



AGENDA

MILWAUKIE PLANNING COMMISSION Tuesday, December 13, 2016, 6:30 PM

MILWAUKIE CITY HALL
10722 SE MAIN STREET

- 1.0 Call to Order - Procedural Matters**
- 2.0 Planning Commission Minutes – Motion Needed**
 - 2.1 February 9, 2016
 - 2.2 February 23, 2016
 - 2.3 March 22, 2016
 - 2.4 July 12, 2016
 - 2.5 August 9, 2016
- 3.0 Information Items**
- 4.0 Audience Participation – This is an opportunity for the public to comment on any item not on the agenda**
- 5.0 Public Hearings – Public hearings will follow the procedure listed on reverse**
 - 5.1 Summary: Harmony Rd Mini-storage—*to be continued again to January 10, 2017*
Applicant/Owner: Hans Thygeson
Address: 5945 & 5965 SE Harmony Rd
File: CU-2016-001, NR-2016-001, TFR-2016-001, VR-2016-003
Staff: Brett Kelper
 - 5.2 Summary: Housekeeping Code Amendments
File: ZA-2016-002
Staff: Vera Kalias
- 6.0 Worksession Items**
- 7.0 Planning Department Other Business/Updates**
 - 7.1 Planning Commission Notebook Replacement Pages *tentative*
- 8.0 Planning Commission Committee Updates and Discussion Items – This is an opportunity for comment or discussion for items not on the agenda.**
- 9.0 Forecast for Future Meetings:**
 - January 10, 2017
 - 1. Public Hearing: WG-2016-002, VR-2016-008 – 20th Ave Garage
 - 2. Public Hearing: CU-2016-001, et al – Harmony Road mini-storage
 - 3. Worksession: Visioning Update
 - January 24, 2017
 - 1. TBD

Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to speak at this meeting, please fill out a yellow card and give to planning staff. Please turn off all personal communication devices during meeting. For background information on agenda items, call the Planning Department at 503-786-7600 or email planning@ci.milwaukie.or.us. Thank You.
2. **PLANNING COMMISSION MINUTES.** Approved PC Minutes can be found on the City website at www.cityofmilwaukie.org
3. **CITY COUNCIL MINUTES** City Council Minutes can be found on the City website at www.cityofmilwaukie.org
4. **FORECAST FOR FUTURE MEETING.** These items are tentatively scheduled, but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
5. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

Public Hearing Procedure

Those who wish to testify should come to the front podium, state his or her name and address for the record, and remain at the podium until the Chairperson has asked if there are any questions from the Commissioners.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience, but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, *any person* may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain, or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

The City of Milwaukie will make reasonable accommodation for people with disabilities. Please notify us no less than five (5) business days prior to the meeting.

Milwaukie Planning Commission:

Shane Abma, Chair
Scott Barbur, Vice Chair
Shannah Anderson
Adam Argo
Greg Hemer
Vacant
Vacant

Planning Department Staff:

Denny Egner, Planning Director
David Levitan, Senior Planner
Brett Kelver, Associate Planner
Vera Kolas, Associate Planner
Mary Heberling, Assistant Planner
Alicia Martin, Administrative Specialist II
Avery Pickard, Administrative Specialist II

CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
Tuesday, February 9, 2016
6:30 PM

COMMISSIONERS PRESENT

Sine Adams, Chair
 Shaun Lowcock, Vice Chair
 Shane Abma
 Shannah Anderson
 Adam Argo
 Greg Hemer
 Scott Barbur

STAFF PRESENT

Denny Egner, Planning Director
 Tim Ramis, City Attorney

COMMISSIONERS ABSENT - None

1.0 Call to Order – Procedural Matters*

Chair Adams called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

Note: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

2.0 Planning Commission Minutes

2.1 June 23, 2015

It was moved by Commissioner Hemer and seconded by Vice Chair Lowcock to approve the June 23, 2015 Planning Commission minutes as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, announced that Li Alligood would be leaving the City to work for Otak. The City had advertised for her position, and would be two months without full staff.

Vice Chair Lowcock noted the Milwaukie Police's presence related to the school lockdown the previous week and encouraged everyone to acknowledge local police officers' service.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

5.1 Summary: Short-term Rentals Code Amendments
 Applicant/Owner: City of Milwaukie
 File: ZA-2015-003
 Staff: Denny Egner

Chair Adams called the hearing to order and read the conduct of legislative hearing format into the record.

Mr. Egner presented the staff report via PowerPoint, noting the amendments were proposed as if the General and Neighborhood Mixed Use Zones approved in December were in effect. He noted the key issues remaining for the Commission's consideration and addressed clarifying questions regarding existing parking requirements, the administration of lodging operator licenses, zoning, and home occupation enforcement.

- He confirmed public correspondence regarding the Code amendments included a request to continue the hearing, adding a letter was received this afternoon from the Housing Land Advocates challenging the findings as they related to Goal 10 Housing. Staff supported the requested continuance to allow Staff to develop better findings and provide a numeric analysis to the challenge. He elaborated on the challenge to the findings and described options for addressing the challenge, noting the vacation rental piece could be postponed until after the Housing Needs Analysis, but many citizens had been waiting to get short-term rentals legalized since last year.

Chair Adams called for public testimony.

Julie Olson favored approving all of the amendments, emphasizing that delaying the amendments would be significant. Short-term and vacation renters were a boon to Milwaukie. Airbnb renters did not cause a parking problem, whereas long-term renters had numerous cars, destroyed property, and created noise disturbances. Airbnb users were vetted and insured for \$1 million, resulting in visitors who were more respectful and appreciative of the Milwaukie area. Her neighbor was glad she only wanted to do Airbnb. She wanted all short-term rentals, B&Bs, and vacation rental to be permitted uses. Having to wait for the conditional process would result in her wasting three more months before being able to start renting short-term again. Being in the CL zone, she could currently only have one rental every 30 days. She responded to several questions from the Commission about her property and parking availability. She clarified she wanted to rent more often than once every 30 days and not be limited on the home occupation due to her travel schedule.

James Knight elaborated on the key issues included in the letter he sent to the Commission months ago, but not included in the meeting packet. Having attended many meetings in Portland about short-term rentals, he maintained that with no hotels in Milwaukie, short-term rentals would ensure visitors stay and spend money in Milwaukie instead of going to Portland.

- Short-term rentals provide extra income to property owners; some would be in foreclosure if they were unable to use their property for short-term rental. Short-term renters came from all over the world, enabling a cultural/social interaction which was also beneficial.
- He was amazed the City initiated this entire Code amendment process based on two parking complaints; it seemed biased. He described the complaint involving his property which was not legitimate, and questioned the legitimacy of the other. There are always people who will complain.
- Limiting rentals to a single party was unnecessary. Portland limited the number of parties to two or three and did not regulate parking, which was working fine.
- He questioned the 270-day rule, which would preclude him renting his home during his extended trips abroad for training or teaching, and possibly prevent him from going. The rule allowed only three months for owners to be able to go and do anything.
- He questioned the difference between a short-term rental and the 30-day limit, which was arbitrary. As an Airbnb, everything unsafe or unsatisfactory is reported, which did not occur

with short-term rentals. Airbnbs should not be confused with B&Bs because no meals are typically prepared.

- Making the Code more difficult would cause short-rentals to move to the unincorporated areas and Milwaukie would lose that revenue.
- He addressed several questions from the Commission about his parking Code violation, Airbnbs versus VRBOs, and whether the rentals were owner occupied.

Ms. Olsen agreed- if parking was the problem why did it take two years to make decisions that were obvious. She reiterated view that renters cause more parking problems than Airbnb clients.

Mr. Egner clarified the differences between short-term and vacation rentals and addressed further clarifying questions from the Commission about existing and proposed parking requirements, as well as the City's mandates for building and fire code inspections related to home occupations.

The Commission discussed whether to separate vacation rentals from the proposed Code package in response to the letter received about Goal 10 compliance. Following a lengthy discussion which resulted in the reversal of a straw poll, the Commission consented to retain vacation rentals in the proposed amendments as presented. **Mr. Egner** added he would contact Housing Land Advocates for further clarification.

Chair Adams reminded that the hearing would remain open and further public comment could be provided at the continued hearing.

It was moved by Commissioner Hemer and seconded by Commissioner Argo to continue the public hearing for ZA-2015-003 to February 23, 2016. The motion passed unanimously.

6.0 Worksession Items – There were none.

7.0 Planning Department Other Business/Updates

Mr. Egner noted interim update pages had been distributed for the Planning Commission's notebooks.

8.0 Planning Commission Discussion Items

Commissioner Hemer stated he attended a meeting on the parkway, which would be a closed off roadway through Milwaukie for pedestrians and bicycles without vehicle traffic and with stops along the way. Sponsorships and volunteers were needed; anyone interested could contact Mitch Nieman at the City for more information.

Chair Adams announced the first of five Urban Renewal Advisory Committee meetings would be held February 17th at the Public Safety Building. Everyone was welcome to attend.

9.0 Forecast for Future Meetings:

- | | |
|-------------------|---|
| February 23, 2016 | 1. Public Hearing: MLP-2015-006/VR-2015-007 Rockwood St Partition |
| March 8, 2016 | 1. Public Hearing: MLP-2015-004 55 th Ave Partition |

Meeting adjourned at approximately 8:28 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Shane Abma, Chair
for Sine Adams, Chair

CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, February 23, 2016
6:30 PM

COMMISSIONERS PRESENT

Sine Adams, Chair
 Shane Abma
 Scott Barbur
 Greg Hemer

STAFF PRESENT

Denny Egner, Planning Director
 Brett Kelper, Associate Planner
 Dan Olsen, City Attorney

COMMISSIONERS ABSENT

Shaun Lowcock, Vice Chair
 Shannah Anderson

1.0 Call to Order – Procedural Matters*

Chair Adams called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

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2.0 Planning Commission Minutes

3.0 Information Items

There were no information items.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

- 5.1 Summary: Rockwood St Partition
 Applicant/Owner: Louie & Debra Bomotti
 Address: 4401 SE Rockwood St
 File: MLP-2015-006, VR-2015-007
 Staff: Brett Kelper

Chair Adams called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

Brett Kelper, Associate Planner, presented the staff report via PowerPoint. He noted the location and orientation of the property and described the proposed 2-parcel partition. The existing shop on the new lot would remain for now, although if the property were to change ownership, a condition could be to limit the time the shop could remain for the benefit of the neighbors. Due to the configuration of the new lot, the variance request was for the minimum lot depth. The applicant demonstrated and staff agreed that the variance was reasonable and met the approval criteria. Staff recommended approval with the findings and conditions as presented.

Chair Adams called for the applicant's testimony.

Louis Bomotti, 4401 SE Bomotti, noted the hedges at the end of 44th Court were on the other side of the fence from his property. He asked if it was possible to get an extension on the timeline for removing the existing shop on the new lot, if he were to sell the lot with the existing house and the new lot did not sell within the timeframe established in the proposed conditions of approval.

Mr. Kelper described the timeline outlined in Recommended Condition 2E and noted that, if either of the parcels were transferred to separate ownership, the existing shop could remain on the new lot for up to 2 years before being removed.

Dan Olsen, City Attorney, suggested that a condition be included to allow for an extension if the parcels were to come under separate ownership and the new lot (with the existing shop) did not sell within the 2-year period.

Chair Adams closed public testimony.

Planning Commission Deliberation

The Commissioners discussed the extension option to allow for a softer timeline, finally settling on an allowance of up to 3 years for the existing shop to remain if the front parcel was sold.

It was moved by Commissioner Hemer and seconded by Commissioner Abma to approve land use applications MLP-2015-006 and VR-2015-007 for 4401 SE Rockwood St with the recommended findings and conditions as amended. The motion passed unanimously.

5.2 Short-term Rentals Code Amendments (continued from 2/09/16)
Applicant: City of Milwaukie
File: ZA-2015-003
Staff: Denny Egner

Chair Adams called the hearing to order and read the conduct of continued legislative hearing format into the record.

Denny Egner, Planning Director, noted the testimony from the last hearing and the request to continue the hearing. Also received was a letter from Housing Land Advocates (HLA) that noted the amendments did not adequately address Goal 10 regarding affordable housing. Additional findings had been drafted to address Goal 10. The claim was that vacation and short-term rentals took away from the available housing stock in Milwaukie. The findings state that short-term rentals where there was a resident onsite did not affect the housing inventory; vacation rentals required a Conditional Use request that was burdensome. He raised the question of actual demand for these types of rentals in Milwaukie; currently the number was relatively low.

Dan Olsen, City Attorney, disclosed his wife was a board member of HLA although he has had no conversation or knowledge outside of this application regarding the letter received.

Chair Adams called for public testimony.

Sid Blasé, 2121 SE Sparrow St, gave background regarding her bed & breakfast and

experience with the City. She believed that short-term rentals were good for the growth of Milwaukie. She was opposed to the additional parking space requirement. She requested that the provision for renting only to one party be changed to one to two rooms.

Gerard Lester, 4724 NE 14th Ave, Portland, worked for Vacasa, a vacation rental management company. He noted that the vacation rental industry was growing, was affordable for families, and benefited the communities they were located in. He believed that affordable housing and vacation rentals were two very different entities. Vacasa adhered to the rules and regulations of the communities in which it managed properties. The homeowner usually did not reside on the property or only part-time; it functioned as a vacation rental.

Larissa Peterson, 410 W 10th St, Vancouver, also worked for Vacasa as the business representative for Portland. She noted that the current regulations limited vacation rental opportunity. She described different guest and property owner scenarios and the limitations some regulations created for the property owners. Vacation rentals rarely limited affordable housing. The Conditional Use process for vacation rentals was cost-prohibitive for property owners.

Mr. Egner agreed that the Conditional Use process was more burdensome but staff felt that allowing for process and notification was warranted. However, that was the Commission's decision. No comment had been received from the neighborhood district associations.

- **Ms. Blasé** noted that the Island Station NDA had offered to write a letter in support.

Mr. Egner confirmed that accessory dwelling units (ADUs) could be short-term rentals or vacation rentals.

Chair Adams closed public testimony.

Planning Commission Deliberation

Parking: The Commission agreed that an additional parking space should not be required for short-term rentals.

Rooms versus Parties: The Commission discussed the reasons for and issues with both code scenarios. **The Commission** agreed to list the provisions for hosted and unhosted: hosted would allow for 1-2 bedrooms; unhosted would allow for one party/reservation and for no more than 95 days of the year.

Required owner occupancy days: Unhosted would require the owner to reside on the property for 270 days of the year.

Conditional Use for vacation rentals: The reasoning was for providing notice to neighbors. There was no notice for home occupation businesses or for long-term rentals. **The Commission** agreed to retain the Conditional Use requirement.

It was moved by Commissioner Hemer and seconded by Commissioner Argo to recommend approval to City Council of ZA-2015-003 for Short-term Rentals Code Amendments with the recommended findings as modified. The motion passed unanimously.

6.0 Worksession Items

- 6.1 Summary: Comprehensive Plan Visioning Update
Staff: Denny Egner

Mr. Egner noted that a visioning consultant had talked with City Council about different visioning approaches. Council wanted to keep the visioning focused and look at all City services, and then create two approaches looking at the land use process and all other City services. An Economic Opportunity Analysis was in process and proposals for a Housing Needs Analysis were due that week. Those products would inform the process. Council was also interested in creating an action plan to address other issues. There would be a committee formed for the project as well.

7.0 Planning Department Other Business/Updates

Mr. Egner noted that the first meeting of the Urban Renewal Advisory Group was held last week and the boundaries for the urban renewal areas were discussed. The next meeting would be on March 30 and would discuss potential projects, which included projects from the Downtown Land Use Framework Plan and the Central Milwaukie Land Use and Transportation Plan.

8.0 Planning Commission Discussion Items

Commissioner Barbur updated the group on the library expansion project. Council had approved to put a bond measure to fund the expansion on the ballot for the May election.

9.0 Forecast for Future Meetings:

- | | |
|----------------|--|
| March 8, 2016 | 1. TBD – <i>Cancelled</i> |
| March 22, 2016 | 1. Public Hearing: CSU-2015-008 Northwest Housing Alternatives
<i>tentative</i> |
| | 2. Public Hearing: MLP-2015-004 55 th Ave Partition |

Meeting adjourned at approximately 9:23 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Shane Abma for Sine Adams, Chair

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, March 22, 2016
6:30 PM**

COMMISSIONERS PRESENT

Sine Adams, Chair
Shaun Lowcock, Vice Chair
Shane Abma
Shannah Anderson
Adam Argo
Scott Barbur
Greg Hemer

STAFF PRESENT

Denny Egner, Planning Director
Keith Liden, Temporary Planner
Shelby Rihala, City Attorney

1.0 Call to Order – Procedural Matters*

Chair Adams called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

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2.0 Planning Commission Minutes

- 2.1 July 14, 2015
- 2.2 July 28, 2015 Joint Session
- 2.3 July 28, 2015

It was moved by Commissioner Hemer and seconded by Vice Chair Lowcock to approve the Planning Commission Minutes for July 14, July 28 Joint Session, and July 28 Regular Session as presented. The motion passed unanimously.

3.0 Information Items

Denny Egner, Planning Director, reminded the group of the volunteer appreciation dinner scheduled for April 7, 2016.

Mr. Egner also noted that Keith Liden would be the contracted planner presenting the hearing this evening.

4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.

5.0 Public Hearings

- 5.1 Summary: Shelter and Office
Applicant/Owner: Stephen McMurtry, Northwest Housing Alternatives
Address: 2316 SE Willard St
File: CSU-2015-008, CU-2015-002, TFR-2015-001

Staff: Keith Liden

Chair Adams called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

Commissioner Hemer declared that he had been on the Design and Landmarks Committee with Sherri Grau who was an employee at Northwest Housing Alternatives (NHA). He also had done some research work for the Milwaukie Historical Society on the Annie Ross House. However, neither would affect his decision.

Keith Liden, Temporary Planner, presented the staff report via PowerPoint. He noted the location, zoning, and site conditions. The applications involved a community service use request for 8 temporary shelter units, conditional use for a 12,500 sq ft office building, and a transportation facilities review. A future multifamily housing project would be reviewed through the Type I process. He outlined the primary elements for each application request. A traffic impact study had been conducted and found the impact of the changes to be minimal, but there were some improvements needed on Lake Rd and some public sidewalks.

Mr. Liden outlined the key issues.

- The applications met the criteria and the proposal was compatible with the surrounding uses.
- The parking was found to be sufficient and was eased by access to transit, possible shared parking, and incentives for alternative transportation for employees.
- Conditions were drafted to provide adequate landscaping and buffering, particularly around the parking lot, and to address lighting.

Staff recommended approval of the applications with the recommended findings and conditions. He noted a few corrections to the staff report.

Chair Adams called for the applicant's testimony.

Stephen McMurtry, Housing Development Director, and **Martha McClelland, Executive Director**, presented the applicant's testimony. They agreed with staff's findings and conditions.

Ms. McClelland reviewed NHA's history and mission. She noted the old and limited space conditions of the current office space and shelter, and the need for new office space and shelter. The need for housing for the homeless was growing. NHA's location and services were ideal in providing for those in need. She outlined neighborhood outreach activities and the estimated project timeline.

Mr. McMurtry added the goals for the public outreach done to improve neighborhood communication and partnership.

Bill Lanning, MWA Architects, outlined the proposed site design and layout, the building design and form, and sustainability elements.

Chair Adams called for public testimony.

In Support:

Wes McNat was in support of the project. He had used NHA's services in the past and stated their services were very helpful.

Lester Garrison, Milwaukie Presbyterian Church, stated the church had supported NHA and the Annie Ross House in several ways and plan to continue through construction. In addition, the church was one of a group that were involved with a program called Shelter Our Neighbor (SON), which provided 2-week sessions of housing for families that were waiting for availability at the Annie Ross House. He stated that this year, every 2-week session was filled and the church was ill-prepared to provide that level of consistent need. The need for shelter of these families persists and the church was very much in favor of the additional space for the Annie Ross House and NHA. The church shared 10 spaces of their parking lot with NHA, and added that there were additional spaces available should NHA need more.

Janet Cartmill, 5466 SE Monroe St, Milwaukie, was in support for the proposal and found the need for low-income and emergency housing in the area called for more services. She donated produce to NHA through the Milwaukie Community Gardens and found the programs run very well and the properties well-maintained.

In Opposition:

Ray Bryan, 11416 SE 27th Ave, Milwaukie, was the chair of the Historic Milwaukie Neighborhood District Association (NDA) and presented testimony for the neighbors. His concern was regarding the impact the development would have on the surrounding neighborhood, particularly with parking, and requested that the proposed development be reduced in size. He was concerned about construction occurring all days. He also hoped NHA would agree to create a good neighbor agreement.

Michael Park, 2460 SE Willard, lived in the home that would now be adjacent to the proposed parking lot. He was concerned about the impact of a parking lot, landscaping, and multistory building right next to his home. Parking continued to be an issue in the area. He also noted problem behaviors he had witnessed of some shelter residents.

The Commission took a break and reconvened at 8:00pm.

Mr. Egner noted he received two letters in support of the applications during the break from David and Cynthia DeVore and Colby Phillips.

Applicant's Rebuttal

Diego Arguea, Traffic and Transportation Engineer with Kittelson & Associates, commented on the parking issue and clarified the calculation for number of parking spaces required. It was also found that 15% of employees currently used alternative transit modes. The 19 on-street spaces were public parking.

Ms. McClelland noted that it was assumed that each resident at the shelter would have a car, although that was not NHA's experience, and parking for the multifamily housing met the code requirement. NHA would be willing to enter into a good neighbor agreement and would also agree to limit construction to weekdays. NHA would accept the offer from the church for a shared parking agreement should there be a need for more.

Mr. Egner clarified that the code allowed for the applicant to decide whether to use the parking

reduction option. He also noted that a neighborhood parking permit program was outlined and could be available to the neighborhood residents but the process would need to be finalized first.

Chair Adams closed public testimony.

Planning Commission Deliberation

- **Commissioner Hemer** felt 50 parking spaces was minimal for the proposed development. However, it was per the code calculations and the shared parking agreement with Milwaukie Presbyterian Church eased his concern.
- **Commissioner Argo** noted the proposed design was to code but the transportation program management that NHA included in their application was not required due to less than 100 employees. Therefore, NHA went above and beyond with their transportation demand management.
- **Chair Adams** agreed that the proposal used the site more efficiently, particularly with regard to parking. She was in support of limiting construction to the weekdays.
- **Vice Chair Lowcock** appreciated the sustainability elements included in the proposal.
- **The Commission** agreed that conditioning a shared parking agreement and good neighbor agreement had merit, and construction should be limited to weekdays unless circumstances arise.

Mr. Egner asked how the Commission wanted to address the good neighbor agreement; what would be addressed in the agreement, did they want to review it once created, or was it a request for good faith/best efforts, etc.?

The Commission discussed the conditions. They agreed a condition for the applicant to pursue reasonable and good faith efforts to enter into a good neighbor agreement with Historic Milwaukie NDA; a condition for no construction on weekends; and the current relationship and agreement between NHA and the church was sufficient with no need for a condition.

It was moved by Commissioner Hemer and seconded by Commissioner Argo to approve land use applications CSU-2015-008, CU-2015-002, TFR-2015-001 for 2316 SE Willard St with the findings and conditions as amended. The motion passed unanimously.

6.0 Worksession Items

7.0 Planning Department Other Business/Updates

Mr. Egner noted the new Senior Planner, David Levitan, started on March 21, 2016. Also Clare Fuchs, a previous Commissioner, was hired as the Sustainability Director.

8.0 Planning Commission Discussion Items

9.0 Forecast for Future Meetings:

- | | |
|----------------|--|
| April 12, 2016 | 1. Public Hearing: MLP-2015-004/VR-2016-001 55 th Ave Partition |
| | 2. Worksession: |
| April 26, 2016 | 1. TBD |

Meeting adjourned at approximately 8:51 p.m.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Shane Abma for Sine Adams, Chair

**CITY OF MILWAUKIE
PLANNING COMMISSION
MINUTES
Milwaukie City Hall
10722 SE Main Street
TUESDAY, JULY 12, 2016
6:30 PM**

COMMISSIONERS PRESENT

Sine Adams, Chair
Shane Abma
Shannah Anderson
Scott Barbur
Greg Hemer

STAFF PRESENT

Denny Egner, Planning Director
Shelby Rihala, City Attorney

COMMISSIONERS ABSENT

Shaun Lowcock, Vice Chair
Adam Argo

1.0 Call to Order – Procedural Matters*

Chair Adams called the meeting to order at 6:30 p.m. and read the conduct of meeting format into the record.

Note: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

2.0 Planning Commission Minutes - None**3.0 Information Items - There were no information items.****4.0 Audience Participation –This is an opportunity for the public to comment on any item not on the agenda. There was none.****5.0 Public Hearings - None****6.0 Worksession Items**

- 6.1 Summary: Urban Renewal Plan
Staff: Denny Egner

Denny Egner, Planning Director, highlighted the staff report, noting the Commission was tasked with ensuring the Urban Renewal Plan conformed to the Comprehensive Plan and make a recommendation to City Council for public hearing on August 2nd.

Elaine Howard, Consultant, ECONorthwest, noted the public outreach that was conducted and lauded the amount of public input received for the Urban Renewal Plan (Plan). She presented the Plan, which was included in the meeting packet, via PowerPoint with additional comments from Mr. Egner. She and staff addressed several clarifying questions from the Commission, including how the financial structure worked; how building public amenities could attract investment; the impact to and relationship with other jurisdictions; and that the Plan was amendable. Staff would research and correctly reference the triangle park at the corner of Monroe St and 37th Ave, and correct Page 23 to reflect tonight's meeting was not a public

hearing.

Chair Bone called for public testimony.

David Purdow, 1400 SE Lava Dr, stated he opposed the Plan, noting urban renewal was an inappropriate economic development tool. He believed many people did not understand the history or purpose of urban renewal, and the public had a right to vote on indebtedness. He cited examples of how urban renewal did not work. He urged the Commission to carefully consider the vision for Milwaukie and the downsides of the Plan and not just economic development.

Eugene Monaco, 4920 SE Lake Rd, opposed the Plan, stating it would add more taxes that would continue to increase. The goal was to make Milwaukie a great place to live. A decent, affordable grocery store, like Trader Joe's, would attract more residents to the city. Local services that were relative to the cost of living in Milwaukie was important. He urged the Commission not to approve the Urban Renewal Plan.

Discussion continued with responses to public testimony and further questions from the Commission addressed by Ms. Howard and staff as follows:

- Urban renewal did not result in increased taxes. Taxes paid by individual homeowners would not change due to the 3% cap per year by Measure 50. Urban renewal only changed where tax money went. The bonds issued were not general obligation bonds paid for by the property tax payer, but from the tax increment.
- Proforma studies from the Moving Forward Milwaukie project showed that none of the seven vacant redevelopable sites in downtown were feasible for building mixed use development. Urban renewal was a funding tool to help incentivize and attract investment.
- Referencing the economic studies in the Plan's Introduction was suggested to explain the context that led to the Plan.
- Many surrounding cities successfully use urban renewal. Sandy built a plaza and park and used urban renewal to work with building owners to improve storefront facades. Like Lake Oswego, Milwaukie's urban renewal funds could be used for tenant improvements to attract specific targeted businesses downtown.
- All urban renewal projects would have to be approved by the Redevelopment Commission in a public meeting. It would take a couple years before the City would have the funds to do the work, so there was time to develop the criteria to qualify projects.
- Forming an advisory committee of citizens and taxing district representatives had been suggested to advise the Redevelopment Commission and provide continued input.
- Including bike share program under Developer Assistance on Page 12 of the Plan was questioned as it seemed very specific when urban renewal projects would be finalized later. The program might fit better under Parking Solutions. Additionally, only green building was referenced, not alternative energy, which would include installation of solar panels. (Page 18 of the staff report)
- Following discussion, staff offered to discuss the proposed wording changes for the Council's consideration.

Commissioner Hemer expressed concern that urban renewal would pay for public amenities before economic development projects or programs. While amenities might bring investment, such amenities could be far from developable areas. The Commission discussed that Table 11 of the Plan reflected his desire to address economic development prior to public amenities, acknowledging that the Plan would change within the next 29 years. **Commissioner Hemer**

noted the Redevelopment Commissioners change via elections and that campaign promises could influence amendments in the future. He suggested a recommendation be made on the record that the Redevelopment Commission uphold project categories as identified in Table 11.

It was moved by Commissioner Anderson and seconded by Commissioner Abma to recommend to City Council, based upon the information provided in the staff report, that the Milwaukie Urban Renewal Plan conforms with the Milwaukie Comprehensive Plan. The motion passed unanimously.

It was moved by Commissioner Hemer and seconded by Commissioner Abma to recommend to City Council and Redevelopment Commission, based upon the information provided in the staff report, that they try to commit to the Urban Renewal Plan's expenditure priorities and percentages on Table 11 Project Dates on Page 24, Report on Milwaukie Urban Renewal Area; 6.1 Page 63, Staff report. The motion passed unanimously.

7.0 Planning Department Other Business/Updates

7.1 New Chair Election Process

The Commission consented to postpone the election for a new Chair until all the Commissioners could be present. Commissioner Barbur would serve as Interim Chair at the August 9th meeting. **Mr. Egner** invited the Commissioners to suggest candidates for the Planning Commission vacancy.

Mr. Egner noted recommendations were made for the 15 positions on the Vision Advisory Committee and that they would be appointed at the Council meeting on Tuesday. He briefly noted the demographics of the 52 applicants, as well as those currently serving on advisory committees. He gave an update on the progress on the Vision Project, and added a community event would be held in October featuring a guest speaker to talk about how people deal with the future and to initiate conversations within the community.

8.0 Planning Commission Discussion Items

Commissioner Hemer announced that on August 5th, the Milwaukie Historical Society would sponsor a historic walk.

9.0 Planning Commission Discussion Items

July 26, 2016 1. TBD

August 9, 2016 1. Public Hearing: VR-2016-006 10541 SE 55th Ave Setback Variance

Meeting adjourned at approximately 8:27 pm.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Shane Abma, Chair
 for Sine Adams

**CITY OF MILWAUKIE
 PLANNING COMMISSION
 MINUTES
 Milwaukie City Hall
 10722 SE Main Street
 TUESDAY, August 9, 2016
 6:30 PM**

COMMISSIONERS PRESENT

Shaun Lowcock, Vice Chair
 Shane Abma
 Shannah Anderson
 Scott Barbur
 Adam Argo (arrived after Roll Call)

STAFF PRESENT

Denny Egner, Planning Director
 Vera Kolas, Senior Planner

COMMISSIONERS ABSENT

Greg Hemer

1.0 Call to Order – Procedural Matters*

Vice Chair Lowcock called the meeting to order at 6:30 pm and read the conduct of meeting format into the record.

Note: The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

2.0 Planning Commission Minutes

3.0 Information Items

Denny Egner, Planning Director, stated the August 23rd Planning Commission meeting was cancelled, and clarified the Visioning Advisory Committee meeting should not have been included on the Commission's agenda. He noted all six Commissioners should be present to elect a new Chair and that the election must happen during a public meeting. If there was no quorum for the September 13th meeting, another date might need to be scheduled to accommodate the 120-day land use clock.

4.0 Audience Participation – This is an opportunity for the public to comment on any item not on the agenda. There were none.

5.0 Public Hearings

5.1 Summary: Rear Yard Setback Variance
 Applicant/Owner: Paula Anderson
 Address: 10541 SE 55th Ave
 File: VR-2016-006
 Staff: Vera Kolas

Vice Chair Lowcock called the hearing to order and read the conduct of quasi-judicial hearing format into the record.

Vera Kolias, Associate Planner, presented the staff report via PowerPoint, noting staff recommended approval of the variance request. She reviewed the public comments received and confirmed no other correspondence had been received aside from what was in the packet.

Commissioner Argo arrived at this time.

Commissioner Abma noted that this was the second variance application in the past couple months presented under these discretionary criteria. The word “creative” was not defined in the code, but he believed it was a higher standard than simply putting something back on the site that used to exist. Given that only one of the three criteria had to be met, and the first was often easy, he was reluctant to set a precedent under the third criterion.

Staff responded to questions about how the criteria were applied, noting an alternate set of findings was available that eliminated the third criterion from consideration. Staff agreed that criterion was difficult to apply and suggested that it could be changed through a code amendment process.

Vice Chair Lowcock called for comments from the applicant or their representative.

Lori Whiteside, representing the Applicant, explained her mother, who was ill, was the applicant and that she and her family wanted to live close to help care for her. Moving the manufactured home to meet the required setback would place it flush against the garage, which would not work with the existing layout. Placing the manufactured home on the existing foundation minimized expenses as they would be able to use the existing sewer, water, and electrical hookups. Her parents had purchased the property about five years ago. The concrete foundation was still there, but not the original manufactured home.

Vice Chair Lowcock noted Rob Whiteside, who was in the audience, also supported the application. He closed public testimony.

Planning Commission Deliberation

Commissioner Abma stated “creative” meant something beyond replacing a manufactured home on an existing pad and agreed the word “creative” was too subjective. He would approve the variance with the condition that the criterion for Subsection C was not met.

The Commission agreed with Commissioner Abma’s suggested change and briefly discussed how it should be implemented. Commissioners noted the application was more practical than creative, and that the manufactured home added value to the area, as well as housing, and was a good use of an otherwise empty space.

Ms. Kolias explained the Commission could find the application did not meet the criterion because it was not creative or sensitive. She noted the criterion explanation (Criterion C.2) discussed when the existing built or natural environment provided challenges to standard development or site planning; however, there was nothing challenging or unique about the property that would need a creative response, so Criterion C would not apply.

It was moved by Commissioner Abma and seconded by Commissioner Anderson to approve File VR-2016-006 with the modification that the discretionary relief criterion,

Subsection C.2 of Milwaukie Code Section 19.911.4.B.1, did not apply. The motion passed unanimously.

Vice Chair Lowcock read the conduct of hearing format into the record.

6.0 Worksession Items

7.0 Planning Department Other Business/Updates

Mr. Egner updated on the adoption of both the Urban Renewal Plan and recreational marijuana regulations, noting both hearings were continued to Council's August 16th meeting. He reviewed the issues related to both agenda items and addressed clarifying questions from the Commission. The first meeting of the Advisory Committee for the North Milwaukie Industrial Area Plan was schedule for tomorrow at 7:30 am. The kick-off meeting of the Visioning Advisory Committee for the Comprehensive Plan Visioning project was schedule for August 23rd.

Staff described upcoming work for the Commission, which included housekeeping amendments to the code, and answered questions from the Commission regarding the need for the proposed amendments. The goal was to have the amendments completed by the end of the year.

8.0 Planning Commission Discussion Items

Vice Chair Lowcock noted recent articles in *The Oregonian* discussed Milwaukie's hot housing market and asked if staff was seeing a big increase in variance requests, etc. He added the light rail line had been very busy at evening rush hour.

- **Ms. Kolias** replied that pre-application conferences were being scheduled three weeks out and three people had inquired at the counter today about dividing their properties. A lot of building permit applications were also being submitted to improve dilapidated properties.

9.0 Forecast for Future Meetings:

- | | |
|--------------------|--|
| August 23, 2016 | 1. First Visioning Advisory Committee Meeting |
| September 13, 2016 | 1. S-2016-001 5126 SE King Rd., 14-lot subdivision |

Meeting adjourned at approximately 7:39 pm.

Respectfully submitted,

Alicia Martin, Administrative Specialist II

Shane Abma, Chair



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Dennis Egner, Planning Director

From: Brett Kolver, Associate Planner

Date: December 6, 2016, for December 13, 2016, Public Hearing

Subject: **Master File:** CU-2016-001 (with NR-2016-001, TFR-2016-001, and VR-2016-003)
Applicant/Owner: Hans Thygeson
Addresses: 5945 & 5965 SE Harmony Rd
Legal Description (Map & Tax Lot): 1S2E31D, tax lots 1800 and 1900
NDA: NA (Milwaukie Business Industrial)

ACTION REQUESTED

Re-open the public hearing for master file #CU-2016-001 and continue it again to a date certain, January 10, 2017. The applicant is evaluating options for the shared access to Harmony Road that would affect the site plan.

BACKGROUND INFORMATION

The public hearing for this application package was opened on November 22 and continued to December 13 without further presentation. Some issues have arisen with respect to the existing Harmony Road access and City staff is coordinating with the applicant to resolve them.

The applicant misunderstood the right-out-only turning restriction for the Harmony Road accessway, believing that right-in turning movements would be allowed from Harmony Road as proposed. In fact, right-in movements may be allowable, but only after revising the site plan to widen the accessway and confirming that the sight-distance and truck-turning modeling for the revised access will meet the applicable safety and functionality standards of Clackamas County, which has jurisdiction over Harmony Road. Widening the accessway will require modification of some site improvements and off-street parking areas for the proposed development. The applicant is working with City staff to ensure that any proposed revisions meet all applicable standards.

At the moment, staff anticipates that the revised proposal will be ready for presentation and consideration at the Planning Commission scheduled for January 10, 2017. The applicant has waived the 120-day clock requirement for obtaining a decision, so there is no imminent deadline for action.



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Denny Egner, Planning Director

From: Vera Kalias, Associate Planner

Date: December 6 2016, for December 13, 2016, Public Hearing

Subject: **File:** ZA-2016-002 Housekeeping Code Amendments
File Type: Zoning Ordinance Text Amendment
Applicant: Dennis Egner, Planning Director

ACTION REQUESTED

Open the public hearing for application ZA-2016-002. Discuss the proposed amendments, take public testimony, and provide direction to staff regarding desired revisions to the proposed amendments. Recommend City Council approval of application ZA-2016-002 and adoption of the recommended Findings of Approval found in Attachment 2. This action would allow for the adoption of amendments to the Milwaukie Zoning Ordinance.

Housekeeping amendments are generally clarifications or minor changes, and are not intended to affect the meaning or intent of existing regulations. These amendments are not intended to be a change in policy. Staff has had 2 worksessions with the Commission and 2 worksessions with the City Council to discuss and refine the proposed amendments. Therefore, staff anticipates 1 public hearing to complete the review process.

BACKGROUND INFORMATION

Summary of proposed changes (see Attachment 1 for the draft code amendment language):

Municipal Code

- MMC 14.16 – Signs – add the M-TSA Zone to the list of manufacturing-type zones for sign purposes; clarify roof signs and multiple frontages in manufacturing zones

Zoning Ordinance

- MMC 19.303 – Commercial Mixed-Use Zones – accessory uses and home occupations to be included as permitted uses in the GMU and NMU Zones
- MMC 19.306 – CL zone – include eating establishments as permitted uses
- MMC 19.310 – BI zone – include Construction: Contractors and Related Businesses as permitted uses

- MMC 19.401 – Willamette Greenway Overlay – revisions to applicability to include exemptions and revisions to definitions
- MMC 19.402 – Natural Resources – various minor clarification revisions
- MMC 19.502 – Accessory Structures – clarification of definition
- MMC 19.607 – Off-Street parking in residential areas – revision to standard to provide additional flexibility
- MMC 19.702 – Public Facility Improvements – revision to applicability section to include all applications for a replat
- MMC 19.706 – Fee In Lieu of Construction – delete section as it is duplicative of Section 13.32 adopted by Ordinance 2122.
- MMC 19.904 – Wireless Communication Facilities – applicability and review process revisions to reflect recent FCC decision regarding review process for modifications to existing facilities
- MMC 19.907 – Downtown Design Review – include a list of exemptions to land use review for minor site improvements
- MMC 19.911 – Variances – include a Type II review process for fence height variances
- MMC 19.1104 – Expedited Annexation – revision to County/City zone designations to reflect existing standards

KEY ISSUES

1. Accessory Structures: Councilor Batey has expressed concerns about accessory structures and additions. Is the proposed language sufficient to ensure that additions to primary structures are truly additions and not a large accessory structure with a limited connection to the primary structure?
2. Fence Height: Should there be a clear and objective option where there is an elevation difference between the roadway and the property?

Analysis

A. Is the proposed language sufficient to ensure that additions to primary structures are truly additions and not a large accessory structure with a limited connection to the primary structure?

In order to minimize confusion regarding when a development project is an accessory structure or an addition to the main house (because different standards apply), language is proposed to clarify under what circumstances a structure is an addition and not an accessory structure. The language provides specific dimensions and standards to clarify the requirements:

- Interior passage/hallway minimum width of 36 inches
- Alternately, if a new structure shares a wall with the primary structure for a minimum length of 48 in then it is not considered an accessory structure

Further, the proposed amendments include graphic representations of the language to illustrate the circumstances under which a structure is an addition and when it is an accessory structure.

B. Should there be a clear and objective option where there is an elevation difference between the roadway and the property?

The current zoning code does not provide a Type II variance option to allow for taller fences than permitted. The proposed amendments include a new Type II variance for fences that would establish limited variations to numerical standards (a front yard fence of up to a maximum of 6 ft and 8 ft for side yard, street side yard, and rear yard fences). Staff recognizes that there are situations where an even taller fence might be necessary and appropriate, particularly when significant grade changes exist between a property and the street. The City Council raised a question in a worksession suggesting a potential clear and objective option for fences when a roadway and a property have an elevation difference. The challenge in creating clear and objective standards to apply to these situations is that each case is unique, which raises the question: what kind of standards or language could be used that would be applicable in all cases?

An additional complication is that, in order for an applicant to show the elevation and existing conditions of the roadway and cross-section at the property line and beyond, a survey would be required.

Staff does not recommend creating a set of objective standards to apply to these types of situations. Rather, the Type III variance process is available in unique circumstances where a deviation from the standard is necessary.

CONCLUSIONS

A. Staff recommendation to the Planning Commission is as follows:

Reach consensus on the recommended draft amendments and agreement on recommended actions. Recommend City Council approval of application ZA-2016-002 and adoption of the recommended Findings of Approval found in Attachment 1 Exhibit A.

COMMENTS

Notice of the proposed changes was given to the following agencies and persons: City of Milwaukie Building, Engineering, and Community Development Departments; all seven Neighborhood District Associations (NDAs); Oregon Department of Land Conservation and Development (DLCD), and Metro via email. A public hearing notice was posted at City Hall, Ledding Library, the Public Safety Building, and the Johnson Creek Facility, and was posted on the City's Planning Department web site home page.

To date, staff has received 1 phone call related to clarifying how the proposed amendments would impact individual properties in the Limited Commercial Zone C-L. Staff will continue to collect comments; those received prior to 3pm on the day of the hearing will be provided to the Commission before the hearing.

ATTACHMENTS

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

	PC Packet	Public Copies	E- Packet
1. Draft Ordinance	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Exhibit A. Recommended Findings in Support of Approval	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

	PC Packet	Public Copies	E- Packet
Exhibit B. Proposed Zoning Code Amendments – Underline/Strikeout Version	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Exhibit C. Proposed Zoning Code Amendments – Clean Version	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

E-Packet = packet materials available online at <http://www.milwaukieoregon.gov/planning/planning-commission-163> .



MILWAUKIE

Dogwood City of the West

To: Planning Commission

Through: Denny Egner, Planning Director

From: Vera Koliass, Associate Planner

Date: December 8, 2016, for December 13, 2016, Public Hearing

Subject: **File:** ZA-2016-002
Housekeeping Code Amendments – **Supplemental Information**

Staff has identified additional Key Issues for the Planning Commission's deliberation as part of the housekeeping amendments discussion. These key issues are related to the proposed language in MMC 14.16 – Signs.

The proposed language in the code amendment package mirrors the recent decision by the Planning Commission in land use file# AP-2016-001. This appeal of a Code Interpretation (land use file# CI-2015-002) resulted in an interpretation as follows: "Where a subject property in any of the City's manufacturing zones has multiple frontages, the allowed area of a single proposed roof sign may be based on the combined length of multiple frontages."

In light of this decision, the proposed language in the housekeeping code package clarifies current language so that it is clear that a property may use the combined length of multiple frontages. At issue is whether there should be further limitations on signage.

1. Rather than formalize the decision to use the combined length of multiple frontages, should the language be amended to limit sign area to a calculation based on only 1 frontage?
2. Should there be a limit to the size of a roof sign in a manufacturing zone?

ANALYSIS

1. Should the language be amended to limit the use of only 1 frontage where a property has multiple frontages?

This is a policy question about whether the city is inclined to allow very large roof signs. The maximum size of a roof sign is dependent upon the length of property frontage, acknowledging that more frontage equates to a larger property, which would require a larger roof sign for visibility. However, when a property has more than 1 frontage, should the single roof sign be permitted to be even larger, even if the sign will not necessarily be visible from all frontages? Is there a reasonable connection between the cumulative frontages and the roof sign?

2. Should there be a limit to the size of a roof sign in a manufacturing zone?

As noted above, the maximum size of a roof sign is dependent upon the length of property frontages and is calculated as 1 SF of sign per linear foot of frontage. However, unlike with freestanding signs (maximum area is 250 SF), the code does not include a maximum size for a roof sign. The potential size of a roof sign on properties with significant frontage length could be very large. This could also be true on properties with a single very long frontage.

Examples include:

- 2000 SE Hanna Harvester: multiple frontages = approximately 1,767 linear feet (1,767 SF sign under current code)
- 5209 SE International Way (Dave’s Killer Bread): multiple frontages = approximately 1,200 linear feet (1,200 SF sign under current code)
- 4909 SE International Way (Blount): single frontage = approximately 1,180 linear feet (1,180 SF sign under current code)

As a point of reference, according to an internet search, the area of the largest standard-sized billboard is 672 SF (14 ft x 48 ft). This size delivers “maximum exposure to vehicular traffic on expressways, highways and primary arteries”. An example of a 672 square-foot roof sign is on the building located at 9304 SE Main Street in the North Milwaukie Industrial Area:



As yet not installed, the roof sign proposed on the property located at 2200 SE Mailwell Dr, the subject of the original code interpretation and subsequent appeal, is 480 SF (12 ft x 40ft).

Sign technology changes and larger signs may be possible in the future. Staff recommends that the Planning Commission consider establishing a maximum size for a roof sign, such as 480 SF.



CITY OF MILWAUKIE

"Dogwood City of the West"

Ordinance No.

An ordinance of the City Council of the City of Milwaukie, Oregon, amending Title 14 Signs and Title 19 Zoning to make minor change to select sections for the purpose of clarification and improved effectiveness (File #ZA-2016-002).

WHEREAS, the proposed amendments to Titles 14 and 19 make changes and clarifications that will more effectively communicate and implement existing policy; and

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

WHEREAS, on December 13, 2016, the Milwaukie Planning Commission conducted a public hearing, as required by MMC 19.1008.5 and adopted a motion in support of the amendment; and

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

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

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

Section 2. Amendments. The Milwaukie Municipal Code is amended as described in Exhibit B (Titles 14 Signs and 19 Zoning underline/strikeout version), and Exhibit C (Titles 14 Signs and 19 Zoning clean version).

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

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

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

Signed by the Mayor on _____.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:
Jordan Ramis PC

Scott Stauffer, City Recorder

City Attorney

Recommended Findings in Support of Approval File #ZA-2016-002, Housekeeping 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 various regulations that are contained in Title 14 Sign Ordinance and Title 19 Zoning Ordinance of the Milwaukie Municipal Code (MMC). The land use application file number is ZA-2016-002.
2. The purpose of the proposed code amendments is as a collection of “housekeeping” amendments – clarifications or minor tweaks – that are not intended to affect the meaning or intent of existing regulations; they are not intended to be a change in policy. The amendments are located in several titles of the municipal code:

Municipal Code

- MMC 14.16 – Signs – add the M-TSA Zone to the list of manufacturing-type zones for sign purposes; clarify roof signs and multiple frontages in manufacturing zones

Zoning Ordinance

- MMC 19.303 – Commercial Mixed-Use Zones – accessory uses and home occupations to be included as permitted uses in the GMU and NMU Zones
 - MMC 19.306 – CL zone — include eating establishments as permitted uses
 - MMC 19.310 – BI zone – include Contractors and Related Businesses as permitted uses
 - MMC 19.401 – Willamette Greenway Overlay – revisions to applicability to include exemptions and revisions to definitions
 - MMC 19.402 – Natural Resources – various minor clarification revisions
 - MMC 19.502 – Accessory Structures – clarification of definition
 - MMC 19.607 – Off-Street parking in residential areas – revision to standard to provide additional flexibility
 - MMC 19.702 – Public Facility Improvements – revision to applicability section to include all applications for a replat
 - MMC 19.706 – Fee In Lieu of Construction – delete section as it is duplicative of Section 13.32 adopted by Ordinance 2122.
 - MMC 19.904 – Wireless Communication Facilities – applicability and review process revisions to reflect recent FCC decision regarding review process for modifications to existing facilities
 - MMC 19.907 – Downtown Design Review – include a list of exemptions to land use review for minor site improvements
 - MMC 19.911 – Variances – include a Type II review process for fence height variances
 - MMC 19.1104 – Expedited Annexation – revision to County/City zone designations to reflect existing standards
3. 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
4. Sections of the MMC or MCP not addressed in these findings are found to be not applicable to the decision on this land use application.
 5. The application has been processed and public notice provided in accordance with MMC Section 19.1008 Type V Review. A public hearing was held on December 13, 2016 and _____, 2017 as required by law.
 6. 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 Director, or any individual.
The amendments were initiated by the Planning Director on September 29, 2016.
 - 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. The Planning Commission had 2 worksessions about the proposed amendments on September 13, 2016 and October 25, 2016. The City Council had 2 worksessions about the proposed amendments on October 4, 2016 and October 20, 2016. The current version of the draft amendments has been posted on the City's web site since November 10, 2016. On November 16, 2016 staff e-mailed NDA leaders with information about the hearing and a link to the draft proposed amendments.
 - (2) Subsection 19.1008.3.A.2 requires notice of public hearing on a Type V Review to be posted on the City website and at City facilities that are open to the public at least 30 days prior to the hearing.
A notice of the Planning Commission's December 13, 2016, hearing was posted as required on November 10, 2016.
 - (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 Planning Director has determined that, except for the changes to the Limited Commercial Zone C-L, the proposal affects a large geographic area. Notice to individual property owners and individual properties in the C-L zone was provided.
 - (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 October 4, 2016.
 - (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 September 21, 2016.

- (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 generally do not further restrict the use of property. In general, the proposed amendments implement current interpretation or add flexibility. Notice to individual property owners and individual properties in the C-L zone was provided.

- (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 December 13, 2016, and passed a motion recommending that the City Council approve the proposed amendments. The City Council held a duly advertised public hearing on _____, 2017, and approved the amendments.

7. MMC 19.902 Amendments to Maps and Ordinances

- a. 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.

- (1) 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 December 13, 2016. A public hearing before City Council is tentatively scheduled for February 7, 2017. Public notice was provided in accordance with MMC Subsection 19.1008.3.

- (2) 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 have been coordinated with and are consistent with other provisions of the Milwaukie Municipal Code. The amendments are clarifying in nature and are not intended to affect policy.

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

Only the goals, objectives, and policies of Comprehensive Plan that are listed below are found to be relevant to the proposed text amendment.

The Goal statement of the Open Spaces, Scenic Areas, and Natural Resources Element reads as follows:

To conserve open space and protect and enhance natural and scenic resources in order to create an aesthetically pleasing urban environment, while preserving and enhancing significant natural resources.

Objective #2 – Natural Resources states:

To preserve and maintain important natural habitats and vegetation by protecting and enhancing major drainageways, springs, existing wetlands, riparian areas, water bodies, and significant tree and vegetative cover while retaining their functions and values related to flood protection, sediment and erosion control, groundwater discharge and re-charge, aesthetics, education, recreation, vegetation, and wildlife habitat. Regulate development within designated water bodies, riparian areas, wetlands, uplands, and drainage areas.

The proposed amendments:

- *Clarify definitions and include a list of minor projects in the Willamette Greenway Zone in order to provide clearer direction for applicability of the code provisions.*
- *Clarify various aspects of the Natural Resources code language in order to provide clearer direction for applicability of the code provisions.*

The Goal statement of the Economic Base and Industrial/Commercial Land Use Element reads as follows:

To continue to support and encourage the development of a broad industrial base in the City, and to encourage the expansion of service facilities in the community.

Objective #2 – Employment Opportunity states:

To continue to support a wide range of employment opportunities for Milwaukie citizens.

The proposed amendments:

- *Add home occupations to the list of permitted uses in the Commercial Mixed-Use zones.*

Objective #6 – Commercial Land Use states:

To encourage new commercial uses to locate within designated commercial areas of the City, in order to take maximum advantage of existing access and public facilities serving these areas.

The proposed amendments:

- *Add restaurants as permitted uses to the Limited Commercial CL Zone.*
- *Add contractor related businesses as permitted uses to the Business Industrial BI Zone.*

The Goal statement of the City Growth Element reads as follows:

To identify the City's future planning and service area, establish the respective responsibilities for reviewing and coordinating land use regulations and actions within the area, and determine the most cost-effective means to provide the full range of urban services within the area.

Objective #4 – Coordinating Land Use and Development states:

To establish, in conjunction with the County, a method for coordinating land use and development decisions within the unincorporated area adjacent to the City.

The City's expedited annexation process assigns zoning and Comprehensive Plan land use designations that are similar in nature to the existing County zoning. The intent of the proposed amendments is to correct and clarify Table 19.1104.1.E to ensure consistency between the County and City zoning and land use designations.

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

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

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

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

The proposed amendments are found to be consistent with the Transportation Planning Rule for the following reason. The proposed text amendment does not impact the transportation system given that the amendments are clarifying in nature and do not create the opportunity for any more vehicle trips than are currently allowed by other similar uses in each respective zone.

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

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

Underline/Strikeout Amendments

Title 14 Signs

CHAPTER 14.16 SIGN DISTRICTS

14.16.050 MANUFACTURING ZONE

No sign shall be installed or maintained in an ~~M₁ or BI Zone~~, or M-TSA Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.050

Table 14.16.050 Standards for Signs in Manufacturing Zones M₁ or BI, or M-TSA					
Sign Type	Area	Height	Location	Number	Illumination ¹
Roof signs	Max. 1 sq ft ^{SF} per lineal ft. of street frontage. ⁵	Max. 8 ft. above highest point of building. ⁶	Pending approval by fire marshal ⁷ , may not project over parapet wall.	<u>1 multifaced sign</u> Permitted instead of, not in addition to, <u>any projecting or freestanding signs on a site.</u>	Permitted
Awning signs	Max. display surface is 25% of awning surface. ⁷	No higher than the point where the roofline intersects the exterior wall. ⁸	NA.	1 per frontage per occupancy.	Permitted
Daily display signs	Max. 12 sq ft ^{SF} per display surface and 24 sq ft ^{SF} overall.	Max. 6 ft. above ground level.	Not permitted within required landscaped areas or public right-of-way. ⁹	1 per occupancy.	Permitted

³ Where a property's total frontage exceeds 300 feet in length, one additional freestanding sign is permitted ~~for such frontage and may be located on any of the property's frontages~~. No freestanding sign shall be permitted on the same premises where there is a roof sign.

⁴ Includes signs painted directly on the building surface. 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.

⁵ For properties with multiple frontages, the total frontage length of all frontages may be used to calculate the maximum allowed sign area for all display surfaces of a roof sign. Not to exceed [XX] sq feet of sign area per display surface.

⁶ All roof signs shall be installed in such a manner that there shall be no visible angle iron or similar sign support structure.

⁷ Only approved by the fire marshal after a finding that the site, type, and location of the sign will not substantially interfere with firefighting.

⁸ Measured in vertical distance times length.

⁹ Regardless of the existence of a parapet wall

⁹⁻¹⁰ A daily display sign may be allowed within the public right-of-way subject to the standards of Section 14.20.040.

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CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

“Utility facilities” means buildings, structures, or any constructed portion of a system which provides for the production, transmission, conveyance, delivery, or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater facilities but do include pipes, culverts, and similar enclosed structures that convey protected water features.

CHAPTER 19.300 BASE ZONES

19.303.2 Uses

Table 19.303.2 CONTINUED Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Institutional			
Community service uses	CSU	CSU	Section 19.904 Community Service Uses
<u>Accessory and Other</u>			
<u>Accessory use</u>	<u>P</u>	<u>P</u>	Section 19.503 <u>Accessory Uses</u>
<u>Home occupation</u>	<u>P</u>	<u>P</u>	Section 19.507 <u>Home Occupation Standards</u>

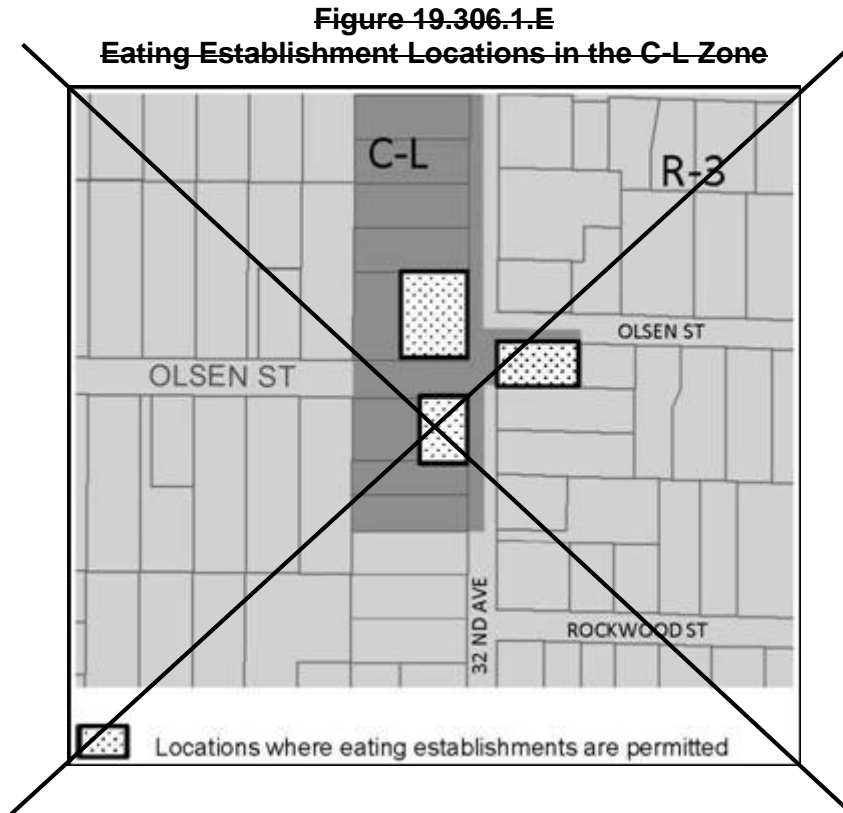
19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

- E. Eating establishments, ~~when located on a site depicted in Figure 19.306.1.E,~~ and provided the floor area does not exceed 3,250 sq ft and the use does not include drive-through facilities.



19.306.2 Conditional 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:

N. Eating establishments that exceed 3,250 sq ft in floor area;

ON. Any other use similar to the above and not listed elsewhere.

19.310 BUSINESS INDUSTRIAL ZONE BI

19.310.2 Uses Permitted Outright

D. Contractors and Related Businesses. Businesses whose primary activity is performing specific building or other construction-related work, on- or offsite. Examples include: residential and nonresidential building construction, utility/civil engineering construction, specialty trade contractors, and moving companies.

DE. Any other use similar to the above uses but not listed elsewhere.

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CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS

19.401 WILLAMETTE GREENWAY ZONE WG

19.401.4 Definitions

“Change of use” means making a different use of the land or water which requires construction; alterations of the land, river bed, bank, water, or other areas outside of existing buildings or structures; and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements (such as swing sets and patios) shall not be considered a change of use.

“Intensification” means any change of use; or action which increases or expands the area or amount of an existing use or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the WG Zone includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements (such as swing sets and patios) shall not be considered an intensification of use.

19.401.5 Procedures

- A. In the WG Zone, all uses and their accessory uses are permitted subject to the provisions of Section 19.905, except as noted in Subsection 19.401.5.B and Subsection 19.401.5.D.
- B. Willamette Greenway review is not required for any of the activities listed below:
 1. Changes to the interior of a building or alterations of buildings or accessory structures that do not increase the size or alter the configuration of the building or accessory structure footprint;
 2. Normal maintenance and repair as necessary for an existing development;
 3. Removal of plants listed as nuisance species on the Milwaukie Native Plant List;
 4. Addition or modification of existing utility lines, wires, fixtures, equipment, circuits, appliances, and conductors by public or municipal utilities;
 5. Flood emergency procedures, and maintenance and repair of existing flood control facilities;
 6. Placement of signs, markers, aids, etc., by a public agency to serve the public;
 7. Establishment of residential accessory uses, such as lawns, gardens, and play areas, subject to the vegetation buffer requirements of Subsection 19.401.8;
 8. Ordinary maintenance and repair of existing buildings, structures, parking lots, or other site improvements;
 9. Minor repairs or alterations to existing structures for which no building permit is required;

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10. A change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated;
11. Construction of driveways;
12. Reasonable emergency procedures as necessary for the safety or protection of property; and
13. Other activities similar to those listed in "1," through "12," above. Other activities similar to those listed in "1," through "12," above. Such Director determinations, including a finding of consistency with Goal 15, shall be made in accordance with Section 19.903.

~~B.C. The Oregon Department of Transportation~~ The Oregon Department of Parks and Recreation shall be notified of a hearing on a conditional use in the WG Zone. The notice shall be sent via "certified mail, return receipt requested."

~~C. The provisions of the WG Zone in Section 19.401 shall apply until adoption of the Willamette Greenway Design Plan.~~

19.402 NATURAL RESOURCES NR

19.402.3 Applicability

- I. Those portions of streams, creeks, and other protected water features that appear on the NR Administrative Map but are enclosed in pipes, culverts, or similar structures are not subject to the provisions of Section 19.402, except where a proposed activity will expose or directly disturb the protected water feature, such as with excavation. For WQRs, the underground portion of the protected water feature is not considered a protected water feature for purposes of determining the WQR location as outlined in MMC Table 19.402.15. For HCAs, the boundary verification options provided in MMC 19.402.15 may be used as necessary to determine whether the above-ground characteristics of the underground portion of the protected water feature affects the representation of HCA on the NR Administrative Map.

Activity (and applicable code sections)	Type of Review Process		
	Type I (19.1004)	Type II (19.1005)	Type III (19.1006)
Construction management plans (Subsection 19.402.9)	✓		

- L. Where WQRs and HCAs overlap, the WQR overlap area is not included in any calculations of the HCA area for purposes of determining whether HCA-only exemptions are allowed or for calculating allowable HCA disturbances.

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19.402.4 Exempt Activities

A. Outright Exemptions

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

6. Removal of trees under any of the following circumstances:

e. Major pruning of trees and shrubs within 10 ft of existing structures.

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

19.402.6 Activities Requiring Type I Review

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

~~A.~~ Construction Management Plans

~~Construction management plans, as outlined in Subsection 19.402.9, are subject to Type I review.~~

BA. Limited Tree Removal

1. The Planning Director may approve an application for limited tree removal or major pruning within WQRs and HCAs, ~~subject to~~ except where exempted by SubSection 19.402.6.B.2, under any of the following circumstances:

CB. Activities within HCAs in Compliance with Nondiscretionary Standards

Within HCAs, but outside of WQRs, nonexempt development that is not listed in Subsections 19.402.7 or 19.402.8, and that is in compliance with the nondiscretionary standards provided in Subsection 19.402.11.D, is subject to Type I review.

DC. Natural Resource Management Plans

Natural resource management plans that meet the standards outlined in Subsection 19.402.10.A are subject to Type I review. These are typically plans that have already been approved by a qualified agency.

ED. Maintenance of Existing Utility Facilities

Routine repair and maintenance of existing utility facilities, accesses, streets, driveways, and/or parking improvements that disturbs a WQR and/or HCA is subject to Type I review, provided such activities can meet the general standards for special uses established in Subsection 19.402.11.E.1. These include, but are not limited to, the requirement to provide a mitigation plan and to restore the disturbed area.

FE. Utility Connections

Unless they are exempt per Subsection 19.402.4, connections to existing or new utility lines that involve disturbance to a WQR and/or HCA are subject to Type I review against the following criteria:

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1. The activities required to establish the connection shall not disturb a protected water feature. Utility connections that will disturb a protected water feature are subject to the review procedures for special uses established in Subsection 19.402.11.E.
2. The activities required to establish the connection shall not disturb an area greater than 10 ft wide.
3. The connection can meet the general standards for special uses established in Subsection 19.402.11.E.1.

GF. Nuisance Abatement

Measures to remove or abate nuisances; or any other violation of State statute, administrative agency rule, or City or County ordinance; shall be subject to Type I review of a construction management plan, to be approved by the Planning Director prior to the abatement activity. The person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the nuisance or violation (e.g., restore disturbed soils, restore hydrologic connections, replant disturbed areas with native vegetation, etc.) unless subsequent development has been approved.

HG. Boundary Verification

Boundary verifications that propose minor corrections will be processed in accordance with Subsection 19.402.15.A.1 and are subject to Type I review.

19.402.7 Activities Requiring Type II Review

- D. Other Uses and Activities with Minimal Impacts to WQRs
 3. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by no more than 150 sq ft within the WQR.
 4. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that increases the existing disturbance area ~~disturbs~~ by no more than 150 sq ft within the WQR. Activities approved under this subsection shall be subject to the following requirements:
 - a. Restore the disturbed portion of the WQR.
 - b. Within the disturbed portion of the WQR, remove any vegetation categorized as a nuisance species on the Milwaukie Native Plant List and replace it with native vegetation from the list.

19.402.8 Activities Requiring Type III Review

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

- A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:
 10. Routine repair and maintenance, alteration, and/or total replacement, ~~and/or change of use~~ of existing legal buildings or structures that ~~that~~ increases the existing disturbance area by more than 150 sq ft within the WQR.

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19.402.9 Construction Management Plans

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

19.402.11 Development Standards

- B. General Standards for Required Mitigation

3. Plant Size

~~Replacement~~ Required mitigation trees shall average at least a ½-in caliper—measured at 6 in above the ground level for field-grown trees or above the soil line for container-grown trees—unless they are oak or madrone, which may be 1-gallon size. Required mitigation ~~S~~shrubs shall be at least 1-gallon size and 12 in high.

- D. Nondiscretionary Standards for HCAs

1. Disturbance Area Limitations in HCAs

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

- b. All Other Uses

A maximum net disturbance area of 10% of the HCA on the site is allowed by right, subject to the mitigation requirements described in Subsection 19.402.11.D.2

19.402.12 General Discretionary Review

- C. Limitations and Mitigation for Disturbance of HCAs

1. Discretionary Review to Approve Additional Disturbance within an HCA

An applicant seeking discretionary approval to disturb more of an HCA than is allowed by Subsection 19.402.11.D.1 shall submit an Impact Evaluation and Alternatives Analysis, as outlined in Subsection 19.402.12.A, and shall be subject to the approval criteria provided in Subsection 19.402.12.B.

An applicant may use the nondiscretionary mitigation options presented in Subsection 19.402.11.D.2 as a guide for proposing mitigation measures that will then be evaluated against the approval criteria provided in Subsection 19.402.12.B.

19.402.15 Boundary Verification and Map Administration

- A. Boundary Verification

3. Type III or V Boundary Verification

Corrections to mapped WQRs or HCAs that are not subject to processing according to the provisions outlined in either of Subsections 19.402.15.A.1 or A.2, such as in cases where the City initiates the change without property owner authorization and/or where the changes involve more properties than for which it is practicable to obtain all property owners' authorization, shall be processed in accordance with the procedures

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for zoning map amendments as provided in Subsection 19.902.6. Such corrections shall be processed with either Type III or Type V review, accordingly, but do not constitute amendments to the zoning map itself, only to the NR Administrative Map.

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CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.502 ACCESSORY STRUCTURES

19.502.2 Specific Provisions for Accessory Structures

- A. The following standards apply for residential accessory structures on single-family detached, duplex, rowhouse, and cottage cluster properties. The standards in Subsection 19.502.2.A do not apply to pools, uncovered decks, and patios.

The purpose of these standards is to allow accessory structures that accommodate the typical needs of a single-family residence, while protecting the character of single-family neighborhoods.

1. Development Standards

b. Other Development Standards

- (1) Maximum accessory structure footprint allowance is subject to lot coverage and minimum vegetation standards of the base zone. Multiple accessory structures are allowed on a lot, subject to lot coverage and minimum vegetation standards of the base zone.
- (2) The yard exceptions in Subsection 19.501.2 are applicable for accessory structures.
- (3) A minimum of 5 ft is required between the exterior wall of an accessory structure and any other structure on a site, excluding a fence or similar structure.
- (4) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed and meets the building code definition of a conditioned space, and provides for interior passage/hallway (minimum width of 36 in) between the primary structure and the new structure. Alternately, if a new structure shares a wall with the primary structure for a minimum length of 48 in then it is not considered an accessory structure.

Figure 19.502.2.1
Primary Structure with
Addition

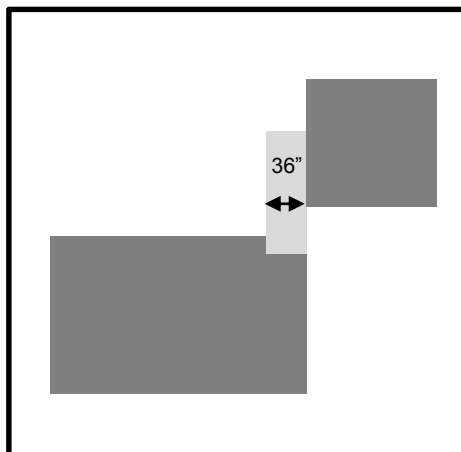


Figure 19.502.2.2
Primary Structure with
Addition

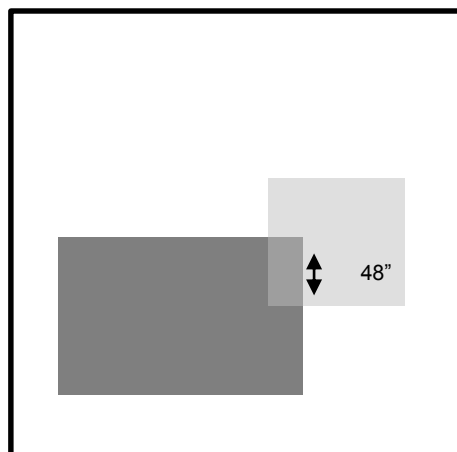
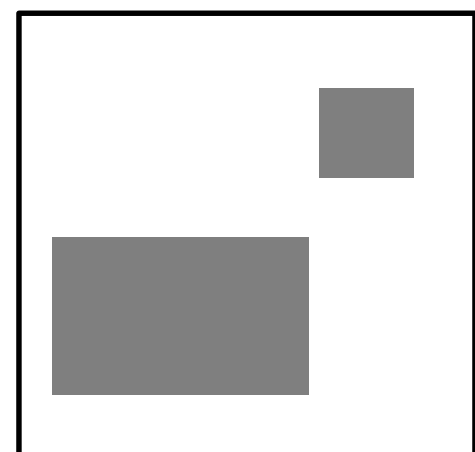


Figure 19.502.2.3
Primary Structure with
Accessory Structure



CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

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

E. Additional Driveway Standards

1. Parking areas and driveways on the property shall align with the approved driveway approach and shall not be wider than the approved driveway approach within 40 5 ft of the right-of-way boundary (Option 1—see Figure 19.607.1.E.1). Alternately, a gradual widening of the onsite driveway is allowed to the 10-ft point at a ratio of 1:1 (driveway width:distance onto property), starting 2 ft behind the front property line (Option 2—see Figure 19.607.1.E.2).

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

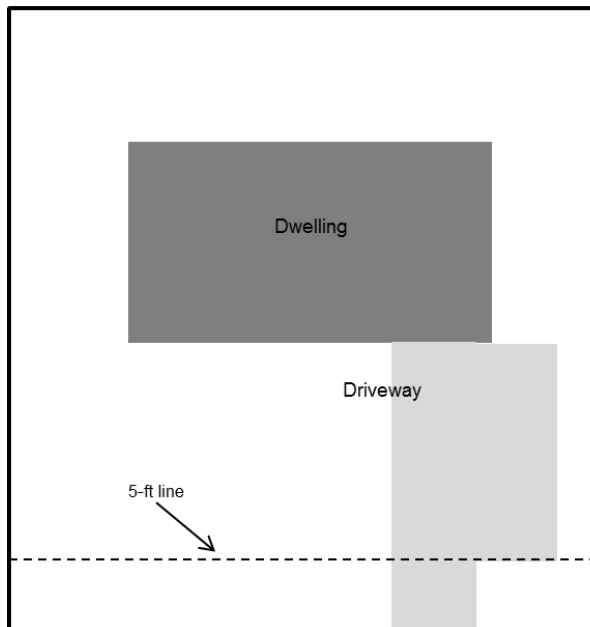
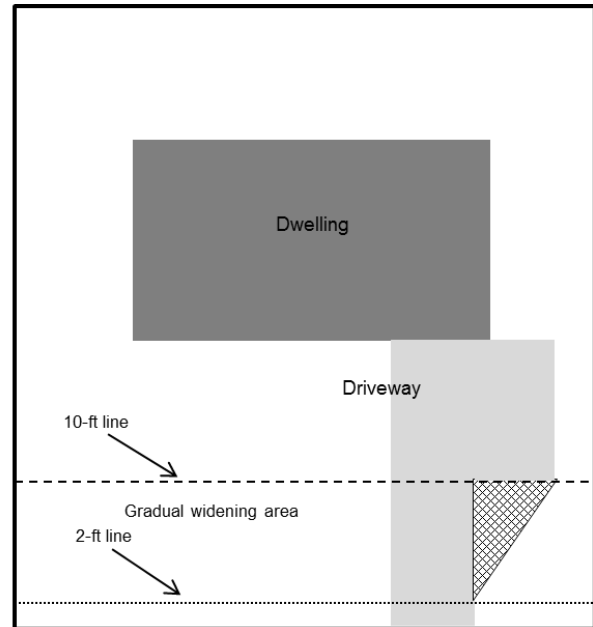


Figure 19.607.1.E.2
Driveway Widening Limitation—Option 2



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CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

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

- A. Partitions.
 - B. Subdivisions.
 - C. Replats that increase the number of lots.
-

19.702.4 Exemptions

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

- A. Modifications to existing single-family residential structures that do not result in an increase in gross floor area.
- B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.702.2.E above.

~~C. Replats that do not increase the number of lots and that access and improved street.~~

~~D.~~ Property line adjustments.

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

1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.
2. The use of the structure remains the same as the use that existed before the structure was destroyed.
3. A building permit is submitted and approved by the City within 2 years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.702.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.700.

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

~~G.~~ F. Public capital improvement projects.

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

- B. Transportation Facility Improvements

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Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section 19.705 Rough Proportionality, except as allowed by Chapter 13.32 Fee in Lieu of Construction. ~~Section 19.706 Fee in Lieu of Construction.~~

19.703.4 Determinations

D. Fee in Lieu of Construction (FILOC)

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction. ~~Subsection 19.706.1.~~

19.706 ~~RESERVED FEE IN LIEU OF CONSTRUCTION~~

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

~~19.706.1 FILOC Criteria~~

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

- ~~A. Required improvements are not feasible due to the inability to achieve proper design standards.~~
- ~~B. Required improvements would create a safety hazard.~~
- ~~C. Required improvements are part of a larger approved capital improvement project that is listed as a funded project in the City's Capital Improvement Program (CIP) and is scheduled for construction within 3 years of the City's approval of the proposed development.~~

~~19.706.2 FILOC Findings~~

~~If the Engineering Director determines that a fee in lieu of construction satisfies one of the criteria in Subsection 19.706.1 above, the City will accept a fee upon the Engineering Director finding that deferring construction of transportation facility improvements will not result in any safety hazards. If the Engineering Director cannot make such a finding, then the City will not accept a fee and will require construction of the improvements.~~

~~19.706.3 FILOC Fees~~

~~If determined by the Engineering Director that required transportation facility improvements are eligible for FILOC, the applicant shall pay to the City an amount equal to the estimated cost to construct the required improvements. The amount of the fee shall be determined by the Engineering Director and shall be based on the average cost of the most recent capital~~

Proposed Code Amendment

~~improvement project itemized bid prices. All fees shall be paid to the City prior to the issuance of any development permits.~~

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

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

19.706.4 FILOC Administration

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

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

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

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

~~B. Fees shall be used within 10 years of the date on which they were collected. Fees that have not been used within 10 years of collection will be returned to the owner of the development property at the time the refund is issued.~~

~~C. Staff shall identify the transportation facility improvement projects that meet the requirement of benefiting the development site per Subsection 19.706.4.A and that can be constructed within the 10-year time period per Subsection 19.706.4.B. Staff shall coordinate with the neighborhood district associations to prioritize the project lists for each neighborhood.~~

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Review Types
Natural Resource Review	Section 19.402	I, II, III, IV

19.904 COMMUNITY SERVICE USES

19.904.11 Standards for Wireless Communication Facilities

C. Application Process

1. Type I Review

For the purposes of this section, a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 ft, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 ft, whichever is greater;
- b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 ft, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 ft;
- c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- d. It entails any excavation or deployment outside the current site;
- e. It would defeat the concealment elements of the eligible support structure; or
- f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.

2. Type II Review

Proposed Code Amendment

Placement, construction, or modification of WCFs not involving the construction of a new monopole, other than those activities described in Subsection 19.904.11.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 19.904.11.C.

3. Type III Review

All proposed new monopole towers are subject to Section 19.1006 Type III Review. Also see Table 19.904.11.C.

Proposed Code Amendment

Table 19.904.11.C Wireless Communication Facilities—Type and Review Process				
Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower 100 Feet	Building Rooftop or Wall Mounted Antenna ¹	Water Towers, Existing Towers, and Other Stealth Designs	On Existing Utility Pole in Row with or w/out Extensions ²
BI	P1 III	P2 P/II	P2 P/II	P2 P/II
M	P1-III	P2 P/II	P2 P/II	P2 P/II
M-TSA	P1-III	P2 P/II	P2 P/II	P2 P/II
C-N	N	P2 P/II	P2 P/II	P2 P/II
C-G	N	P2 P/II	P2 P/II	P2 P/II
C-L	N	P2 P/II	P2 P/II	P2 P/II
C-CS	N	P2 P/II	P2 P/II	P2 P/II
OS	N	P2 P/II	P2 P/II	P2 P/II
DMU	N	P2 P/II	P2 P/II	P2 P/II
GMU	N	P2 P/II	P2 P/II	P2 P/II
NMU	N	P2 P/II	P2 P/II	P2 P/II
R-1-B	N	P2 P/II	P2 P/II	P2 P/II
R-1	N	N	P2 P/II	P2 P/II
R-2	N	N	P2 P/II	P2 P/II
R-2.5	N	N	P2 P/II	P2 P/II
R-3	N	N	P2 P/II	P2 P/II
R-5	N	N	P2 P/II	P2 P/II
R-7	N	N	P2 P/II	P2 P/II
R-10	N	N	P2 P/II	P2 P/II

¹ III = Type III review—requires a public hearing in front of the Planning Commission

² II = Type II review—provides for an administrative decision

P = Permitted—Type I review N = Not Permitted

E. Use of Existing Tower or Antenna Support Structure

2. New towers shall not be approved unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission Director that no existing towers or alternative antenna support structure can accommodate the applicant's need for the placement of an antenna in the vicinity of the applicant's proposed location. Evidence demonstrating that use of an existing or alternative support structure is not possible shall be submitted to the Planning Commission Director and shall include one or more of the following:
 - a. That no existing antenna support structures are located within the geographic area which meet the applicant's engineering requirements in regards to location, size, and structural strength and that alternative antenna support structures are not feasible.
 - b. That use of any existing structure would cause electromagnetic interference with the existing antennas and electronic and other radio frequencies.
 - c. That co-locating on an existing antenna support structure would violate RF emissions standards set by the FCC.

Proposed Code Amendment

- d. That fees, costs, or contractual provisions required by the owner in order to use an existing antenna support structure are unreasonable. A refusal by the owner to allow co-location shall be considered an unreasonable provision.
 - 3. Evidence demonstrating that alternative support structures were considered, but determined to be technologically insufficient, submitted to the Planning Commission Director for review must be verified and stamped by an engineer licensed in the State of Oregon.
- H. Expiration of Approval
- Authorization under Section 19.904 shall be void after 6 months unless substantial construction has taken place. If substantial construction has not taken place and the approval becomes void, the facility must be completely removed and the site must return to its preexisting condition. Extensions to an existing approval may be requested per Section 19.908.

19.907 DOWNTOWN DESIGN REVIEW

19.907.2 Applicability

A. Exemptions

Downtown design review does not apply to the following projects:

- 8. Minor site improvements, including but not limited to installation of benches, trash cans, bicycle racks, informational kiosks, site lighting, signs, and other similar improvements as determined by the Planning Director. A guide for determining whether a proposed improvement is exempt shall be the consideration of whether there are any applicable design standards provided in Section 19.508.
- 9. In City parks, improvements that are consistent with an approved master plan.

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

- 8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.
-

CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

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

Table 19.1104.1.E Zoning and Land Use Designations for Boundary Changes		
County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
MR1	R-5 <u>R-2</u>	Moderate <u>Medium</u> density residential
I2L	<u>MBI</u>	Industrial
I3G	<u>M</u>	Industrial

Clean Amendments

Title 14 Signs

CHAPTER 14.16 SIGN DISTRICTS

14.16.050 MANUFACTURING ZONE

No sign shall be installed or maintained in an M, BI Zone, or M-TSA Zone, except as allowed under Section 14.12.010 Exempted Signs, or as otherwise noted in Table 14.16.050

Table 14.16.050 Standards for Signs in Manufacturing Zones M, BI, or M-TSA					
Sign Type	Area	Height	Location	Number	Illumination ¹
Roof signs	Max. 1 sq ft per lineal ft of street frontage. ⁵	Max. 8 ft above highest point of building. ⁶	Pending approval by fire marshal ⁷ , may not project over parapet wall.	1 multifaced sign permitted instead of, not in addition to, any projecting or freestanding signs on a site.	Permitted
Awning signs	Max. display surface is 25% of awning surface. ⁸	No higher than the point where the roofline intersects the exterior wall. ⁹	NA.	1 per frontage per occupancy.	Permitted
Daily display signs	Max. 12 sq ft per display surface and 24 sq ft overall.	Max. 6 ft above ground level.	Not permitted within required landscaped areas or public right-of-way. ¹⁰	1 per occupancy.	Permitted

³ Where a property's total frontage exceeds 300 ft in length, one additional freestanding sign is permitted and may be located on any of the property's frontages. No freestanding sign shall be permitted on the same premises where there is a roof sign.

⁴ Includes signs painted directly on the building surface. 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.

⁵ For properties with multiple frontages, the total frontage length of all frontages may be used to calculate the maximum allowed sign area for all display surfaces of a roof sign. Not to exceed [XX] sq ft of sign area per display surface.

⁶ All roof signs shall be installed in such a manner that there shall be no visible angle iron or similar sign support structure.

⁷ Only approved by the fire marshal after a finding that the site, type, and location of the sign will not substantially interfere with firefighting.

⁸ Measured in vertical distance times length.

⁹ Regardless of the existence of a parapet wall

¹⁰ A daily display sign may be allowed within the public right-of-way subject to the standards of Section 14.20.040.

Proposed Code Amendment

CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

19.201 DEFINITIONS

“Utility facilities” means buildings, structures, or any constructed portion of a system which provides for the production, transmission, conveyance, delivery, or furnishing of services, including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone, and cable television. Utility facilities do not include stormwater facilities but do include pipes, culverts, and similar enclosed structures that convey protected water features.

CHAPTER 19.300 BASE ZONES

19.303.2 Uses

Table 19.303.2 CONTINUED Uses Allowed in Commercial Mixed-Use Zones			
Uses and Use Categories	GMU	NMU	Standards/Additional Provisions
Institutional			
Community service uses	CSU	CSU	Section 19.904 Community Service Uses
Accessory and Other			
Accessory use	P	P	Section 19.503 Accessory Uses
Home occupation	P	P	Section 19.507 Home Occupation Standards

19.306 LIMITED COMMERCIAL ZONE C-L

In a C-L Zone the following regulations shall apply:

19.306.1 Uses Permitted Outright

In a C-L Zone the following uses and their accessory uses are permitted outright:

- E. Eating establishments, provided the floor area does not exceed 3,250 sq ft and the use does not include drive-through facilities.
-

19.306.2 Conditional 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:

- N. Eating establishments that exceed 3,250 sq ft in floor area;
- O. Any other use similar to the above and not listed elsewhere.

19.310 BUSINESS INDUSTRIAL ZONE BI**19.310.2 Uses Permitted Outright**

- D. Contractors and Related Businesses. Businesses whose primary activity is performing specific building or other construction-related work, on- or offsite. Examples include: residential and nonresidential building construction, utility/civil engineering construction, specialty trade contractors, and moving companies.
 - E. Any other use similar to the above uses but not listed elsewhere.
-

CHAPTER 19.400 OVERLAY ZONES AND SPECIAL AREAS**19.401 WILLAMETTE GREENWAY ZONE WG****19.401.4 Definitions**

“Change of use” means making a different use of the land or water which requires construction; alterations of the land, river bed, bank, water, or other areas outside of existing buildings or structures; and which substantially alters or affects the land or water. It does not include a change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements (such as swing sets and patios) shall not be considered a change of use.

“Intensification” means any change of use; or action which increases or expands the area or amount of an existing use or the level of activity, including remodeling the exterior of a structure if the remodeling substantially alters the appearance of the structure. Maintenance and repair usual and necessary for the continuance of an existing use is not an intensification of use. Reasonable emergency procedures necessary for the safety or the protection of property are not an intensification of use. Residential use of lands within the WG Zone includes the practices and activities customarily related to the use and enjoyment of one's home. Landscaping, construction of driveways, modifications of existing structures, or the construction or placement of such subsidiary structures or facilities as are usual and necessary to the use and enjoyment of existing improvements (such as swing sets and patios) shall not be considered an intensification of use.

19.401.5 Procedures

- A. In the WG Zone, all uses and their accessory uses are permitted subject to the provisions of Section 19.905, except as noted in Subsection 19.401.5.B and Subsection 19.401.5.D.
- B. Willamette Greenway review is not required for any of the activities listed below:
 - 1. Changes to the interior of a building or alterations of buildings or accessory structures that do not increase the size or alter the configuration of the building or accessory structure footprint;
 - 2. Normal maintenance and repair as necessary for an existing development;
 - 3. Removal of plants listed as nuisance species on the Milwaukie Native Plant List;
 - 4. Addition or modification of existing utility lines, wires, fixtures, equipment, circuits, appliances, and conductors by public or municipal utilities;
 - 5. Flood emergency procedures, and maintenance and repair of existing flood control facilities;
 - 6. Placement of signs, markers, aids, etc., by a public agency to serve the public;
 - 7. Establishment of residential accessory uses, such as lawns, gardens, and play areas, subject to the vegetation buffer requirements of Subsection 19.401.8;
 - 8. Ordinary maintenance and repair of existing buildings, structures, parking lots, or other site improvements;
 - 9. Minor repairs or alterations to existing structures for which no building permit is required;

Proposed Code Amendment

10. A change of use of a building or other structure that does not substantially alter or affect the land or water upon which it is situated;
 11. Construction of driveways;
 12. Reasonable emergency procedures as necessary for the safety or protection of property; and
 13. Other activities similar to those listed in "1," through "12," above. Other activities similar to those listed in "1," through "12," above. Such Director determinations, including a finding of consistency with Goal 15, shall be made in accordance with Section 19.903.
- C. The Oregon Department of Parks and Recreation shall be notified of a hearing on a conditional use in the WG Zone. The notice shall be sent via "certified mail, return receipt requested."

19.402 NATURAL RESOURCES NR
19.402.3 Applicability

- I. Those portions of streams, creeks, and other protected water features that appear on the NR Administrative Map but are enclosed in pipes, culverts, or similar structures are not subject to the provisions of Section 19.402, except where a proposed activity will expose or directly disturb the protected water feature, such as with excavation. For WQRs, the underground portion of the protected water feature is not considered a protected water feature for purposes of determining the WQR location as outlined in MMC Table 19.402.15. For HCAs, the boundary verification options provided in MMC 19.402.15 may be used as necessary to determine whether the above-ground characteristics of the underground portion of the protected water feature affects the representation of HCA on the NR Administrative Map.
- L. Where WQRs and HCAs overlap, the WQR overlap area is not included in any calculations of the HCA area for purposes of determining whether HCA-only exemptions are allowed or for calculating allowable HCA disturbances.

19.402.4 Exempt Activities
A. Outright Exemptions

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

6. Removal of trees under any of the following circumstances:
 - e. Major pruning of trees within 10 ft of existing structures.
18. Installation and maintenance of erosion control measures that have been reviewed and approved by the City.

Proposed Code Amendment

19.402.6 Activities Requiring Type I Review

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

A. Limited Tree Removal

1. The Planning Director may approve an application for limited tree removal or major pruning within WQRs and HCAs, except where exempted by Subsection 19.402.6.B.2, under any of the following circumstances:

B. Activities within HCAs in Compliance with Nondiscretionary Standards

Within HCAs, but outside of WQRs, nonexempt development that is not listed in Subsections 19.402.7 or 19.402.8, and that is in compliance with the nondiscretionary standards provided in Subsection 19.402.11.D, is subject to Type I review.

C. Natural Resource Management Plans

Natural resource management plans that meet the standards outlined in Subsection 19.402.10.A are subject to Type I review. These are typically plans that have already been approved by a qualified agency.

D. Maintenance of Existing Utility Facilities

Routine repair and maintenance of existing utility facilities, accesses, streets, driveways, and/or parking improvements that disturbs a WQR and/or HCA is subject to Type I review, provided such activities can meet the general standards for special uses established in Subsection 19.402.11.E.1. These include, but are not limited to, the requirement to provide a mitigation plan and to restore the disturbed area.

E. Utility Connections

Unless they are exempt per Subsection 19.402.4, connections to existing or new utility lines that involve disturbance to a WQR and/or HCA are subject to Type I review against the following criteria:

1. The activities required to establish the connection shall not disturb a protected water feature. Utility connections that will disturb a protected water feature are subject to the review procedures for special uses established in Subsection 19.402.11.E.
2. The activities required to establish the connection shall not disturb an area greater than 10 ft wide.
3. The connection can meet the general standards for special uses established in Subsection 19.402.11.E.1.

F. Nuisance Abatement

Measures to remove or abate nuisances; or any other violation of State statute, administrative agency rule, or City or County ordinance; shall be subject to Type I review of a construction management plan, to be approved by the Planning Director prior to the abatement activity. The person or agency undertaking the action shall repair any impacts to the designated natural resource resulting from the nuisance or violation (e.g., restore disturbed soils, restore hydrologic connections, replant disturbed areas with native vegetation, etc.) unless subsequent development has been approved.

G. Boundary Verification

Proposed Code Amendment

Boundary verifications that propose minor corrections will be processed in accordance with Subsection 19.402.15.A.1 and are subject to Type I review.

19.402.7 Activities Requiring Type II Review

- D. Other Uses and Activities with Minimal Impacts to WQRs
3. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by no more than 150 sq ft within the WQR.
 4. Routine repair and maintenance, alteration, and/or total replacement of existing utility facilities, accesses, streets, driveways, and parking improvements that increases the existing disturbance area by no more than 150 sq ft within the WQR. Activities approved under this subsection shall be subject to the following requirements:
 - a. Restore the disturbed portion of the WQR.
 - b. Within the disturbed portion of the WQR, remove any vegetation categorized as a nuisance species on the Milwaukie Native Plant List and replace it with native vegetation from the list.

19.402.8 Activities Requiring Type III Review

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

- A. The activities listed below shall be subject to the general discretionary review criteria provided in Subsection 19.402.12:
10. Routine repair and maintenance, alteration, and/or total replacement of existing legal buildings or structures that increases the existing disturbance area by more than 150 sq ft within the WQR.

19.402.9 Construction Management Plans

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

19.402.11 Development Standards

- B. General Standards for Required Mitigation
3. Plant Size

Required mitigation trees shall average at least a ½-in caliper—measured at 6 in above the ground level for field-grown trees or above the soil line for container-grown trees—unless they are oak or madrone, which may be 1-gallon size. Required mitigation shrubs shall be at least 1-gallon size and 12 in high.
- D. Nondiscretionary Standards for HCAs
1. Disturbance Area Limitations in HCAs

Proposed Code Amendment

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

b. All Other Uses

A maximum net disturbance area of 10% of the HCA on the site is allowed by right, subject to the mitigation requirements described in Subsection 19.402.11.D.2

19.402.12 General Discretionary Review

C. Limitations and Mitigation for Disturbance of HCAs

1. Discretionary Review to Approve Additional Disturbance within an HCA

An applicant seeking discretionary approval to disturb more of an HCA than is allowed by Subsection 19.402.11.D.1 shall submit an Impact Evaluation and Alternatives Analysis, as outlined in Subsection 19.402.12.A, and shall be subject to the approval criteria provided in Subsection 19.402.12.B.

An applicant may use the nondiscretionary mitigation options presented in Subsection 19.402.11.D.2 as a guide for proposing mitigation measures that will then be evaluated against the approval criteria provided in Subsection 19.402.12.B.

19.402.15 Boundary Verification and Map Administration

A. Boundary Verification

3. Type III or V Boundary Verification

Corrections to mapped WQRs or HCAs that are not subject to processing according to the provisions outlined in either of Subsections 19.402.15.A.1 or A.2, such as in cases where the City initiates the change without property owner authorization and/or where the changes involve more properties than for which it is practicable to obtain all property owners' authorization, shall be processed in accordance with the procedures for zoning map amendments as provided in Subsection 19.902.6. Such corrections shall be processed with either Type III or Type V review, accordingly, but do not constitute amendments to the zoning map itself, only to the NR Administrative Map.

CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

19.502 ACCESSORY STRUCTURES

19.502.2 Specific Provisions for Accessory Structures

- A. The following standards apply for residential accessory structures on single-family detached, duplex, rowhouse, and cottage cluster properties. The standards in Subsection 19.502.2.A do not apply to pools, uncovered decks, and patios.

The purpose of these standards is to allow accessory structures that accommodate the typical needs of a single-family residence, while protecting the character of single-family neighborhoods.

1. Development Standards

b. Other Development Standards

- (1) Maximum accessory structure footprint allowance is subject to lot coverage and minimum vegetation standards of the base zone. Multiple accessory structures are allowed on a lot, subject to lot coverage and minimum vegetation standards of the base zone.
- (2) The yard exceptions in Subsection 19.501.2 are applicable for accessory structures.
- (3) A minimum of 5 ft is required between the exterior wall of an accessory structure and any other structure on a site, excluding a fence or similar structure.
- (4) A covered walkway or breezeway is allowed between a primary structure and accessory structure. Such connection shall not exempt the accessory structure from compliance with the standards of this section, unless the connection is fully enclosed and meets the building code definition of a conditioned space, and provides for interior passage/hallway (minimum width of 36 in) between the primary structure and the new structure. Alternately, if a new structure shares a wall with the primary structure for a minimum length of 48 in then it is not considered an accessory structure.

Figure 19.502.2.1
Primary Structure with
Addition

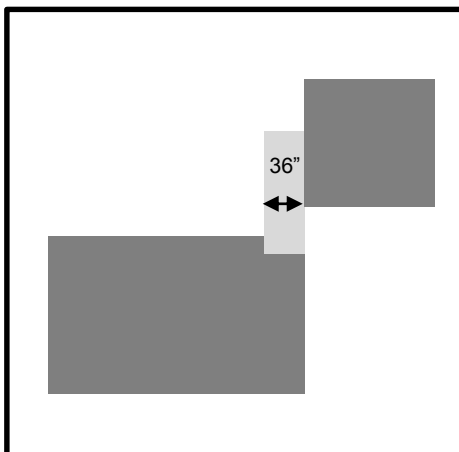


Figure 19.502.2.2
Primary Structure with
Addition

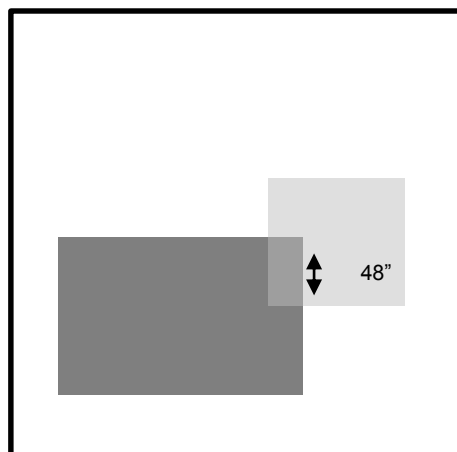
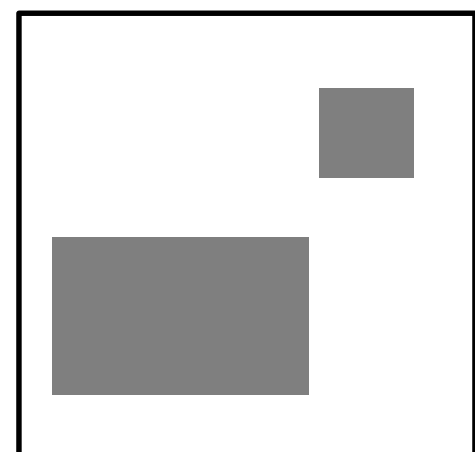


Figure 19.502.2.3
Primary Structure with
Accessory Structure



CHAPTER 19.600 OFF-STREET PARKING AND LOADING

19.607 OFF-STREET PARKING STANDARDS FOR RESIDENTIAL AREAS

19.607.1 Residential Driveways and Vehicle Parking Areas

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

E. Additional Driveway Standards

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

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

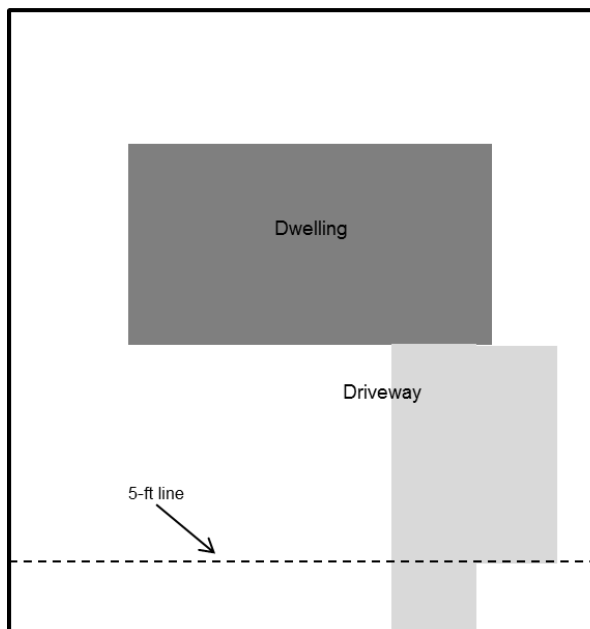
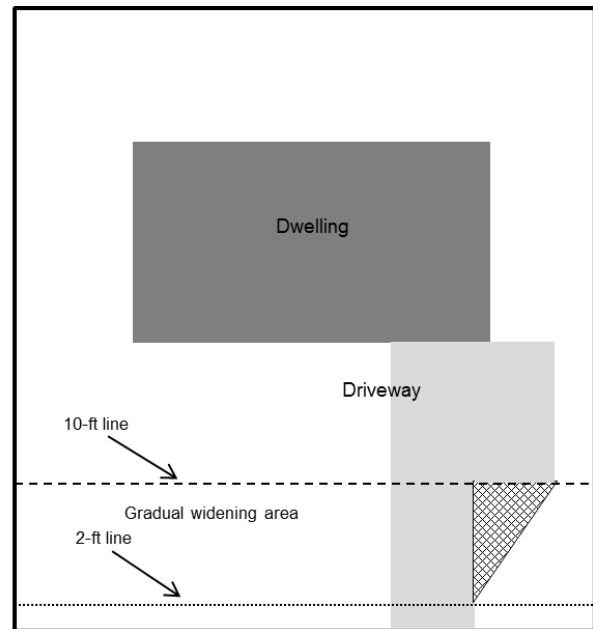


Figure 19.607.1.E.2
Driveway Widening Limitation—Option 2



CHAPTER 19.700 PUBLIC FACILITY IMPROVEMENTS

19.702 APPLICABILITY

19.702.1 General

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

- A. Partitions.
- B. Subdivisions.
- C. Replats.

19.702.4 Exemptions

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

- A. Modifications to existing single-family residential structures that do not result in an increase in gross floor area.
- B. Construction or expansion of nonhabitable residential detached accessory structures. Garage and carport construction or expansions are only partially exempt. See Subsection 19.702.2.E above.
- C. Property line adjustments.
- D. Redevelopment of a structure following partial or total accidental destruction when all of the following criteria are met:
 1. The redeveloped structure has a gross floor area no larger than the structure that was destroyed.
 2. The use of the structure remains the same as the use that existed before the structure was destroyed.
 3. A building permit is submitted and approved by the City within 2 years of the date of accidental destruction.

If redevelopment of a structure following accidental destruction does not meet all three of these criteria, the redeveloped structure shall be subject to Subsections 19.702.1 and 2 as applicable. Redevelopment of a structure following nonaccidental destruction shall constitute new construction and is not exempt from Chapter 19.700.
- E. Operation, maintenance, and repair of existing public facilities.
- F. Public capital improvement projects.

19.703 REVIEW PROCESS

19.703.3 Approval Criteria

- B. Transportation Facility Improvements

Development shall provide transportation improvements and mitigation at the time of development in rough proportion to the potential impacts of the development per Section

Proposed Code Amendment

19.705 Rough Proportionality, except as allowed by Chapter 13.32 Fee in Lieu of Construction.

19.703.4 Determinations

D. Fee in Lieu of Construction (FILOC)

If transportation facility improvements are required and determined to be proportional, the City will require construction of the improvements at the time of development. However, the applicant may request to pay a fee in lieu of constructing the required transportation facility improvements. The Engineering Director will approve or deny such requests using the criteria for making FILOC determinations found in Chapter 13.32 Fee in Lieu of Construction.

19.706 RESERVED

CHAPTER 19.900 LAND USE APPLICATIONS

19.901 INTRODUCTION

Table 19.901 Land Use Applications		
Application Type	Municipal Code Location	Review Types
Natural Resource Review	Section 19.402	I, II, III, V

19.904 COMMUNITY SERVICE USES

19.904.11 Standards for Wireless Communication Facilities

C. Application Process

1. Type I Review

For the purposes of this section, a modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- a. For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 ft, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than 10 ft, whichever is greater;
- b. For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 ft, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than 6 ft;
- c. For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed 4 cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
- d. It entails any excavation or deployment outside the current site;
- e. It would defeat the concealment elements of the eligible support structure; or
- f. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment.

2. Type II Review

Placement, construction, or modification of WCFs not involving the construction of a new monopole, other than those activities described in Subsection 19.904.11.C.1, are subject to Section 19.1005 Type II Review, provided that the antennas and base

Proposed Code Amendment

equipment comply with the standards contained in this subsection. Also see Table 19.904.11.C.

3. Type III Review

All proposed new monopole towers are subject to Section 19.1006 Type III Review. Also see Table 19.904.11.C.

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Table 19.904.11.C Wireless Communication Facilities—Type and Review Process				
Towers		WCFs Not Involving New Tower		
Zones	New Monopole Tower 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/II	P/II	P/II
M	III	P/II	P/II	P/II
M-TSA	III	P/II	P/II	P/II
C-N	N	P/II	P/II	P/II
C-G	N	P/II	P/II	P/II
C-L	N	P/II	P/II	P/II
C-CS	N	P/II	P/II	P/II
OS	N	P/II	P/II	P/II
DMU	N	P/II	P/II	P/II
GMU	N	P/II	P/II	P/II
NMU	N	P/II	P/II	P/II
R-1-B	N	P/II	P/II	P/II
R-1	N	N	P/II	P/II
R-2	N	N	P/II	P/II
R-2.5	N	N	P/II	P/II
R-3	N	N	P/II	P/II
R-5	N	N	P/II	P/II
R-7	N	N	P/II	P/II
R-10	N	N	P/II	P/II

III = Type III review—requires a public hearing in front of the Planning Commission

II = Type II review—provides for an administrative decision

P = Permitted—Type I review **N** = Not Permitted

E. Use of Existing Tower or Antenna Support Structure

2. New towers shall not be approved unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing towers or alternative antenna support structure can accommodate the applicant's need for the placement of an antenna in the vicinity of the applicant's proposed location. Evidence demonstrating that use of an existing or alternative support structure is not possible shall be submitted to the Planning Commission and shall include one or more of the following:
 - a. That no existing antenna support structures are located within the geographic area which meet the applicant's engineering requirements in regards to location, size, and structural strength and that alternative antenna support structures are not feasible.
 - b. That use of any existing structure would cause electromagnetic interference with the existing antennas and electronic and other radio frequencies.

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- c. That co-locating on an existing antenna support structure would violate RF emissions standards set by the FCC.
 - d. That fees, costs, or contractual provisions required by the owner in order to use an existing antenna support structure are unreasonable. A refusal by the owner to allow co-location shall be considered an unreasonable provision.
3. Evidence demonstrating that alternative support structures were considered, but determined to be technologically insufficient, submitted to the Planning Commission for review must be verified and stamped by an engineer licensed in the State of Oregon.
- H. Expiration of Approval
- Authorization under Section 19.904 shall be void after 6 months unless substantial construction has taken place. If substantial construction has not taken place and the approval becomes void, the facility must be completely removed and the site must return to its preexisting condition. Extensions to an existing approval may be requested per Section 19.908.

19.907 DOWNTOWN DESIGN REVIEW

19.907.2 Applicability

A. Exemptions

Downtown design review does not apply to the following projects:

- 8. Minor site improvements, including but not limited to installation of benches, trash cans, bicycle racks, informational kiosks, site lighting, signs, and other similar improvements as determined by the Planning Director. A guide for determining whether a proposed improvement is exempt shall be the consideration of whether there are any applicable design standards provided in Section 19.508.
- 9. In City parks, improvements that are consistent with an approved master plan.

19.911 VARIANCES

19.911.3 Review Process

B. Type II Variances

- 8. A variance to fence height to allow up to a maximum of 6 ft for front yard fences and 8 ft for side yard, street side yard, and rear yard fences. Fences shall meet clear vision standards provided in Chapter 12.24.
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CHAPTER 19.1100 ANNEXATIONS AND BOUNDARY CHANGES

19.1104 EXPEDITED PROCESS

19.1104.1 Administration and Approval Process

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

County Zoning Designation	Assigned City Zoning Designation	Assigned Comprehensive Plan Land Use Designation
MR1	R-2	Medium density residential
LI	BI	Industrial
GI	M	Industrial