Density Residential Development Standards		
Standard	HDR	Standards/ Additional Provisions
<b>A. Lot Standards</b>		
Minimum lot size (sq ft)	1,500	<u>Subsection 19.501.1 Lot Size Exceptions</u> <u>Subsection 19.505.4 Cottage Cluster Housing</u> <u>Subsection 19.505.5 Townhouses</u>
Minimum lot width (ft)	20	
Minimum lot depth (ft)	70	
Minimum street frontage requirements (ft)		
Townhouse	20	
Standard lot	35	
Flag lot	25	
Double flag lot	25	
<b>B. Development Standards</b>		
Minimum yard requirements for primary structures (ft)	-	

<u>Front yard</u>	<u>20</u>	
<u>Side yard</u>	<u>See Subsection 19.302.5.A</u>	
<u>Street side yard</u>	<u>15</u>	
<u>Rear yard</u>	<u>15</u>	
<u>Maximum building height for primary structures</u>	<u>45 ft</u>	<b><u>Subsection 19.302.5.E</u></b> Height Exceptions  <b><u>Subsection 19.501.3</u></b> Building Height and Side Yard Height Plane Exceptions  <b><u>Subsection 19.302.5.I</u></b> Transition Measures
<u>Side yard height plane limit</u>	<u>25</u>	<b><u>Subsection 19.501.3</u></b> Building Height and Side Yard Height Plane Exceptions
<u>Height above ground at minimum required side yard depth (ft)</u>	<u>45</u>	
<u>Slope of plane (degrees)</u>		
<u>Maximum lot coverage (percent of total lot area)</u>	<u>50%</u>	<b><u>Section 19.201</u></b> “ <b><u>Lot coverage</u></b> ” definition
<u>Minimum vegetation (percent of total lot area)</u>	<u>15%</u>	<b><u>Subsection 19.504.7</u></b> Minimum Vegetation  <b><u>Subsection 19.302.5.D</u></b> Front Yard Minimum Vegetation  <b><u>Subsection 19.302.5.C</u></b> Minimum Vegetation
<u>Density requirements (dwelling units per acre)</u>	-	<b><u>Subsection 19.202.4</u></b> Density Calculations
<u>Minimum</u>	<u>25.0</u>	<b><u>Subsection 19.302.5.F</u></b> Residential Densities
<u>Maximum<sup>2, 3</sup></u>	<u>32.0</u>	<b><u>Subsection 19.501.4</u></b> Density Exceptions

<sup>2</sup>Townhouses are allowed at 4 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.

<sup>3</sup>The density for single room occupancy (SRO) developments is calculated as follows: four SRO rooms equal one dwelling unit.

Table 19.304.2 is supplemented by Figure 19.304.2. For those properties identified in Figure 19.304.2, the minimum front yard setback is 5 ft.



**19.302.5 Additional Development Standards**

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 single detached dwelling or accessory dwelling units are exempt from the minimum and maximum density requirements. Middle housing, except for townhouses, is exempt from maximum density requirements.

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

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

**Table 19.302.5.F.2**

**Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones**

Units	R-2 Zone	R-1 and R-1-B Zone
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	1,500 sq ft per unit	1,400 sq ft per unit

19.303 COMMERCIAL MIXED-USE ZONES

**Table 19.303.2**

**Uses Allowed in Commercial Mixed-Use Zones**

Uses and Use Categories	GMU	NMU	Standards/Additional Provisions

Residential			
Single-family detached	N	CU	<b>Subsection 19.505.1</b> Single Family Dwellings <b>Section 19.905</b> Conditional Uses
Rowhouse <sup>1</sup>	P	CU	<b>Subsection 19.505.5</b> Rowhouses
Multifamily <u>Multi-unit Housing</u>	P	CU	<b>Subsection 19.505.3</b> Multifamily <u>Multi-unit Housing</u>
Cottage cluster housing	P	CU	<b>Subsection 19.505.4</b> Cottage Cluster Housing
Mixed use <sup>2</sup>	P	P	<b>Subsection 19.505.7</b> <u>Nonresidential Development</u>
Live/work units	P	P	<b>Subsection 19.505.6</b> Live/Work Units
Senior and <i>retirement</i> housing	P	CU	<b>Subsection 19.505.3</b> Multifamily <u>Multi-unit Housing</u>

Table 19.303.2 CONTINUED

## Uses Allowed in Commercial Mixed-Use Zones

Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Commercial<sup>3, 4</sup> CONTINUED</b>			
General office  <del>General office means professional, executive, management, or administrative offices of firms or organizations.</del>  <del>Examples include professional services such as lawyers, architects, or accountants; financial businesses such as lenders, credit unions, or real estate agents; sales offices; offices for testing and research-related businesses (including marijuana testing and research), and medical and dental clinics.</del>  <u>Production-related office</u>  <u>Professional and administrative office</u>	P	P	<b>Subsection 19.303.6.C</b> Marijuana testing and research facilities
Commercial lodging.	P	P	



Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.			
Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments. <del>Does not include senior and retirement housing.</del>			

**19.304 DOWNTOWN ZONES**

Table 19.304.2			
Uses Allowed in Downtown Zones			
Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
<b>Residential</b>			
Boarding house	CU	N	<del>Section 19.905</del> Conditional Uses
<u>Single room occupancy housing</u>	<u>P</u>	<u>N</u>	<b>Subsection 19.505.3</b> Multi-unit Housing
Rowhouse	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations <b>Subsection 19.505.5</b> Rowhouses
<del>Multifamily</del> <u>Multi-unit Housing</u>	P	N	<b>Figure 19.304-2</b> Ground-Floor Residential Permitted <b>Subsection 19.304.3.A.1</b> Downtown residential use limitations <b>Subsection 19.505.3</b> <del>Multifamily</del> <u>Multi-unit Housing</u>
Live/work units	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations <b>Subsection 19.505.6</b> Live/Work Units
Second-story housing	P	N	<b>Section 19.508</b> Downtown Site and Building Design Standards

Senior and retirement housing	P	N	<p><del>Subsection 19.304.3.A.1</del> Downtown residential use limitations</p> <p><del>Subsection 19.505.3</del> Multifamily <u>Multi-unit Housing</u></p>

**Table 19.304.2 CONTINUED**

**Uses Allowed in Downtown Zones**

Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
<b>Commercial</b>			
<p>Commercial lodging</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than 1 month.</p> <p>Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments. <del>Does not include senior and retirement housing.</del></p>	P/CU	N	<p><b>Section 19.905</b> Conditional Uses (for vacation rentals only)</p>
<p><del>Production-related office</del></p> <p><del>Production-related office uses are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing,</del></p>	P/CU	N	<p><b>Subsection 19.304.3.A.2</b> Main St limitations</p> <p><b>Subsection 19.304.3.A.3</b> Commercial use limitations</p> <p><b>Subsection 19.509.2</b> Security and odor control for certain marijuana business</p>

<p>packaging, or assembly of goods and products.</p> <p>Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers, marijuana testing and research facilities, and medical and dental labs.</p>			<p><b>Section 19.905</b> Conditional Uses</p> <p>Note: Production, processing, packaging, and assembly uses must meet the standards listed below under Manufacturing.</p>
<p><del>Traditional office</del></p> <p><del>Traditional office uses are characterized by activities that generally focus on business, government, professional, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic.</del></p> <p><del>Examples include: professional services such as lawyers, architects, or accountants; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; sales offices; government offices and public utility offices; and medical and dental clinics.</del></p>	<p><del>P/CU</del></p>	<p><del>N</del></p>	<p><del><b>Subsection 19.304.3.A.3</b> Commercial use limitations</del></p> <p><del><b>Section 19.905</b> Conditional Uses</del></p>
<p><u>Professional and Administrative Office</u></p>	<p><u>P/CU</u></p>	<p><u>N</u></p>	<p><u><b>Subsection 19.304.3.A.3</b> Commercial use limitations</u></p> <p><u><b>Section 19.905</b> Conditional Uses</u></p>

**19.304.5 Detailed Development Standards**

J. Residential Density

## 1. Intent

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied to residential development in the DMU Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

## 2. Standards

a. Minimum densities for ~~rowhouses~~ townhouses and live/work units shall be are units per acre.

b. Minimum densities for stand-alone multifamily dwellings ~~and senior/retirement housing~~ in the DMU Zone shall be are 30 units per acre. Maximum residential densities are controlled by height limits.

**19.306 LIMITED COMMERCIAL ZONE C-L**19.306.2 Conditional Uses and Community Service Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section [19.905](#):

- A. Funeral home;
- B. Marina and boat sales;
- C. Parking facility;
- D. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- E. Financial institution;
- F. Trade or commercial school;
- G. Single-family unit detached dwelling;
- H. Agricultural or horticultural use, provided that poultry or 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. Marijuana production is not permitted as an agricultural use;
- I. ~~Duplex or multifamily development~~ Middle housing or multi-unit housing;

J. ~~Adult foster/care home~~ Senior and retirement housing;

K. ~~Residential home;~~

L. ~~Congregate housing facility;~~

In a C-L Zone the following community service uses and their accessory uses are permitted subject to the provisions of Section 19.904:

A. Residential care facility

### 19.307 GENERAL COMMERCIAL ZONE C-G

In a C-G Zone the following regulations shall apply:

#### 19.307.1 Uses Permitted Outright

In a C-G Zone the following uses and their accessory uses are permitted outright:

A. ~~Production-related office; Offices, studios, or clinics of accountants, architects, artists, attorneys, authors, writers, dentists, designers, engineers, investment counselors, landscape architects, management consultants, physicians, surgeons, psychologists, and others of a professional nature;~~

B. ~~Professional and administrative office; Offices for administrative, editorial, educational, executive, financial, governmental, philanthropic, insurance, real estate, religious, research, testing, scientific or statistical businesses or organizations;~~

### 19.312 NORTH MILWAUKIE INNOVATION AREA

**Table 19.312.2**

**Uses Allowed in the North Milwaukie Innovation Area**

Uses and Use Categories	NME	MUTSA	Standards/Additional Provisions
Commercial			

<p>Office</p> <p>1. Production-related office uses are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products.</p> <p>Examples include: corporate headquarters, architects, engineers, financial services or accounting firm headquarters, call offices/call centers; software and internet</p>	<p>P</p>	<p>P</p>	
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<p><b>Table 19.312.2 CONTINUED</b></p>			
<p>Uses Allowed in the North Milwaukie Innovation Area</p>			
<p><b>Uses and Use Categories</b></p>	<p><b>NME</b></p>	<p><b>MUTSA</b></p>	<p><b>Standards/Additional Provisions</b></p>
<p><del>content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; government and utility research offices; call centers, marijuana testing and research facilities, and medical and dental labs or research/bioscience facility.</del></p> <p><u>2. Professional and Administrative Office</u></p>			

Table 19.312.2 CONTINUED

## Uses Allowed in the North Milwaukie Innovation Area

Uses and Use Categories	NME	MUTSA	Standards/Additional Provisions
<p><del>2. Service-related office</del></p> <p><del>Traditional service-related office uses are characterized by activities that generally focus on direct in-person, customer-focused services including government, professional, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic.</del></p> <p><del>Examples include: professional services such as lawyers; financial businesses such as lenders, retail brokerage houses, bank branches, or real estate agents; sales offices; government offices and public utility offices; counseling offices; and medical and dental clinics.</del></p>	L	L	<p><b>Subsection 19.312.4.A</b> Standards for Limited Uses</p>

## CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

## 19.505 BUILDING DESIGN STANDARDS

## 19.505.3 Multi-unit Housing

## B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit developments and residential care facilities ~~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.

1. All new multi-unit or residential care facilities ~~congregate housing development~~ is subject to the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of ~~multifamily~~ multi-unit or residential care facilities ~~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.

D. Design Guidelines and Standards

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

19.505.4 Cottage Cluster Housing

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-HDR
<b>A. Home Types</b>		
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

CHAPTER 19.600 OFF-STREET PARKING

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

Table 19.605.1 Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
<b>A. Residential Uses</b>		
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 <sup>1</sup>		
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. Townhouses <sup>2</sup>	0	1 space per dwelling unit
e. Cottage Clusters	0.5 spaces per dwelling unit	1 space per dwelling unit
4. <del>Residential homes</del> <u>Adult foster/care homes</u> 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.
<b>B. Community Service and Other Public Uses</b>		
7. <u>Residential care facilities</u> <del>Nursing, convalescent, and extended-care facilities.</del>	1 space per 4 beds.	1 space per 3 beds.

**CHAPTER 19.900 LAND USE APPLICATIONS**

**19.904 COMMUNITY SERVICE USES**

A. Institutions—Public/Private and Other Public Facilities

1. Schools, public or private, and their accompanying sports facilities, day-care centers, private kindergartens;
2. Government office buildings for local, state, or federal government such as a City hall, courthouse, police station, or other similar buildings;
3. Hospital;
4. Cemetery;
5. ~~Nursing or convalescent home~~ Residential care facility;

~~19.904.8 Specific Standards for Nursing or Convalescent Homes~~

~~A. Public services must be adequate to serve the facility.~~

~~B. Facilities will access on arterial or collector streets.~~

~~C. Setbacks must be the greater of 25 ft or the setback of an adjacent residential zone or of the underlying zone.~~

~~D. Maximum height shall not exceed 45 ft.~~

~~E. Buffering of noise and light from adjacent streets and between adjacent properties may be required.~~

~~F. Sites which could cause hazard to disoriented patients through proximity to heavily traveled streets, water hazards, or ravines or steep slopes shall not be approved unless the applicant can satisfy the commission that safety measures will be used to prevent injury to patients.~~

~~G. On parcels surrounded by existing dwellings, additional conditions may be necessary to:~~

~~1. Mitigate the effects of traffic caused by shift changes, particularly regarding noise at night and safety of school children in transit; and/or~~

~~2. Maintain neighborhood scale, particularly regarding size of structure, width of driveway, signs, exterior lighting, and placement of parking facilities.~~

~~H. Conversion of existing dwellings may be allowed if state codes and rules can be met and the conditions of this subsection are satisfied.~~

~~I. Off-street parking must be provided as per Chapter 19.600.~~

~~J. 15% of the total site is to be landscaped~~

### **19.904.4410 Standards for Wireless Communications Facilities**

#### **C. Application Process**

##### **3. Type II Review**

Placement, construction, or modification of WCFs not involving the construction of a new monopole, other than those activities described in Subsection 19.904.4410.C.1, are subject to Section 19.1005 Type II Review, provided that the antennas and base equipment comply with the standards contained in this subsection. Also see Table 19.904.4410.C.

##### **4. Type III Review**

All proposed new monopole towers, and projects exceeding the applicability for Type II review, are subject to Section 19.1006 Type III Review. Also see Table 19.904.4410.C.

<b>Table 19.904.4410.C Wireless Communication Facilities—Type and Review Process</b>				
<b>Towers</b>		<b>WCFs Not Involving New Tower</b>		
<b>Zones</b>	<b>New Monopole Tower up to 100 Ft</b>	<b>Building Rooftop or Wall Mounted Antenna</b>	<b>Water Towers, Existing Towers, and Other Stealth Designs</b>	<b>On Existing Utility Pole in Row with or w/out Extensions</b>
BI	III	P/I/II	P/I/II	P/I/II
M	III	P/I/II	P/I/II	P/I/II
M-TSA	III	P/I/II	P/I/II	P/I/II
C-N	N	P/I/II	P/I/II	P/I/II
C-G	N	P/I/II	P/I/II	P/I/II
C-L	N	P/I/II	P/I/II	P/I/II
C-CS	N	P/I/II	P/I/II	P/I/II
OS	N	P/I/II	P/I/II	P/I/II
DMU	N	P/I/II	P/I/II	P/I/II
GMU	N	P/I/II	P/I/II	P/I/II
NMU	N	P/I/II	P/I/II	P/I/II
<del>R-1-B-HDR</del>	N	P/I/II	P/I/II	P/I/II
R-1	N	N	P/I/II	P/I/II
R-2	N	N	P/I/II	P/I/II
R-2.5	N	N	P/I/II	P/I/II
R-3	N	N	P/I/II	P/I/II
R-MD	N	N	P/I/II	P/I/II

F. Location and Size Restrictions

1. Separation for New Monopole Towers

New monopole towers may not be constructed within 1,500 ft of any preexisting tower. The Planning Commission has the authority to approve a reduction in the minimum separation requirement to not less than 1,000 ft, provided that the applicant can demonstrate the need to the satisfaction of the Planning Commission, for the distance reduction. A tower shall include any preexisting tower or any tower for which the City has issued a building permit, or for which a land use application has been filed and not denied. This distance shall be measured in a straight line from the base of the existing tower to the base of the proposed tower.

2. Height: maximum heights. Also see Table 19.904.4410.C.

a. Height Restrictions

The maximum height limitation of the monopole tower and antennas shall not exceed the following:

- (1) BI, M, NME, and MUTSA Zones: 100 ft.

(2) New towers are not permitted in the ~~R-1-B, R-1, R-2, R-2.5, R-3, HDR,~~ R-MD, GMU, NMU, C-N, C-G, C-L, OS, and DMU Zones.

d. For antennas on utility poles in the right-of-way, one 15-ft extension is permitted to the original installation by the owner. The carrier may replace the existing pole with a new utility pole not to exceed 15 ft above the height of the pole that is to be replaced. Equipment cabinets shall be attached to the utility pole. Where this is not practicable, the base equipment shall be subject to requirements of Subsection 19.904.4410.G.1.b.

## G. Development Standards for All WCFs

### 1. Setbacks and Equipment Cabinets

a. Setbacks for new monopole towers and equipment cabinets shall be established from the property line and not the leased area. Regardless of the zone, the setbacks shall be as follows:

(5) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.4410.G.6 Landscaping and Fencing Requirements.

b. For antennas placed on existing utility pole and other support structures located in the right-of-way, the equipment cabinet shall be located on the utility pole to the greatest extent.

(3) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.4410.G.6 Landscaping and Fencing Requirements.

c. Equipment cabinets for water towers, “stealth” designs or other antenna support structures not covered by the previous subsections.

(2) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.4410.G.6 Landscaping and Fencing Requirements.

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## 19.905 CONDITIONAL USES

### 19.905.9 Standards Governing Conditional Uses

#### ~~G. Senior and Retirement Housing~~

In considering a conditional use application for senior and ~~retirement~~ housing, the Planning Commission shall consider the following:

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1. ~~Pedestrian access to transit.~~
2. ~~Pedestrian access to convenience facilities such as grocery store, pharmacy, laundromat, park and open space, and senior activity center.~~
3. ~~Pedestrian access to banking, churches, hospitals, and restaurants.~~
4. ~~Quality of project as a living environment for residents.~~
5. ~~Minimizing impact on the surrounding area.~~

An applicant shall submit materials and the Planning Commission shall attach conditions that will ensure that the special nature of the housing, and the groups to be served, are clearly defined and maintained in perpetuity. A project is required to meet the definition for this type of housing in Section [19.201](#).

HG. Vacation Rentals

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**CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES**

**19.1104.1 Administration and Approval Process**

**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	<del>Low</del> <u>Moderate</u> density residential
R-15	R-MD	<del>Low</del> <u>Moderate</u> density residential
R-10	R-MD	<del>Low</del> <u>Moderate</u> density residential
R-8.5	R-MD	<del>Low</del> <u>Moderate</u> density residential
R-7	R-MD	<del>Low</del> <u>Moderate</u> density residential
MR1	<del>R-2</del> <u>HDR</u>	<del>Medium</del> <u>High</u> density residential
MR2	<del>R-2</del> <u>HDR</u>	<del>Medium</del> <u>High</u> density residential
PMD	<del>R-1-B</del> <u>HDR</u>	High density residential
HDR	<del>R-1-B</del> <u>HDR</u>	High density residential
SHD	<del>R-1</del> <u>HDR</u>	High density residential

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**19.910.3 Manufactured Dwelling Parks**

D. Development Requirements

All manufactured dwelling parks shall meet the following minimum requirements:

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1. The minimum size of a manufactured dwelling park shall be  $\geq 1$  acres.

Clean Amendments

Title 14 Signs

14.040.030 Definitions

“Residential zones” means the R-MD and HDR Residential Zones as defined in the Zoning Ordinance.

“High Density Residential Business Zone” means the R-1-B Zone, as defined in the Zoning Ordinance.

14.16.010 MODERATE DENSITY RESIDENTIAL ZONE

No sign shall be installed or maintained in the R-MD Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.010.

Table 14.16.010 Standards for Signs in Moderate Density Residential Zone				
Sign Type	Area	Height	Number	Illumination <sup>1</sup>
Signs at entrances to subdivisions or manufactured home parks	Max. 2 SF per dwelling unit to max. 32 SF per sign; max. 16 SF per display surface; total sign area for all display surfaces of no more than 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External illumination only
Freestanding signs on multi-unit properties	Limited to 2 SF per dwelling unit to a max. area of 32 SF, 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage. <sup>2</sup>	External illumination only
Wall signs on multi-unit properties	Limited to 2 SF per dwelling unit to a max. of 32 SF.	No wall sign shall extend above the roofline at the wall, or the top of a parapet wall, whichever is higher.	1 per street frontage permitted. <sup>2</sup>	External illumination only
Awning signs on multi-unit properties	Max. display surface is 25% of awning area, up to max. of 32 SF.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per street frontage. <sup>3</sup>	

Hanging sign suspended beneath awning	Max. area limited to 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground to the lowest portion of awning or sign.	1 per street frontage. <sup>3</sup>	External illumination only
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<sup>1</sup> Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

<sup>2</sup> Either 1 freestanding or 1 wall sign per street frontage is permitted.

<sup>3</sup> Either 1 sign on an awning or 1 sign hanging beneath an awning is allowed.

(Ord. 2051 § 2, 2012; Ord. 2001 § 2, 2009; Ord. 1965 §§ 2, 3, 2006; Ord. 1733 § 1(1) (Exh. A), 1993)

**14.16.020 HIGH DENSITY RESIDENTIAL ZONE**

No sign shall be installed or maintained in the HDR Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.020.

Table 14.16.020 Standards for Signs in High Density Residential Zone HDR				
Sign Type	Area	Height	Number	Illumination <sup>1</sup>
Signs at entrances to subdivisions	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 6 ft. above grade.	1 per entrance.	External only
Freestanding signs on multi-unit properties	Max. 2 SF per dwelling unit to max. 32 SF per sign; 16 SF per display surface.	Max. 6 ft. above grade.	1 per street frontage.	External only
Wall signs on multi-unit properties	Limited to 2 SF per dwelling unit to a max. 32 SF.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 per street frontage.	External only
Awning signs on multi-unit properties	Max. display surface is 25% of awning area, up		1 per street frontage.	External only



	to a max. of 32 SF.			
Freestanding signs on commercial property	Max. 32 SF per display surface; total sign area for all display surfaces may not exceed 64 SF.	Max. 12 ft.	1 permitted. <sup>2</sup>	External only
Wall signs on commercial property <sup>3</sup>	Max. 10% of building face related to commercial use.	Cannot extend above roofline at wall or top of parapet wall, whichever is higher.	1 permitted. <sup>4</sup>	External only
Awning signs related to a commercial use	Max. display surface is 25% of surface of awning not to exceed 10% of the building face related to commercial use.	May not extend higher than the point where the roofline intersects the exterior wall.	1 per frontage.	External only
Hanging sign suspended beneath awning	Max. 1 SF per 1 lineal ft. of awning length.	Min. clearance 8 ft. from ground level to lowest portion of awning or suspended sign.	1 per street frontage. <sup>5</sup>	External only
Daily display sign <sup>6</sup>	Max. 8 SF per display surface; total sign area may not exceed 16 SF.	Max. 6 ft. above ground level.	1 per property or occupancy.	External only

<sup>1</sup> Par spot or reflective-type bulbs may be used for indirect illumination of the display surface if properly shielded from direct glare onto streets. Sign illumination shall be directed away from, and not be reflected upon, adjacent premises. See Section 14.24.020.

<sup>2</sup> One freestanding sign is permitted in addition to one wall sign.

<sup>3</sup> In addition to the sign size limitations of this chapter, if an original art mural permitted under Title 20 occupies a wall where a wall sign has been proposed, the size of the wall sign shall be limited such that the total area of the original art mural plus the area of the wall sign does not exceed the maximum allowed.

<sup>4</sup> One wall sign is permitted in addition to one freestanding sign or 2 wall signs permitted.

<sup>5</sup> For awnings related to residential use, either one sign on an awning or one sign hanging beneath an awning is allowed.

<sup>6</sup> Location. A daily display sign shall not be located within required landscaped areas, and is only allowed within the public right-of-way subject to the standards of Section 14.20.040.

(Ord. 2110 § 2 (Exh. G), 2015; Ord. 2078 § 2 (Exh. B), 2014; Ord. 2051 § 2, 2012; Ord. 2001 § 2, 2009; Ord. 1965 §§ 2, 3, 2006; Ord. 1917 § 3 (Exh. B), 2003; Ord. 1916 § 3 (Exh. B), 2003; Ord. 1880 § 6 (Exh. A), 2000; Ord. 1733 § 1(1) (Exh. A), 1993)

**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:

<b>Table 19.107.1 Classification of Zones</b>	
<b>Zone Description</b>	<b>Abbreviated Description</b>
<b>Base Zones</b>	
Residential	R-MD
Residential	HDR
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 Mixed Use	MUTSA
General Mixed Use	GMU
North Milwaukie Employment	NME
Neighborhood Mixed Use	NMU
<b>Overlay Zones</b>	
Willamette Greenway	WG
Historic Preservation	HP
Flex Space	FS
Aircraft Landing Facility	L-F

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**CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS****19.201 DEFINITIONS**

## Office:

“Production-related office” means offices that are characterized by activities that, while conducted in an office-like setting, involve less face-to-face customer contact and do not tend to generate foot traffic. Their operations are less service-oriented than traditional office uses and focus on the development, testing, research, production, processing, packaging, or assembly of goods and products. Examples include: software and internet content development and publishing; telecommunication service providers; data processing; television, video, radio, and internet studios and broadcasting; scientific and technical services; call centers; and medical and dental labs.

“Professional and administrative office” means professional, executive, management, or administrative offices of firms or organizations, including government, medical, or financial services. These office uses generally involve a high level of face-to-face customer contact and are typically expected to generate foot traffic. Typical uses include offices for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; sales offices; government offices and public utility offices; and medical and dental clinics, or others who through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists.

## Residential Uses and Structures:

“Adult foster/care homes” means a dwelling unit operated to provide a permanent residence and licensed care for up to five people who are elderly, disabled, handicapped, or otherwise require such a residence.

“Single room occupancy housing (SRO)” means a building wherein nine (9) or more rooms are offered for rent and where rooms, individually or collectively, do not constitute separate dwellings. Each room is without a kitchen, but access must be provided to a shared cooking and eating facility. Each room may have provision for counter-top appliances and refrigerator. The toilet/bath may be private or shared with other room(s). SRO developments are designed to be occupied by long-term residents on a monthly or longer basis. For calculating residential density, four SRO rooms are equal to 1 dwelling unit with fractions rounded up.

“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. Residential care facilities are considered a type of multi-unit development.

“Residential care facility” means a licensed living facility for more than five (5) non-related persons, which provides specialized care, supervision, treatment or training, or a combination of these for residents. This use classification includes, but is not limited to assisted living facilities, nursing facilities, and memory care facilities.

“Temporary or transitional facility” means a facility which provides temporary or transitional services to families or individuals, including lodging where the average stay is 60 days or less. Such facilities shall be classified as community service uses and may include shelters, community counseling centers, rehabilitation centers, and detention and detoxification facilities.

**CHAPTER 300 BASE ZONES**

**19.301 MODERATE DENSITY RESIDENTIAL ZONES**

<b>Table 19.301.2 Moderate Density Residential Uses Allowed</b>		
<b>Use</b>	<b>R-MD</b>	<b>Standards/Additional Provisions</b>
<b>Residential Uses</b>		
Single detached dwelling	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Townhouse	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage Cluster	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing
Adult foster/care home	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks.
Residential care facility Examples include: <i>assisted living, nursing facilities, and memory care communities</i>	CSU	<b>Subsection 19.904.8</b> Specific Standards for Residential Care Facilities

**19.302 HIGH DENSITY RESIDENTIAL ZONE**

The high density residential zones is Residential Zone HDR. This zone implements the high density residential land use designations in the Milwaukie Comprehensive Plan.

**19.302.1 Purpose**

The high density residential zone is 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 the High Density Residential Zone**

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.

<b>Table 19.302.2 High Density Residential Uses Allowed</b>		
<b>Use</b>	<b>HDR</b>	<b>Standards/ Additional Provisions</b>
<b>Residential Uses</b>		
Single detached dwelling	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Duplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Triplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Quadplex	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Adult foster/care home	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development
Accessory dwelling unit	P	<b>Subsection 19.910.1</b> Accessory Dwelling Units
Manufactured dwelling park	III	<b>Subsection 19.910.3</b> Manufactured Dwelling Parks
Townhouse	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.5</b> Standards for Townhouses
Cottage cluster	P	<b>Subsection 19.505.1</b> Single Detached and Middle Housing Residential Development <b>Subsection 19.505.4</b> Cottage Cluster Housing

Multi-unit Housing	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Single room occupancy housing	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
Residential Care Facility  Examples include: assisted living, nursing facilities, and memory care communities	P	<b>Subsection 19.505.3</b> Multi-Unit Housing <b>Subsection 19.302.5.F</b> Residential Densities <b>Subsection 19.302.5.H</b> Building Limitations
<b>Commercial Uses</b>		
Office: Production-related office and Professional and administrative office	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Personal/Business Services	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Hotel or motel	CU	<b>Section 19.905</b> Conditional Uses
Bed and breakfast or vacation rental	CU	<b>Section 19.905</b> Conditional Uses
Accessory use	P	<b>Section 19.503</b> Accessory Uses
Agricultural or horticultural use	P	<b>Subsection 19.302.3</b> Use Limitations and Restrictions
Community service use	CSU	<b>Section 19.904</b> Community Service Uses
Home occupation	P	<b>Section 19.507</b> Home Occupation Standards
Short-term rental	P	<b>Section 19.507</b> Home Occupation Standards

**19.302.3 Use Limitations and Restrictions**

B. Office uses allowed in the high density zone 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 this zone.

**19.302.4 Development Standards**

In the high density residential zone, 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 in a cottage cluster
- Between 3,000 to 4,999 sq ft: Duplex, Triplex, and Quadplex.
- Between 5,000 to 6,999 sq ft: Single Detached Dwelling, Single Detached Dwelling with up to 2 ADUs, Duplex, Triplex, and Quadplex.<sup>1</sup>
- 7,000 sq ft and up: Single Detached Dwelling, Single Detached Dwelling with up to 2 ADUs, Duplex, Triplex, Quadplex, Cottage Cluster, Multi-Unit Housing.

All other uses require a minimum lot size of 5,000 sq ft.

Table 19.302.4		
High Density Residential Development Standards		
Standard	HDR	Standards/ Additional Provisions
<b>A. Lot Standards</b>		
Minimum lot size (sq ft)	1,500	<b>Subsection 19.501.1</b> Lot Size Exceptions  <b>Subsection 19.505.4</b> Cottage Cluster Housing  <b>Subsection 19.505.5</b> Townhouses
Minimum lot width (ft)	20	
Minimum lot depth (ft)	70	
Minimum street frontage requirements (ft)		

Townhouse	20	
Standard lot	35	
Flag lot	25	
Double flag lot	25	
<b>B. Development Standards</b>		
Minimum yard requirements for primary structures (ft)		
Front yard	20	
Side yard	See Subsection 19.302.5.A	
Street side yard	15	
Rear yard	15	
Maximum building height for primary structures	45 ft	<p><b>Subsection 19.302.5.E</b> Height Exceptions</p> <p><b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions</p> <p><b>Subsection 19.302.5.I</b> Transition Measures</p>
Side yard height plane limit	25	<b>Subsection 19.501.3</b> Building Height and Side Yard Height Plane Exceptions
Height above ground at minimum required side yard depth (ft)	45	
Slope of plane (degrees)		
Maximum lot coverage (percent of total lot area)	50%	<b>Section 19.201</b> "Lot coverage" definition
Minimum vegetation (percent of total lot area)	15%	<p><b>Subsection 19.504.7</b> Minimum Vegetation</p> <p><b>Subsection 19.302.5.D</b> Front Yard Minimum Vegetation</p> <p><b>Subsection 19.302.5.C</b> Minimum Vegetation</p>



Density requirements (dwelling units per acre)		<b>Subsection 19.202.4</b> Density Calculations
Minimum	25.0	<b>Subsection 19.302.5.F</b> Residential Densities
Maximum <sup>2, 3</sup>	32.0	<b>Subsection 19.501.4</b> Density Exceptions

<sup>2</sup>Townhouses are allowed at 4 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.

<sup>3</sup>The density for single room occupancy (SRO) developments is calculated as follows: four SRO rooms equal one dwelling unit.

Table 19.304.2 is supplemented by Figure 19.304.2. For those properties identified in Figure 19.304.2, the minimum front yard setback is 5 ft.



**19.302.5 Additional Development Standards**

**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 single detached HD RESIDENTIAL CODE AMENDMENTS – **FULL CONSOLIDATION** DRAFT DATE 11/21/2022

dwelling or accessory dwelling units are exempt from the minimum and maximum density requirements. Middle housing, except for townhouses, is exempt from 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.

**19.303 COMMERCIAL MIXED-USE ZONES**

Table 19.303.2			
Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Residential</b>			
Single-family detached	N	CU	<b>Subsection 19.505.1</b> Single Family Dwellings <b>Section 19.905</b> Conditional Uses
Rowhouse <sup>1</sup>	P	CU	<b>Subsection 19.505.5</b> Rowhouses
Multi-unit Housing	P	CU	<b>Subsection 19.505.3</b> Multifamily Multi-unit Housing
Cottage cluster housing	P	CU	<b>Subsection 19.505.4</b> Cottage Cluster Housing
Mixed use <sup>2</sup>	P	P	<b>Subsection 19.505.7</b> Nonresidential Development
Live/work units	P	P	<b>Subsection 19.505.6</b> Live/Work Units
Table 19.303.2 CONTINUED			
Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
<b>Commercial<sup>3,4</sup> CONTINUED</b>			

Production-related office	P	P	<b>Subsection 19.303.6.C</b> Marijuana testing and research facilities
Professional and administrative office			
Commercial lodging.  Commercial lodging includes for-profit residential facilities where tenancy is typically less than one month.  Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments.	P	P	

**19.304 DOWNTOWN ZONES**

<b>Table 19.304.2</b>			
<b>Uses Allowed in Downtown Zones</b>			
Uses and Use Categories	DMU	OS	Standards/ Additional Provisions
<b>Residential</b>			
Single room occupancy housing	P	N	<b>Subsection 19.505.3</b> Multi-unit Housing
Rowhouse	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations  <b>Subsection 19.505.5</b> Rowhouses
Multi-unit Housing	P	N	<b>Figure 19.304-2</b> Ground-Floor Residential Permitted  <b>Subsection 19.304.3.A.1</b> Downtown residential use limitations  <b>Subsection 19.505.3</b> -Multi-unit Housing
Live/work units	P	N	<b>Subsection 19.304.3.A.1</b> Downtown residential use limitations  <b>Subsection 19.505.6</b> Live/Work Units
Second-story housing	P	N	<b>Section 19.508</b> Downtown Site and Building Design Standards

<p>Commercial lodging</p> <p>Commercial lodging includes for-profit residential facilities where tenancy is typically less than 1 month.</p> <p>Examples include hotels, motels, vacation rentals, and bed-and-breakfast establishments.</p>	<p>P/CU</p>	<p>N</p>	<p><b>Section 19.905</b> Conditional Uses (for vacation rentals only)</p>
<p>Production-related office</p>	<p>P/CU</p>	<p>N</p>	<p><b>Subsection 19.304.3.A.2</b> Main St limitations</p> <p><b>Subsection 19.304.3.A.3</b> Commercial use limitations</p> <p><b>Subsection 19.509.2</b> Security and odor control for certain marijuana business</p> <p><b>Section 19.905</b> Conditional Uses</p> <p>Note: Production, processing, packaging, and assembly uses must meet the standards listed below under Manufacturing.</p>
<p>Professional and Administrative Office</p>	<p>P/CU</p>	<p>N</p>	<p><b>Subsection 19.304.3.A.3</b> Commercial use limitations</p> <p><b>Section 19.905</b> Conditional Uses</p>

**19.304.5 Detailed Development Standards**

J. Residential Density

1. Intent

There is a minimal amount of land available for new housing development within the downtown zones. Minimum densities are applied to residential development in the DMU Zone to assure efficient use of land at densities that support transit use and nearby downtown businesses.

---

## 2. Standards

- a. Minimum densities for townhouses and live/work units are 25 units per acre.
  - b. Minimum densities for stand-alone multifamily dwellings in the DMU Zone are 30 units per acre. Maximum residential densities are controlled by height limits.
- 

### 19.306 LIMITED COMMERCIAL ZONE C-L

#### 19.306.2 Conditional Uses and Community Service Uses Permitted

In a C-L Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 19.905:

- A. Funeral home;
- B. Marina and boat sales;
- C. Parking facility;
- D. Repair, maintenance, or service of the type of goods to be found in any permitted retail trade establishment;
- E. Financial institution;
- F. Trade or commercial school;
- G. Single unit detached dwelling;
- H. Agricultural or horticultural use, provided that poultry or 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. Marijuana production is not permitted as an agricultural use;
- I. Middle housing or multi-unit housing;
- J. Adult foster/care home

In a C-L Zone the following community service uses and their accessory uses are permitted subject to the provisions of Section 19.904:

- A. Residential care facility

**19.307 GENERAL COMMERCIAL ZONE C-G**

In a C-G Zone the following regulations shall apply:

**19.307.1 Uses Permitted Outright**

In a C-G Zone the following uses and their accessory uses are permitted outright:

- A. Production-related office;
- B. Professional and administrative office;

**19.312 NORTH MILWAUKIE INNOVATION AREA**

<b>Table 19.312.2</b>			
<b>Uses Allowed in the North Milwaukie Innovation Area</b>			
Uses and Use Categories	NME	MUTSA	Standards/Additional Provisions
<b>Commercial</b>			
Office	P	P	
1. Production-related office			
2. Professional and Administrative Office	L	L	<b>Subsection 19.312.4.A</b> Standards for Limited Uses

**CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS**

**19.505 BUILDING DESIGN STANDARDS**

**19.505.3 Multi-unit Housing**

B. Applicability

The design elements in Table 19.505.3.D in this subsection apply, as described below, to all multi-unit developments and residential care facilities 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.

- 1. All new multi-unit or residential care facilities is subject to the design elements in this subsection.

C. Review Process

Two possible review processes are available for review of multi-unit or residential care facilities: 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.

D. Design Guidelines and Standards

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

19.505.4 Cottage Cluster Housing

Table 19.505.4.C.1 Cottage Cluster Development Standards		
Standards	R-MD	HDR
<b>A. Home Types</b>		
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

CHAPTER 19.600 OFF-STREET PARKING

19.605 VEHICLE PARKING QUANTITY REQUIREMENTS

Table 19.605.1



Minimum To Maximum Off-Street Parking Requirements		
Use	Minimum Required	Maximum Allowed
<b>A. Residential Uses</b>		
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 <sup>1</sup>		
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. Townhouses <sup>2</sup>	0	1 space per dwelling unit
e. Cottage Clusters	0.5 spaces per dwelling unit	1 space per dwelling unit
4. Adult foster/care 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.
<b>B. Community Service and Other Public Uses</b>		
7. Residential care facilities	1 space per 4 beds.	1 space per 3 beds.

## CHAPTER 19.900 LAND USE APPLICATIONS

### 19.904 COMMUNITY SERVICE USES

#### A. Institutions—Public/Private and Other Public Facilities

1. Schools, public or private, and their accompanying sports facilities, day-care centers, private kindergartens;
2. Government office buildings for local, state, or federal government such as a City hall, courthouse, police station, or other similar buildings;
3. Hospital;
4. Cemetery;
5. -Residential care facility;

#### 19.904.10 Standards for Wireless Communications Facilities

## C. Application Process

## 3. Type II Review

Placement, construction, or modification of WCFs not involving the construction of a new monopole, other than those activities described in Subsection 19.904.4410.C.1, are subject to Section 19.1005 Type II Review, provided that the antennas and base equipment comply with the standards contained in this subsection. Also see Table 19.904.4410.C.

## 4. Type III Review

All proposed new monopole towers, and projects exceeding the applicability for Type II review, are subject to Section 19.1006 Type III Review. Also see Table 19.904.4410.C.

Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower up to 100 Ft	Building Rooftop or Wall Mounted Antenna	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions
BI	III	P/I/II	P/I/II	P/I/II
M	III	P/I/II	P/I/II	P/I/II
M-TSA	III	P/I/II	P/I/II	P/I/II
C-N	N	P/I/II	P/I/II	P/I/II
C-G	N	P/I/II	P/I/II	P/I/II
C-L	N	P/I/II	P/I/II	P/I/II
C-CS	N	P/I/II	P/I/II	P/I/II
OS	N	P/I/II	P/I/II	P/I/II
DMU	N	P/I/II	P/I/II	P/I/II
GMU	N	P/I/II	P/I/II	P/I/II
NMU	N	P/I/II	P/I/II	P/I/II
HDR	N	P/I/II	P/I/II	P/I/II

## F. Location and Size Restrictions

## 1. Separation for New Monopole Towers

New monopole towers may not be constructed within 1,500 ft of any preexisting tower. The Planning Commission has the authority to approve a reduction in the minimum separation requirement to not less than 1,000 ft, provided that the applicant can demonstrate the need to the satisfaction of the Planning Commission, for the distance reduction. A tower shall include any preexisting tower or any tower for which the City has issued a building permit, or for which a land use application has been filed and not denied. This distance shall be

measured in a straight line from the base of the existing tower to the base of the proposed tower.

2. Height: maximum heights. Also see Table 19.904.10.C.

a. Height Restrictions

The maximum height limitation of the monopole tower and antennas shall not exceed the following:

(1) BI, M, NME, and MUTSA Zones: 100 ft.

(2) New towers are not permitted in the HDR, R-MD, GMU, NMU, C-N, C-G, C-L, OS, and DMU Zones.

d. For antennas on utility poles in the right-of-way, one 15-ft extension is permitted to the original installation by the owner. The carrier may replace the existing pole with a new utility pole not to exceed 15 ft above the height of the pole that is to be replaced. Equipment cabinets shall be attached to the utility pole. Where this is not practicable, the base equipment shall be subject to requirements of Subsection 19.904.10.G.1.b.

G. Development Standards for All WCFs

1. Setbacks and Equipment Cabinets

a. Setbacks for new monopole towers and equipment cabinets shall be established from the property line and not the leased area. Regardless of the zone, the setbacks shall be as follows:

(5) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.10.G.6 Landscaping and Fencing Requirements.

b. For antennas placed on existing utility pole and other support structures located in the right-of-way, the equipment cabinet shall be located on the utility pole to the greatest extent.

(3) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.10.G.6 Landscaping and Fencing Requirements.

c. Equipment cabinets for water towers, “stealth” designs or other antenna support structures not covered by the previous subsections.

(2) The equipment cabinet shall meet the vegetative screening requirements addressed in Subsection 19.904.10.G.6 Landscaping and Fencing Requirements.

**19.905 CONDITIONAL USES**

19.905.9 Standards Governing Conditional Uses

G. Vacation Rentals

**CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES**

**19.1104.1 Administration and Approval Process**

<b>Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes</b>		
<b>County Zoning Designation</b>	<b>Assigned City Zoning Designation</b>	<b>Assigned Comprehensive Plan Land Use Designation</b>
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	HDR	High density residential
MR2	HDR	High density residential
PMD	HDR	High density residential
HDR	HDR	High density residential
SHD	HDR	High density residential










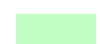






**19.910.3 Manufactured Dwelling Parks**

D. Development Requirements

All manufactured dwelling parks shall meet the following minimum requirements:

1. The minimum size of a manufactured dwelling park shall be 1 acre.

## Milwaukie Comprehensive Plan Full Consolidation Option

-  City of Milwaukie
-  County Boundary
-  MUTSA
-  BI
-  GMU
-  C-CS
-  DMU
-  C-G
-  C-L
-  C-N
-  NMU
-  OS
-  M
-  NME
-  R-MD
-  HDR

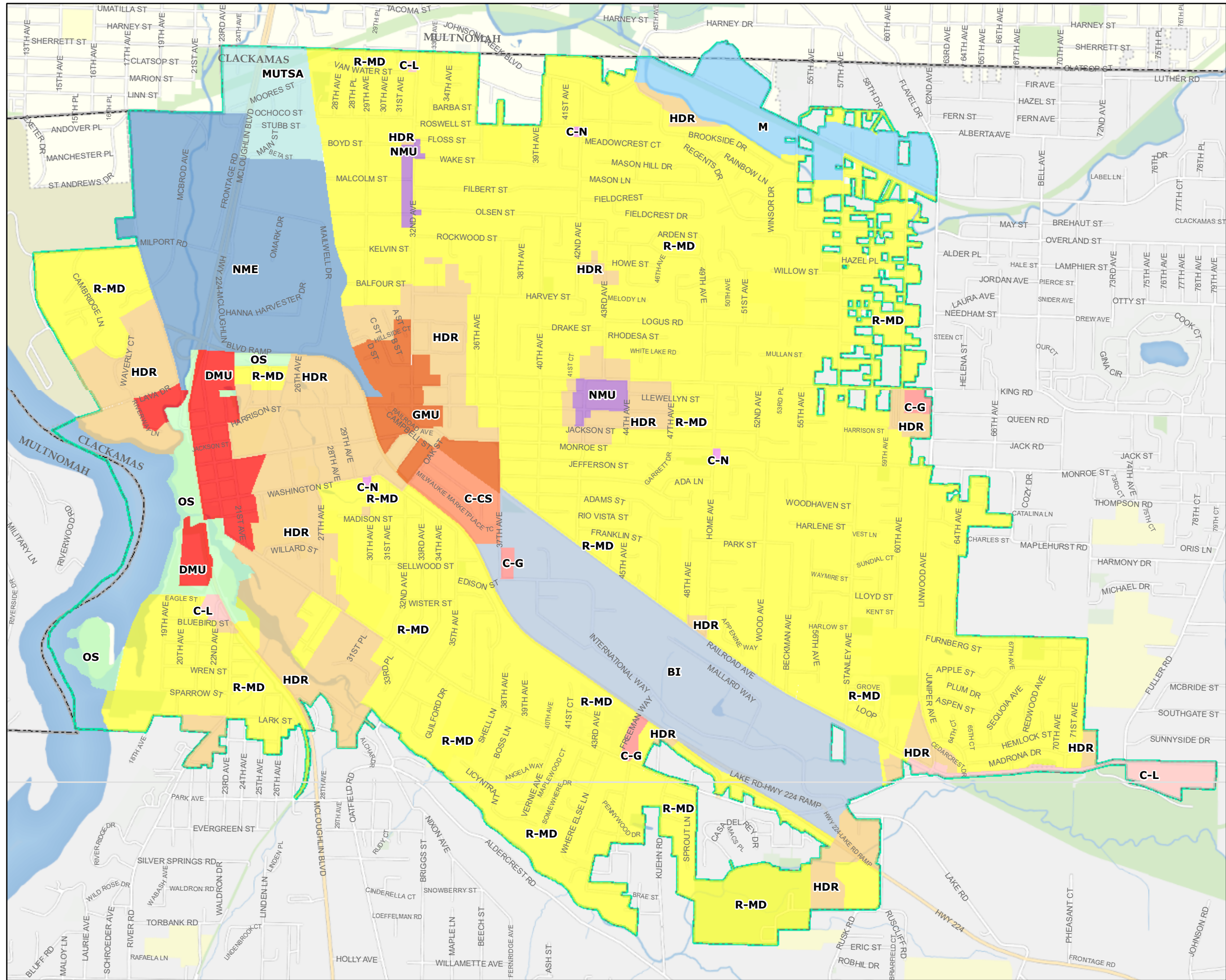
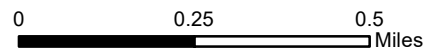


Data Sources: City of Milwaukie GIS, Clackamas County GIS, Metro Data Resource Center

Date: Wednesday, November 16, 2022

The information depicted on this map is for general reference only. The City of Milwaukie cannot accept any responsibility for errors, omissions or positional accuracy. There are no warranties, expressed or implied, including the warranty of merchantability or fitness for a particular purpose, accompanying this product. However, notification of errors would be appreciated.

GIS Coordinator  
City of Milwaukie  
6101 SE Johnson Creek Blvd.  
Milwaukie, OR 97206  
(503) 786-7687



# PROPOSED CODE AMENDMENTS: HIGH DENSITY RESIDENTIAL ZONES CONSOLIDATION

City Council Public Hearing  
December 6, 2022

Vera Kolas, Senior Planner  
Adam Heroux, Associate Planner



# REVIEW SCHEDULE

<b>Planning Commission</b>	<b>Date</b>	<b>Purpose</b>
Work session	June 28	Consolidate definitions
Work session	August 9	Boarding house definitions
Work session	August 23	Uses, process, consolidation
PUBLIC HEARING	September 27	Recommendation to Council to Approve
<b>City Council</b>		
Work session	October 18	Discuss proposed amendments
PUBLIC HEARING	November 15	Opened Hearing; Deliberation
<b>Cont. PUBLIC HEARING</b>	<b>Tonight</b>	<b>Adopt amendments</b>



# TWO CONSOLIDATION APPROACHES UNDER DISCUSSION

- From 5 High Density Residential zones to:
  - 3 zones, or
  - 1 zone

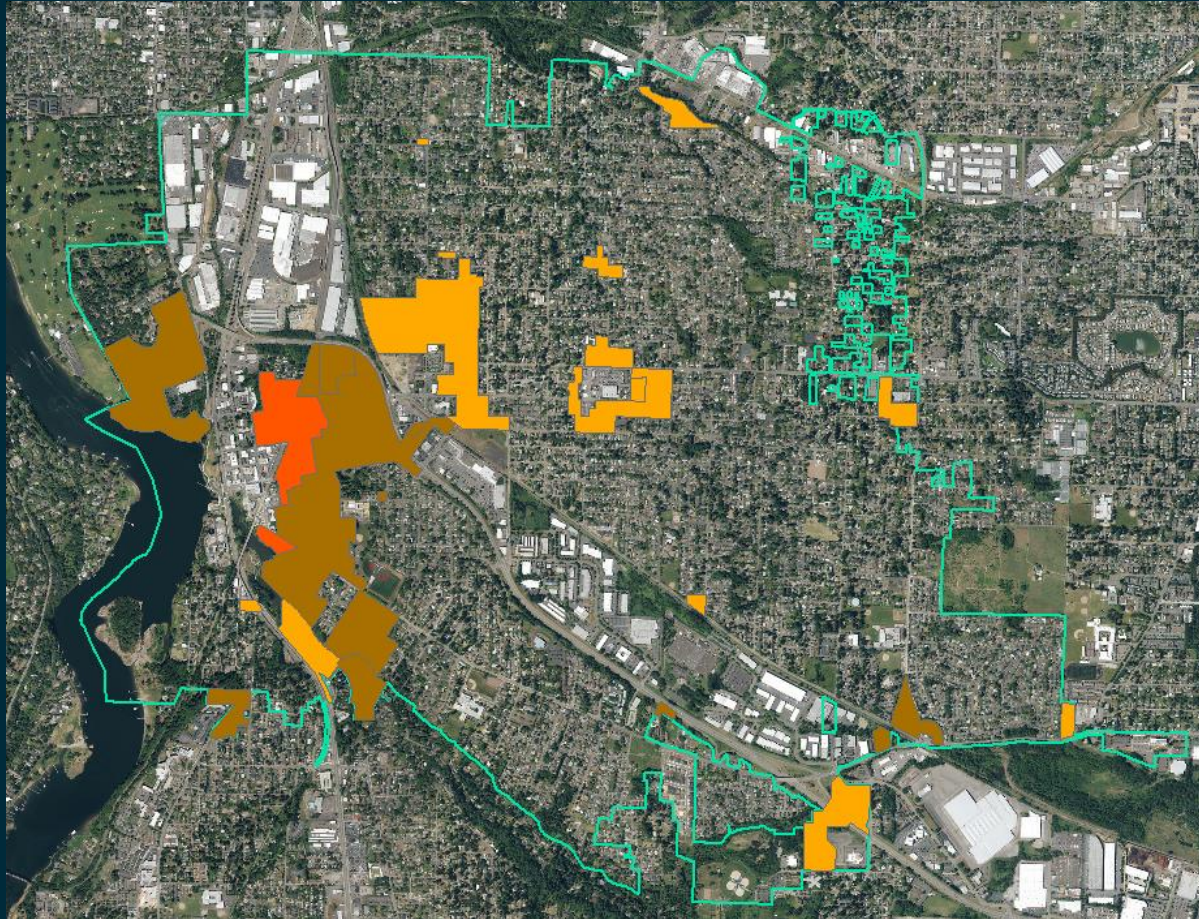




# 3 ZONE CONSOLIDATION

## Legend

-  New R3
-  New R2
-  R-1-B



# 3 ZONE CONSOLIDATION

Residential Uses	R3	R2	R1B
Single Detached Dwelling	P	P	P
Duplex	P	P	P
Triplex	P	P	P
Quadplex	P	P	P
Townhouse/Rowhouse	P	P	P
Cottage Cluster	P	P	P
Adult foster/care homes	P	P	P
Accessory Dwelling Unit	P	P	P
Manufactured Dwelling Park	III	N	N
Multi-unit Development	P	P	P
Single Room Occupancy	P	P	P
Residential Care Facility			
Assisted Living	P	P	P
Nursing Facility			
Memory care community			
Commercial Uses			
Personal/Business Services	L	L	P
Office	L/CU	L/CU	P
Production related office			
Professional and administrative office			
Hotel or motel	CU	CU	CU
Bed and breakfast or vacation rental	CU	CU	CU
Accessory and Other Uses			
Accessory Use	P	P	P
Agricultural or horticultural	P	P	P
Community Service Use	CSU	CSU	CSU
Home occupation	P	P	P
Short-term rental	P	P	P

R3 = R3, R2.5

R2 = R2, R1

R1B = R1B



# 3 ZONE

## DEVELOPMENT STANDARDS

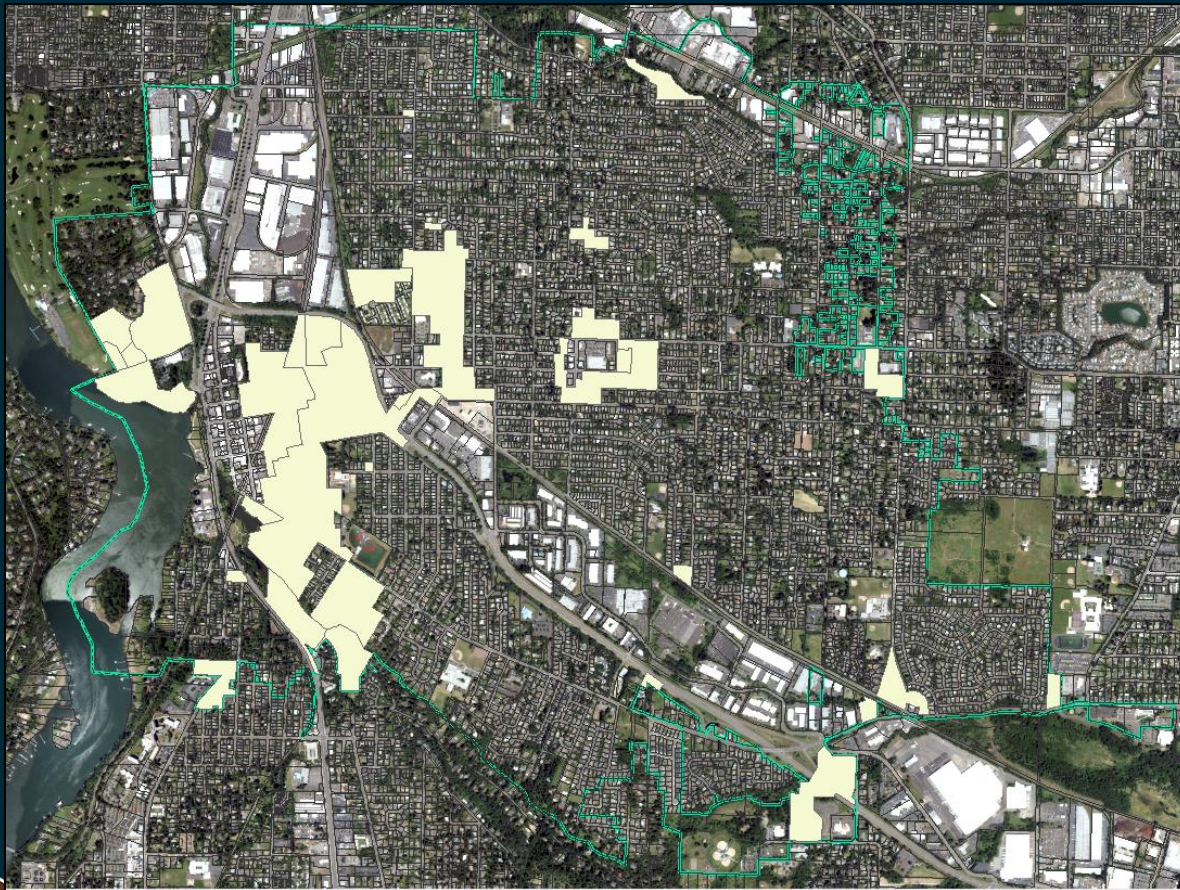
- Non-residential buildings would be subject to specific design standards.

Standard	Existing Code				
	R3	R2.5	R2	R1	R1B
Max Building height	35 ft	35 ft	45 ft	45 ft	45 ft
Max lot coverage	40%	40%	45%	45%	50%
Min vegetation density (du/ac)	35%	35%	15%	15%	15%
min.	11.6	11.6	11.6	25	25
max.	14.5	17.4	17.4	32	32

Table 5.  
Proposed Consolidation

Standard	R3	R2	R1B
Max Building height	35 ft	45 ft	45 ft
Max lot coverage	40%	45%	50%
Min vegetation density (du/ac)	35%	15%	15%
min.	11.6	25	25
max.	17.4	32	32





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# FULL CONSOLIDATION



# FULL CONSOLIDATION

Full Consolidation	Existing Code					
	HDR	R3	R2.5	R2	R1	R1B
<b>Residential Uses</b>						
Single Detached Dwelling	P	P	P	P	P	P
Duplex	P	P	P	P	P	P
Triplex	P	P	P	P	P	P
Quadplex	P	P	P	P	P	P
Townhouse/Rowhouse	P	P	P	P	P	P
Cottage Cluster	P	P	P	P	P	P
Adult foster/care homes	P	P	P	P	P	P
Accessory Dwelling Unit	P	P	P	P	P	P
Manufactured Dwelling						
Park	III	III	N	N	N	N
Multi-unit Development	P	CU	CU	P	P	P
Single Room Occupancy	P	CU	CU	CU	CU	CU
Residential Care Facility	P	CU	CU	P	P	P
Assisted Living						
Nursing Facility						
Memory care community						
<b>Commercial Uses</b>						
Personal/Business Services	P	N	N	N	N	N
Office	P	CU	CU	CU	CU	P
Hotel or motel	CU	N	N	N	N	CU
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU	CU
<b>Accessory and Other Uses</b>						
Accessory Use	P	P	P	P	P	P
Agricultural or horticultural	P	P	P	P	P	P
Community Service Use	CSU	CSU	CSU	CSU	CSU	CSU
Home occupation	P	P	P	P	P	P
Short-term rental	P	P	P	P	P	P

Key differences

Key differences



# FULL CONSOLIDATION

	Full Consolidation			Existing Code		
Standard	HDR	R3	R2.5	R2	R1	R1B
Max Building height	45 ft	35 ft	35 ft	45 ft	45 ft	45 ft
Side yard height plane	25 ft/45 degrees	20 ft/45 degrees	20 ft/45 degrees	25 ft/45 degrees	25 ft/45 degrees	25 ft/45 degrees
Max lot coverage	50%	40%	40%	45%	45%	50%
Min vegetation	15%	35%	35%	15%	15%	15%
Density (du/ac)						
min.	25	11.6	11.6	11.6	25	25
max.	32	14.5	17.4	17.4	32	32

- Non-residential buildings would be subject to specific design standards, just like in the GMU and NMU zones.



# R-1-B AREA (5-FT MIN FRONT YARD SETBACK)

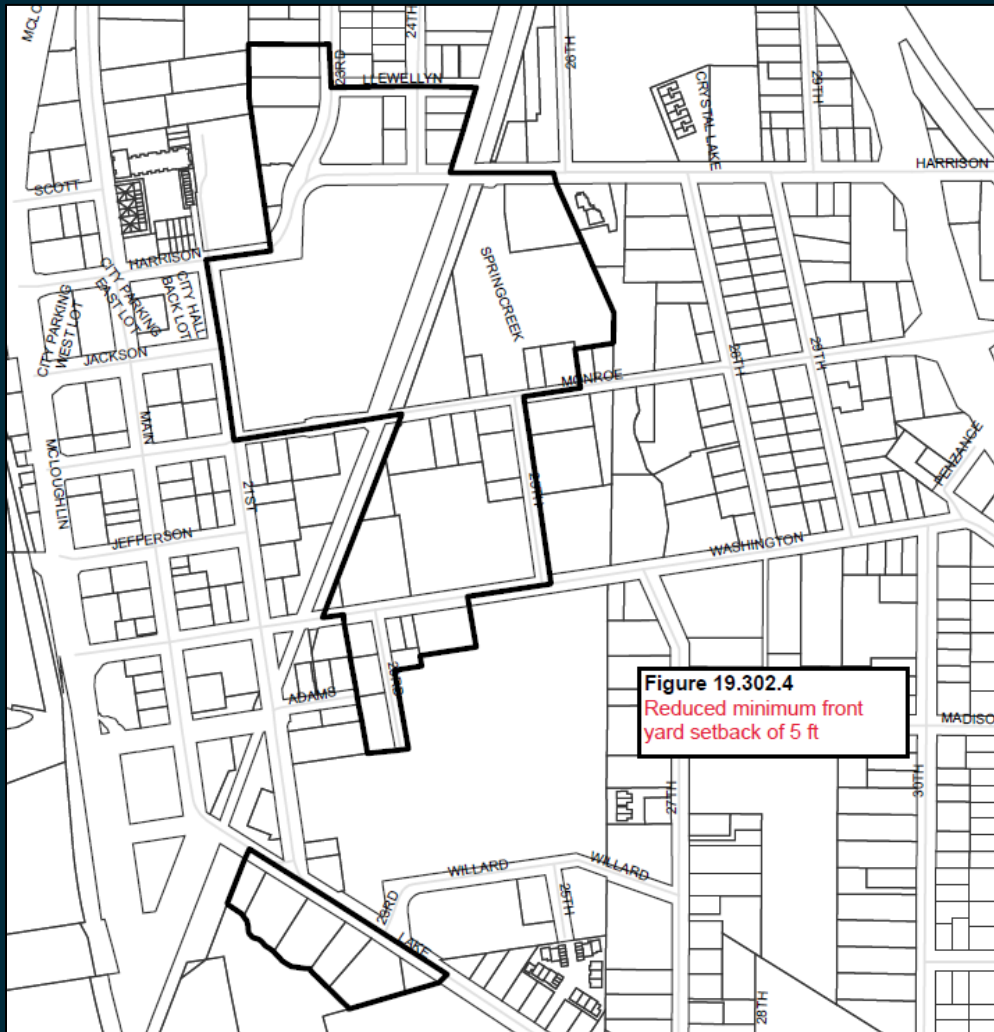


Figure 19.302.4  
Reduced minimum front  
yard setback of 5 ft



# DECISION-MAKING OPTIONS

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## 1. 3-zone consolidation:

- a. As originally proposed; **or**
- b. With 5-ft minimum front yard setback in the R-1-B zone

## 2. Full consolidation:

- a. Same standards apply across the zone, including the 20-ft front yard setback; **or**
- b. With R-1-B area identified with min. 5-ft front yard setbacks; **or**
- c. With min. 5-ft front yard setbacks across the zone





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Questions?



# END OF PRESENTATION

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# 2-ZONE CONSOLIDATION

	HDR	R3
<b>Residential Uses</b>		
Single Detached Dwelling	P	P
Duplex	P	P
Triplex	P	P
Quadplex	P	P
Townhouse/Rowhouse	P	P
Cottage Cluster	P	P
Adult foster/care homes	P	P
Accessory Dwelling Unit	P	P
Manufactured Dwelling		
Park	III	III
Multi-unit Development	P	P
Single Room Occupancy	P	P
Residential Care Facility	P	P
Assisted Living		
Nursing Facility		
Memory care community		
<b>Commercial Uses</b>		
Personal/Business Services	P	L/CU
Office	P	L/CU
Hotel or motel	CU	N
Bed and breakfast or vacation rental	CU	CU
<b>Accessory and Other Uses</b>		
Accessory Use	P	P
Agricultural or horticultural	P	P
Community Service Use	CSU	CSU
Home occupation	P	P
Short-term rental	P	P

Key differences



# 2-ZONE CONSOLIDATION

Standard	HDR	R3	
Max Building height	45 ft	35 ft	
Side yard height plane	25 ft/45 degrees	20 ft/45 degrees	
Max lot coverage	50%	40%	
Min vegetation	15%	35%	
Density (du/ac)			
	min.	25	11.6
	max.	32	17.4

- Commercial buildings would be subject to specific design standards, just like in the GMU and NMU zones.



# APPROVAL CRITERIA (TYPE V CODE AND MAP AMENDMENTS)

- Demonstrated need for the amendments
- Consistency with:
  1. Other parts of Milwaukie Municipal Code
  2. Goals/policies of Comp Plan
  3. Metro Urban Growth Management Functional Plan
  4. State statutes and Statewide Planning Goals
  5. Relevant federal regulations
- Amendment to map is compatible with surrounding area:
  1. Location and character
  2. Expected changes in the development pattern
  3. Predominant land use pattern



# NOVEMBER 15 PUBLIC HEARING

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Provide option for full consolidation into 1 HDR zone with R-1-B maintained for 5-ft front yard setbacks.



# WHY UPDATE MILWAUKIE'S HIGH DENSITY ZONES?

- City council priority
- Remove barriers & bias from the code
- Update outdated terminology
- Streamline overly complicated use categories and review processes



<b>Residential Use Type</b>	<b>Current Definition</b>
<b>Residential Home</b>	A dwelling unit operated as a single housekeeping unit for the purpose of providing a permanent residence—which includes food, shelter, personal services, and care—for the elderly, disabled, handicapped, or others requiring such a residence, as defined by the Federal Fair Housing Amendments Acts of 1988.
<b>Congregate Housing Facility</b>	A multi-dwelling-unit, permanent housing center with individual or common housekeeping facilities and services provided for residents who require or desire a more supportive living environment than typically available to residents in traditional apartment or single-family residential housing. These facilities may provide regular on-premises supervision by registered medical staff or care providers. Occupants of these facilities may include the elderly, disabled, handicapped, or other persons as defined in the Federal Fair Housing Amendments Act of 1988. Congregate housing facilities are permitted outright in all residential zones that permit multifamily apartments, and they require conditional use approval in those residential zones that allow multifamily uses conditionally. In each case, density standards of the zone shall determine number of units allowed.
<b>Senior and Retirement Housing</b>	A multiunit dwelling where persons who are of retirement age reside. Activity levels, including traffic generation and parking of cars, are generally lower than for other types of housing. Common facilities for eating and activities may be provided; nursing care, medical supplies, and personal services may be provided on a limited basis. One person may own the entire complex, or each dwelling unit may be owned separately as in a condominium.
<b>Nursing or Convalescent Home</b>	<i>This term is not defined anywhere in the Milwaukie Municipal Code. It is referenced, however, in the Community Service Use section with specific standards in 19.904.8</i>
<b>Boarding House</b>	A building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided, and which is not occupied as a single-dwelling unit. Lodging capacity is subject to provisions of the Uniform Building Code.





# ISSUES WITH ALLOWED USES

- Outdated terms
- Inconsistent review processes

**Table 19.302.2 (partial)**

**High Density Residential Uses Allowed**

Use	R-3	R-2.5	R-2	R-1	R-1-B
Multi-unit	CU	CU	P	P	P
Residential home	P	P	P	P	P
Congregate housing facility	CU	CU	P	P	P
Senior and retirement housing	CU	CU	CU	P	P
Boarding house	CU	CU	CU	CU	CU
Community Service Use	CSU	CSU	CSU	CSU	CSU



<b>Proposed Terms</b>		<b>Proposed Definition</b>
<b>Adult foster/care homes</b>		A dwelling unit operated to provide a permanent residence and licensed care for up to five people who are elderly, disabled, handicapped, or otherwise require such a residence.
<b>Residential care facility</b>		A living facility for more than five (5) non-related persons, which provides specialized care, supervision, treatment or training, or a combination of these for residents. This use classification includes, but is not limited to Assisted Living Facilities, Nursing Facilities, and Memory Care Facilities.
<b>Residential Care Facility Types</b>	<b>Assisted living facility</b>	is a licensed setting providing housing and care services to six or more people. A registered nurse is on staff or under contract. The nurse does not have to be there all the time. Caregivers do not need to be certified, but they are trained in providing care services.
	<b>Nursing facility</b>	gives licensed 24-hour supervised nursing care. Licensed nursing facilities' caregivers must be certified as nursing assistants; the State Board of Nursing must approve their training. Nurses and certified nurse aides provide personal, therapeutic, and nutritional care.
	<b>Memory care community</b>	is an environment where staff care for people with dementia who have needs that require a more secure setting. Each setting is licensed by the state as a residential care, assisted living or nursing facility. The state also requires memory care facilities to train staff to care for residents with dementia and provide specialized services.

# SINGLE ROOM OCCUPANCY (SRO)

<b>Residential Use Type</b>	<b>Proposed Definition</b>
<b>Single Room Occupancy Housing</b>	<p>A building wherein five (5) or more rooms are offered for rent and where rooms, individually or collectively, do not constitute separate dwellings. Each room is without a kitchen, but may have provision for counter-top appliances and refrigerator. The toilet/bath may be private or shared with other room(s). SRO developments are designed to be occupied by long-term residents on a monthly or longer basis. SRO developments are permitted outright in all residential zones that permit multi-unit development. In each case, density standards of the zone shall determine number of units allowed.</p>



# CHANGES IN TERMINOLOGY

<b>Current Use Type</b>	<b>New Definition</b>	<b>New Use Type</b>
<b>Residential Home</b>	Adult foster/care home	Adult foster care/home
<b>Congregate Housing Facility</b>	Assisted Living	Residential Care Facility
<b>Senior and Retirement Housing</b>	Assisted Living	Residential Care Facility
<b>Nursing or Convalescent Home</b>	Nursing Facility, Memory Care Community	Residential Care Facility
<b>Boarding House</b>	Single Room Occupancy	Single Room Occupancy



# EXISTING CODE – PERMITTED USES (WITH REVISED USES)

Residential Uses	Table 3. Existing Code (with new uses)				
	R3	R2.5	R2	R1	R1B
Single Detached Dwelling	P	P	P	P	P
Duplex	P	P	P	P	P
Triplex	P	P	P	P	P
Quadplex	P	P	P	P	P
Townhouse/Rowhouse	P	P	P	P	P
Cottage Cluster	P	P	P	P	P
Adult foster/care homes	P	P	P	P	P
Accessory Dwelling Unit	P	P	P	P	P
Manufactured Dwelling Park	III	N	N	N	N
Multi-unit Development	CU	CU	P	P	P
Single Room Occupancy Housing	CU	CU	CU	CU	CU
Residential Care Facility	CU	CU	P	P	P
<i>Assisted Living</i>	-	-			
<i>Nursing Facility</i>	-	-			
<i>Memory care community</i>	-	-			
	-	-			
<b>Commercial Uses</b>					
Office	CU	CU	CU	CU	P
Hotel or motel	N	N	N	N	CU
Bed and breakfast or vacation rental	CU	CU	CU	CU	CU
<b>Accessory and Other Uses</b>					
Accessory Use	P	P	P	P	P
Agricultural or horticultural	P	P	P	P	P
Community Service Use	CSU	CSU	CSU	CSU	CSU
Home occupation	P	P	P	P	P
Short-term rental	P	P	P	P	P

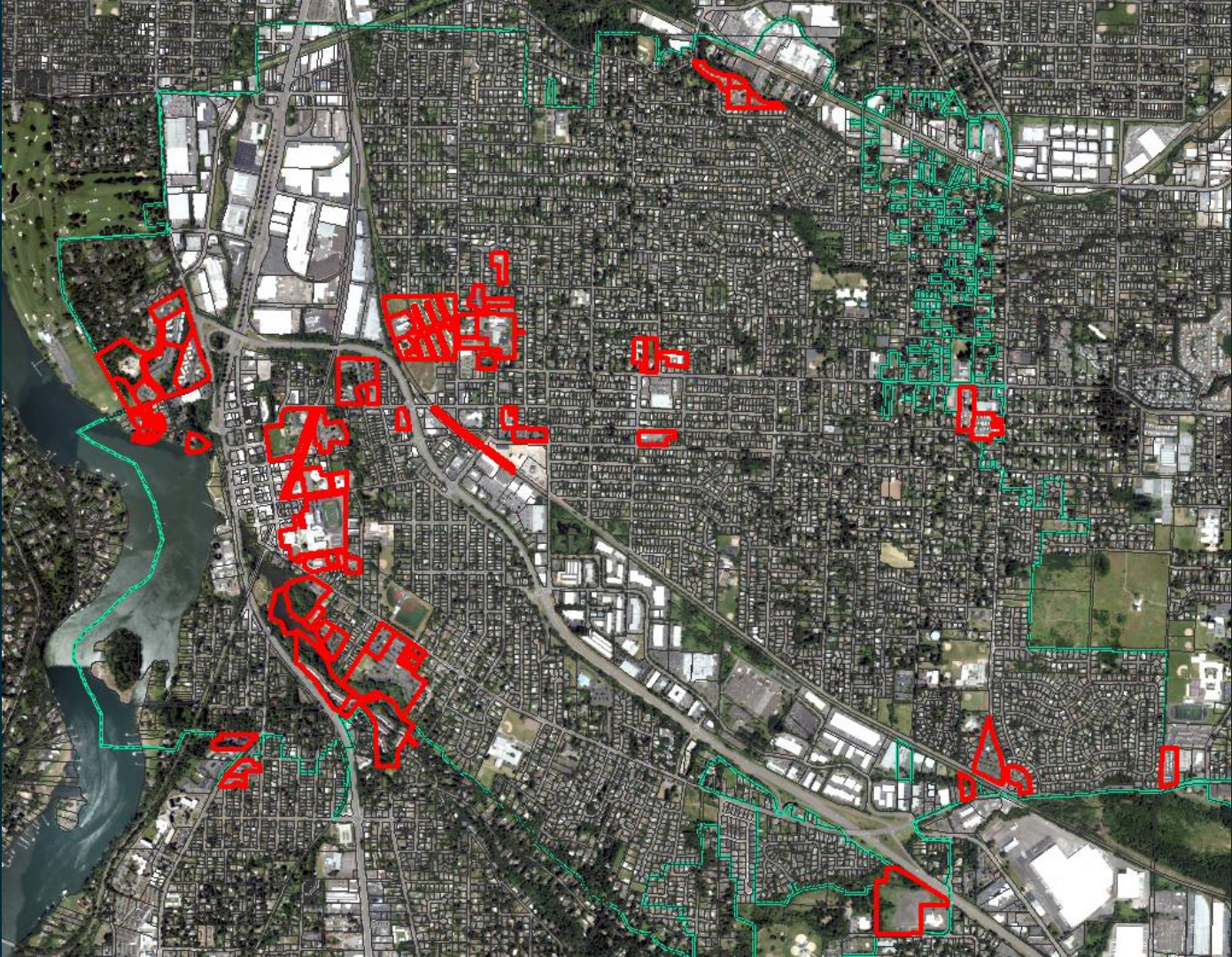


# REVISED SRO DEFINITION

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A building wherein nine (9) or more rooms are offered for rent and where rooms, individually or collectively, do not constitute separate dwellings. Each room is without a kitchen, but access must be provided to a shared cooking and eating facility. Each room may have provision for counter-top appliances and refrigerator. The toilet/bath may be private or shared with other room(s). SRO developments are designed to be occupied by long-term residents on a monthly or longer basis. For calculating residential density, four SRO rooms are equal to 1 dwelling unit with fractions rounded up. ~~SRO developments are permitted outright in all residential zones that permit multi-unit development. In each case, density standards of the zone shall determine number of units allowed.~~





# HOUSING PRODUCED BY ZONE 2000-2020

Zones	Single Dwelling Units			Multi Dwelling Units			Total, Combined			
	Units	Acres	Net Density	Units	Acres	Net Density	Units	Acres	Net Density	
Downtown Mixed Use	DMU	13	0	36.4	192	2	92.5	205	2.4	84.3
Neighborhood Mixed Use	NMU	1	0	5.6	2	0	11.1	3	0.4	8.4
High Density Residential	R-2	5	1	4.4	4	0	11.6	9	1.5	6.0
High Density Residential	R-3	6	1	8.2	4	0	14.0	10	1.0	9.9
Moderate Density Residential	R-MD	285	58	5.0	11	3	3.4	296	60.8	4.9
<b>Total</b>		<b>310</b>	<b>60</b>	<b>5.2</b>	<b>213</b>	<b>6</b>	<b>34.6</b>	<b>523</b>	<b>66</b>	<b>7.9</b>

Source: RLIS & Regional Multifamily Database, Compiled by ECONW in 08/2022

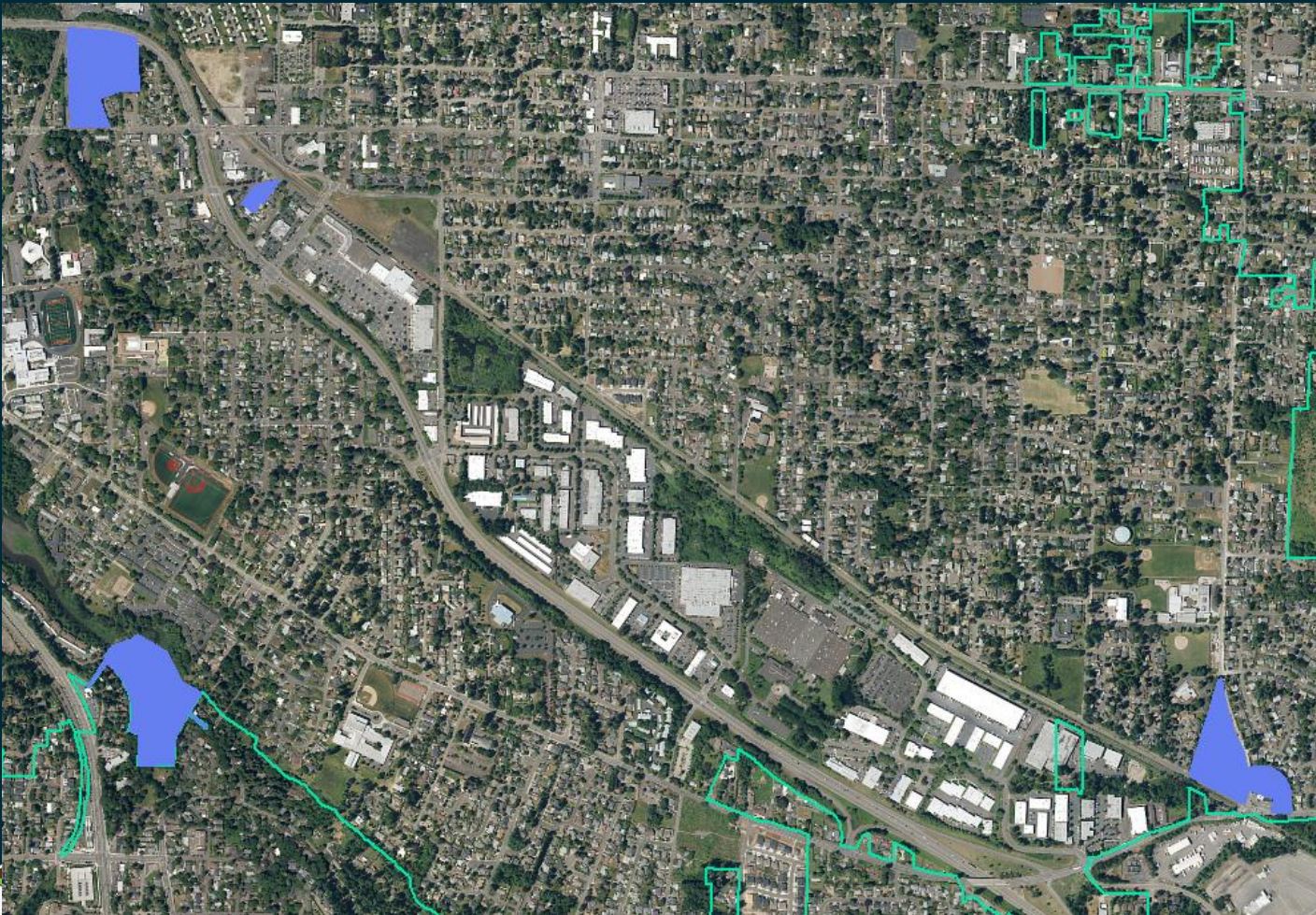




# R-1-B ZONE

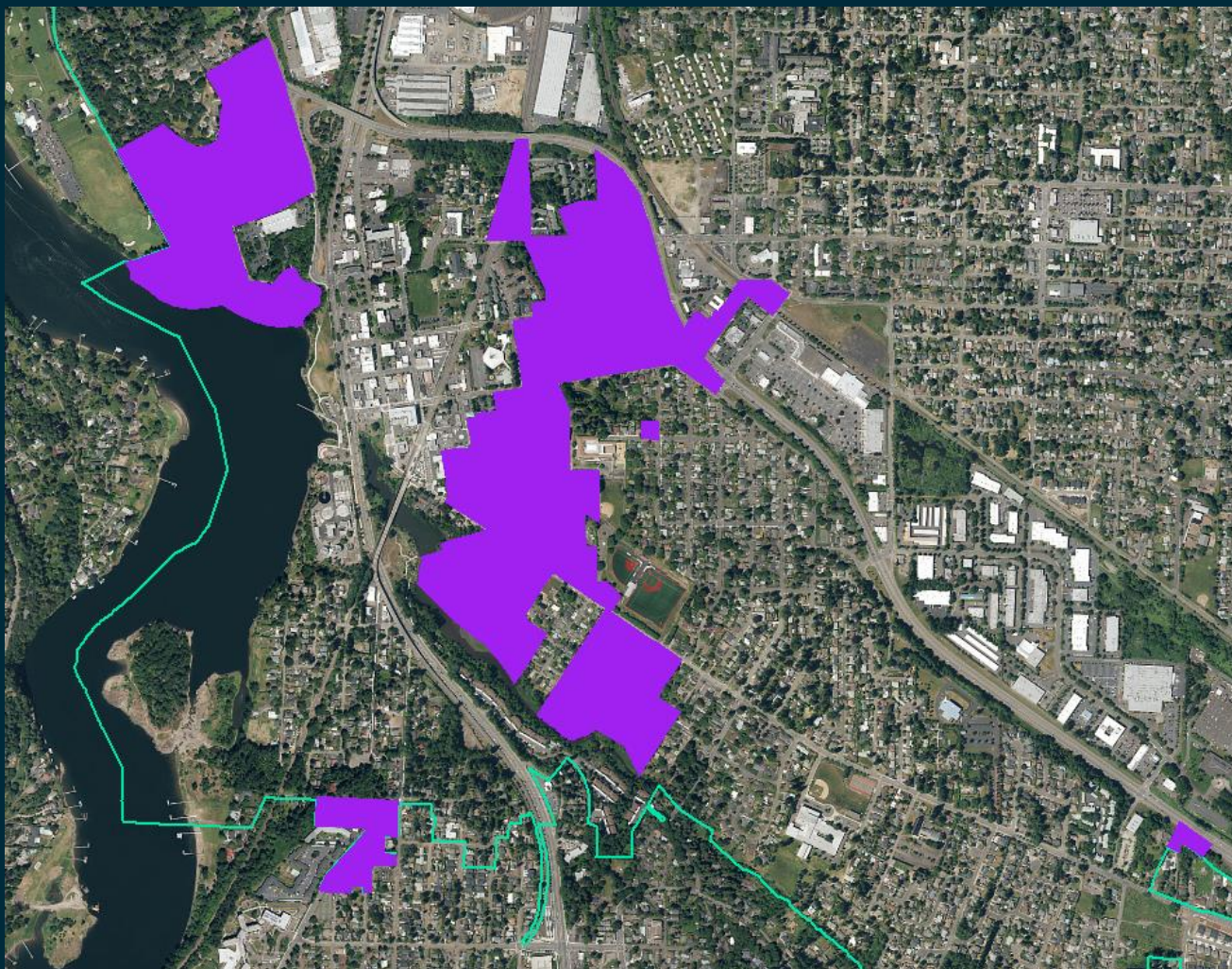
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# EXISTING R-1 ZONE





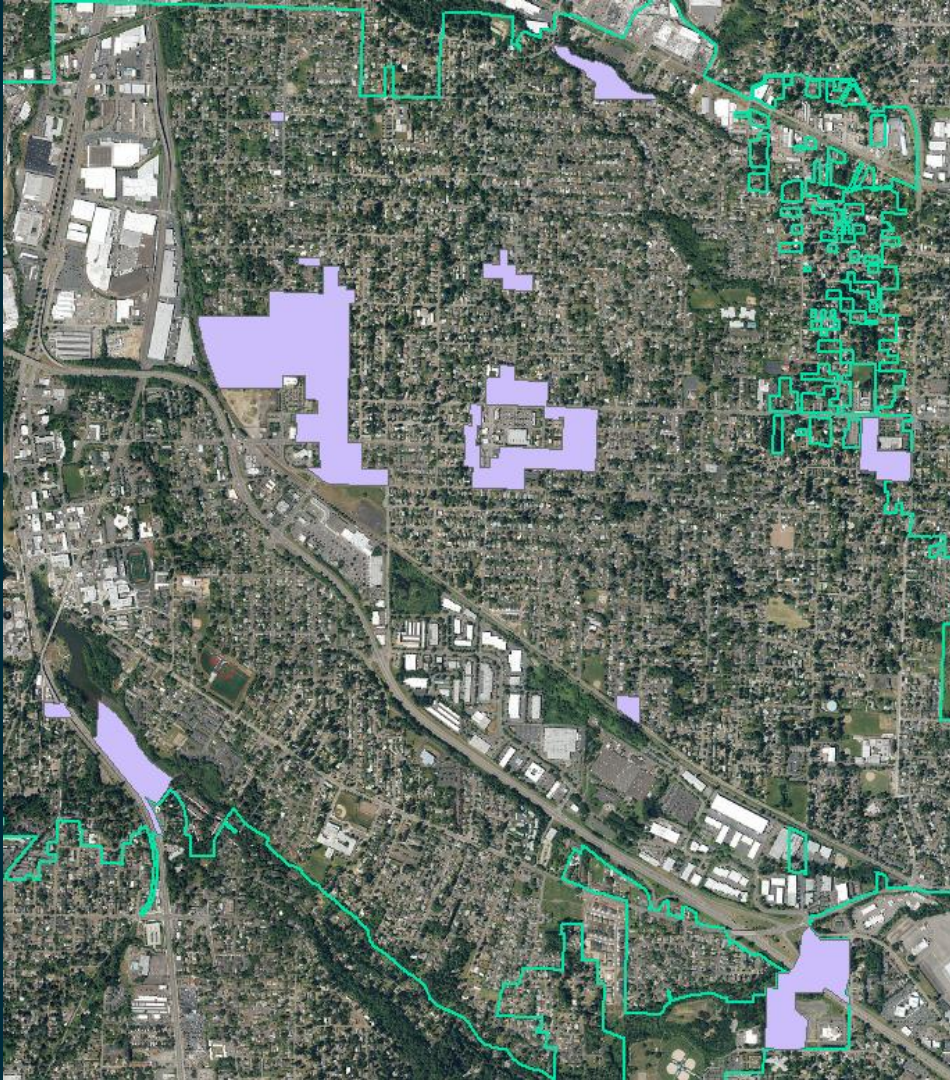
# EXISTING R-2 ZONE



# EXISTING R-2.5 ZONE



# EXISTING R-3 ZONE



# PROPOSED CONSOLIDATION - SUMMARY

	<b>Proposed Zones</b>	<b>R3</b>	<b>R2</b>	<b>R1-B</b>	<b>TOTAL</b>
<b>SIZE</b>	<b>Total Acres</b> <i>43,560 sqft = 1 acre</i>	124.6	175.5	30.2	330.3
	<b>Average Taxlot Area</b> <i>Sq Ft</i>	22,250	20,834	32,898	22,204
	<b>Total Taxlots</b>	<b>243</b> <i>38%</i>	<b>366</b> <i>56%</i>	<b>39</b> <i>6%</i>	<b>648</b>
<b>LAND USES</b>	<b>Single Detached Dwelling</b>	<b>175</b> <i>72%</i>	<b>180</b> <i>49%</i>	<b>17</b> <i>44%</i>	<b>372</b> <i>57%</i>
	<b>Two or more dwellings</b>	<b>30</b> <i>12%</i>	<b>154</b> <i>42%</i>	<b>4</b> <i>10%</i>	<b>188</b> <i>29%</i>
	<b>Commercial</b>	<b>23</b> <i>9%</i>	<b>11</b> <i>3%</i>	<b>14</b> <i>36%</i>	<b>38</b> <i>6%</i>



# PLANNING COMMISSION RECOMMENDATION

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## Council should find ways to preserve and protect manufactured home parks

State Law (ORS 90.645-660)

- Closure of a park requires notice to state
- 1 year notice to tenants
- Payment to tenants – depending on size of home
- Tax credits
- Prohibits a city from enforcing any local regulation adopted after 7/1/2007
  - Options:
    - Create a new zone for manufactured dwellings
    - Implement a local agency “toolkit” – Com Dev department



# DEVELOPMENT STANDARDS

- Eliminate “minimum site size” requirements for multi-unit development:

**Table 19.302.5.F.2**

**Minimum Site Size for Multifamily Development in the R-2, R-1, and R-1-B Zones**

<b>Units</b>	<b>R-2 Zone</b>	<b>R-1 and R-1-B Zone</b>
First Dwelling Unit	5,000 sq ft per unit	5,000 sq ft per unit
Additional Dwelling Units	1,500 sq ft per unit	1,400 sq ft per unit





# WHAT ARE 'BOARDING HOUSES'?

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Residential Use Type	Current Definition
<b>Boarding House</b>	A building or portion thereof without separate housekeeping facilities to be occupied, or which is occupied primarily, by persons paying consideration for sleeping purposes where meals may or may not be provided, and which is not occupied as a single-dwelling unit. Lodging capacity is subject to provisions of the Uniform Building Code.



# HISTORY OF 'SINGLE ROOM OCCUPANCY' DWELLINGS

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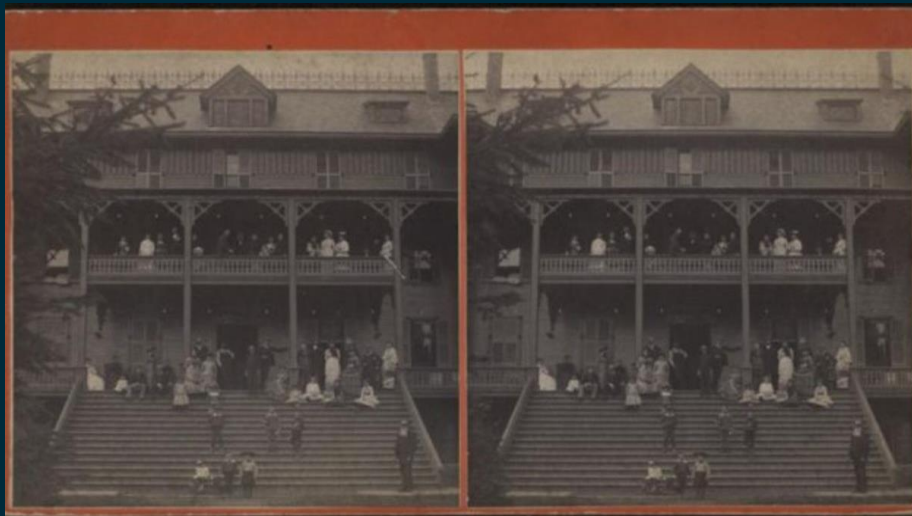
- The term “SRO” emerged in the mid-1800s to describe low-cost residential hotels, boarding houses, rooming houses, lodging houses, and the renting out of rooms in private apartments.
- Shared kitchen & eating facilities, sometimes bathrooms
- Separated units
- Often included other services

*Alabama munitions plant workers eating dinner at their boarding house. U.S. Farm Security Administration/Library of Congress. 1941*



# HISTORY OF 'SINGLE ROOM OCCUPANCY' DWELLINGS

- **Bedrock of affordable housing** for laborers in American cities
- **Upscale SROs** also provided housing for people of **middle and higher incomes**
- Emergence of **affordable single family homes** in suburbs **shifted the demographics** and income levels of SRO residents



*A Boarding House in 1860's New York City  
New York Public Library Digital Collections*



# HOUSING CHOICE OF LAST RESORT

- **Bottom of the market affordability** due to decreased demand
- **Increased stigmatization** of poverty, single person households, disability, and mental illness
- Inadequate **services**, problematic **design elements**, chaotic **high-contact living**
- Many US cities **banned SROs**
- U.S. lost **2 million+ SRO units** since 1970



*Jackson House in Tampa, FL. Closed in 1989 and remodeled into a museum*



# NEW & IMPROVED SROs

- Efforts to **preserve existing SROs** are meant to reduce houselessness and stabilize residents
- Portland is developing **new affordable SROs** that improve upon the historical SRO model
- Cities like Seattle are developing new **market-rate SROs** akin to adult dorm living
- New SROs are sometimes **motel conversions**



*Joyce Hotel purchased by the Portland Housing Bureau to preserve units*



# NEW & EXISTING SRO EXAMPLES



# PROPOSED AMENDMENT: OFFICE USES

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- **Currently, there are 3 Office types:**
  - **Production-related office**
  - **Professional and administrative office**
  - **Traditional office**
- **Proposal:**
  - **Production-related office**
  - **Combine the others into: Professional and administrative office**
- **Make changes throughout code for consistency**



Re: Written Testimony for **Agenda 8 B, High Density Residential Zones**, Regular Session, December 6, 2022

To: Mayor Gamba, Council President Hyzy, and Councilors Batey, Nicodemus, Khosrobadi; Senior Planner Vera Koliass and Associate Planner Adam Heroux

**Two points in opposition to the Consolidation of three High Density zones to One High Density zone (Residential).**

1. I prefer that the City has a transition zone between Higher height Multi-family buildings (45 feet or higher) - stepping down to the originally, existing prescribed (35 feet Maximum height) at the edges of existing single family home neighborhoods. I believe if I recall correctly, and this seems to be echoed by Ardnewald-Johnson Creek NDA land use person (Lisa Grunger-Rinker); the Comprehensive Plan Implementation Committee and public processes had settled on a recommendation of three high density residential zones. So, the “waiving away” of prior public input, with consolidation into one zone, would be received as but another case of City Council and Planning Commission (in its totality) “dis-enfranchising” its existing residents.
2. If the Council is wanting to Consolidate per the November 15, 2022, information packet; then **I ask the Council to first complete a review and reset of the System Development fees for both Transportation and Parks**, before approving the one zone consolidation.

For most of us existing Milwaukie residents who are very much intending to live in Milwaukie for the foreseeable future, if not for the remainder of our lives; higher residential buildings would most definitely seem to increase neighborhood populations and cause, consequently, increased traffic flows and increased use of parks (over otherwise levels). But **many of Milwaukie’s neighborhood streets lack a contiguous network of sidewalks and the streets themselves are of poor pavement quality, as echoed by the City Engineer’s last report on the condition of City roads.**

**At the same time, a comparison of System Development Charges (SDCs) for the City of Milwaukie and neighboring Cities shows Milwaukie has the lowest SDCs for Transportation and Parks. For instance, Happy Valley and Oregon City have Multi-family Transportation SDCs of \$7,013 and \$7,740 per unit, respectively, as against Milwaukie’s \$2,362 (per Master Fee schedules). I won’t mention Lake Oswego which is a magnitude greater than Happy Valley and Oregon City. Additionally, Happy Valley and Oregon City have Multi-family Park SDCs of \$8,075 and \$5,461 against Milwaukie’s \$3,608.**



I would bet developers and residential property owners looking to sell and develop will gain substantially, a monetary windfall, from the Consolidation of High-Density Residential Zones.

So, most existing Milwaukie residents (including those renting existing apartments) are most likely to be disadvantaged by the consolidation into one Zone, with the increased traffic flow and increased use of public infrastructure. (Existing renters may even see their rents go up eventually more so than otherwise, as the higher heights of one zone raises the land value of the properties they currently rent.)

A key means of **compensating the majority for the negative impacts** of one zone and higher heights is to at least **raise Milwaukie SDCs** for funding badly needed sidewalks and bicycle lanes and reimbursing SAFE monies already invested

You might think that the increased building would cause an adequate compensation due to subsequent property tax proceed increases. But the property tax revenue increases are likely to be insufficient in funding new public infrastructure (a continuous network, and not just ROW of the developed property). First, Milwaukie funds its street (SSMP) and sidewalk network (SAFE) with Water bill fees in substantive part, and not property taxes. Second, Land underlying newly developed property is not re-assessed for Tax Assessed Value; and most importantly, new building improvements are heavily discounted using the average ratio of tax assessed value divided by real market value for the entirety of Clackamas County. I think this ratio is down to about 60% and falling.

Raising SDCs to an average of surrounding cities, a doubling in essence to comparable levels in surrounding Cities, could raise City infrastructure funding by perhaps as much as \$10 million over the next ten years - say for instance, if something like 2,000 to 3,000 new units in Milwaukie get built. And SDCs would then more adequately help fund public safety and park improvements to offset the effects of increased traffic flow and increased park use, as these happen for existing neighborhoods.

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Sincerely,  
Elvis Clark  
Ardenwald neighborhood  
Milwaukie 97222

12-5-2022

Mayor Gamba & Councilors,

The Ardenwald-Johnson Creek Neighborhood Association (AJCNSA) requests that the High Density Residential (HDR) Zoning remain at the 3 zones that Planning Commission has recommended for your review. The neighborhood opposes consolidating to one HDR zone for the following reasons.

1 – Most citizens living in Milwaukie are not aware of the HDR zoning changes to 3 zones by Planning Commission or to 1 zone by council. The HDR zoning consolidation to 1 zone seems extreme, fast, and was not recommended to council by the Planning Commission. The Comprehensive Plan Implementation Committee (CPIC), 18 members, held 10 meetings from June 2020 to July 2021 and only voted to consolidate a few lower density zones during their missing middle housing code discussions. To be voting and discussing this zoning issue that will affect so many people's lives should be more inclusive and done with moderation so increased outreach to the community can be achieved. Also, at a time other than the holidays when so many folks are focused on family and friends.

2 – By adopting the HDR 1 zone plan you will be leaving no transition area between the HDR zones and the Moderate Density Residential (MDR) zones within neighborhoods. This means that single story homes and apartments will be next to buildings that are:

- 45' in height min vs the 35' min in current R3 zoning
- 50% building coverage vs the 40% building coverage in R3
- 15% vegetation minimum vs the 35% vegetation coverage in R3
- can add 10' in height to the buildings if a little more foliage is provided so 55' in height

3 – The heat island effect will be exaggerated in the HDR zone, or next to the HDR zone, as allowing a minimum of 15% vegetation throughout large areas of HDR neighborhoods will not be sufficient to help cool people, wildlife, and the environment when temperatures are very high. Trees in cities are having a hard time providing a cooling effect when pollution, drought, and pathogens are killing them. We have the opportunity in Milwaukie to create a better environment for trees to survive and thrive and help neighborhoods keep temperatures cooler in our new normal world by maintaining the 35% vegetation requirements.

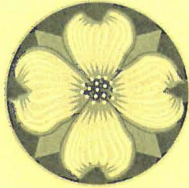
4 – System Development Charges (SDC) for new development within the city are so low they are not even half of what other area cities require when new development is created. There will not be enough funds generated either to buy more parkland for incoming residents or maintain the increased use of the existing parks that will be near the HDR zone in some neighborhoods. Everything costs more now and not addressing increasing the City of Milwaukie SDC's will ensure that citizens both current and future will not have equitable access to parks and green spaces.

5 – There will be no required discussion concerning increased parking or traffic impacts when adding density to neighborhoods by changing HDR zoning. Between 700 and 800 new units of housing have already been approved/or are being built in AJCNSA and more will be coming with preapplications already submitted.

For all these reasons, the neighborhood again requests that Council not consolidate HDR zoning to 1 zone and approve the HDR zoning of the 3 zones recommended by Planning Commission.

Respectfully submitted,

AJCNDA Board



**CITY OF MILWAUKIE  
CITY COUNCIL**

10722 SE Main Street  
P) 503-786-7502  
F) 503-653-2444  
ocr@milwaukieoregon.gov

# Speaker Card

The City of Milwaukie encourages all citizens to express their views to their city leaders in a **respectful** and **appropriate** manner. If you wish to speak before the City Council, fill out this card and hand it to the City Recorder. Note that this Speaker Card, once submitted to the City Recorder, becomes part of the public record.

**Name:** Camden McKone

**Address:**

**Organization:**

**Phone:**

**Email:**

**Meeting Date:** 12/6/22

**Topic:** \_\_\_\_\_

**Agenda Item You Wish to Speak to:**

**You are Speaking...**

#5 Community Comments

in Support

#7 Other Business, Topic:

in Opposition

#8 Public Hearing, Topic: HO-R zoning  
88

from a Neutral Position

to ask a Question

**Comments:**

