



COUNCIL ORDINANCE No. 2221

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING MUNICIPAL CODE (MMC) TITLE 19 ZONING ORDINANCE TO ESTABLISH ELECTRIC VEHICLE CHARGING INFRASTRUCTURE REQUIREMENTS (FILE #ZA-2022-006).

WHEREAS it is the intent of the City of Milwaukie through its 2018 Climate Action Plan to implement electric vehicle (EV) ready zoning regulations for commercial buildings and multifamily housing, and

WHEREAS the State of Oregon adopted new requirements regarding EV charging infrastructure that must be adopted by local jurisdictions in early 2023, as reflected in the following rules and statutes: Oregon Revised Statute (ORS) 455.417, Oregon Administrative Rule (OAR) 660-12-0410, and OAR 918-460-0200, and

WHEREAS legal and public notices have been provided as required by law, and multiple opportunities for public review and input have been provided, and

WHEREAS on October 25, 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 11/15/22 and moved to second reading by 5:0 vote of the City Council.

Read the second time and adopted by the City Council on 11/15/22

Signed by the Mayor on 11/15/22.

A handwritten signature in black ink, appearing to read "Mark F. Gamba".

Mark F. Gamba, Mayor

ATTEST:

A handwritten signature in blue ink, appearing to read "Scott S. Stauffer".

Scott S. Stauffer, City Recorder

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "Justin D. Gericke".

Justin D. Gericke, City Attorney

Exhibit A

Findings in Support of Approval File #ZA-2022-006 EV Charging Infrastructure 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 Title 19 Zoning to comply with new state rules for electric vehicle (EV) charging infrastructure for off-street parking spaces associated with new commercial and industrial development as well as with new multi-unit and mixed-use developments with more than five dwelling units. Amendments are proposed to MMC Chapter 19.600 Off-Street Parking and Loading. The land use application file number is ZA-2022-006.
2. The proposal is subject to the following provisions of the Milwaukie Municipal Code (MMC):
 - MMC Section 19.902 Amendments to Maps and Ordinances
 - MMC Section 19.1008 Type V Review

The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. Public hearings were held on October 25, 2022, and November 15, 2022, as required by law.

3. MMC Section 19.902 Amendments to Maps and Ordinances

MMC 19.902 establishes the general process for amending the City's Comprehensive Plan and land use regulations within the municipal code. MMC Subsection 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 municipal code be evaluated through a Type V review per MMC Section 19.1008.

The Planning Commission held a duly advertised public hearing on October 25, 2022, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on November 15, 2022, and approved the amendments. Public notice was provided in accordance with MMC Subsection 19.1008.3.
 - b. MMC Subsection 19.902.5.B establishes the approval criteria for changes to land use regulations of the Milwaukie Municipal Code.
 - (1) MMC Subsection 19.905.B.1 requires that the proposed amendments be consistent with other provisions of the Milwaukie Municipal Code.

The proposed amendments are consistent with other provisions of the Milwaukie Municipal Code, including MMC Chapter 19.600 Off-Street Parking and Loading.

This standard is met.

- (2) MMC Subsection 19.902.5.B.2 requires that the proposed amendments be consistent with the goals and policies of the Comprehensive Plan.

The following goals and policies of the Comprehensive Plan support the amendments to require the installation of EV charging infrastructure for some new developments:

Section 6 – Climate Change & Energy

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

Goal 6.2 – Transportation and Utility Infrastructure

Maintain and expand Milwaukie’s transportation and utility infrastructure in a manner that facilitates greater redundancy, resiliency, energy conservation, and emissions reductions.

Policy 6.2.5

Aim to increase the use of electric and other clean energy vehicles through a mix of infrastructure improvements, incentives, and development requirements.

Section 8 – Urban Design & Land Use

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.

Goal 8.2 – Livability

Enhance livability by establishing urban design concepts and standards that help improve the form and function of the built environment.

Policy 8.2.2

Parking design policies: ... h) Expand the number of electric vehicle charging stations in both public and private parking areas

Section 10 – Public Facilities & Services

Plan, develop and maintain an orderly and efficient system of public facilities and services to serve urban development.

Goal 10.9 – Energy and Communication Services

Ensure that energy and communications services are adequate to meet residential and business needs.

Policy 10.9.3

Encourage the provision of electric vehicle charging stations in appropriate locations.

The proposed amendments implement sections of the comprehensive plan related to electric vehicle charging. The amendments propose new requirements for parking created through new developments that are commercial, industrial, or multi-unit/mixed-use residential with five or more dwelling units. By requiring a base level of EV charging infrastructure, these new requirements will help building owners save money in the long term and will expand access to EV charging.

This standard is met.

- (3) MMC Subsection 19.902.5.B.3 requires that the proposed amendments be consistent with the Metro Urban Growth Management Functional Plan and relevant regional policies.

The proposed amendments are consistent with the Metro Urban Growth Management Functional Plan. A Metro representative has confirmed that a detailed analysis of the Functional Plan is not required.

This standard is met.

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

The proposed amendments were initiated in response to House Bill 2180 and the Climate Friendly and Equitable Communities rulemaking process undertaken by the Department of Land Conservation and Development, which focused on establishing statewide requirements for EV infrastructure. The proposed amendments comply with OAR 660-12-0410, ORS 455.417, and OAR 918-460-0200, all of which were adopted to implement these new state requirements.

In addition, the proposed amendments are consistent with the following relevant statewide planning goals:

Goal 1 – Citizen Involvement

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

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

Goal 6 Air, Water and Land Resources Quality

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

The proposed amendments will make EV charging more accessible to renters as well as to employees and customers of commercial and industrial businesses in Milwaukie. As a result, it is likely that Milwaukie will see an increase in EV usage and a decrease in polluting internal combustion vehicles. EVs as a form of vehicle transportation provide an opportunity to reduce the impact of local emissions on air quality, though their lifecycle emission-reduction potential is linked to the availability of carbon-free electricity for charging.

Goal 13 Energy Conservation

To conserve energy.

Recent initiatives from the City, including efforts to create a new, more affordable voluntary carbon-free electricity product for the community and the promotion of rooftop solar generation, would increase the availability of carbon-free electricity for EV charging and could lower Milwaukie's transportation emissions with community utilization. The requirement to provide EV charging infrastructure on-site at new mixed-use and multi-unit developments with 5 or more units will lead to more EV charging where people prefer to charge the most—at home—while reducing unnecessary trips to other off-site charging stations. Requiring conduit installation during construction is a critical step toward achieving Oregon's state goal that more than 90% of new vehicles are EVs by 2035, especially given that buildings typically have 80- to 100-year lifespans.

This standard is met.

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

The proposed amendments are not inconsistent with any relevant federal regulations.

This standard is met.

The City Council finds that the proposed amendments to MMC Chapter 19.600 (Off-Street Parking and Loading) are consistent with the applicable approval criteria for zoning text amendments as established in MMC 19.902.5.B.

The City Council finds that the proposed zoning text amendments are approvable in accordance with the applicable procedures and standards of MMC 19.902.

4. MMC Section 19.1008 Type V Review

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

The amendments were initiated by the Planning Manager on August 1, 2022.

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

(1) MMC Subsection 19.1008.3.A General Public Notice

MMC 19.1008.3.A establishes the requirements for public notice

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

The Planning Commission had one work session about the proposed code amendment language on September 27, 2022. Proposed code amendments were first posted on the application webpage on September 23, 2022, and have been updated since as needed. On September 23, 2022 staff emailed Neighborhood District Association (NDA) leaders with information about the hearing and a link to the draft proposed amendments.

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

A notice of the Planning Commission's October 25, 2022, hearing was posted as required on September 23, 2022. A notice of the City Council's November 15, 2022, hearing was posted as required on October 14, 2022.

(c) MMC 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 properties in the city, so notice is not required for specific geographies or individual property owners.

(2) MMC Subsection 19.1008.3.B DLCD Notice

MMC 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 September 20, 2022.

(3) MMC Subsection 19.1008.3.C Metro Notice

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

Notice of the proposed amendments was sent to Metro on September 20, 2022.

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

MMC 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 not affect the permissible uses of land. The proposed amendments simply require the provision of electrical service capacity and conduit for parking spaces created in conjunction with specific developments.

b. MMC Subsection 19.1008.4 Type V Decision Authority

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

The City Council held a public hearing to consider this application on November 15, 2022, and approved the proposed amendments as presented.

c. MMC Subsection 19.1008.5 Type V Recommendation and Decision

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

The Planning Commission held an initial evidentiary hearing on October 25, 2022, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on November 15, 2022, and approved the proposed amendments as presented.

The City Council finds that the applicable requirements of MMC 19.1000 have been met.

(Underline/Strikeout Version)

Title 19 Zoning Ordinance

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.605 Vehicle Parking Quantity Requirements

The purpose of Section 19.605 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.605.1 establishes parking ratios for common land uses, and Subsection 19.605.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Subsection 19.605.5 details requirements for installing electric vehicle (EV) charging infrastructure in multi-unit, mixed-use, commercial, and industrial developments. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.605.2.

~~Nonresidential development in the Downtown Mixed Use (DMU) and Open Space (OS) Zones is exempt from the requirements of Section 19.605.~~

19.605.5 Electric Vehicle (EV) Charging Requirements

Required EV charging spaces. All uses that are commercial, industrial, multi-unit with 5 or more units, or mixed-use with 5 or more units must include sufficient space for electrical service capacity to support at least a Level 2 EV charger at required EV charging spaces as outlined below. For terms not defined elsewhere in Title 19, see applicable sections of the state building code and/or OAR 918-460-0200.

A. **Commercial and Industrial Parking.** For commercial and industrial uses that provide off-street parking, choose one of the following:

1) At least 50% of the total number of parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;

OR

2) At least 20% of the total number of parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 5% of parking spaces provided must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 20% minimum requirement.

B. **Multi-Unit and Mixed-Use Residential Parking.** For buildings with five or more dwelling units where off-street parking spaces are provided, choose one of the following:

1) All (100%) of the parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;

OR

2) At least 40% of parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 10% of parking spaces provided must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 40% minimum requirement.

(Clean Version)

Title 19 Zoning Ordinance

CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.605 Vehicle Parking Quantity Requirements

The purpose of Section 19.605 is to ensure that development provides adequate, but not excessive, vehicle parking based on their estimated parking demand. Subsection 19.605.1 establishes parking ratios for common land uses, and Subsection 19.605.3 allows certain exemptions and reductions to these ratios based on location or on-site amenities. Subsection 19.605.5 details requirements for installing electric vehicle (EV) charging infrastructure in multi-unit, mixed-use, commercial, and industrial developments. Modifications to the established parking ratios and determinations of parking requirements for unique land uses are allowed with discretionary review per Subsection 19.605.2.

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OR

- 2) At least 20% of the total number of parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 5% of parking spaces provided must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 20% minimum requirement.

B. Multi-Unit and Mixed-Use Residential Parking. For buildings with five or more dwelling units where off-street parking spaces are provided, choose one of the following:

- 1) All (100%) of the parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger;

OR

- 2) At least 40% of parking spaces provided must include electrical conduit adjacent to the spaces that will allow for the installation of at least a Level 2 EV charger. At least 10% of parking spaces provided must include an installed Level 2 or Level 3 EV charger. Parking spaces with installed chargers count toward the 40% minimum requirement.